

House Bill 3118

Sponsored by Representative HUDSON; Representative DEXTER, Senator PATTERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Enacts Audiology and Speech-Language Pathology Interstate Compact. Permits State Board of Examiners for Speech-Language Pathology and Audiology to disclose specified information to Audiology and Speech-Language Pathology Compact Commission. Exempts individual practicing audiology and speech-language pathology in this state under compact from restrictions on practice and use of titles. Allows board to establish account to meet financial obligations imposed on State of Oregon as result of participation in compact. Continuously appropriates moneys from account to board for specified purpose.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to Audiology and Speech-Language Pathology Interstate Compact; creating new provisions; amending ORS 676.177, 681.230, 681.250 and 681.480; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The provisions of the Audiology and Speech-Language Pathology Interstate Compact are as follows:

Audiology and Speech-Language Pathology Interstate Compact

SECTION 1. PURPOSE

The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. This Compact preserves the regulatory authority of 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 the states' ability 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 state accountable to that state's practice standards; and
7. Allow for the use of telehealth technology to facilitate increased access to audiology

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 and speech-language pathology services.

2 **SECTION 2. DEFINITIONS**

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

5 A. “Active duty military” means full-time duty status in the active uniformed service of
6 the United States, including members of the National Guard and Reserve on active duty or-
7 ders pursuant to 10 U.S.C. chapters 1209 and 1211.

8 B. “Adverse action” means any administrative, civil, equitable or criminal action per-
9 mitted by a state’s laws which is imposed by a licensing board or other authority against an
10 audiologist or speech-language pathologist, including actions against an individual’s license
11 or privilege to practice such as revocation, suspension, probation, monitoring of the licensee
12 or restriction on the licensee’s practice.

13 C. “Alternative program” means a non-disciplinary monitoring process approved by an
14 audiology or speech-language pathology licensing board to address impaired practitioners.

15 D. “Audiologist” means an individual who is licensed by a state to practice audiology.

16 E. “Audiology” means the care and services provided by a licensed audiologist as set
17 forth in the member state’s statutes and rules.

18 F. “Audiology and Speech-Language Pathology Compact Commission” or “Commission”
19 means the national administrative body whose membership consists of all states that have
20 enacted the Compact.

21 G. “Audiology and speech-language pathology licensing board,” “audiology licensing
22 board,” “speech-language pathology licensing board” or “licensing board” means the agency
23 of a state that is responsible for the licensing and regulation of audiologists and/or speech-
24 language pathologists.

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

30 I. “Current significant investigative information” means investigative information that
31 a licensing board, after an inquiry or investigation that includes notification and an oppor-
32 tunity for the audiologist or speech-language pathologist to respond, if required by state law,
33 has reason to believe is not groundless and, if proved true, would indicate more than a minor
34 infraction.

35 J. “Data system” means a repository of information about licensees, including, but not
36 limited to, continuing education, examination, licensure, investigative, compact privilege and
37 adverse action.

38 K. “Encumbered license” means a license in which an adverse action restricts the prac-
39 tice of audiology or speech-language pathology by the licensee and said adverse action has
40 been reported to the National Practitioners Data Bank.

41 L. “Executive Committee” means a group of directors elected or appointed to act on be-
42 half of, and within the powers granted to them by, the Commission.

43 M. “Home state” means the member state that is the licensee’s primary state of resi-
44 dence.

45 N. “Impaired practitioner” means individuals whose professional practice is adversely

1 affected by substance abuse, addiction or other health-related conditions.

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

4 P. "Member state" means a state that has enacted the Compact.

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

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

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

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

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

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

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

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

24 Y. "Telehealth" means the application of telecommunication technology to deliver
25 audiology or speech-language pathology services at a distance for assessment, intervention
26 and/or consultation.

27 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

28 A. A license issued to an audiologist or speech-language pathologist by a home state to
29 a resident in that state shall be recognized by each member state as authorizing an
30 audiologist or speech-language pathologist to practice audiology or speech-language
31 pathology, under a privilege to practice, in each member state.

32 B. A state must implement or utilize procedures for considering the criminal history
33 records of applicants for initial privilege to practice. These procedures shall include the
34 submission of fingerprints or other biometric-based information by applicants for the pur-
35 pose of obtaining an applicant's criminal history record information from the Federal Bureau
36 of Investigation and the agency responsible for retaining that state's criminal records.

