

1 COMMITTEE REPORT

2 May 5, 2022

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4

H. 3840

5

6 Introduced by Reps. Erickson, Herbkersman, Bradley, W. Newton,

7 Wooten, Caskey, B. Cox, Blackwell, Dabney, King, Jefferson,

8 Brawley, Howard, S. Williams, G.R. Smith, Huggins, Murray and

9 Rivers

10

11 S. Printed 5/5/22--S.

12 Read the first time April 7, 2022.

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14

THE COMMITTEE ON MEDICAL AFFAIRS

15 To whom was referred a Bill (H. 3840) to amend the Code of

16 Laws of South Carolina, 1976, by adding Article 3 to Chapter 67,

17 Title 40 so as to establish the "Audiology and Speech-Language,

18 etc., respectfully

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REPORT:

20 That they have duly and carefully considered the same and

21 recommend that the same do pass:

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23 DANIEL B. VERDIN III for Committee.

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 67, TITLE 40 SO AS TO ESTABLISH THE “AUDIOLOGY AND SPEECH-LANGUAGE INTERSTATE COMPACT ACT”, TO STATE THE PURPOSE OF THE ACT, TO PROVIDE DEFINITIONS, TO OUTLINE STATE PARTICIPATION, TO OUTLINE PRIVILEGES FOR AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS RESULTING FROM THE COMPACT, TO ALLOW FOR THE PRACTICE OF TELEHEALTH, TO PROVIDE ACCOMMODATIONS FOR ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES, TO PROVIDE A MECHANISM FOR TAKING ADVERSE ACTIONS AGAINST LICENSEES, TO ESTABLISH THE “AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION”, TO ESTABLISH A DATA SYSTEM, TO OUTLINE THE RULEMAKING PROCESS, TO ADDRESS OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT DUTIES AND RESPONSIBILITIES, TO ESTABLISH THE DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY, RULES, WITHDRAWAL, AND AMENDMENT, TO ADDRESS STATUTORY CONSTRUCTION, SEVERABILITY, AND BINDING EFFECT OF THE COMPACT; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 67, TITLE 40 AS ARTICLE 1, ENTITLED “GENERAL PROVISIONS”.

Be it enacted by the General Assembly of the State of South Carolina:

1 SECTION 1. Chapter 67, Title 40 of the 1976 Code is amended by
2 adding:

3 “Article 3

4
5 Audiology and Speech-Language Pathology Interstate Compact
6 Act

7
8 Section 40-67-500. This article may be cited as the ‘Audiology
9 and Speech-Language Pathology Interstate Compact’.

10
11 Section 40-67-510. The purpose of this compact is to facilitate
12 interstate practice of audiology and speech-language pathology with
13 the goal of improving public access to audiology and
14 speech-language pathology services. The practice of audiology and
15 speech-language pathology occurs in the state where the patient,
16 client, or student is located at the time of the patient, client, or
17 student’s encounter. The compact preserves the regulatory authority
18 of states to protect public health and safety through the current
19 system of state licensure. This compact is designed to achieve the
20 following objectives:

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

24 (2) enhance the states’ ability to protect the public’s health and
25 safety;

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

28 (4) support spouses of relocating active duty military personnel;

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

31 (6) allow a remote state to hold a provider of services with a
32 compact privilege in that state accountable to that state’s practice
33 standards; and

34 (7) allow for the use of telehealth technology to facilitate
35 increased access to audiology and speech-language pathology
36 services.

37
38 Section 40-67-520. As used in this article:

39 (1) ‘Active duty military’ means full-time duty status in the
40 active uniformed service of the United States, including members of
41 the National Guard and Reserve on active duty orders pursuant to
42 10 U.S.C. Chapters 1209 and 1211.

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

8 (3) 'Alternative program' means a nondisciplinary monitoring
9 process approved by an audiology or speech-language pathology
10 licensing board to address impaired practitioners.

11 (4) 'Audiologist' means an individual who is licensed by a state
12 to practice audiology.

