

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 753

Introduced by Blood, 3.

Read first time January 08, 2020

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to audiology and speech-language pathology; to
2 amend sections 38-513 and 38-515, Reissue Revised Statutes of
3 Nebraska, and section 38-1509, Revised Statutes Cumulative
4 Supplement, 2018; to adopt the Audiology and Speech-Language
5 Pathology Interstate Compact; to harmonize provisions; and to repeal
6 the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-513, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-513 Nothing in the Audiology and Speech-Language Pathology
4 Practice Act shall be construed to prevent or restrict (1) a qualified
5 person licensed in this state from engaging in the profession for which
6 he or she is licensed if he or she does not present himself or herself to
7 be an audiologist or speech-language pathologist or (2) the performance
8 of audiology or speech-language pathology services in this state by any
9 person not a resident of this state who is not licensed under the act or
10 in a member state of the Audiology and Speech-Language Pathology
11 Interstate Compact, if such services are performed for not more than
12 thirty days in any calendar year, if such person meets the qualifications
13 and requirements for application for licensure under the act, if such
14 person is working under the supervision of a person licensed to practice
15 speech-language pathology or audiology, and if such person registers with
16 the board prior to initiation of professional services.

17 Sec. 2. Section 38-515, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 38-515 (1) Every applicant for a license to practice audiology shall
20 (a)(i) for applicants graduating prior to September 1, 2007, present
21 proof of a master's degree, a doctoral degree, or the equivalent of a
22 master's degree or doctoral degree in audiology from an academic program
23 approved by the board, and (ii) for applicants graduating on or after
24 September 1, 2007, present proof of a doctoral degree or its equivalent
25 in audiology, (b) present proof of no less than thirty-six weeks of full-
26 time professional experience or equivalent half-time professional
27 experience in audiology, supervised in the area in which licensure is
28 sought, and (c) successfully complete an examination approved by the
29 board.

30 (2) Every applicant for a license to practice speech-language
31 pathology shall (a) present proof of a master's degree, a doctoral

1 degree, or the equivalent of a master's degree or doctoral degree in
2 speech-language pathology from an academic program approved by the board,
3 (b) present proof of no less than thirty-six weeks of full-time
4 professional experience or equivalent half-time professional experience
5 in speech-language pathology, supervised in the area in which licensure
6 is sought, and (c) successfully complete an examination approved by the
7 board.

8 (3) Presentation of official documentation of certification by a
9 nationwide professional accrediting organization approved by the board
10 shall be deemed equivalent to the requirements of this section.

11 (4) Every applicant for a privilege to practice audiology or speech-
12 language pathology under the Audiology and Speech-Language Pathology
13 Interstate Compact shall present proof of authorization from a member
14 state, as defined in section 4 of this act, to practice as an audiologist
15 or speech-language pathologist.

16 Sec. 3. Section 38-1509, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 38-1509 (1) Except as otherwise provided in this section, no person
19 shall engage in the sale of or practice of fitting hearing instruments or
20 display a sign or in any other way advertise or represent himself or
21 herself as a person who practices the fitting and sale or dispensing of
22 hearing instruments unless he or she holds an unsuspended, unrevoked
23 hearing instrument specialist license issued by the department as
24 provided in the Hearing Instrument Specialists Practice Act. A hearing
25 instrument specialist license shall confer upon the holder the right to
26 select, fit, and sell hearing instruments. A person holding a license
27 issued under the act prior to August 30, 2009, may continue to practice
28 under such license until it expires under the terms of the license.

29 (2) A licensed audiologist who maintains a practice pursuant to (a)
30 licensure as an audiologist, or (b) a privilege to practice audiology
31 under the Audiology and Speech-Language Pathology Interstate Compact, in

1 which hearing instruments are regularly dispensed or who intends to
2 maintain such a practice shall be exempt from the requirement to be
3 licensed as a hearing instrument specialist.

4 (3) Nothing in the act shall prohibit a corporation, partnership,
5 limited liability company, trust, association, or other like organization
6 maintaining an established business address from engaging in the business
7 of selling or offering for sale hearing instruments at retail without a
8 license if it employs only properly licensed natural persons in the
9 direct sale and fitting of such products.

