

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 275 - L.D. 717

An Act to Adopt the Audiology and Speech-Language Pathology Interstate Compact

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA c. 137, sub-c. 5 is enacted to read:

SUBCHAPTER 5

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

§17501. Short title, legislative intent and declaration of purpose

1. Short title. This subchapter may be known and cited as "the Audiology and Speech-Language Pathology Interstate Compact."

2. Legislative intent. This compact is the Maine enactment of the "Audiology and Speech-Language Pathology Interstate Compact," which is referred to in this subchapter as "the compact." The form, format and text of the compact have been changed minimally so as to conform to the Maine Revised Statutes. The changes to the compact are technical in nature, and this Act must be interpreted as substantively the same as the compact that is enacted by other compact states.

3. Declaration of purpose. The purpose of this compact is to facilitate 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 the state where the client is located at the time of the client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. The compact is designed to achieve the following objectives:

- A.** Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;
- B.** Enhance the states' ability to protect the public's health and safety;

C. Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

D. Support spouses of relocating active duty military personnel;

E. Enhance the exchange of licensure, investigative and disciplinary information between member states;

F. 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

G. Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

§17502. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Active duty military. "Active duty military" means 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 United States Code, Chapter 1209 and 10 United States Code, Chapter 1211.

2. Adverse action. "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 an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee or restriction on the licensee's practice.

3. Alternative program. "Alternative program" means a nondisciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

4. Audiologist. "Audiologist" means an individual who is licensed by a state to practice audiology.

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

6. Audiology and Speech-Language Pathology Compact Commission. "Audiology and Speech-Language Pathology Compact Commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

7. Audiology and speech-language pathology licensing board. "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 and speech-language pathologists.

8. Client. "Client" means a recipient of audiology or speech-language pathology services.

9. Compact privilege. "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 the member state where the patient, client or student is located at the time of the patient, client or student encounter.

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

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

12. Encumbered license. "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 Practitioners Data Bank.

13. Executive committee. "Executive committee" means a group of members elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

14. Home state. "Home state" means the member state that is the licensee's primary state of residence.

15. Impaired practitioner. "Impaired practitioner" means an individual whose professional practice is adversely affected by substance use disorder, addiction or other health-related conditions.

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

17. Member state. "Member state" means a state that has enacted the compact.

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

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

20. Rule. "Rule" means a regulation, principle or directive promulgated by the commission that has the force of law.

21. Single-state license. "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.

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

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

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

25. State practice laws. "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.

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

§17503. State participation in the compact

To participate in the compact, a member state shall meet the requirements of this section.

1. Recognition of compact privilege. A member state shall recognize a license issued to an audiologist or speech-language pathologist by a home state to a resident in that state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

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

3. Audiologist requirements. A member state must require that to be granted a compact privilege, an audiologist must:

A. Meet one of the following educational requirements:

(1) On or before December 31, 2007, have graduated 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 and operated by a college or university accredited by a regional or national accrediting organization recognized by the board;

(2) On or after January 1, 2008, have graduated with a 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 and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

(3) Have graduated from an audiology program that is housed in an institution of higher education outside of the United States:

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

(b) For which the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program; and

(c) For which the audiologist has completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the commission;

B. Have successfully passed a national examination approved by the commission;

C. Hold an active, unencumbered license;

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

E. Have a valid social security number or National Practitioner Identification number.

4. Speech-language pathologist requirements. A member state must require that to be granted a compact privilege, a speech-language pathologist must:

A. Meet one of the following educational requirements:

(1) Have graduated 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 board; or

(2) Have graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States:

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

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

B. Have completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the commission;

C. Have completed a supervised postgraduate professional experience as required by the commission;

D. Have successfully passed a national examination approved by the commission;

E. Hold an active, unencumbered license;

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

G. Have a valid social security number or National Practitioner Identification number.

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

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

B. Communication between a member state and the commission and among member states regarding the verification of eligibility for licensure through the compact may not include any information received from the Federal Bureau of Investigation relating

to a federal criminal records check performed by a member state under the federal Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973, Title II, Public Law 92-544 (1972).