13 (5) 'Audiology' means the care and services provided by a
14 licensed audiologist as set forth in the member state's statutes and
15 rules.

16 (6) 'Audiology and Speech-Language Pathology Compact
17 Commission' or 'Commission' means the national administrative
18 body whose membership consists of all states that have enacted the
19 compact.

20 (7) 'Audiology and speech-language pathology licensing
21 board', 'audiology licensing board', 'speech-language pathology
22 licensing board', or 'licensing board' means the agency of a state
23 that is responsible for the licensing and regulation of audiologists
24 and/or speech-language pathologists.

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

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

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

42 (11) 'Encumbered license' means a license in which an adverse
43 action restricts the practice of audiology or speech-language

1 pathology by the licensee and said adverse action has been reported
2 to the National Practitioners Data Bank (NPDB).

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

6 (13) 'Home state' means the member state that is the licensee's
7 primary state of residence.

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

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

14 (16) 'Member state' means a state that has enacted the compact.

15 (17) 'Privilege to practice' means a legal authorization permitting
16 the practice of audiology or speech-language pathology in a remote
17 state.

18 (18) 'Remote state' means a member state other than the home
19 state where a licensee is exercising or seeking to exercise the
20 compact privilege.

21 (19) 'Rule' means a regulation, principle, or directive
22 promulgated by the commission that has the force of law.

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

27 (21) 'Speech-language pathologist' means an individual who is
28 licensed by a state to practice speech-language pathology.

29 (22) 'Speech-language pathology' means the care and services
30 provided by a licensed speech-language pathologist as set forth in
31 the member state's statutes and rules.

32 (23) 'State' means any state, commonwealth, district, or territory
33 of the United States of America that regulates the practice of
34 audiology and speech-language pathology.

35 (24) 'State-practice laws' means a member state's laws, rules,
36 and regulations that govern the practice of audiology or
37 speech-language pathology, define the scope of audiology or
38 speech-language pathology practice, and create the methods and
39 grounds for imposing discipline.

40 (25) 'Telehealth' means the application of telecommunication
41 technology to deliver audiology or speech-language pathology
42 services at a distance for assessment, intervention, or consultation.

43

1 Section 40-67-530. (A) A license issued to an audiologist or
2 speech-language pathologist by a home state to a resident in that
3 state must be recognized by each member state as authorizing an
4 audiologist or speech-language pathologist to practice audiology or
5 speech-language pathology, under a privilege to practice, in each
6 member state.

7 (B) In addition to other requirements established by law and for
8 the purpose of determining an applicant's eligibility for an initial
9 compact privilege, the department shall require a national criminal
10 records check, supported by fingerprints, by the Federal Bureau of
11 Investigation. The results of this criminal records check must be
12 reported to the department. The South Carolina Law Enforcement
13 Division is authorized to retain the fingerprints for certification
14 purposes and for notification of the department regarding criminal
15 charges. Costs of conducting a criminal history background check
16 must be borne by the applicant. The department shall keep
17 information received pursuant to this section confidential, except
18 that information relied upon in denying licensure may be disclosed
19 as may be necessary to support the administrative action. The results
20 of this criminal records check must not be shared outside the
21 department.

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

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

33 (E) An audiologist must:

34 (1) meet one of the following educational requirements:

35 (a) on or before December 31, 2007, graduate with a
36 master's degree or doctorate in audiology, or equivalent degree
37 regardless of degree name, from a program that is accredited by an
38 accrediting agency recognized by the Council for Higher Education
39 Accreditation, or its successor, or by the United States Department
40 of Education and operated by a college or university accredited by
41 a regional or national accrediting organization recognized by the
42 board;

1 (b) on or after January 1, 2008, graduate with a doctoral
2 degree in audiology, or equivalent degree, regardless of degree
3 name, from a program that is accredited by an accrediting agency
4 recognized by the Council for Higher Education Accreditation or its
5 successor, or by the United States Department of Education and
6 operated by a college or university accredited by a regional or
7 national accrediting organization recognized by the board;

8 (c) graduate from an audiology program that is housed in
9 an institution of higher education outside of the United States: (i) for
10 which the program and institution have been approved by the
11 authorized accrediting body in the applicable country and (ii) the
12 degree program has been verified by an independent credentials
13 review agency to be comparable to a state licensing board-approved
14 program;

15 (2) complete a supervised clinical practicum experience from
16 an accredited educational institution or its cooperating programs as
17 required by the commission;

18 (3) pass a national examination approved by the commission;

19 (4) hold an active, unencumbered license;

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

23 (6) have a valid United States Social Security or National
24 Practitioner Identification number.

