

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 14

Introduced by Blood, 3.

Read first time January 07, 2021

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to audiology and speech-language pathology; to
2 amend sections 38-513, 38-515, and 38-520, Reissue Revised Statutes
3 of Nebraska, and sections 38-518 and 38-1509, Revised Statutes
4 Cumulative Supplement, 2020; to adopt the Audiology and Speech-
5 Language Pathology Interstate Compact; to harmonize provisions; and
6 to repeal 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 either under the
10 act or in a member state of the Audiology and Speech-Language Pathology
11 Interstate Compact, if (a) such services are performed for not more than
12 thirty days in any calendar year, (b) ~~if~~ such person meets the
13 qualifications and requirements for application for licensure under the
14 act, (c) ~~if~~ such person is working under the supervision of a person
15 licensed in Nebraska to practice speech-language pathology or audiology
16 or under the supervision of a person licensed in a member state
17 practicing speech-language pathology or audiology in Nebraska under the
18 compact privilege, and (d) ~~if~~ such person registers with the board prior
19 to initiation of professional services.

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

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

1 board.

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

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

14 (4) Every applicant for a privilege to practice audiology or speech-
15 language pathology under the Audiology and Speech-Language Pathology
16 Interstate Compact shall present proof of authorization from a member
17 state, as defined in section 6 of this act, to practice as an audiologist
18 or speech-language pathologist.

19 Sec. 3. Section 38-518, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 38-518 A temporary license to practice audiology or speech-language
22 pathology may be granted to:

23 (1) A military spouse ~~to military spouses~~ as provided in section
24 38-129.01; or

25 (2) A person who establishes ~~to persons who establish~~ residence in
26 Nebraska, or a person who is a resident of a member state of the
27 Audiology and Speech-Language Pathology Interstate Compact, if such
28 person: and

29 (a) Meets ~~who meet~~ all the requirements for a license except passage
30 of the examination required by section 38-515, which temporary license
31 shall be valid only until the date on which the results of the next

1 licensure examination are available to the department and shall not be
2 renewed; ~~r~~ or

3 (b) Meets ~~who meet~~ all the requirements for a license except
4 completion of the professional experience required by section 38-515,
5 which temporary license shall be valid only until the sooner of
6 completion of such professional experience or eighteen months and shall
7 not be renewed.

8 Sec. 4. Section 38-520, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-520 (1) The department, with the recommendation of the board,
11 shall approve an application submitted by an audiologist or speech-
12 language pathologist for supervision of an audiology or speech-language
13 pathology assistant when:

14 (a) The audiology or speech-language pathology assistant meets the
15 requirements for registration pursuant to section 38-519;

16 (b) The audiologist or speech-language pathologist has a valid
17 Nebraska license or a privilege to practice audiology or speech-language
18 pathology under the Audiology and Speech-Language Pathology Interstate
19 Compact; and

20 (c) The audiologist or speech-language pathologist practices in
21 Nebraska.

22 (2) Any audiologist or speech-language pathologist seeking approval
23 for supervision of an audiology or speech-language pathology assistant
24 shall submit an application which is signed by the audiology or speech-
25 language pathology assistant and the audiologist or speech-language
26 pathologist with whom he or she is associated. Such application shall (a)
27 identify the settings within which the audiology or speech-language
28 pathology assistant is authorized to practice, (b) describe the agreed-
29 upon functions that the audiology or speech-language pathology assistant
30 may perform as provided in section 38-523, and (c) describe the provision
31 for supervision by an alternate audiologist or speech-language

1 pathologist when necessary.

2 (3) If the supervision of an audiology or speech-language pathology
3 assistant is terminated by the audiologist, speech-language pathologist,
4 or audiology or speech-language pathology assistant, the audiologist or
5 speech-language pathologist shall notify the department of such
6 termination. An audiologist or speech-language pathologist who thereafter
7 assumes the responsibility for such supervision shall obtain a
8 certificate of approval to supervise an audiology or speech-language
9 pathology assistant from the department prior to the use of the audiology
10 or speech-language pathology assistant in the practice of audiology or
11 speech-language pathology.

12 Sec. 5. Section 38-1509, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 38-1509 (1) Except as otherwise provided in this section, no person
15 shall engage in the sale of or practice of fitting hearing instruments or
16 display a sign or in any other way advertise or represent himself or
17 herself as a person who practices the fitting and sale or dispensing of
18 hearing instruments unless he or she holds an unsuspended, unrevoked
19 hearing instrument specialist license issued by the department as
20 provided in the Hearing Instrument Specialists Practice Act. A hearing
21 instrument specialist license shall confer upon the holder the right to
22 select, fit, and sell hearing instruments. A person holding a license
23 issued under the act prior to August 30, 2009, may continue to practice
24 under such license until it expires under the terms of the license.