6. Other state information. Upon application for a privilege to practice, the licensing board in the issuing remote state shall 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.

7. Privilege to practice. The privilege to practice is derived from the home state license.

8. Compliance with practice laws; client location. An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology must include 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 an audiologist or speech-language pathologist 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 service is provided.

9. Nonresidents. An individual not residing in a member state is able to apply for a member state's single-state license as provided under the laws of that member state. However, the single-state license granted to these individuals may not be recognized as granting the compact privilege in any other member state.

10. No effect on single-state license authority. Nothing in this compact affects the requirements established by a member state for the issuance of a single-state license.

11. Fee. A member state may charge a fee for granting a compact privilege.

§17504. Compact privilege

1. Exercise of compact privilege. To exercise the compact privilege under the terms and provisions of the compact, an audiologist or speech-language pathologist must:

A. Hold an active license in the home state;

B. Have no encumbrance on any state license;

C. Be eligible for a compact privilege in any member state in accordance with section 17503;

D. Have not had any adverse action against any license or compact privilege within the previous 2 years from date of application;

E. Notify the commission that the licensee is seeking the compact privilege within a remote state;

F. Pay any applicable fees, including any state fee, for the compact privilege; and

G. Report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

2. Validity of compact privilege. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection 1 to maintain the compact privilege in the remote state.

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

4. Regulatory authority of remote state. 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 or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

5. Loss of compact privilege. If a home state license is encumbered, the licensee loses the compact privilege in any remote state until the following occur:

A. The home state license is no longer encumbered; and

B. Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with paragraph A.

6. Restoration of compact privilege. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection 1 to obtain a compact privilege in any remote state.

§17505. Compact privilege to practice telehealth

A member state shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with section 17503 and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state through telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

§17506. Active duty military personnel or spouses

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

§17507. Adverse actions

1. Authority of home state. A home state has exclusive power to impose adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

2. Authority of remote state. 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 an audiologist's or speech-language pathologist's compact privilege within that member 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. A subpoena 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 may 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 shall 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.

3. Application of law in home state. For the purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state and shall apply its own state laws to determine appropriate action.

4. Investigations. The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes the audiologist's or speech-language pathologist's primary state of residence during the course of the investigations. The home state where the investigations were initiated also has the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The data system administrator shall promptly notify the new home state of any adverse action.

5. Recovery of costs of investigations. A member state, if otherwise permitted by state law, may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

6. Factual findings. A member state may take adverse action based on the factual findings of a remote state, as long as the member state follows its own procedures for taking the adverse action.

7. Joint investigations. The following requirements apply to joint investigations.

A. In addition to the authority granted to a member state by its respective state audiology or speech-language pathology laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

B. Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

8. Deactivation of compact privilege. If an adverse action is taken by the home state against an audiologist's or speech-language pathologist's license, the audiologist's or speech-language pathologist's compact privilege in all other member states must be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech-language pathologist's license must include a statement that the audiologist's or speech-language pathologist's compact privilege is deactivated in all member states during the pendency of the order.

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

10. Alternative program. This compact does not override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

§17508. Establishment of Audiology and Speech-Language Pathology Compact Commission

1. Commission established. The member states hereby create a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission as follows.

A. The commission is an instrumentality of the compact states.

B. 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 it adopts or consents to participate in alternative dispute resolution proceedings.

C. This compact may not be construed to be a waiver of sovereign immunity.

2. Membership, voting and meetings. This subsection governs the membership, voting and meetings of the commission.

A. Each member state has 2 delegates selected by that member state's licensing board.

B. A delegate under paragraph A must be a current member of the member state's licensing board, and one delegate must be an audiologist and one delegate must be a speech-language pathologist.