25 (F) A speech-language pathologist must:

26 (1) meet one of the following educational requirements:

27 (a) graduate with a master's degree from a
28 speech-language pathology program that is accredited by an
29 organization recognized by the United States Department of
30 Education and operated by a college or university accredited by a
31 regional or national accrediting organization recognized by the
32 board; or

33 (b) graduate from a speech-language pathology program
34 that is housed in an institution of higher education outside the United
35 States: (i) for which the program and institution have been approved
36 by the authorized accrediting body in the applicable country and (ii)
37 the degree program has been verified by an independent credentials
38 review agency to be comparable to a state licensing board-approved
39 program;

40 (2) complete a supervised clinical practicum experience from
41 an accredited educational institution or its cooperating programs as
42 required by the commission;

1 (3) complete a supervised postgraduate professional
2 experience as required by the commission;
3 (4) pass a national examination approved by the commission;
4 (5) hold an active, unencumbered license;
5 (6) not have been convicted or found guilty, and has not
6 entered into an agreed disposition, of a felony related to the practice
7 of speech-language pathology, under applicable state or federal
8 criminal law; and
9 (7) have a valid United States Social Security or National
10 Practitioner Identification number.

11 (G) The privilege to practice is derived from the home state
12 license.

13 (H) An audiologist or speech-language pathologist practicing in
14 a member state must comply with the state practice laws of the state
15 in which the client is located at the time the service is provided. The
16 practice of audiology and speech-language pathology includes all
17 audiology and speech-language pathology practice as defined by the
18 state practice laws of the member state in which the client is located.
19 The practice of audiology and speech-language pathology in a
20 member state under a privilege to practice subjects an audiologist or
21 speech-language pathologist to the jurisdiction of the licensing
22 board, the courts, and the laws of the member state in which the
23 client is located at the time service is provided.

24 (I) Individuals not residing in a member state may apply for a
25 member state's single-state license as provided under the laws of
26 each member state. However, the single-state license granted to
27 these individuals is not recognized as granting the privilege to
28 practice audiology or speech-language pathology in any other
29 member state. Nothing in this compact shall affect the requirements
30 established by a member state for the issuance of a single-state
31 license.

32 (J) Member states may charge a fee for granting a compact
33 privilege.

34 (K) Member states must comply with the bylaws and rules and
35 regulations of the commission.

36

37 Section 40-67-540. (A) To exercise the compact privilege under
38 the terms and provisions of the compact, the audiologist or
39 speech-language pathologist must:

40 (1) hold an active license in the home state;
41 (2) have no encumbrance on any state license;
42 (3) be eligible for a compact privilege in any member state in
43 accordance with Section 40-67-530;

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

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

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

8 (7) report to the commission adverse action taken by any
9 nonmember state within thirty days from the date the adverse action
10 is taken.

11 (B) For the purposes of the compact privilege, an audiologist or
12 speech-language pathologist may hold only one home state license
13 at a time.

14 (C) Except as provided for in Section 40-67-560, if an
15 audiologist or speech-language pathologist changes primary state of
16 residence by moving between two member states, the audiologist or
17 speech-language pathologist must apply for licensure in the new
18 home state, and the license issued by the prior home state must be
19 deactivated in accordance with applicable rules adopted by the
20 commission.

21 (D) The audiologist or speech-language pathologist may apply
22 for licensure in advance of a change in primary state of residence.

