

**AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
INTERSTATE COMPACT**

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Audiology and Speech-Language Pathology Interstate Compact.

Highlighted Provisions:

This bill:

- enacts the Audiology and Speech-Language Pathology Interstate Compact;
- authorizes the Division of Occupational and Professional Licensing to make rules to implement the Audiology and Speech-Language Pathology Interstate Compact; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-41-2, as last amended by Laws of Utah 2017, Chapter 43

58-41-3, as last amended by Laws of Utah 1989, Chapter 207

ENACTS:

58-41a-101, Utah Code Annotated 1953

58-41a-102, Utah Code Annotated 1953



58-41a-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-41-2 is amended to read:

58-41-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "ASHA" means the American Speech-Language-Hearing Association.

(2) "Association" means the Utah Speech-Language-Hearing Association.

(3) "Audiologist" means a person who practices audiology or who holds himself out to the public directly or indirectly by any means, act, title, identification, performance, method, or procedure as one who nonmedically examines, measures, tests, interprets, evaluates, assesses, diagnoses, directs, instructs, treats, counsels, prescribes, and recommends for persons affected by or suspected of having disorders of or conditions of hearing loss, or assists persons in achieving the reception, communication, and perception of sound and determines the range, nature, and degree of hearing function related to communication needs, or provides audiology services and uses audio electronic equipment and provides audiology services and consultation regarding noise control and hearing conservation, conducts tests and interpretation of vestibular function and nystagmus, prepares ear impressions and provides ear molds, aids, accessories, prescriptions, and prostheses for hearing, evaluates sound environment and equipment, and calibrates instruments used in testing and supplementing auditory function. A person is deemed to be an audiologist if [he] the person directly or indirectly provides or offers to provide these services or functions set forth in Subsection (4) or any related function.

(4) "Audiology" means the application of principles, methods, and procedures, and measuring, testing, examining, interpreting, diagnosing, predicting, evaluating, prescribing, consulting, treating, instructing, and researching, which is related to hearing, vestibular function, and the disorders of hearing, to related language and speech disorders and to aberrant behavior related to hearing loss or vestibular function, for the purpose of preventing and modifying disorders related to hearing loss or vestibular function, and planning, directing, managing, conducting, and participating in hearing conservation, evoked potentials evaluation, nonmedical tinnitus evaluation or treatment, noise control, habilitation, and rehabilitation programs, including hearing aid evaluation, assistive listening device evaluation, prescription,

preparation, and dispensing, and auditory training and lip reading.

(5) "Audiology aide" means an individual who:

(a) meets the minimum qualifications established by the board for audiology aides.

Those qualifications shall be substantial but less than those established by this chapter for licensing an audiologist;

(b) does not act independently; and

(c) works under the personal direction and direct supervision of a licensed audiologist who accepts responsibility for the acts and performance of that audiology aide under this chapter.

(6) "Board" means the Speech-language Pathology and Audiology Licensing Board created under Section 58-41-6.

(7) "CCC" means the certificate of clinical competence awarded by the American Speech-Language-Hearing Association.

(8) "CFY" means the clinical fellowship year prescribed by ASHA.

(9) "Disorder" means the condition of decreased, absent, or impaired auditory, speech, voice, or language function.

(10) "Hearing aid dealer" means one who sells, repairs, and adjusts hearing aids.

(11) "Licensed audiologist" means any individual to whom a license has been issued under this chapter or Chapter 41a, Audiology and Speech-Language Pathology Interstate Compact, if ~~that~~ the license is in force and has not been suspended or revoked.

(12) "Licensed speech-language pathologist" means any individual licensed under this chapter ~~[whose]~~ or Chapter 41a, Audiology and Speech-Language Pathology Interstate Compact, if the license is in force and has not been suspended or revoked.

(13) "Person" means any individual, group, organization, partnership, or corporate body, except that only an individual may be licensed under this chapter.

(14) "Practice of audiology" means rendering or offering to render to individuals, groups, agencies, organizations, industries, or the public any performance or service in audiology.

(15) "Practice of speech-language pathology" means rendering, prescribing, or offering to render to individuals, groups, agencies, organizations, industries or the public any service in speech-language pathology.

(16) "Prescribe" means to:

(a) determine, specify, and give the directions, procedures, or rules for a person to follow in determining and ordering the preparation, delivery, and use of specific mechanical, acoustic, or electronic aids to hearing or speech; and

(b) determine or designate a remedy for a person.