C. A member state's delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

D. A member state's licensing board shall fill any vacancy occurring in the commission within 90 days.

E. Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

F. The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws.

3. Powers and duties of commission. The commission has the following powers and duties:

A. Establish a code of ethics for the commission;

B. Establish the fiscal year of the commission;

C. Establish bylaws;

D. Maintain the commission's financial records in accordance with the bylaws;

E. Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

F. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all member states;

G. Bring and prosecute legal proceedings or actions in the name of the commission, except that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law is not affected;

H. Purchase and maintain insurance and bonds;

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

J. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

K. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of the same, as long as at all times the commission avoids any appearance of impropriety or conflict of interest;

L. Lease, purchase, accept appropriate gifts or donations of or otherwise own, hold, improve or use any property, real, personal or mixed, as long as at all times the commission avoids any appearance of impropriety;

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

N. Establish a budget and make expenditures;

O. Borrow money;

P. Appoint committees, including standing committees, composed of members and other interested persons as may be designated in this compact and the bylaws;

Q. Provide and receive information from, and cooperate with, law enforcement agencies;

R. Establish and elect an executive committee; and

S. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

4. Executive committee. The executive committee has the power to act on behalf of the commission according to the terms of this compact in accordance with this subsection.

A. The executive committee is composed of the following 10 members:

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

(2) One ex officio, nonvoting member from a recognized national audiology professional association;

(3) One ex officio, nonvoting member from a recognized national speech-language pathology professional association; and

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

B. The ex officio members under paragraph A must be selected by their respective organizations.

C. The commission may remove any member of the executive committee as provided in the bylaws.

D. The executive committee shall meet at least annually.

E. The executive committee shall:

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

(2) Ensure compact administration services are appropriately provided, contractually or otherwise;

(3) Prepare and recommend the budget;

(4) Maintain financial records on behalf of the commission;

(5) Monitor compact compliance of member states and provide compliance reports to the commission;

(6) Establish additional committees as necessary; and

(7) Perform other duties as provided in the rules or bylaws.

5. Public and nonpublic meetings. This subsection governs the requirements for public and nonpublic meetings of the commission.

A. All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 17510.

B. 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:

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

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

(3) Current, threatened or reasonably anticipated litigation;

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

(5) Accusing any person of a crime or formally censuring any person;

(6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(7) Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Disclosure of investigative records compiled for law enforcement purposes;

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

(10) Matters specifically exempted from disclosure by federal or member state statute.

C. If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission's legal counsel or legal counsel's designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

D. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for those actions, 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 order of a court of competent jurisdiction.

6. Financing of commission. This subsection governs the financial operations 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 from each member state an annual assessment 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 by the commission 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 shall promulgate a rule binding upon all member states.

D. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the obligations, and the commission may not pledge the credit of any of the member states, except by and with the authority of the member state.

E. The commission shall 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.

7. Qualified immunity, defense and indemnification. This subsection governs immunity provisions and defense and indemnification requirements of the commission.

A. The members, officers, executive director, employees and representatives of the commission are 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, except that nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

B. 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, as long as the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct and except that nothing in this paragraph may be construed to prohibit that person from retaining that person's own counsel.

C. The commission shall 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 commission employment, duties or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

§17509. Data system

This section governs the requirements for the data system used by the commission.

1. Data system. The commission shall provide for the development, maintenance and utilization of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.

2. Uniform data set. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable using a unique identifier as required by the rules of the commission, including:

A. Identifying information;

B. Licensure data;

C. Adverse actions against a license or compact privilege;

D. Nonconfidential information related to alternative program participation;

E. Any denial of application for licensure and the reason for the denial; and

F. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

3. Availability of investigative information. Current significant investigative information pertaining to a licensee in any member state may be available only to other member states.

4. Notification of adverse action. The commission shall 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.

5. Designation of nonpublic information. A member state contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing member state.