25 (2) A licensed audiologist who maintains a practice pursuant to (a)
26 licensure as an audiologist, or (b) a privilege to practice audiology
27 under the Audiology and Speech-Language Pathology Interstate Compact, in
28 which hearing instruments are regularly dispensed, or who intends to
29 maintain such a practice, shall be exempt from the requirement to be
30 licensed as a hearing instrument specialist.

31 (3) Nothing in the act shall prohibit a corporation, partnership,

1 limited liability company, trust, association, or other like organization
2 maintaining an established business address from engaging in the business
3 of selling or offering for sale hearing instruments at retail without a
4 license if it employs only properly licensed natural persons in the
5 direct sale and fitting of such products.

6 (4) Nothing in the act shall prohibit the holder of a hearing
7 instrument specialist license from the fitting and sale of wearable
8 instruments or devices designed for or offered for the purpose of
9 conservation or protection of hearing.

10 Sec. 6. The State of Nebraska adopts the Audiology and Speech-
11 Language Pathology Interstate Compact in the form substantially as
12 follows:

13 Article 1 PURPOSE

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

22 This Compact is designed to achieve the following objectives:

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

26 (2) Enhance the states' ability to protect the public's health and
27 safety;

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

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

31 (5) Enhance the exchange of licensure, investigative, and

1 disciplinary information between member states;

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

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

7 Article 2 DEFINITIONS

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

10 A. Active duty military means full-time duty status in the active
11 uniformed service of the United States, including members of the National
12 Guard and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and
13 1211.

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

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

23 D. Audiologist means an individual who is licensed by a state to
24 practice audiology.

25 E. Audiology means the care and services provided by a licensed
26 audiologist as set forth in the member state's statutes and rules.

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

30 G. Audiology and speech-language pathology licensing board,
31 audiology licensing board, speech-language pathology licensing board, or

1 licensing board each means the agency of a state that is responsible for
2 the licensing and regulation of audiologists or speech-language
3 pathologists.

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

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

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

19 K. Encumbered license means a license in which an adverse action
20 restricts the practice of audiology or speech-language pathology by the
21 licensee and such adverse action has been reported to the National
22 Practitioner Data Bank.

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

26 M. Home state means the member state that is the licensee's primary
27 state of residence.

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

31 O. Licensee means an individual who currently holds an authorization

1 from the state licensing board to practice as an audiologist or speech-
2 language pathologist.

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

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

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

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

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

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

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

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

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

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

29 Article 3 STATE PARTICIPATION IN THE COMPACT

30 A. A license issued to an audiologist or speech-language pathologist
31 by a home state to a resident in that state shall be recognized by each

1 member state as authorizing an audiologist or speech-language pathologist
2 to practice audiology or speech-language pathology, under a privilege to
3 practice, in each member state.

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

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

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

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

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

31 E. For an audiologist:

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

2 a. On or before December 31, 2007, has graduated with a master's
3 degree or doctorate in audiology, or equivalent degree regardless of
4 degree name, from a program that is accredited by an accrediting agency
5 recognized by the Council for Higher Education Accreditation, or its
6 successor, or by the United States Department of Education and operated
7 by a college or university accredited by a regional or national
8 accrediting organization recognized by the licensing board;

9 b. On or after January 1, 2008, has graduated with a doctoral degree
10 in audiology, or equivalent degree, regardless of degree name, from a
11 program that is accredited by an accrediting agency recognized by the
12 Council for Higher Education Accreditation, or its successor, or 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 c. Has graduated from an audiology program that is housed in an
17 institution of higher education outside of the United States (a) for
18 which the program and institution have been approved by the authorized
19 accrediting body in the applicable country and (b) the degree program has
20 been verified by an independent credentials review agency to be
21 comparable to a state licensing board-approved program;

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

25 3. Has successfully passed a national examination approved by the
26 Commission;

27 4. Holds an active, unencumbered license;

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

31 6. Has a valid United States social security number or National

1 Practitioner Identification number.

2 F. For a speech-language pathologist:

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

4 a. Has graduated with a master's degree from a speech-language
5 pathology program that is accredited by an organization recognized by the
6 United States Department of Education and operated by a college or
7 university accredited by a regional or national accrediting organization
8 recognized by the licensing board; or

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

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

18 3. Has completed a supervised postgraduate professional experience
19 as required by the Commission;

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

22 5. Holds an active, unencumbered license;

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

26 7. Has a valid United States social security number or National
27 Practitioner Identification number.