10 (4) Nothing in the act shall prohibit the holder of a hearing
11 instrument specialist license from the fitting and sale of wearable
12 instruments or devices designed for or offered for the purpose of
13 conservation or protection of hearing.

14 Sec. 4. The State of Nebraska adopts the Audiology and Speech-
15 Language Pathology Interstate Compact in the form substantially as
16 follows:

17 Section 1

18 PURPOSE

19 The purpose of this Compact is to facilitate interstate practice of
20 audiology and speech-language pathology with the goal of improving public
21 access to audiology and speech-language pathology services. The practice
22 of audiology and speech-language pathology occurs in the state where the
23 patient, client, or student is located at the time of the patient,
24 client, or student encounter. The Compact preserves the regulatory
25 authority of states to protect public health and safety through the
26 current system of state licensure.

27 This Compact is designed to achieve the following objectives:

28 (1) Increase public access to audiology and speech-language
29 pathology services by providing for the mutual recognition of other
30 member state licenses;

31 (2) Enhance the states' ability to protect the public's health and

1 safety;

2 (3) Encourage the cooperation of member states in regulating
3 multistate audiology and speech-language pathology practice;

4 (4) Support spouses of relocating active duty military personnel;

5 (5) Enhance the exchange of licensure, investigative, and
6 disciplinary information between member states;

7 (6) Allow a remote state to hold a provider of services with a
8 compact privilege in that state accountable to that state's practice
9 standards; and

10 (7) Allow for the use of telehealth technology to facilitate
11 increased access to audiology and speech-language pathology services.

12 Section 2

13 DEFINITIONS

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

16 A. Active duty military means full-time duty status in the active
17 uniformed service of the United States, including members of the National
18 Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and
19 1211.

20 B. Adverse action means any administrative, civil, equitable, or
21 criminal action permitted by a state's laws which is imposed by a
22 licensing board or other authority against an audiologist or speech-
23 language pathologist, including actions against an individual's license
24 or privilege to practice such as revocation, suspension, probation,
25 monitoring of the licensee, or restriction on the licensee's practice.

26 C. Alternative program means a nondisciplinary monitoring process
27 approved by an audiology or speech-language pathology licensing board to
28 address impaired practitioners.

29 D. Audiologist means an individual who is licensed by a state to
30 practice audiology.

31 E. Audiology means the care and services provided by a licensed

1 audiologist as set forth in the member state's statutes and rules.

2 F. Audiology and Speech-Language Pathology Compact Commission or
3 Commission means the national administrative body whose membership
4 consists of all states that have enacted the Compact.

5 G. Audiology and speech-language pathology licensing board,
6 audiology licensing board, speech-language pathology licensing board, or
7 licensing board each means the agency of a state that is responsible for
8 the licensing and regulation of audiologists or speech-language
9 pathologists.

10 H. Compact privilege means the authorization granted by a remote
11 state to allow a licensee from another member state to practice as an
12 audiologist or speech-language pathologist in the remote state under its
13 laws and rules. The practice of audiology or speech-language pathology
14 occurs in the member state where the patient, client, or student is
15 located at the time of the patient, client, or student encounter.

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

22 J. Data system means a repository of information about licensees,
23 including, but not limited to, continuing education, examination,
24 licensure, investigative, compact privilege, and adverse action.

25 K. Encumbered license means a license in which an adverse action
26 restricts the practice of audiology or speech-language pathology by the
27 licensee and such adverse action has been reported to the National
28 Practitioners Data Bank.

29 L. Executive Committee means a group of directors elected or
30 appointed to act on behalf of, and within the powers granted to them by,
31 the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

1 Y. Telehealth means the application of telecommunication technology
2 to deliver audiology or speech-language pathology services at a distance
3 for assessment, intervention, or consultation.

4 Section 3

5 STATE PARTICIPATION IN THE COMPACT

6 A. A license issued to an audiologist or speech-language pathologist
7 by a home state to a resident in that state shall be recognized by each
8 member state as authorizing an audiologist or speech-language pathologist
9 to practice audiology or speech-language pathology, under a privilege to
10 practice, in each member state.

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

18 1. A member state must fully implement a criminal background check
19 requirement, within a timeframe established by rule, by receiving the
20 results of the Federal Bureau of Investigation record search on criminal
21 background checks and use the results in making licensure decisions.