(17) "Prescription" means a written or oral order for the delivery or execution of that which has been prescribed.

(18) "Speech-language pathologist" means:

(a) a person who practices speech-language pathology or who holds himself out to the public by any means, or by any service or function ~~[he]~~ the person performs, directly or indirectly, or by using the terms "speech-language pathologist," "speech-language therapist," "language disability specialist," or any variation, derivation, synonym, coinage, or whatever expresses, employs, or implies these terms, names, or functions; or

(b) a person who performs any of the functions described in Subsection (19) or any related functions.

(19) "Speech-language pathology" means the application of principles, methods, and procedures for the examination, measurement, prevention, testing, identification, evaluation, diagnosis, treatment, instruction, modification, prescription, restoration, counseling, habilitation, prediction, management, and research related to the development and the disorders or disabilities of human communication, speech, voice, language, cognitive communication, or oral, pharyngeal, or laryngeal sensorimotor competencies, for the purpose of identifying, evaluating, diagnosing, prescribing, preventing, managing, correcting, ameliorating, or modifying those disorders and their effects in individuals or groups of individuals.

(20) "Speech-language pathology aide" means an individual who:

(a) meets the minimum qualifications established by the board for speech-language pathology aides. Those qualifications shall be substantial but less than those established by this chapter for licensing a speech-language pathologist;

(b) does not act independently; and

(c) works under the personal direction and direct supervision of a licensed speech-language pathologist who accepts the responsibility for the acts and performances of that speech-language pathology aide while working under this chapter.

(21) "Treatment" means the services of a speech-language pathologist or audiologist to examine, diagnose, correct, or ameliorate speech or hearing disorders, abnormalities, behavior, or their effects.

(22) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:

(a) failing to maintain a level of professional practice consistent with all initial and subsequent requirements by which a license is achieved or maintained under this chapter;

(b) utilizing substandard or inappropriate facilities or equipment;

(c) treating any disorder for which the licensee has not had the necessary training and experience; or

(d) failing to comply with the requirements of Section 58-41-17.

Section 2. Section 58-41-3 is amended to read:

58-41-3. Scope of licenses -- Practicing without license prohibited.

(1) Licensing shall be granted independently either in speech-language pathology or audiology. A person shall be licensed in one or both areas when ~~[he]~~ the person meets the respective qualifications.

(2) ~~[No]~~ Except as provided in Section 58-41-4, no person may practice, represent ~~[himself]~~ themselves to be, consult, or perform as a speech-language pathologist or audiologist in this state unless ~~[he]~~ the person is licensed in accordance with:

(a) this chapter; or

(b) Chapter 41a, Audiology and Speech-Language Pathology Interstate Compact.

Section 3. Section 58-41a-101 is enacted to read:

**CHAPTER 41a. AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
INTERSTATE COMPACT**

58-41a-101. Title.

This chapter is known as the "Audiology and Speech-Language Pathology Interstate Compact."

Section 4. Section 58-41a-102 is enacted to read:

58-41a-102. Audiology and Speech-Language Pathology Interstate Compact.

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE
COMPACT

152 SECTION 1: PURPOSE

153 The purpose of this Compact is to facilitate interstate practice of audiology and
154 speech-language pathology with the goal of improving public access to audiology and
155 speech-language pathology services. The practice of audiology and speech-language pathology
156 occurs in the state where the patient/client/student is located at the time of the
157 patient/client/student encounter. The Compact preserves the regulatory authority of states to
158 protect public health and safety through the current system of state licensure.

159 This Compact is designed to achieve the following objectives:

- 160 1. Increase public access to audiology and speech-language pathology services by
161 providing for the mutual recognition of other member state licenses;
162 2. Enhance the states' ability to protect the public's health and safety;
163 3. Encourage the cooperation of member states in regulating multistate audiology and
164 speech-language pathology practice;
165 4. Support spouses of relocating active duty military personnel;
166 5. Enhance the exchange of licensure, investigative and disciplinary information
167 between member states;
168 6. Allow a remote state to hold a provider of services with a compact privilege in that
169 state accountable to that state's practice standards; and
170 7. Allow for the use of telehealth technology to facilitate increased access to audiology
171 and speech-language pathology services.

172 SECTION 2: DEFINITIONS

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

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

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

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

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

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

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

191 G. “Audiology and speech-language pathology licensing board,” “audiology licensing
192 board,” “speech-language pathology licensing board,” or “licensing board” means the agency
193 of a state that is responsible for the licensing and regulation of audiologists and/or
194 speech-language pathologists.