23 (E) A license may not be issued by the new home state until the
24 audiologist or speech-language pathologist provides satisfactory
25 evidence of a change in primary state of residence to the new home
26 state and satisfies all applicable requirements to obtain a license
27 from the new home state.

28 (F) If an audiologist or speech-language pathologist changes
29 primary state of residence by moving from a member state to a
30 nonmember state, the license issued by the prior home state converts
31 to a single-state license, valid only in the former home state.

32 (G) The compact privilege is valid until the expiration date of the
33 home state license. The licensee must comply with the requirements
34 of subsection (A) to maintain the compact privilege in the remote
35 state.

36 (H) A licensee providing audiology or speech-language
37 pathology services in a remote state under the compact privilege
38 shall function within the laws and regulations of the remote state.

39 (I) A licensee providing audiology or speech-language
40 pathology services in a remote state is subject to that state's
41 regulatory authority. A remote state may, in accordance with due
42 process and that state's laws, remove a licensee's compact privilege
43 in the remote state for a specific period of time, impose fines, and

1 take any other necessary actions to protect the health and safety of
2 its citizens.

3 (J) If a home state license is encumbered, the licensee loses
4 compact privilege in any remote state until:

5 (1) the home state license is no longer encumbered; and

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

7 (K) Once an encumbered license in the home state is restored to
8 good standing, the licensee must meet the requirements of
9 subsection (A) to obtain a compact privilege in any remote state.

10 (L) Once the requirements of subsection (J) have been met, the
11 licensee must meet the requirements in subsection (A) to obtain a
12 compact privilege in a remote state.

13

14 Section 40-67-550. Member states shall recognize the right of an
15 audiologist or speech-language pathologist, licensed by a home state
16 in accordance with Section 40-67-530 and under rules promulgated
17 by the commission, to practice audiology or speech-language
18 pathology in any member state via telehealth under a privilege to
19 practice as provided in the compact and rules promulgated by the
20 commission.

21

22 Section 40-67-560. Active duty military personnel, or their
23 spouse, shall designate a home state where the individual has a
24 current license in good standing. The individual may retain the home
25 state designation during the period the service member is on active
26 duty. Subsequent to designating a home state, the individual only
27 may change their home state through application for licensure in the
28 new state.

29

30 Section 40-67-570. (A) In addition to the other powers conferred
31 by state law, a remote state has the authority, in accordance with
32 existing state due process law, to:

33 (1) take adverse action against an audiologist's or
34 speech-language pathologist's privilege to practice within that
35 member state;

36 (2) issue subpoenas for both hearings and investigations that
37 require the attendance and testimony of witnesses as well as the
38 production of evidence. Subpoenas issued by a licensing board in a
39 member state for the attendance and testimony of witnesses or the
40 production of evidence from another member state must be enforced
41 in the latter state by any court of competent jurisdiction, according
42 to the practice and procedure of that court, applicable to subpoenas
43 issued in proceedings pending before it. The issuing authority shall

1 pay any witness fees, travel expenses, mileage, and other fees
2 required by the service statutes of the state in which the witnesses
3 or evidence are located; and

4 (3) only the home state has the power to take adverse action
5 against an audiologist's or speech-language pathologist's license
6 issued by the home state.

7 (B) For purposes of taking adverse action, the home state must
8 give the same priority and effect to reported conduct received from
9 a member state as it would if the conduct occurred within the home
10 state. In so doing, the home state must apply its own state laws to
11 determine appropriate action.

12 (C) The home state must complete any pending investigations of
13 an audiologist or speech-language pathologist who changes primary
14 state of residence during the course of the investigations. The home
15 state also has the authority to take appropriate actions and promptly
16 shall report the conclusions of the investigations to the administrator
17 of the data system. The administrator of the coordinated licensure
18 information system shall promptly notify the new home state of any
19 adverse actions.

20 (D) If otherwise permitted by state law, the member state may
21 recover from the affected audiologist or speech-language
22 pathologist the costs of investigations and disposition of cases
23 resulting from any adverse action taken against that audiologist or
24 speech-language pathologist.