22 2. Communication between a member state, the Commission, and among
23 member states regarding the verification of eligibility for licensure
24 through the Compact shall not include any information received from the
25 Federal Bureau of Investigation relating to a federal criminal records
26 check performed by a member state under Public Law 92-544.

27 C. Upon application for a privilege to practice, the licensing board
28 in the issuing remote state shall ascertain, through the data system,
29 whether the applicant has ever held, or is the holder of, a license
30 issued by any other state, whether there are any encumbrances on any
31 license or privilege to practice held by the applicant, or whether any

1 adverse action has been taken against any license or privilege to
2 practice held by the applicant.

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

7 E. For an audiologist:

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

9 a. On or before December 31, 2007, has graduated with a master's
10 degree or doctorate in audiology, or equivalent degree regardless of
11 degree name, from a program that is accredited by an accrediting agency
12 recognized by the Council for Higher Education Accreditation, or its
13 successor, or by the United States Department of Education and operated
14 by a college or university accredited by a regional or national
15 accrediting organization recognized by the licensing board;

16 b. On or after January 1, 2008, has graduated with a doctoral degree
17 in audiology, or equivalent degree, regardless of degree name, from a
18 program that is accredited by an accrediting agency recognized by the
19 Council for Higher Education Accreditation, or its successor, or by the
20 United States Department of Education and operated by a college or
21 university accredited by a regional or national accrediting organization
22 recognized by the licensing board; or

23 c. Has graduated from an audiology program that is housed in an
24 institution of higher education outside of the United States (a) for
25 which the program and institution have been approved by the authorized
26 accrediting body in the applicable country and (b) the degree program has
27 been verified by an independent credentials review agency to be
28 comparable to a state licensing board-approved program;

29 2. Has completed a supervised clinical practicum experience from an
30 accredited educational institution or its cooperating programs as
31 required by the licensing board;

1 3. Has successfully passed a national examination approved by the
2 Commission;

3 4. Holds an active, unencumbered license;

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

7 6. Has a valid United States Social Security or National
8 Practitioner Identification number.

9 F. For a speech-language pathologist:

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

11 a. Has graduated with a master's degree from a speech-language
12 pathology program that is accredited by an organization recognized by the
13 United States Department of Education and operated by a college or
14 university accredited by a regional or national accrediting organization
15 recognized by the licensing board; or

16 b. Has graduated from a speech-language pathology program that is
17 housed in an institution of higher education outside of the United States
18 (a) for which the program and institution have been approved by the
19 authorized accrediting body in the applicable country and (b) the degree
20 program has been verified by an independent credentials review agency to
21 be comparable to a state licensing board-approved program;

22 2. Has completed a supervised clinical practicum experience from an
23 educational institution or its cooperating programs as required by the
24 Commission;

25 3. Has completed a supervised postgraduate professional experience
26 as required by the Commission;

27 4. Has successfully passed a national examination approved by the
28 Commission;

29 5. Holds an active, unencumbered license;

30 6. Has not been convicted or found guilty, and has not entered into
31 an agreed disposition, of a felony related to the practice of speech-

1 language pathology, under applicable state or federal criminal law; and

2 7. Has a valid United States Social Security or National
3 Practitioner Identification number.

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

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

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

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

24 K. Member states must comply with the bylaws and rules and
25 regulations of the Commission.

26 Section 4

27 COMPACT PRIVILEGE

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

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

31 2. Have no encumbrance on any state license;

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

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

5 5. Notify the Commission that the licensee is seeking the compact
6 privilege within one or more remote states;

7 6. Pay any applicable fees, including any state fee, for the compact
8 privilege;

9 7. Report to the Commission adverse action taken by any nonmember
10 state within thirty days from the date the adverse action is taken.

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

14 C. Except as provided in Section 6, if an audiologist or speech-
15 language pathologist changes primary state of residence by moving between
16 two member states, the audiologist or speech-language pathologist must
17 apply for licensure in the new home state, and the license issued by the
18 prior home state shall be deactivated in accordance with applicable rules
19 adopted by the Commission.

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

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

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

31 G. The compact privilege is valid until the expiration date of the

1 home state license. The licensee must comply with the requirements of
2 Section 4A to maintain the compact privilege in the remote state.