6. Expungement of information. 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.

§17510. Rulemaking

1. Rule-making authority. The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted pursuant to this section. Rules and amendments become binding as of the date specified in each rule or amendment.

2. Rejection of rules. 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 4 years of the date of adoption of the rule, the rule has no further force and effect in any member state.

3. Adoption at meeting. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

4. Notice. Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

A. On the publicly accessible website of the commission or other publicly accessible platform; and

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

5. Notice requirements. The notice of proposed rulemaking under subsection 4 must include:

A. The proposed time, date and location of the meeting at which the rule will be considered and voted upon;

B. The text of the proposed rule and the reason for the proposed rule;

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

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

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

7. Opportunity for public hearing. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

- A. At least 25 persons;
- B. A state or federal governmental subdivision or agency; or
- C. An association or organization having at least 25 members.

8. Notice of hearing. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

- A. A person wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of the person's desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.
- B. A hearing must be conducted in a manner that provides each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.
- C. All hearings must be recorded. A copy of the recording must be made available on request.
- D. Nothing in this subsection 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.

9. Consideration of comments. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

10. No public hearing. If no written notice of intent to attend the public hearing by interested persons is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

11. Final action. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

12. Emergency rules. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, as long as the usual rule-making 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 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is a rule that must be adopted immediately in order to:

- A. Meet an imminent threat to public health, safety or welfare;
- B. Prevent a loss of commission or member state funds; or

C. Meet a deadline for the promulgation of an administrative rule that is established by federal law or regulation.

13. Revisions. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions must be posted on the publicly accessible website of the commission. The revision is subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on 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, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

§17511. Oversight, dispute resolution and enforcement

1. Dispute resolution. This subsection governs dispute resolution under the compact.

A. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

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

2. Enforcement. This subsection governs enforcement under the compact.

A. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

B. By 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. If judicial enforcement is necessary, the prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

C. The remedies in this chapter are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

§17512. Date of implementation of Audiology and Speech-Language Pathology Interstate Compact and associated rules, withdrawal and amendment

1. Effective date. This compact becomes effective on the date on which the compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, are limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rule-making powers necessary to the implementation and administration of the compact.

2. Effect of rules adopted by compact on member states. A 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 date the compact becomes law in that state.

3. Withdrawal. A member state may withdraw from this compact by enacting a statute repealing the compact.

A. A member state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

B. Withdrawal does not affect the continuing requirement of the state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

4. Construction. Nothing 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 nonmember state that does not conflict with the provisions of this compact.

5. Amendments. This compact may be amended by the member states. An amendment to this compact does not become effective and binding upon any member state until it is enacted into the statutes of all member states.

§17513. Construction and severability

This compact must be liberally construed so as to effectuate its purposes. The provisions of this compact are 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 of this compact to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person or circumstance are not affected. If this compact is held to be contrary to the constitution of any member state, 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.

§17514. Binding effect of compact and other laws

Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with the compact. Any laws in a member state in conflict with the compact are superseded to the extent of the conflict. Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states. All agreements between the commission and the member states are binding in accordance with their terms. If any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF Administrative Services - Professional and Financial Regulation 0094

Initiative: Provides ongoing funds for the technology and other administrative costs associated with adding one Comprehensive Health Planner II position to support the

anticipated increase in workload associated with joining the Audiology and Speech-Language Pathology Interstate Compact.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$3,285	\$4,325
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$3,285</u>	<u>\$4,325</u>

Office of Professional and Occupational Regulation 0352

Initiative: Provides ongoing funds for one Comprehensive Health Planner II position and related All Other costs to support the anticipated increase in workload associated with joining the Audiology and Speech-Language Pathology Interstate Compact.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$73,946	\$104,273
All Other	\$12,267	\$8,834
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$86,213</u>	<u>\$113,107</u>

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF
DEPARTMENT TOTALS**

	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$89,498	\$117,432
DEPARTMENT TOTAL - ALL FUNDS	<u>\$89,498</u>	<u>\$117,432</u>