25 (E) The member state may take adverse action based on the
26 factual findings of the remote state, provided that the member state
27 follows its own procedures for taking the adverse action.

28 (F) In addition to the authority granted to a member state by its
29 respective audiology or speech-language pathology practice act or
30 other applicable state law, any member state may participate with
31 other member states in joint investigations of licensees. Member
32 states shall share any investigative, litigation, or compliance
33 materials in furtherance of any joint or individual investigation
34 initiated under the compact.

35 (G) If adverse action is taken by the home state against an
36 audiologist's or speech language pathologist's license, the
37 audiologist's or speech-language pathologist's privilege to practice
38 in all other member states is deactivated until all encumbrances are
39 removed from the state license. All home state disciplinary orders
40 that impose adverse action against an audiologist's or speech
41 language pathologist's license must include a statement that the
42 audiologist's or speech-language pathologist's privilege to practice
43 is deactivated in all member states during the pendency of the order.

1 (H) If a member state takes adverse action, it promptly must
2 notify the administrator of the data system. The administrator of the
3 data system shall promptly notify the home state of any adverse
4 actions by remote states.

5 (I) Nothing in this compact overrides a member state's decision
6 that participation in an alternative program may be used in lieu of
7 adverse action.

8

9 Section 40-67-580. (A) The compact member states create and
10 establish a joint public agency known as the Audiology and
11 Speech-Language Pathology Compact Commission.

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

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

20 (3) Nothing in this compact may be construed to be a waiver
21 of sovereign immunity.

22 (B) With respect to membership, voting, and meetings:

23 (1) Each member state shall have two delegates selected by
24 that member state's licensing board. The delegates shall be current
25 members of the licensing board. One must be an audiologist and one
26 must be a speech-language pathologist.

27 (2) An additional five delegates, who are either a public
28 member or board administrator from a state licensing board, shall
29 be chosen by the executive committee from a pool of nominees
30 provided by the commission at large.

31 (3) Any delegate may be removed or suspended from office
32 as provided by the law of the state from which the delegate is
33 appointed.

34 (4) The member state board shall fill any vacancy occurring
35 on the commission, within ninety days.

36 (5) Each delegate is entitled to one vote with regard to the
37 promulgation of rules and creation of bylaws and shall otherwise
38 have an opportunity to participate in the business and affairs of the
39 commission.

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

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

4 (C) The commission has the following powers and duties:

5 (1) establish the fiscal year of the commission;

6 (2) establish bylaws;

7 (3) establish a code of ethics;

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

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

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

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

19 (8) purchase and maintain insurance and bonds;

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

22 (10) hire employees, elect or appoint officers, fix
23 compensation, define duties, grant individuals appropriate authority
24 to carry out the purposes of the compact, and establish the
25 commission's personnel policies and programs relating to conflicts
26 of interest, qualifications of personnel, and other related personnel
27 matters;

28 (11) accept any and all appropriate donations and grants of
29 money, equipment, supplies, materials, and services, and receive,
30 utilize, and dispose of the same; provided that at all times the
31 commission shall avoid any appearance of impropriety and conflict
32 of interest;

33 (12) lease, purchase, accept appropriate gifts or donations of,
34 or otherwise own, hold, improve, or use, any property, real,
35 personal, or mixed; provided that at all times the commission shall
36 avoid any appearance of impropriety;

37 (13) sell convey, mortgage, pledge, lease, exchange, abandon,
38 or otherwise dispose of any property real, personal, or mixed;

39 (14) establish a budget and make expenditures;

40 (15) borrow money;

41 (16) appoint committees, including standing committees
42 composed of members, and other interested persons as may be
43 designated in this compact and the bylaws;

1 (17) provide and receive information from, and cooperate with,
2 law enforcement agencies;

3 (18) establish and elect an executive committee; and

4 (19) perform other functions as may be necessary or
5 appropriate to achieve the purposes of this compact consistent with
6 the state regulation of audiology and speech language pathology
7 licensure and practice.