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

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

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

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

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

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

22 Section 5

23 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

30 Section 6

31 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

7 Section 7

8 ADVERSE ACTIONS

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

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

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

24 3. Only the home state shall have the power to take adverse action
25 against an audiologist's or speech-language pathologist's license issued
26 by the home state.

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

1 C. The home state shall complete any pending investigations of an
2 audiologist or speech-language pathologist who changes primary state of
3 residence during the course of the investigations. The home state shall
4 also have the authority to take appropriate action and shall promptly
5 report the conclusions of the investigations to the administrator of the
6 data system. The administrator of the coordinated licensure information
7 system shall promptly notify the new home state of any adverse action.

8 D. If otherwise permitted by state law, recover from the affected
9 audiologist or speech-language pathologist the costs of investigations
10 and disposition of cases resulting from any adverse action taken against
11 that audiologist or speech-language pathologist.

12 E. Take adverse action based on the factual findings of the remote
13 state, provided that the home state follows its own procedures for taking
14 the adverse action.

15 F. Joint Investigations

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

20 2. Member states shall share any investigative, litigation, or
21 compliance materials in furtherance of any joint or individual
22 investigation initiated under the Compact.

23 G. If adverse action is taken by the home state against an
24 audiologist's or speech language pathologist's license, the audiologist's
25 or speech-language pathologist's privilege to practice in all other
26 member states shall be deactivated until all encumbrances have been
27 removed from the state license. All home state disciplinary orders that
28 impose adverse action against an audiologist's or speech-language
29 pathologist's license shall include a statement that the audiologist's or
30 speech-language pathologist's privilege to practice is deactivated in all
31 member states during the pendency of the order.

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

5 I. Nothing in this Compact shall override a member state's decision
6 that participation in an alternative program may be used in lieu of
7 adverse action.

8 Section 8

9 ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT
10 COMMISSION

11 A. The Compact member states hereby create and establish a joint
12 public agency known as the Audiology and Speech-Language Pathology
13 Compact Commission:

14 1. The Commission is an instrumentality of the Compact states.

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

21 3. Nothing in this Compact shall be construed to be a waiver of
22 sovereign immunity.

23 B. Membership, Voting, and Meetings

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

28 2. An additional five delegates, who are either a public member or
29 board administrator from a state licensing board, shall be chosen by the
30 Executive Committee from a pool of nominees provided by the Commission at
31 large.

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

3 4. The member state board shall fill any vacancy occurring on the
4 Commission, within ninety days.

5 5. Each delegate shall be entitled to one vote with regard to the
6 promulgation of rules and creation of bylaws and shall otherwise have an
7 opportunity to participate in the business and affairs of the Commission.

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

11 7. The Commission shall meet at least once during each calendar
12 year. Additional meetings shall be held as set forth in the bylaws.

13 C. The Commission shall have the following powers and duties:

14 1. Establish the fiscal year of the Commission;

15 2. Establish bylaws;

16 3. Establish a Code of Ethics;

17 4. Maintain its financial records in accordance with the bylaws;

18 5. Meet and take actions as are consistent with the provisions of
19 this Compact and the bylaws;

20 6. Promulgate uniform rules to facilitate and coordinate
21 implementation and administration of this Compact. The rules shall have
22 the force and effect of law and shall be binding in all member states;

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

27 8. Purchase and maintain insurance and bonds;

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

30 10. Hire employees, elect or appoint officers, fix compensation,
31 define duties, grant individuals appropriate authority to carry out the

1 purposes of the Compact, and to establish the Commission's personnel
2 policies and programs relating to conflicts of interest, qualifications
3 of personnel, and other related personnel matters;

4 11. Accept any and all appropriate donations and grants of money,
5 equipment, supplies, materials, and services, and to receive, utilize and
6 dispose of the same; provided that at all times the Commission shall
7 avoid any appearance of impropriety or conflict of interest;

8 12. Lease, purchase, accept appropriate gifts or donations of, or
9 otherwise to own, hold, improve or use, any property, real, personal or
10 mixed; provided that at all times the Commission shall avoid any
11 appearance of impropriety;

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

14 14. Establish a budget and make expenditures;

15 15. Borrow money;

