**A** **BILL**

TO ENACT THE “AUDIOLOGY AND SPEECH‑LANGUAGE INTERSTATE COMPACT ACT”, TO AMEND CHAPTER 67, TITLE 40 OF THE 1976 CODE, RELATING TO SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS, BY ADDING ARTICLE 5, TO OUTLINE STATE PARTICIPATION IN THE COMPACT, TO OUTLINE PRIVILEGES FOR AUDIOLOGISTS AND SPEECH‑LANGUAGE PATHOLOGISTS RESULTING FROM THE COMPACT, TO ALLOW FOR THE PRACTICE OF TELEHEALTH, TO PROVIDE ACCOMMODATIONS FOR ACTIVE-DUTY MILITARY PERSONNEL AND THEIR SPOUSES, TO PROVIDE A MECHANISM FOR TAKING ADVERSE ACTIONS AGAINST LICENSEES, TO ESTABLISH THE AUDIOLOGY AND SPEECH‑LANGUAGE PATHOLOGY COMPACT COMMISSION, TO ESTABLISH A DATA SYSTEM, TO OUTLINE THE RULEMAKING PROCESS, TO ADDRESS OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT DUTIES AND RESPONSIBILITIES, TO ESTABLISH THE DATE OF IMPLEMENTATION OF THE COMMISSION, RULES, WITHDRAWAL, AND AMENDMENTS, TO ADDRESS STATUTORY CONSTRUCTION, SEVERABILITY, AND THE BINDING EFFECT OF THE COMPACT; TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 67, TITLE 40 AS ARTICLE 1, ENTITLED “GENERAL PROVISIONS”; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. This act must be known and may be cited as the “Audiology and Speech‑Language Pathology Interstate Compact Act”.

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

“ARTICLE 5

Audiology and Speech‑Language Pathology Interstate Compact

Section 40‑67‑510. The purpose of this compact is to facilitate the interstate practice of audiology and speech‑language pathology, with the goal of improving public access to audiology and speech‑language pathology services. The practice of audiology and speech‑language pathology occurs in a state where a patient, client, or student is located at the time of the patient, client, or student’s encounter. The compact preserves the regulatory authority of member states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

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

(2) enhance member states’ abilities to protect the public’s health and safety;

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

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

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

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

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

Section 40‑67‑520. As used in this article:

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

(2) ‘Adverse action’ means any administrative, civil, equitable, or criminal action permitted by a state’s laws that is imposed by a licensing board or other authority against a licensee, including actions against an individual’s license or privilege to practice, such as a revocation, suspension, probation, or monitoring of the licensee, or a restriction on the licensee’s practice.

(3) ‘Alternative program’ means a non-disciplinary monitoring process approved by an audiology or speech‑language pathology licensing board to address impaired practitioners.

(4) ‘Audiologist’ means an individual who is licensed by a state to practice audiology.

(5) ‘Audiology’ means the care and services provided by a licensed audiologist as set forth in a state’s statutes and rules.

(6) ‘Audiology and Speech‑Language Pathology Compact Commission’ or ‘Commission’ means the national administrative body that has a membership consisting of all member states.

(7) ‘Audiology and speech‑language pathology licensing board’, ‘audiology licensing board’, ‘speech‑language pathology licensing board’, or ‘licensing board’ means the agency of a state that is responsible for the licensing and regulation of audiologists or speech‑language pathologists.

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

(9) ‘Current significant investigative information’ means investigative information that a licensing board has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction, following an inquiry or investigation that includes notification and an opportunity for the licensee to respond, if required by state law.

(10) ‘Data system’ means a repository of information about licensees, including, but not limited to, information on continuing education, examination, licensure, investigations, compact privilege, and adverse action.

(11) ‘Encumbered license’ means a license in which an adverse action restricts the practice of audiology or speech‑language pathology by the licensee and the adverse action has been reported to the National Practitioner Data Bank.

(12) ‘Executive committee’ means a group of directors elected or appointed to act on behalf of, and within the powers granted to it by, the commission.

(13) ‘Home state’ means the member state that is a licensee’s primary state of residence.

(14) ‘Impaired practitioner’ means an individual whose professional practice is adversely affected by substance abuse, addiction, or another health‑related condition.

(15) ‘Licensee’ means an individual who currently holds an authorization from a licensing board to practice as an audiologist or speech‑language pathologist.

(16) ‘Member state’ means a state that has enacted the compact.

(17) ‘Privilege to practice’ means a legal authorization permitting the practice of audiology or speech‑language pathology in a remote state.

(18) ‘Remote state’ means a member state other than a licensee’s home state where the licensee is exercising or seeking to exercise the compact privilege.

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

(20) ‘Single‑state license’ means an audiology or speech‑language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

(21) ‘Speech‑language pathologist’ means an individual who is licensed by a state to practice speech‑language pathology.

(22) ‘Speech‑language pathology’ means the care and services provided by a licensed speech‑language pathologist as set forth in a member state’s statutes and rules.

(23) ‘State’ means any state, commonwealth, district, or territory of the United States of America that regulates the practice of audiology and speech‑language pathology.