8 (D) The executive committee has the power to act on behalf of
9 the commission according to the terms of this compact. The
10 executive committee shall be composed of ten members:

11 (1) seven voting members who are elected by the
12 commission from the current membership of the commission;

13 (2) two ex officios, consisting of one nonvoting member
14 from a recognized national audiology professional association and
15 one nonvoting member from a recognized national speech-language
16 pathology association; and

17 (3) one ex officio, nonvoting member from the recognized
18 membership organization of the audiology and speech-language
19 pathology licensing boards.

20 (E) The ex officio members shall be selected by their respective
21 organizations.

22 (1) The commission may remove any member of the
23 executive committee as provided in bylaws.

24 (2) The executive committee shall meet at least annually.

25 (3) The executive committee shall have the following duties
26 and responsibilities:

27 (a) recommend to the entire commission changes to the
28 rules or bylaws, changes to this compact legislation, fees paid by
29 compact member states such as annual dues, and any commission
30 compact fee charged to licensees for the compact privilege;

31 (b) ensure compact administration services are
32 appropriately provided, contractual or otherwise;

33 (c) prepare and recommend the budget;

34 (d) maintain financial records on behalf of the commission;

35 (e) monitor compact compliance of member states and
36 provide compliance reports to the commission;

37 (f) establish additional committees as necessary; and

38 (g) other duties as provided in rules or bylaws.

39 (4) All meetings must be open to the public, and public notice
40 of meetings must be given in the same manner as required under the
41 rulemaking provisions in Section 40-67-600.

42 (5) The commission or the executive committee or other
43 committees of the commission may convene in a closed, nonpublic

1 meeting if the commission or executive committee or other
2 committees of the commission must discuss:

3 (a) noncompliance of a member state with its obligations
4 under the compact;

5 (b) the employment, compensation, discipline or other
6 matters, practices or procedures related to specific employees or
7 other matters related to the commission's internal personnel
8 practices and procedures;

9 (c) current, threatened, or reasonably anticipated litigation;

10 (d) negotiation of contracts for the purchase, lease, or sale
11 of goods, services, or real estate;

12 (e) accusing any person of a crime or formally censuring
13 any person;

14 (f) disclosure of trade secrets or commercial or financial
15 information that is privileged or confidential;

16 (g) disclosure of information of a personal nature where
17 disclosure would constitute a clearly unwarranted invasion of
18 personal privacy;

19 (h) disclosure of investigative records compiled for law
20 enforcement purposes;

21 (i) disclosure of information related to any investigative
22 reports prepared by or on behalf of or for use of the commission or
23 other committee charged with responsibility of investigation or
24 determination of compliance issues pursuant to the compact; or

25 (j) matters specifically exempted from disclosure by
26 federal or member state statute.

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

31 (7) The commission shall keep minutes that fully and clearly
32 describe all matters discussed in a meeting and shall provide a full
33 and accurate summary of actions taken, and the reasons therefore,
34 including a description of the views expressed. All documents
35 considered in connection with an action must be identified in
36 minutes. All minutes and documents of a closed meeting must
37 remain under seal, subject to release by a majority vote of the
38 commission or order of a court of competent jurisdiction.

39 (8) With respect to financing the commission:

40 (a) The commission shall pay, or provide for the payment
41 of, the reasonable expenses of its establishment, organization, and
42 ongoing activities.

1 (b) The commission may accept any and all appropriate
2 revenue sources, donations, and grants of money, equipment,
3 supplies, materials, and services.

4 (c) The commission may levy on and collect an annual
5 assessment from each member state or impose fees on other parties
6 to cover the cost of the operations and activities of the commission
7 and its staff, which must be in a total amount sufficient to cover its
8 annual budget as approved each year for which revenue is not
9 provided by other sources. The aggregate annual assessment amount
10 must be allocated based upon a formula to be determined by the
11 commission, which shall promulgate a rule binding upon all
12 member states.