16 16. Appoint committees, including standing committees composed of
17 members and other interested persons as may be designated in this Compact
18 and the bylaws;

19 17. Provide and receive information from, and cooperate with, law
20 enforcement agencies;

21 18. Establish and elect an Executive Committee; and

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

25 D. The Executive Committee

26 The Executive Committee shall have the power to act on behalf of the
27 Commission according to the terms of this Compact:

28 1. The Executive Committee shall be composed of ten members:

29 a. Seven voting members who are elected by the Commission from the
30 current membership of the Commission;

31 b. Two ex officios, consisting of one nonvoting member from a

1 recognized national audiology professional association and one nonvoting
2 member from a recognized national speech-language pathology association;
3 and

4 c. One ex officio, nonvoting member from the recognized membership
5 organization of the audiology and speech-language pathology licensing
6 boards.

7 E. The ex officio members shall be selected by their respective
8 organizations.

9 1. The Commission may remove any member of the Executive Committee
10 as provided in the bylaws.

11 2. The Executive Committee shall meet at least annually.

12 3. The Executive Committee shall have the following duties and
13 responsibilities:

14 a. Recommend to the entire Commission changes to the rules or
15 bylaws, changes to this Compact legislation, fees paid by Compact member
16 states such as annual dues, and any commission Compact fee charged to
17 licensees for the compact privilege;

18 b. Ensure Compact administration services are appropriately
19 provided, contractual or otherwise;

20 c. Prepare and recommend the budget;

21 d. Maintain financial records on behalf of the Commission;

22 e. Monitor Compact compliance of member states and provide
23 compliance reports to the Commission;

24 f. Establish additional committees as necessary; and

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

26 4. Meetings of the Commission

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

30 5. The Commission or the Executive Committee or other committees of
31 the Commission may convene in a closed, nonpublic meeting if the

1 Commission or Executive Committee or other committees of the Commission
2 must discuss:

3 a. Noncompliance of a member state with its obligations under the
4 Compact;

5 b. The employment, compensation, discipline or other matters,
6 practices or procedures related to specific employees or other matters
7 related to the Commission's internal personnel practices and procedures;

8 c. Current, threatened, or reasonably anticipated litigation;

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

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

12 f. Disclosure of trade secrets or commercial or financial
13 information that is privileged or confidential;

14 g. Disclosure of information of a personal nature where disclosure
15 would constitute a clearly unwarranted invasion of personal privacy;

16 h. Disclosure of investigative records compiled for law enforcement
17 purposes;

18 i. Disclosure of information related to any investigative reports
19 prepared by or on behalf of or for use of the Commission or other
20 committee charged with responsibility of investigation or determination
21 of compliance issues pursuant to the Compact; or

22 j. Matters specifically exempted from disclosure by federal or
23 member state statute.

24 6. If a meeting, or portion of a meeting, is closed pursuant to this
25 provision, the Commission's legal counsel or designee shall certify that
26 the meeting may be closed and shall reference each relevant exempting
27 provision.

28 7. The Commission shall keep minutes that fully and clearly describe
29 all matters discussed in a meeting and shall provide a full and accurate
30 summary of actions taken, and the reasons therefore, including a
31 description of the views expressed. All documents considered in

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

5 8. Financing of the Commission

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

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

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

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

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

31 F. Qualified Immunity, Defense, and Indemnification

1 1. The members, officers, executive director, employees and
2 representatives of the Commission shall be immune from suit and
3 liability, either personally or in their official capacity, for any claim
4 for damage to or loss of property or personal injury or other civil
5 liability caused by or arising out of any actual or alleged act, error or
6 omission that occurred, or that the person against whom the claim is made
7 had a reasonable basis for believing occurred, within the scope of
8 Commission employment, duties, or responsibilities; provided that nothing
9 in this paragraph shall be construed to protect any person from suit or
10 liability for any damage, loss, injury, or liability caused by the
11 intentional or willful or wanton misconduct of that person.

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

23 3. The Commission shall indemnify and hold harmless any member,
24 officer, executive director, employee, or representative of the
25 Commission for the amount of any settlement or judgment obtained against
26 that person arising out of any actual or alleged act, error, or omission
27 that occurred within the scope of Commission employment, duties, or
28 responsibilities, or that person had a reasonable basis for believing
29 occurred within the scope of Commission employment, duties, or
30 responsibilities, provided that the actual or alleged act, error, or
31 omission did not result from the intentional or willful or wanton

1 misconduct of that person.