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

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

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

208 K. “Encumbered license” means a license in which an adverse action restricts the
209 practice of audiology or speech-language pathology by the licensee and said adverse action has
210 been reported to the National Practitioners Data Bank (NPDB).

211 L. “Executive Committee” means a group of directors elected or appointed to act on
212 behalf of, and within the powers granted to them by, the Commission.

213 M. “Home state” means the member state that is the licensee’s primary state of

214 residence.

215 N. "Impaired practitioner" means individuals whose professional practice is adversely
216 affected by substance abuse, addiction, or other health-related conditions.

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

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

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

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

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

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

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

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

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

235 X. "State practice laws" means a member state's laws, rules and regulations that govern
236 the practice of audiology or speech-language pathology, define the scope of audiology or
237 speech-language pathology practice, and create the methods and grounds for imposing
238 discipline.

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

242 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

B. A state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall 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.

1. 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 use the results in making licensure decisions.

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

C. Upon 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, whether any adverse action has been taken against any license or privilege to practice held by the applicant.

D. Each 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.

E. For an audiologist:

1. Must meet one of the following educational requirements:

a. On or before, Dec. 31, 2007, has 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; or

b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree 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

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

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

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

4. Holds an active, unencumbered license;

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

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

F. For a speech-language pathologist:

1. Must meet one of the following educational requirements:

a. Has 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

b. Has 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) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

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

309 3. Has completed a supervised postgraduate professional experience as required by the
310 Commission;

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

312 5. Holds an active, unencumbered license;

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

316 7. Has a valid United States Social Security or National Practitioner Identification
317 number.

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

319 H. An audiologist or speech-language pathologist practicing in a member state must
320 comply with the state practice laws of the state in which the client is located at the time service
321 is provided. The practice of audiology and speech-language pathology shall include all
322 audiology and speech-language pathology practice as defined by the state practice laws of the
323 member state in which the client is located. The practice of audiology and speech-language
324 pathology in a member state under a privilege to practice shall subject an audiologist or
325 speech-language pathologist to the jurisdiction of the licensing board, the courts and the laws
326 of the member state in which the client is located at the time service is provided.

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

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

334 K. Member states must comply with the bylaws and rules and regulations of the
335 Commission.

336 SECTION 4. COMPACT PRIVILEGE

337 A. To exercise the compact privilege under the terms and provisions of the Compact,

the audiologist or speech-language pathologist shall:

1. Hold an active license in the home state;

2. Have no encumbrance on any state license;

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

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

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

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

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

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

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

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

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

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

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

H. A licensee providing audiology or speech-language pathology services in a remote

state under the compact privilege shall function within the laws and regulations of the remote state.

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

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

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

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

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

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

SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their 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 shall only change their home state through application for licensure in the new state.

SECTION 7. ADVERSE ACTIONS

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

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

402 2. Issue subpoenas for both hearings and investigations that require the attendance and
403 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing
404 board in a member state for the attendance and testimony of witnesses or the production of
405 evidence from another member state shall be enforced in the latter state by any court of
406 competent jurisdiction, according to the practice and procedure of that court applicable to
407 subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness
408 fees, travel expenses, mileage and other fees required by the service statutes of the state in
409 which the witnesses or evidence are located.

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

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

416 C. The home state shall complete any pending investigations of an audiologist or
417 speech-language pathologist who changes primary state of residence during the course of the
418 investigations. The home state shall also have the authority to take appropriate action(s) and
419 shall promptly report the conclusions of the investigations to the administrator of the data
420 system. The administrator of the coordinated licensure information system shall promptly
421 notify the new home state of any adverse actions.

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

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

427 F. Joint Investigations

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

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

433 G. If adverse action is taken by the home state against an audiologist's or speech
434 language pathologist's license, the audiologist's or speech-language pathologist's privilege to
435 practice in all other member states shall be deactivated until all encumbrances have been
436 removed from the state license. All home state disciplinary orders that impose adverse action
437 against an audiologist's or speech language pathologist's license shall include a statement that
438 the audiologist's or speech-language pathologist's privilege to practice is deactivated in all
439 member states during the pendency of the order.

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

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

445 SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND
446 SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION

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

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

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

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

455 B. Membership, Voting and Meetings

456 1. Each member state shall have two (2) delegates selected by that member state's
457 licensing board. The delegates shall be current members of the licensing board. One shall be an
458 audiologist and one shall be a speech-language pathologist.