37 1. A member state must fully implement a criminal background check requirement,
38 within a time frame established by rule, by receiving the results of the Federal Bureau of
39 Investigation record search on criminal background checks and use the results in making
40 licensure decisions.

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

45 C. Upon application for a privilege to practice, the licensing board in the issuing remote

1 state shall ascertain, through the data system, whether the applicant has ever held, or is the
 2 holder of, a license issued by any other state, whether there are any encumbrances on any
 3 license or privilege to practice held by the applicant and whether any adverse action has been
 4 taken against any license or privilege to practice held by the applicant.

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

8 E. For an audiologist:

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

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

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

22 c. Has graduated from an audiology program that is housed in an institution of higher
 23 education outside of the United States:

24 (a) For which the program and institution have been approved by the authorized ac-
 25 crediting body in the applicable country; and

26 (b) The degree program has been verified by an independent credentials review agency
 27 to be comparable to a state licensing board-approved program;

28 2. Has completed a supervised clinical practicum experience from an accredited educa-
 29 tional institution or its cooperating programs as required by the Commission;

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

31 4. Holds an active, unencumbered license;

32 5. Has not been convicted or found guilty, and has not entered into an agreed disposition,
 33 of a felony related to the practice of audiology, under applicable state or federal criminal law;
 34 and

35 6. Has a valid United States Social Security or National Practitioner Identification num-
 36 ber.

37 F. For a speech-language pathologist:

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

39 a. Has graduated with a master's degree from a speech-language pathology program that
 40 is accredited by an organization recognized by the United States Department of Education
 41 and operated by a college or university accredited by a regional or national accrediting or-
 42 ganization recognized by the licensing board; or

43 b. Has graduated from a speech-language pathology program that is housed in an insti-
 44 tution of higher education outside of the United States:

45 (a) For which the program and institution have been approved by the authorized ac-

1 **crediting body in the applicable country; and**

2 **(b) The degree program has been verified by an independent credentials review agency**
3 **to be comparable to a state licensing board-approved program;**

4 **2. Has completed a supervised clinical practicum experience from an educational institu-**
5 **tion or its cooperating programs as required by the Commission;**

6 **3. Has completed a supervised postgraduate professional experience as required by the**
7 **Commission;**

8 **4. Has successfully passed a national examination approved by the Commission;**

9 **5. Holds an active, unencumbered license;**

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

13 **7. Has a valid United States Social Security or National Practitioner Identification num-**
14 **ber.**

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

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

24 **I. Individuals not residing in a member state shall continue to be able to apply for a**
25 **member state's single-state license as provided under the laws of each member state. How-**
26 **ever, the single-state license granted to these individuals shall not be recognized as granting**
27 **the privilege to practice audiology or speech-language pathology in any other member state.**
28 **Nothing in this Compact shall affect the requirements established by a member state for the**
29 **issuance of a single-state license.**

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

31 **K. Member states must comply with the bylaws and rules and regulations of the Com-**
32 **mission.**

33 **SECTION 4. COMPACT PRIVILEGE**

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

36 **1. Hold an active license in the home state;**

37 **2. Have no encumbrance on any state license;**

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

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

41 **5. Notify the Commission that the licensee is seeking the compact privilege within a re-**
42 **mote state(s);**

43 **6. Pay any applicable fees, including any state fee, for the compact privilege; and**

44 **7. Report to the Commission adverse action taken by any non-member state within 30**
45 **days from the date the adverse action is taken.**

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

3 **C. Except as provided in Section 6, if an audiologist or speech-language pathologist**
4 **changes primary state of residence by moving between two member states, the audiologist**
5 **or speech-language pathologist must apply for licensure in the new home state, and the li-**
6 **cence issued by the prior home state shall be deactivated in accordance with applicable rules**
7 **adopted by the Commission.**

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

10 **E. A license shall not be issued by the new home state until the audiologist or speech-**
11 **language pathologist provides satisfactory evidence of a change in primary state of residence**
12 **to the new home state and satisfies all applicable requirements to obtain a license from the**
13 **new home state.**

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

17 **G. The compact privilege is valid until the expiration date of the home state license. The**
18 **licensee must comply with the requirements of Section 4A to maintain the compact privilege**
19 **in the remote state.**