(24) ‘State‑practice laws’ means a member state’s laws, rules, and regulations that govern the practice of audiology or speech‑language pathology, define the scope of audiology or speech‑language pathology practice, and create the methods and grounds for imposing discipline.

(25) ‘Telehealth’ means the application of telecommunication technology to deliver audiology or speech‑language pathology services at a distance for assessment, intervention, or consultation.

Section 40‑67-530. (A) A license issued by a home state to an audiologist or speech‑language pathologist who is a resident of that home state must be recognized by each member state as authorizing the licensee to practice audiology or speech‑language pathology, under a privilege to practice, in each member state.

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

(2) Communication between a member state and the commission, and among member states, regarding the verification of eligibility for licensure through the compact must not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92‑544.

(C) Upon receipt of an application for a privilege to practice in a remote state, the licensing board in the issuing remote state must ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state; whether there are any encumbrances on any license or privilege to practice held by the applicant; and whether any adverse action has been taken against any license or privilege to practice held by the applicant.

(D) Each member state must require each applicant to obtain or retain a license in his home state and to meet the home state’s qualifications for licensure or the renewal of licensure, as well as all other applicable state laws.

(E) An audiologist must:

(1) meet one of the following educational requirements:

(a) on or before December 31, 2007, graduate with a master’s degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education if it is operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board;

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

(c) graduate from an audiology program that is housed in an institution of higher learning outside of the United States, for which:

(i) the program and institution have been approved by the authorized accrediting body in the applicable country; and

(ii) the degree program has been verified by an independent credentials review agency that is comparable to a state licensing board‑approved program;

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

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

(4) hold an active, unencumbered license;

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

(6) have a valid United States Social Security or National Provider Identifier number.

(F) A speech‑language pathologist must:

(1) meet one of the following educational requirements:

(a) graduate with a master’s degree from a speech‑language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board; or

(b) graduate from a speech‑language pathology program that is housed in an institution of higher learning outside the United States, for which:

(i) the program and institution have been approved by the authorized accrediting body in the applicable country; and

(ii) the degree program has been verified by an independent credentials review agency that is comparable to a state licensing board‑approved program;

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

(3) complete a supervised postgraduate professional experience as required by the commission;

(4) pass a national examination approved by the commission;

(5) hold an active, unencumbered license;

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

(7) have a valid United States Social Security or National Provider Identifier number.

(G) A privilege to practice is derived from the home state license.

(H) A licensee practicing in a member state must comply with the state practice laws of the state in which the client is located at the time the service is provided. The practice of audiology and speech‑language pathology includes all audiology and speech‑language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech‑language pathology in a member state under a privilege to practice subjects a licensee to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client is located at the time the service is provided.

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

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

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

Section 40‑67‑540. (A) To exercise the compact privilege under the terms and provisions of the compact, a licensee must:

(1) hold an active license in his home state;

(2) have no encumbrance on any state license;

(3) be eligible for a compact privilege in any member state in accordance with Section 40‑67‑530;

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

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

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

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

(B) For the purposes of the compact privilege, a licensee may hold only one home state license at a time.

(C) Except as provided for in Section 40‑67‑560, if a licensee changes his primary state of residence by moving between two member states, then the licensee must apply for licensure in his new home state, and the license issued by the prior home state must be deactivated in accordance with applicable rules adopted by the commission.

(D) The licensee may apply for licensure in his new home state in advance of a change in his primary state of residence.

(E) A license may not be issued by a new home state until the licensee provides satisfactory evidence of a change in his primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from his new home state.

(F) If a licensee changes his primary state of residence by moving from a member state to a non-member state, then the license issued by the prior home state converts to a single‑state license, valid only in the former home state.

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

(H) A licensee providing audiology or speech‑language pathology services in a remote state under the compact privilege must function within the laws and regulations of the remote state.

(I) A licensee providing audiology or speech‑language pathology services in a remote state is subject to that state’s regulatory authority. A remote state may, in accordance with due process and that state’s laws, remove a licensee’s compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its residents.

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

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

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

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

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

Section 40‑67‑550. Member states must recognize the right of a licensee who is licensed by a home state in accordance with Section 40‑67‑530 and under rules promulgated by the commission to practice audiology or speech‑language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

Section 40‑67‑560. Active-duty military personnel, or the spouses of active-duty military personnel, must designate a home state where the personnel or spouses have a current license in good standing. Personnel or spouses may retain a home-state designation during the period that the personnel is on active duty. Subsequent to designating a home state, personnel or spouses may only change their home state through an application for licensure in a new state.

Section 40‑67‑570. (A)(1) In addition to the other powers conferred by state law, a remote state has the authority, in accordance with existing state due-process law, to:

(a) take adverse action against a licensee’s privilege to practice within that remote state; and

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

(2) Only a home state has the power to take adverse action against a licensee’s license issued by the home state.

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

(C) A home state must complete any pending investigations of a licensee who changes his primary state of residence during the course of the investigations. The home state also has the authority to take appropriate actions and must promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system must promptly notify the new home state of any adverse actions.