13 (9) The commission may not incur obligations of any kind
14 prior to securing the funds adequate to meet the same; nor may the
15 commission pledge the credit of any of the member states, except
16 by and with the authority of the member state.

17 (10) The commission shall keep accurate accounts of all
18 receipts and disbursements. The receipts and disbursements of the
19 commission are subject to the audit and accounting procedures
20 established under its bylaws. However, all receipts and
21 disbursements of funds handled by the commission must be audited
22 yearly by a certified or licensed public accountant, and the report of
23 the audit must be included in and become part of the annual report
24 of the commission.

25 (F) With respect to qualified immunity, defense, and
26 indemnification:

27 (1) The members, officers, executive director, employees,
28 and representatives of the commission shall be immune from suit
29 and liability, either personally or in their official capacity, for any
30 claim for damage to or loss of property or personal injury or other
31 civil liability caused by or arising out of any actual or alleged act,
32 error, or omission that occurred, or that the person against whom the
33 claim is made had a reasonable basis for believing occurred within
34 the scope of commission employment, duties, or responsibilities;
35 provided that nothing in this item shall be construed to protect any
36 person from suit or liability for any damage, loss, injury, or liability
37 caused by the intentional or wilful or wanton misconduct of that
38 person.

39 (2) The commission shall defend any member, officer,
40 executive director, employee, or representative of the commission
41 in any civil action seeking to impose liability arising out of any
42 actual or alleged act, error, or omission that occurred within the
43 scope of commission employment, duties, or responsibilities, or that

1 the person against whom the claim is made had a reasonable basis
2 for believing occurred within the scope of commission employment,
3 duties, or responsibilities; provided that nothing herein shall be
4 construed to prohibit that person from retaining his or her own
5 counsel; and provided further, that the actual or alleged act, error, or
6 omission did not result from that person's intentional or wilful or
7 wanton misconduct.

8 (3) The commission shall indemnify and hold harmless any
9 member, officer, executive director, employee, or representative of
10 the commission for the amount of any settlement or judgment
11 obtained against that person arising out of any actual or alleged act,
12 error or omission that occurred within the scope of commission
13 employment, duties, or responsibilities, or that person had a
14 reasonable basis for believing occurred within the scope of
15 commission employment, duties, or responsibilities, provided that
16 the actual or alleged act, error, or omission did not result from the
17 intentional or wilful or wanton misconduct of that person.

18
19 Section 40-67-590. (A) The commission shall provide for the
20 development, maintenance, and utilization of a coordinated
21 database and reporting system containing licensure, adverse action,
22 and investigative information on all licensed individuals in member
23 states.

24 (B) Notwithstanding any other provision of state law to the
25 contrary, a member state shall submit a uniform data set to the data
26 system on all individuals to whom this compact is applicable as
27 required by the rules of the commission, including:

28 (1) identifying information;

29 (2) licensure data;

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

31 (4) nonconfidential information related to alternative program
32 participation;

33 (5) any denial of application for licensure, and the reason(s)
34 for denial; and

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

37 (C) Investigative information pertaining to a licensee in any
38 member state only shall be available to other member states.

39 (D) The commission shall promptly notify all member states of
40 any adverse action taken against a licensee or an individual applying
41 for a license. Adverse action information pertaining to a licensee in
42 any member state shall be available to any other member state.

1 (E) Member states contributing information to the data system
2 may designate information that may not be shared with the public
3 without the express permission of the contributing state.

4 (F) Any information submitted to the data system that is
5 subsequently required to be expunged by the laws of the member
6 state contributing the information must be removed from the data
7 system.

8
9 Section 40-67-600. (A) The commission shall exercise its
10 rulemaking powers pursuant to the criteria set forth in this section
11 and the rules adopted thereunder. Rules and amendments shall
12 become binding as of the date specified in each rule or amendment.

13 (B) If a majority of the legislatures of the member states rejects
14 a rule, by enactment of a statute or resolution in the same manner
15 used to adopt the compact within four years of the date of adoption
16 of the rule, the rule shall have no further force and effect in any
17 member state.