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

29 H. An audiologist or speech-language pathologist practicing in a
30 member state must comply with the state practice laws of the state in
31 which the client is located at the time service is provided. The practice

1 of audiology and speech-language pathology shall include all audiology
2 and speech-language pathology practice as defined by the state practice
3 laws of the member state in which the client is located. The practice of
4 audiology and speech-language pathology in a member state under a
5 privilege to practice shall subject an audiologist or speech-language
6 pathologist to the jurisdiction of the licensing board, the courts, and
7 the laws of the member state in which the client is located at the time
8 service is provided.

9 I. Individuals not residing in a member state shall continue to be
10 able to apply for a member state's single-state license as provided under
11 the laws of each member state. However, the single-state license granted
12 to these individuals shall not be recognized as granting the privilege to
13 practice audiology or speech-language pathology in any other member
14 state. Nothing in this Compact shall affect the requirements established
15 by a member state for the issuance of a single-state license.

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

17 K. Member states must comply with the bylaws and rules and
18 regulations of the Commission.

19 Article 4 COMPACT PRIVILEGE

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

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

23 2. Have no encumbrance on any state license;

24 3. Be eligible for a compact privilege in any member state in
25 accordance with Article 3;

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

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

30 6. Pay any applicable fees, including any state fee, for the compact
31 privilege;

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

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

6 C. Except as provided in Article 6, if an audiologist or speech-
7 language pathologist changes primary state of residence by moving between
8 two member states, the audiologist or speech-language pathologist must
9 apply for licensure in the new home state, and the license issued by the
10 prior home state shall be deactivated in accordance with applicable rules
11 adopted by the Commission.

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

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

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

23 G. The compact privilege is valid until the expiration date of the
24 home state license. The licensee must comply with the requirements of
25 section A of this Article to maintain the compact privilege in the remote
26 state.

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

30 I. A licensee providing audiology or speech-language pathology
31 services in a remote state is subject to that state's regulatory

1 authority. A remote state may, in accordance with due process and that
2 state's laws, remove a licensee's compact privilege in the remote state
3 for a specific period of time, impose fines, or take any other necessary
4 actions to protect the health and safety of its citizens.

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

7 1. The home state license is no longer encumbered; and

8 2. Two years have elapsed from the date of the adverse action.

9 K. Once an encumbered license in the home state is restored to good
10 standing, the licensee must meet the requirements of section A of this
11 Article to obtain a compact privilege in any remote state.

12 L. Once the requirements of section J of this Article have been met,
13 the licensee must meet the requirements in section A of this Article to
14 obtain a compact privilege in a remote state.

15 Article 5 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

16 Member states shall recognize the right of an audiologist or speech-
17 language pathologist, licensed by a home state in accordance with Article
18 3 and under rules promulgated by the Commission, to practice audiology or
19 speech-language pathology in any member state via telehealth under a
20 privilege to practice as provided in the Compact and rules promulgated by
21 the Commission.

22 Article 6 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

29 Article 7 ADVERSE ACTIONS

30 A. In addition to the other powers conferred by state law, a remote
31 state shall have the authority, in accordance with existing state due

1 process law, to:

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

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

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

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

22 C. The home state shall complete any pending investigations of an
23 audiologist or speech-language pathologist who changes primary state of
24 residence during the course of the investigations. The home state shall
25 also have the authority to take appropriate action and shall promptly
26 report the conclusions of the investigations to the administrator of the
27 data system. The administrator of the coordinated licensure information
28 system shall promptly notify the new home state of any adverse action.

29 D. If otherwise permitted by state law, recover from the affected
30 audiologist or speech-language pathologist the costs of investigations
31 and disposition of cases resulting from any adverse action taken against

1 that audiologist or speech-language pathologist.

2 E. Take adverse action based on the factual findings of the remote
3 state, provided that the home state follows its own procedures for taking
4 the adverse action.

5 F. Joint Investigations

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

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

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

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

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

29 Article 8 ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE
30 PATHOLOGY COMPACT COMMISSION

31 A. The Compact member states hereby create and establish a joint

1 public agency known as the Audiology and Speech-Language Pathology
2 Compact Commission:

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

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

10 3. Nothing in this Compact shall be construed to be a waiver of
11 sovereign immunity.

12 B. Membership, Voting, and Meetings

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

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

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

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

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

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

31 7. The Commission shall meet at least once during each calendar

1 year. Additional meetings shall be held as set forth in the bylaws.