(D) If otherwise permitted by state law, a member state may recover from an affected licensee the costs of investigations and the disposition of cases resulting from any adverse action taken against that licensee.

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

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

(G) If adverse action is taken by a home state against a licensee’s license, then the licensee’s privilege to practice in all other member states is deactivated until all encumbrances are removed from the state license. All home-state disciplinary orders that impose adverse action against a licensee’s license must include a statement that the licensee’s privilege to practice is deactivated in all member states during the pendency of the order.

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

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

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

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

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

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

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

(1) each member state must have two delegates selected by that member state’s licensing board. The delegates must be current members of the licensing board. One must be an audiologist, and one must be a speech‑language pathologist;

(2) an additional five delegates, who are either public members or board administrators from a state licensing board, must be chosen by the executive committee from a pool of nominees provided by the commission at large;

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

(4) a member state’s licensing board must fill any vacancy occurring on the commission within ninety days;

(5) each delegate is entitled to one vote with regard to the promulgation of rules and the creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission;

(6) a delegate must vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates’ participation in meetings by telephone or other means of communication; and

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

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

(1) establish the fiscal year of the commission;

(2) establish bylaws;

(3) establish a code of ethics;

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

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

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

(7) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law must not be affected;

(8) purchase and maintain insurance and bonds;

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

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

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

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

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

(14) establish a budget and make expenditures;

(15) borrow money;

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

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

(18) establish and elect an executive committee; and

(19) perform other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the member states’ regulation of audiology and speech language pathology licensure and practice.

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

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

(2) two ex-officio members, consisting of one non-voting member from a recognized national audiology professional association and one non-voting member from a recognized national speech‑language pathology association; and

(3) one ex-officio, nonvoting member from the recognized membership organization of the licensing boards.

(E) The ex-officio members must be selected by their respective organizations.

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

(2) The executive committee must meet at least annually.

(3) The executive committee must have the following duties and responsibilities:

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

(b) ensure that compact administration services are appropriately provided, whether contractual or otherwise;

(c) prepare and recommend the budget;

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

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

(f) establish additional committees as necessary; and

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

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

(5) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

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

(b) the employment, compensation, discipline, or other matters, practices, or procedures related to specific employees, or the other matters related to the commission’s internal personnel practices and procedures;

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

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

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

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

(g) the disclosure of information of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

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

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

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

(6) If a meeting, or a portion of a meeting, is closed pursuant to this provision, then the commission’s legal counsel or designee must certify that the meeting may be closed and must reference each relevant exempting provision.

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

(8) With respect to financing the commission:

(a) the commission must pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities;

(b) the commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services; and

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

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

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

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

(1) the members, officers, executive director, employees, and representatives of the commission must be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred within the scope of the person’s commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of his commission employment, duties, or responsibilities, provided that nothing in this item shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or the willful or wanton misconduct of that person;

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

(3) the commission must indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of the person’s commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of his commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or the willful or wanton misconduct of that person.

Section 40‑67‑590. (A) The commission must provide for the development, maintenance, and utilization of a data system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

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

(1) identifying information;

(2) licensure data;

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

(4) nonconfidential information related to alternative program participation;

(5) any denial of an application for licensure, and the reason or reasons for the denial; and

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

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

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

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

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

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

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

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

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

(1) on the website of the commission or another publicly accessible platform; and

(2) on the website of each member state’s licensing board or another publically accessible platform, or the publication in which each state would otherwise publish proposed rules.

(E) A notice of proposed rulemaking must include:

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

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

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

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

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

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

(1) at least twenty‑five persons;

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

(3) an association having at least twenty‑five members.

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

(1) All persons wishing to be heard at the hearing must notify the executive director of the commission or another designated member, in writing, of their desire to appear and testify at the hearing no less than five business days before the scheduled date of the hearing.

(2) Hearings must be conducted in a manner that provides a fair and reasonable opportunity to comment orally or in writing to each person who wishes to comment.

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

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

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

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

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

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

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

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

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

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

Section 40‑67‑610. (A) Upon request by a member state, the commission must attempt to resolve disputes related to the compact that arise among member states and between member and non‑member states.

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

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

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

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

Section 40‑67‑620. (A) The compact takes effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, must be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission must meet and exercise any rulemaking powers necessary to the implementation and administration of the compact.

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

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

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

(2) Withdrawal does not affect the continuing requirement of the withdrawing state’s licensing board to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

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

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

Section 40‑67‑630. This compact must be liberally construed so as to effectuate its purposes. The provisions of this compact must be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, then the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance must not be affected thereby. If this compact is held contrary to the constitution of any member state, then the compact remains in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

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

(B) The compact supercedes all laws in a member state in conflict with the compact, to the extent of the conflict.

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

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

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

SECTION 3. The existing sections of Chapter 67, Title 40 are designated as Article 1, Chapter 67, Title 40 and entitled, “General Provisions”.

SECTION 4. This act takes effect upon approval by the Governor.

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