2 Section 9

3 DATA SYSTEM

4 A. The Commission shall provide for the development, maintenance,
5 and utilization of a coordinated data base and reporting system
6 containing licensure, adverse action, and investigative information on
7 all licensed individuals in member states.

8 B. Notwithstanding any other provision of state law to the contrary,
9 a member state shall submit a uniform data set to the data system on all
10 individuals to whom this Compact is applicable as required by the rules
11 of the Commission, including:

12 1. Identifying information;

13 2. Licensure data;

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

15 4. Nonconfidential information related to alternative program
16 participation;

17 5. Any denial of application for licensure, and any reason for
18 denial; and

19 6. Other information that may facilitate the administration of this
20 Compact, as determined by the rules of the Commission.

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

23 D. The Commission shall promptly notify all member states of any
24 adverse action taken against a licensee or an individual applying for a
25 license. Adverse action information pertaining to a licensee in any
26 member state shall be available to any other member state.

27 E. Member states contributing information to the data system may
28 designate information that may not be shared with the public without the
29 express permission of the contributing state.

30 F. Any information submitted to the data system that is subsequently
31 required to be expunged by the laws of the member state contributing the

1 information shall be removed from the data system.

2 Section 10

3 RULEMAKING

4 A. The Commission shall exercise its rulemaking powers pursuant to
5 the criteria set forth in this Section and the rules adopted thereunder.
6 Rules and amendments shall become binding as of the date specified in
7 each rule or amendment.

8 B. If a majority of the legislatures of the member states rejects a
9 rule, by enactment of a statute or resolution in the same manner used to
10 adopt the Compact within four years of the date of adoption of the rule,
11 the rule shall have no further force and effect in any member state.

12 C. Rules or amendments to the rules shall be adopted at a regular or
13 special meeting of the Commission.

14 D. Prior to promulgation and adoption of a final rule or rules by
15 the Commission, and at least thirty days in advance of the meeting at
16 which the rule shall be considered and voted upon, the Commission shall
17 file a Notice of Proposed Rulemaking:

18 1. On the web site of the Commission or other publicly accessible
19 platform; and

20 2. On the web site of each member state audiology or speech-language
21 pathology licensing board or other publicly accessible platform or the
22 publication in which each state would otherwise publish proposed rules.

23 E. The Notice of Proposed Rulemaking shall include:

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

26 2. The text of the proposed rule or amendment and the reason for the
27 proposed rule;

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

30 4. The manner in which interested persons may submit notice to the
31 Commission of their intention to attend the public hearing and any

1 written comments.

2 F. Prior to the adoption of a proposed rule, the Commission shall
3 allow persons to submit written data, facts, opinions and arguments,
4 which shall be made available to the public.

5 G. The Commission shall grant an opportunity for a public hearing
6 before it adopts a rule or amendment if a hearing is requested by:

7 1. At least twenty-five persons;

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

9 3. An association having at least twenty-five members.

10 H. If a hearing is held on the proposed rule or amendment, the
11 Commission shall publish the place, time, and date of the scheduled
12 public hearing. If the hearing is held via electronic means, the
13 Commission shall publish the mechanism for access to the electronic
14 hearing.

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

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

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

24 4. Nothing in this section shall be construed as requiring a
25 separate hearing on each rule. Rules may be grouped for the convenience
26 of the Commission at hearings required by this section.

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

30 J. If no written notice of intent to attend the public hearing by
31 interested parties is received, the Commission may proceed with

1 promulgation of the proposed rule without a public hearing.

2 K. The Commission shall, by majority vote of all members, take final
3 action on the proposed rule and shall determine the effective date of the
4 rule, if any, based on the rulemaking record and the full text of the
5 rule.