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

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

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

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

32 **K. Once an encumbered license in the home state is restored to good standing, the**
33 **licensee must meet the requirements of Section 4A to obtain a compact privilege in any re-**
34 **mote state.**

35 **L. Once the requirements of Section 4J have been met, the licensee must meet the re-**
36 **quirements in Section 4A to obtain a compact privilege in a remote state.**

37 **SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH**

38 **Member states shall recognize the right of an audiologist or speech-language pathologist,**
39 **licensed by a home state in accordance with Section 3 and under rules promulgated by the**
40 **Commission, to practice audiology or speech-language pathology in any member state via**
41 **telehealth under a privilege to practice as provided in this Compact and rules promulgated**
42 **by the Commission.**

43 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

44 **Active duty military personnel, or their spouse, shall designate a home state where the**
45 **individual has a current license in good standing. The individual may retain the home state**

1 designation during the period the service member is on active duty. Subsequent to desig-
 2 nating a home state, the individual shall only change their home state through application
 3 for licensure in the new state.

4 **SECTION 7. ADVERSE ACTIONS**

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

7 **1. Take adverse action against an audiologist’s or speech-language pathologist’s privilege**
 8 **to practice within that member state.**

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

17 **3. Only the home state shall have the power to take adverse action against a audiologist’s**
 18 **or speech-language pathologist’s license issued by the home state.**

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

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

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

33 **E. The member state may take adverse action based on the factual findings of the remote**
 34 **state, provided that the member state follows the member state’s own procedures for taking**
 35 **the adverse action.**

36 **F. Joint Investigations**

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

40 **2. Member states shall share any investigative, litigation or compliance materials in**
 41 **furtherance of any joint or individual investigation initiated under this Compact.**

42 **G. If adverse action is taken by the home state against an audiologist’s or speech-**
 43 **language pathologist’s license, the audiologist’s or speech-language pathologist’s privilege to**
 44 **practice in all other member states shall be deactivated until all encumbrances have been**
 45 **removed from the state license. All home state disciplinary orders that impose adverse**

1 action against an audiologist's or speech-language pathologist's license shall include a state-
2 ment that the audiologist's or speech-language pathologist's privilege to practice is deacti-
3 vated in all member states during the pendency of the order.

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

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

9 SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE
10 PATHOLOGY COMPACT COMMISSION

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

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

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

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

19 B. Membership, Voting and Meetings

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

23 2. An additional five delegates, who are either a public member or board administrator
24 from a state licensing board, shall be chosen by the Executive Committee from a pool of
25 nominees provided by the Commission at Large.

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

28 4. The member state board shall fill any vacancy occurring on the Commission, within
29 90 days.

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

33 6. A delegate shall vote in person or by other means as provided in the bylaws. The by-
34 laws may provide for delegates' participation in meetings by telephone or other means of
35 communication.

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

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

39 1. Establish the fiscal year of the Commission;

40 2. Establish bylaws;

41 3. Establish a Code of Ethics;

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

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

45 6. Promulgate uniform rules to facilitate and coordinate implementation and adminis-

1 **tration of this Compact. The rules shall have the force and effect of law and shall be binding**
 2 **in all member states, except that only the rules adopted by the State Board of Examiners for**
 3 **Speech-Language Pathology and Audiology shall have the force and effect of law and shall**
 4 **be binding on the State of Oregon;**

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

8 **8. Purchase and maintain insurance and bonds;**

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

11 **10. Hire employees, elect or appoint officers, fix compensation, define duties, grant indi-**
 12 **viduals appropriate authority to carry out the purposes of this Compact and to establish the**
 13 **Commission's personnel policies and programs relating to conflicts of interest, qualifications**
 14 **of personnel and other related personnel matters;**

15 **11. Accept any and all appropriate donations and grants of money, equipment, supplies,**
 16 **materials and services and to receive, utilize and dispose of the same; provided that at all**
 17 **times the Commission shall avoid any appearance of impropriety and/or conflict of interest;**

18 **12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,**
 19 **improve or use, any property, real, personal or mixed; provided that at all times the Com-**
 20 **mission shall avoid any appearance of impropriety;**

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

23 **14. Establish a budget and make expenditures;**

24 **15. Borrow money;**

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

27 **17. Provide and receive information from, and cooperate with, law enforcement agencies;**