18 (C) Rules or amendments to the rules must be adopted at a
19 regular or special meeting of the commission.

20 (D) Prior to promulgation and adoption of a final rule or rules by
21 the commission, and at least thirty days in advance of the meeting
22 at which the rule is being considered and voted upon, the
23 commission shall file a notice of proposed rulemaking:

24 (1) on the website of the commission or other publicly
25 accessible platform; and

26 (2) on the website of each member state audiology or
27 speech-language pathology licensing board or other publically
28 accessible platform or the publication in which each state would
29 otherwise publish proposed rules.

30 (E) The notice of proposed rulemaking must include:

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

33 (2) the text of the proposed rule or amendment and the reason
34 for the proposed rule;

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

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

40 (F) Prior to the adoption of a proposed rule, the commission
41 shall allow persons to submit written data, facts, opinions, and
42 arguments, which shall be made available to the public.

1 (G) The commission shall grant an opportunity for a public
2 hearing before it adopts a rule or amendment if a hearing is
3 requested by:

- 4 (1) at least twenty-five persons;
- 5 (2) a state or federal governmental subdivision or agency; or
- 6 (3) an association having at least twenty-five members.

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

12 (1) All persons wishing to be heard at the hearing shall notify
13 the executive director of the commission or other designated
14 member in writing of their desire to appear and testify at the hearing
15 no less than five business days before the scheduled date of the
16 hearing.

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

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

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

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

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

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

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

1 (1) meet an imminent threat to public health, safety, or
2 welfare;

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

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

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

19

20 Section 40-67-610. (A) Upon request by a member state, the
21 commission shall attempt to resolve disputes related to the compact
22 that arise among member states and between member and
23 non-member states.

24 (B) The commission shall promulgate a rule providing for both
25 mediation and binding dispute resolution for disputes as appropriate.

26 (C) The commission, in the reasonable exercise of its discretion,
27 shall enforce the provisions and rules of this compact.

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

37 (E) The remedies herein are not be the exclusive remedies of the
38 commission. The commission may pursue any other remedies
39 available under federal or state law.

40

41 Section 40-67-620. (A) The compact takes effect on the date on
42 which the compact statute is enacted into law in the tenth member
43 state. The provisions, which become effective at that time, shall be

1 limited to the powers granted to the commission relating to
2 assembly and the promulgation of rules. Thereafter, the commission
3 shall meet and exercise rulemaking powers necessary to the
4 implementation and administration of the compact.

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

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

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

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

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

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

28

29 Section 40-67-630. This compact must be liberally construed so
30 as to effectuate the purposes thereof. The provisions of this compact
31 shall be severable and if any phrase, clause, sentence, or provision
32 of this compact is declared to be contrary to the constitution of any
33 member state or of the United States or the applicability thereof to
34 any government, agency, person, or circumstance is held invalid, the
35 validity of the remainder of this compact and the applicability
36 thereof to any government, agency, person, or circumstance shall
37 not be affected thereby. If this compact is held contrary to the
38 constitution of any member state, the compact remains in full force
39 and effect as to the remaining member states and in full force and
40 effect as to the member state affected as to all severable matters.

1 Section 40-67-640. (A) Nothing herein prevents the enforcement
2 of any other law of a member state that is not inconsistent with the
3 compact.

4 (B) All laws in a member state in conflict with the compact are
5 superseded to the extent of the conflict.

6 (C) All lawful actions of the commission, including all rules and
7 bylaws promulgated by the commission, are binding upon the
8 member states.

9 (D) All agreements between the commission and the member
10 states are binding in accordance with their terms.

11 (E) In the event any provision of the compact exceeds the
12 constitutional limits imposed on the legislature of any member state,
13 the provision shall be ineffective to the extent of the conflict with
14 the constitutional provision in question in that member state.”

15

16 SECTION 2. The existing sections of Chapter 67, Title 40 are
17 designated as Article 1, Chapter 67, Title 40 and entitled, “General
18 Provisions”.

19

20 SECTION 3. This act takes effect upon approval by the Governor.

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