6 L. Upon determination that an emergency exists, the Commission may
7 consider and adopt an emergency rule without prior notice, opportunity
8 for comment, or hearing, provided that the usual rulemaking procedures
9 provided in the Compact and in this section shall be retroactively
10 applied to the rule as soon as reasonably possible, in no event later
11 than ninety days after the effective date of the rule. For the purposes
12 of this provision, an emergency rule is one that must be adopted
13 immediately in order to:

- 14 1. Meet an imminent threat to public health, safety, or welfare;
15 2. Prevent a loss of Commission or member state funds; or
16 3. Meet a deadline for the promulgation of an administrative rule
17 that is established by federal law or rule.

18 M. The Commission or an authorized committee of the Commission may
19 direct revisions to a previously adopted rule or amendment for purposes
20 of correcting typographical errors, errors in format, errors in
21 consistency, or grammatical errors. Public notice of any revisions shall
22 be posted on the web site of the Commission. The revision shall be
23 subject to challenge by any person for a period of thirty days after
24 posting. The revision may be challenged only on grounds that the revision
25 results in a material change to a rule. A challenge shall be made in
26 writing and delivered to the chairperson of the Commission prior to the
27 end of the notice period. If no challenge is made, the revision shall
28 take effect without further action. If the revision is challenged, the
29 revision may not take effect without the approval of the Commission.

30 Section 11

31 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1 A. Dispute Resolution

2 1. Upon request by a member state, the Commission shall attempt to
3 resolve disputes related to the Compact that arise among member states
4 and between member and nonmember states.

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

7 B. Enforcement

8 1. The Commission, in the reasonable exercise of its discretion,
9 shall enforce the provisions and rules of this Compact.

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

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

21 Section 12

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

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

1 B. Any state that joins the Compact subsequent to the Commission's
2 initial adoption of the rules shall be subject to the rules as they exist
3 on the date on which the Compact becomes law in that state. Any rule that
4 has been previously adopted by the Commission shall have the full force
5 and effect of law on the day the Compact becomes law in that state.

6 C. Any member state may withdraw from this Compact by enacting a
7 statute repealing the same.

8 1. A member state's withdrawal shall not take effect until six
9 months after enactment of the repealing statute.

10 2. Withdrawal shall not affect the continuing requirement of the
11 withdrawing state's audiology or speech-language pathology licensing
12 board to comply with the investigative and adverse action reporting
13 requirements of this Compact prior to the effective date of withdrawal.

14 D. Nothing contained in this Compact shall be construed to
15 invalidate or prevent any audiology or speech-language pathology
16 licensure agreement or other cooperative arrangement between a member
17 state and a nonmember state that does not conflict with the provisions of
18 this Compact.

19 E. This Compact may be amended by the member states. No amendment to
20 this Compact shall become effective and binding upon any member state
21 until it is enacted into the laws of all member states.

22 Section 13

23 CONSTRUCTION AND SEVERABILITY

24 This Compact shall be liberally construed so as to effectuate the
25 purposes thereof. The provisions of this Compact shall be severable and
26 if any phrase, clause, sentence, or provision of this Compact is declared
27 to be contrary to the constitution of any member state or of the United
28 States or the applicability thereof to any government, agency, person, or
29 circumstance is held invalid, the validity of the remainder of this
30 Compact and the applicability thereof to any government, agency, person,
31 or circumstance shall not be affected thereby. If this Compact shall be

1 held contrary to the constitution of any member state, the Compact shall
2 remain in full force and effect as to the remaining member states and in
3 full force and effect as to the member state affected as to all severable
4 matters.

5 Section 14

6 BINDING EFFECT OF COMPACT AND OTHER LAWS

7 A. Nothing herein prevents the enforcement of any other law of a
8 member state that is not inconsistent with the Compact.

9 B. All laws in a member state in conflict with the Compact are
10 superseded to the extent of the conflict.

11 C. All lawful actions of the Commission, including all rules and
12 bylaws promulgated by the Commission, are binding upon the member states.

13 D. All agreements between the Commission and the member states are
14 binding in accordance with their terms.

15 E. In the event any provision of the Compact exceeds the
16 constitutional limits imposed on the legislature of any member state, the
17 provision shall be ineffective to the extent of the conflict with the
18 constitutional provision in question in that member state.

19 Sec. 5. Original sections 38-513 and 38-515, Reissue Revised
20 Statutes of Nebraska, and section 38-1509, Revised Statutes Cumulative
21 Supplement, 2018, are repealed.