28 **18. Establish and elect an Executive Committee; and**

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

32 **D. The Executive Committee**

33 **The Executive Committee shall have the power to act on behalf of the Commission ac-**
 34 **cording to the terms of this Compact:**

35 **1. The Executive Committee shall be composed of 10 members:**

36 **a. Seven voting members who are elected by the Commission from the current member-**
 37 **ship of the Commission;**

38 **b. Two ex-officios, consisting of one nonvoting member from a recognized national**
 39 **audiology professional association and one nonvoting member from a recognized national**
 40 **speech-language pathology association; and**

41 **c. One ex-officio, nonvoting member from the recognized membership organization of the**
 42 **audiology and speech-language pathology licensing boards.**

43 **E. The ex-officio members shall be selected by their respective organizations.**

44 **1. The Commission may remove any member of the Executive Committee as provided in**
 45 **bylaws.**

1 **2. The Executive Committee shall meet at least annually.**

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

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

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

8 **c. Prepare and recommend the budget;**

9 **d. Maintain financial records on behalf of the Commission;**

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

12 **f. Establish additional committees as necessary; and**

13 **g. Other duties as provided in rules or bylaws.**

14 **4. Meetings of the Commission**

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

17 **5. The Commission or the Executive Committee or other committees of the Commission**
18 **may convene in a closed, non-public meeting if the Commission or Executive Committee or**
19 **other committees of the Commission must discuss:**

20 **a. Non-compliance of a member state with its obligations under the Compact;**

21 **b. The employment, compensation, discipline or other matters, practices or procedures**
22 **related to specific employees or other matters related to the Commission's internal person-**
23 **nel practices and procedures;**

24 **c. Current, threatened or reasonably anticipated litigation;**

25 **d. Negotiation of contracts for the purchase, lease or sale of goods, services or real es-**
26 **tate;**

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

28 **f. Disclosure of trade secrets or commercial or financial information that is privileged**
29 **or confidential;**

30 **g. Disclosure of information of a personal nature where disclosure would constitute a**
31 **clearly unwarranted invasion of personal privacy;**

32 **h. Disclosure of investigative records compiled for law enforcement purposes;**

33 **i. Disclosure of information related to any investigative reports prepared by or on behalf**
34 **of or for use of the Commission or other committee charged with responsibility of investi-**
35 **gation or determination of compliance issues pursuant to this Compact; or**

36 **j. Matters specifically exempted from disclosure by federal or member state statute.**

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

40 **7. The Commission shall keep minutes that fully and clearly describe all matters dis-**
41 **cussed in a meeting and shall provide a full and accurate summary of actions taken, and the**
42 **reasons therefore, including a description of the views expressed. All documents considered**
43 **in connection with an action shall be identified in minutes. All minutes and documents of a**
44 **closed meeting shall remain under seal, subject to release by a majority vote of the Com-**
45 **mission or order of a court of competent jurisdiction.**

8. Financing of the Commission

a. The Commission shall 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.

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 shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

d. An assessment levied, or any other financial obligation imposed, under this Compact is effective against the State of Oregon only to the extent that moneys necessary to pay the assessment or meet the financial obligations have been deposited in an account established by the State Board of Examiners for Speech-Language Pathology and Audiology pursuant to ORS 681.480.

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

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

F. Qualified Immunity, Defense and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall 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, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall 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 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 Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive di-

1 rector, employee or representative of the Commission for the amount of any settlement or
 2 judgment obtained against that person arising out of any actual or alleged act, error or
 3 omission that occurred within the scope of Commission employment, duties or responsibil-
 4 ities, or that the person had a reasonable basis for believing occurred within the scope of
 5 Commission employment, duties or responsibilities; provided that the actual or alleged act,
 6 error or omission did not result from the intentional or willful or wanton misconduct of that
 7 person.

8 **SECTION 9. DATA SYSTEM**

9 **A.** The Commission shall provide for the development, maintenance and utilization of a
 10 coordinated database and reporting system containing licensure, adverse action and investi-
 11 gative information on all licensed individuals in member states.

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

- 15 1. Identifying information;
- 16 2. Licensure data;
- 17 3. Adverse actions against a license or compact privilege;
- 18 4. Non-confidential information related to alternative program participation;
- 19 5. Any denial of application for licensure, and the reason(s) for denial; and
- 20 6. Other information that may facilitate the administration of this Compact, as deter-
 21 mined by the rules of the Commission.