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

3 1. Establish the fiscal year of the Commission;

4 2. Establish bylaws;

5 3. Establish a Code of Ethics;

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

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

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

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

16 8. Purchase and maintain insurance and bonds;

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

19 10. Hire employees, elect or appoint officers, fix compensation,
20 define duties, grant individuals appropriate authority to carry out the
21 purposes of the Compact, and to establish the Commission's personnel
22 policies and programs relating to conflicts of interest, qualifications
23 of personnel, and other related personnel matters;

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

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

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

3 14. Establish a budget and make expenditures;

4 15. Borrow money;

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

8 17. Provide and receive information from, and cooperate with, law
9 enforcement agencies;

10 18. Establish and elect an Executive Committee; and

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

14 D. The Executive Committee

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

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

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

20 b. Two ex officios, consisting of one nonvoting member from a
21 recognized national audiology professional association and one nonvoting
22 member from a recognized national speech-language pathology association;
23 and

24 c. One ex officio, nonvoting member from the recognized membership
25 organization of the audiology and speech-language pathology licensing
26 boards.

27 E. The ex officio members shall be selected by their respective
28 organizations.

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

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

1 3. The Executive Committee shall have the following duties and
2 responsibilities:

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

7 b. Ensure Compact administration services are appropriately
8 provided, contractual or otherwise;

9 c. Prepare and recommend the budget;

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

11 e. Monitor Compact compliance of member states and provide
12 compliance reports to the Commission;

13 f. Establish additional committees as necessary; and

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

15 4. Meetings of the Commission

16 All meetings shall be open to the public, and public notice of
17 meetings shall be given in the same manner as required under the
18 rulemaking provisions in Article 10.

19 5. The Commission or the Executive Committee or other committees of
20 the Commission may convene in a closed, nonpublic meeting if the
21 Commission or Executive Committee or other committees of the Commission
22 must discuss:

23 a. Noncompliance of a member state with its obligations under the
24 Compact;

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

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

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

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

1 f. Disclosure of trade secrets or commercial or financial
2 information that is privileged or confidential;

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

5 h. Disclosure of investigative records compiled for law enforcement
6 purposes;

7 i. Disclosure of information related to any investigative reports
8 prepared by or on behalf of or for use of the Commission or other
9 committee charged with responsibility of investigation or determination
10 of compliance issues pursuant to the Compact; or

11 j. Matters specifically exempted from disclosure by federal or
12 member state statute.

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

17 7. The Commission shall keep minutes that fully and clearly describe
18 all matters discussed in a meeting and shall provide a full and accurate
19 summary of actions taken, and the reasons therefor, including a
20 description of the views expressed. All documents considered in
21 connection with an action shall be identified in minutes. All minutes and
22 documents of a closed meeting shall remain under seal, subject to release
23 by a majority vote of the Commission or order of a court of competent
24 jurisdiction.

25 8. Financing of the Commission

26 a. The Commission shall pay, or provide for the payment of, the
27 reasonable expenses of its establishment, organization, and ongoing
28 activities.

29 b. The Commission may accept any and all appropriate revenue
30 sources, donations, and grants of money, equipment, supplies, materials,
31 and services.

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

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

13 10. The Commission shall keep accurate accounts of all receipts and
14 disbursements. The receipts and disbursements of the Commission shall be
15 subject to the audit and accounting procedures established under its
16 bylaws. However, all receipts and disbursements of funds handled by the
17 Commission shall be audited yearly by a certified or licensed public
18 accountant, and the report of the audit shall be included in and become
19 part of the annual report of the Commission.

20 F. Qualified Immunity, Defense, and Indemnification

21 1. The members, officers, executive director, employees and
22 representatives of the Commission shall be immune from suit and
23 liability, either personally or in their official capacity, for any claim
24 for damage to or loss of property or personal injury or other civil
25 liability caused by or arising out of any actual or alleged act, error or
26 omission that occurred, or that the person against whom the claim is made
27 had a reasonable basis for believing occurred, within the scope of
28 Commission employment, duties, or responsibilities; provided that nothing
29 in this paragraph shall be construed to protect any person from suit or
30 liability for any damage, loss, injury, or liability caused by the
31 intentional or willful or wanton misconduct of that person.

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

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

22 Article 9 DATA SYSTEM

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

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

31 1. Identifying information;

- 1 2. Licensure data;
- 2 3. Adverse actions against a license or compact privilege;
- 3 4. Nonconfidential information related to alternative program
- 4 participation;
- 5 5. Any denial of application for licensure, and any reason for
- 6 denial; and
- 7 6. Other information that may facilitate the administration of this
- 8 Compact, as determined by the rules of the Commission.