459 2. An additional five (5) delegates, who are either a public member or board
460 administrator from a state licensing board, shall be chosen by the Executive Committee from a
461 pool of nominees provided by the Commission at Large.

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

464 4. The member state board shall fill any vacancy occurring on the Commission, within
465 90 days.

466 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of
467 rules and creation of bylaws and shall otherwise have an opportunity to participate in the
468 business and affairs of the Commission.

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

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

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

475 1. Establish the fiscal year of the Commission;

476 2. Establish bylaws;

477 3. Establish a Code of Ethics;

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

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

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

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

487 8. Purchase and maintain insurance and bonds;

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

490 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant
491 individuals appropriate authority to carry out the purposes of the Compact, and to establish the
492 Commission's personnel policies and programs relating to conflicts of interest, qualifications

of personnel, and other related personnel matters;

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

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

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

14. Establish a budget and make expenditures;

15. Borrow money;

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

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

18. Establish and elect an Executive Committee; and

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

D. The Executive Committee

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

1. The Executive Committee shall be composed of ten (10) members:

a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission;

b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

c. One (1) ex-officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

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

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

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

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

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

531 b. Ensure Compact administration services are appropriately provided, contractual or
532 otherwise;

533 c. Prepare and recommend the budget;

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

535 e. Monitor Compact compliance of member states and provide compliance reports to
536 the Commission;

537 f. Establish additional committees as necessary; and

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

539 4. Meetings of the Commission

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

542 5. The Commission or the Executive Committee or other committees of the
543 Commission may convene in a closed, non-public meeting if the Commission or Executive
544 Committee or other committees of the Commission must discuss:

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

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

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

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

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

553 f. Disclosure of trade secrets or commercial or financial information that is privileged
554 or confidential;

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

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

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

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

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

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

571 8. Financing of the Commission

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

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

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

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

585 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 his or her 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 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 person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9. DATA SYSTEM

617 A. The Commission shall provide for the development, maintenance, and utilization of
618 a coordinated database and reporting system containing licensure, adverse action, and
619 investigative information on all licensed individuals in member states.

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

- 623 1. Identifying information;
- 624 2. Licensure data;
- 625 3. Adverse actions against a license or compact privilege;
- 626 4. Non-confidential information related to alternative program participation;
- 627 5. Any denial of application for licensure, and the reason(s) for denial; and
- 628 6. Other information that may facilitate the administration of this Compact, as
629 determined by the rules of the Commission.

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

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

635 E. Member states contributing information to the data system may designate
636 information that may not be shared with the public without the express permission of the
637 contributing state.

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

641 SECTION 10. RULEMAKING

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

645 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a
646 statute or resolution in the same manner used to adopt the Compact within 4 years of the date
647 of adoption of the rule, the rule shall have no further force and effect in any member state.

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

650 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at
651 least thirty (30) days in advance of the meeting at which the rule shall be considered and voted
652 upon, the Commission shall file a Notice of Proposed Rulemaking:

653 1. On the website of the Commission or other publicly accessible platform; and
654 2. On the website of each member state audiology or speech-language pathology
655 licensing board or other publicly accessible platform or the publication in which each state
656 would otherwise publish proposed rules.

657 E. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

668 1. At least twenty-five (25) persons;

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

670 3. An association having at least twenty-five (25) members.

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

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

678 2. Hearings shall be conducted in a manner providing each person who wishes to

comment a fair and reasonable opportunity to comment orally or in writing.

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

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

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

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

K. 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 rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds; or

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

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (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

shall 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 shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Dispute Resolution

1. 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 non-member states.

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

B. Enforcement

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

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

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

SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect 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, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of

the rules shall be 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 shall have the full force and effect of law on the day the Compact becomes law in that state.

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

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

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

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

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

SECTION 13. CONSTRUCTION AND SEVERABILITY

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

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

772 of the conflict.

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

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

777 E. In the event any provision of the Compact exceeds the constitutional limits imposed
778 on the Legislature of any member state, the provision shall be ineffective to the extent of the
779 conflict with the constitutional provision in question in that member state.

780 Section 5. Section **58-41a-103** is enacted to read:

781 **58-41a-103. Rulemaking authority.**

782 The division may make rules in accordance with Title 63G, Chapter 3, Utah
783 Administrative Rulemaking Act, to implement Section [58-41a-102](#).