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

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

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

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

33 **SECTION 10. RULEMAKING**

34 **A. 1.** The Commission shall exercise its rulemaking powers pursuant to the criteria set
 35 forth in this Section and the rules adopted thereunder. Rules and amendments shall become
 36 binding as of the date specified in each rule or amendment.

37 **2.** Notwithstanding Section 10 A1, the State Board of Examiners for Speech-Language
 38 Pathology and Audiology shall review the rules of the Commission. The board may approve
 39 and adopt the rules of the Commission as rules of the board. The State of Oregon is subject
 40 to a rule of the Commission only if the rule of the Commission is adopted by the board.

41 **B.** If a majority of the legislatures of the member states rejects a rule, by enactment of
 42 a statute or resolution in the same manner used to adopt this Compact within four years
 43 of the date of adoption of the rule, the rule shall have no further force and effect in any
 44 member state.

45 **C.** Rules or amendments to the rules shall be adopted at a regular or special meeting of

1 the Commission.

2 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and
 3 at least 30 days in advance of the meeting at which the rule shall be considered and voted
 4 upon, the Commission shall file a Notice of Proposed Rulemaking:

5 1. On the website of the Commission or other publicly accessible platform; and

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

9 E. The Notice of Proposed Rulemaking shall include:

10 1. The proposed time, date and location of the meeting in which the rule shall be con-
 11 sidered and voted upon;

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

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

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

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

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

20 1. At least 25 persons;

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

22 3. An association having at least 25 members.

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

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

29 2. Hearings shall be conducted in a manner providing each person who wishes to com-
 30 ment a fair and reasonable opportunity to comment orally or in writing.

31 3. All hearings shall be recorded. A copy of the recording shall be made available on re-
 32 quest.

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

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

39 J. If no written notice of intent to attend the public hearing by interested parties is re-
 40 ceived, the Commission may proceed with promulgation of the proposed rule without a public
 41 hearing.

42 K. The Commission shall, by majority vote of all members, take final action on the pro-
 43 posed rule and shall determine the effective date of the rule, if any, based on the rulemaking
 44 record and the full text of the rule.

45 L. Upon determination that an emergency exists, the Commission may consider and

1 adopt an emergency rule without prior notice, opportunity for comment or hearing, provided
 2 that the usual rulemaking procedures provided in the Compact and in this section shall be
 3 retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days
 4 after the effective date of the rule. For the purposes of this provision, an emergency rule is
 5 one that must be adopted immediately in order to:

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

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

19 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT**

20 **A. Dispute Resolution**

- 21 1. Upon request by a member state, the Commission shall attempt to resolve disputes
 22 related to the Compact that arise among member states and between member and non-
 23 member states.
- 24 2. The Commission shall promulgate a rule providing for both mediation and binding
 25 dispute resolution for disputes as appropriate.

26 **B. Enforcement**

- 27 1. The Commission, in the reasonable exercise of its discretion, shall enforce the pro-
 28 visions and rules of this Compact.
- 29 2. By majority vote, the Commission may initiate legal action in the United States Dis-
 30 trict Court for the District of Columbia or the federal district where the Commission has its
 31 principal offices against a member state in default to enforce compliance with the provisions
 32 of this Compact and its promulgated rules and bylaws. The relief sought may include both
 33 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing
 34 member state shall be awarded all costs of litigation, including reasonable attorney's fees.
- 35 3. The remedies herein shall not be the exclusive remedies of the Commission. The
 36 Commission may pursue any other remedies available under federal or state law.

37 **SECTION 12. DATE OF IMPLEMENTATION OF THE AUDIOLOGY AND**
 38 **SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION AND ASSOCIATED RULES,**
 39 **WITHDRAWAL AND AMENDMENT**

- 40 A. This Compact shall come into effect on the date on which the Compact statute is en-
 41 acted into law in the 10th member state. The provisions, which become effective at that
 42 time, shall be limited to the powers granted to the Commission relating to assembly and the
 43 promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking pow-
 44 ers necessary to the implementation and administration of this Compact.
- 45 B. Any state that joins the Compact subsequent to the Commission's initial adoption of

1 the rules shall be subject to the rules as they exist on the date on which this Compact be-
 2 comes law in that state. Any rule that has been previously adopted by the Commission shall
 3 have the full force and effect of law on the day this Compact becomes law in that state.