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

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

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

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

21 Article 10 RULEMAKING

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

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

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

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

5 1. On the web site of the Commission or other publicly accessible
6 platform; and

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

10 E. The Notice of Proposed Rulemaking shall include:

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

13 2. The text of the proposed rule or amendment and the reason for the
14 proposed rule;

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

17 4. The manner in which interested persons may submit notice to the
18 Commission of their intention to attend the public hearing and any
19 written comments.

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

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

25 1. At least twenty-five persons;

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

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

28 H. If a hearing is held on the proposed rule or amendment, the
29 Commission shall publish the place, time, and date of the scheduled
30 public hearing. If the hearing is held via electronic means, the
31 Commission shall publish the mechanism for access to the electronic

1 hearing.

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

6 2. Hearings shall be conducted in a manner providing each person who
7 wishes to comment a fair and reasonable opportunity to comment orally or
8 in writing.

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

11 4. Nothing in this Article shall be construed as requiring a
12 separate hearing on each rule. Rules may be grouped for the convenience
13 of the Commission at hearings required by this Article.

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

17 J. If no written notice of intent to attend the public hearing by
18 interested parties is received, the Commission may proceed with
19 promulgation of the proposed rule without a public hearing.

20 K. The Commission shall, by majority vote of all members, take final
21 action on the proposed rule and shall determine the effective date of the
22 rule, if any, based on the rulemaking record and the full text of the
23 rule.

24 L. Upon determination that an emergency exists, the Commission may
25 consider and adopt an emergency rule without prior notice, opportunity
26 for comment, or hearing, provided that the usual rulemaking procedures
27 provided in the Compact and in this Article shall be retroactively
28 applied to the rule as soon as reasonably possible, in no event later
29 than ninety days after the effective date of the rule. For the purposes
30 of this provision, an emergency rule is one that must be adopted
31 immediately in order to:

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

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

17 Article 11 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

18 A. Dispute Resolution

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

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

24 B. Enforcement

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

27 2. By majority vote, the Commission may initiate legal action in the
28 United States District Court for the District of Columbia or the federal
29 district where the Commission has its principal offices against a member
30 state in default to enforce compliance with the provisions of the Compact
31 and its promulgated rules and bylaws. The relief sought may include both

1 injunctive relief and damages. In the event judicial enforcement is
2 necessary, the prevailing member shall be awarded all costs of
3 litigation, including reasonable attorney's fees.

4 3. The remedies herein shall not be the exclusive remedies of the
5 Commission. The Commission may pursue any other remedies available under
6 federal or state law.

7 Article 12 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
8 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES,
9 WITHDRAWAL, AND AMENDMENT

10 A. The Compact shall come into effect on the date on which the
11 Compact statute is enacted into law in the tenth member state. The
12 provisions, which become effective at that time, shall be limited to the
13 powers granted to the Commission relating to assembly and the
14 promulgation of rules. Thereafter, the Commission shall meet and exercise
15 rulemaking powers necessary to the implementation and administration of
16 the Compact.

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

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

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

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

30 D. Nothing contained in this Compact shall be construed to
31 invalidate or prevent any audiology or speech-language pathology

1 licensure agreement or other cooperative arrangement between a member
2 state and a nonmember state that does not conflict with the provisions of
3 this Compact.

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

7 Article 13 CONSTRUCTION AND SEVERABILITY

8 This Compact shall be liberally construed so as to effectuate the
9 purposes thereof. The provisions of this Compact shall be severable and
10 if any phrase, clause, sentence, or provision of this Compact is declared
11 to be contrary to the constitution of any member state or of the United
12 States or the applicability thereof to any government, agency, person, or
13 circumstance is held invalid, the validity of the remainder of this
14 Compact and the applicability thereof to any government, agency, person,
15 or circumstance shall not be affected thereby. If this Compact shall be
16 held contrary to the constitution of any member state, the Compact shall
17 remain in full force and effect as to the remaining member states and in
18 full force and effect as to the member state affected as to all severable
19 matters.

20 Article 14 BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

29 E. In the event any provision of the Compact exceeds the
30 constitutional limits imposed on the legislature of any member state, the
31 provision shall be ineffective to the extent of the conflict with the

1 constitutional provision in question in that member state.

2 Sec. 7. Original sections 38-513, 38-515, and 38-520, Reissue
3 Revised Statutes of Nebraska, and sections 38-518 and 38-1509, Revised
4 Statutes Cumulative Supplement, 2020, are repealed.