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

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

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

12 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
 13 audiology or speech-language pathology licensure agreement or other cooperative arrange-
 14 ment between a member state and a non-member state that does not conflict with the pro-
 15 visions of this Compact.

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

19 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

20 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
 21 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision
 22 of this Compact is declared to be contrary to the constitution of any member state or of the
 23 United States or the applicability thereof to any government, agency, person or circumstance
 24 is held invalid, the validity of the remainder of this Compact and the applicability thereof to
 25 any government, agency, person or circumstance shall not be affected thereby. If this Com-
 26 pact shall be held contrary to the constitution of any member state, the Compact shall re-
 27 main in full force and effect as to the remaining member states and in full force and effect
 28 as to the member state affected as to all severable matters.

29 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

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

32 B. All laws in a member state in conflict with this Compact are superseded to the extent
 33 of the conflict.

34 C. All lawful actions of the Commission, including all rules and bylaws promulgated by
 35 the Commission and adopted by the State Board of Examiners for Speech-Language
 36 Pathology and Audiology, are binding upon the member states.

37 D. All agreements between the Commission and the member states are binding in ac-
 38 cordance with their terms.

39 E. In the event any provision of this Compact exceeds the constitutional limits imposed
 40 on the legislature of any member state, the provision shall be ineffective to the extent of the
 41 conflict with the constitutional provision in question in that member state.

44 **SECTION 2.** The Legislative Assembly hereby ratifies the Audiology and Speech-Language
 45 Pathology Interstate Compact set forth in section 1 of this 2021 Act.

AMENDMENTS

SECTION 3. ORS 681.230 is amended to read:

681.230. (1) Without obtaining a license under this chapter, a person may use a procedure included in the practice of speech-language pathology or audiology if the procedure is within the person's scope of practice and the person is:

(a) Licensed by a health professional regulatory board as defined in ORS 676.160;

(b) Performing basic audiometric testing under the supervision of a physician licensed under ORS chapter 677 or a naturopathic physician licensed under ORS chapter 685 and representing that the person is a medical assistant or audiology assistant;

(c) A teacher who is licensed by the Teacher Standards and Practices Commission and who holds a hearing impaired endorsement issued by the commission;

(d) A student participating in supervised field work or supervised course work in speech-language pathology or audiology as part of a college or university program approved by the State Board of Examiners for Speech-Language Pathology and Audiology; or

(e) A student taking an undergraduate course in speech-language pathology approved by the board.

(2) A person practicing speech-language pathology or audiology without a license under subsection (1) of this section may not represent or imply that the person is a speech-language pathologist, speech-language pathology assistant or audiologist.

(3) A person practicing speech-language pathology or audiology without a license under subsection (1)(d) or (e) of this section:

(a) Must use a title that indicates that the person is a student trainee.

(b) May not be paid for speech-language pathology or audiology services provided by the person, except that the person may be provided a reasonable educational stipend.

(4) Without obtaining a license under this chapter, a person may:

(a) Consult with or disseminate the person's research findings and scientific information to an accredited academic institution or a governmental agency; and

(b) Offer lectures to the public for a fee, monetary or otherwise.

(5) Subsections (2) and (3) of this section do not apply to a person who is authorized to practice as a speech-language pathologist or audiologist by compact privilege as defined in section 1 of this 2021 Act.

SECTION 4. ORS 681.250 is amended to read:

681.250. (1) A license shall be issued to qualified persons either in speech-language pathology or audiology. A person may be licensed in both areas if the person meets the respective qualifications and in such instances the license fee shall be as though for one license.

(2) *[No person shall]* **A person may not** practice speech-language pathology or audiology or purport to be a speech-language pathologist or audiologist in this state unless the person is licensed in accordance with the provisions of this chapter.

(3) Subsection (2) of this section does not apply to a person who is authorized to practice as a speech-language pathologist or audiologist by compact privilege as defined in section 1 of this 2021 Act.

SECTION 5. ORS 681.480 is amended to read:

681.480. (1)(a) The State Board of Examiners for Speech-Language Pathology and Audiology Account is established in the State Treasury, separate and distinct from the General Fund.

