

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

House Bill 4375

BY DELEGATES SUMMERS, KESSINGER, HILL, PACK,

PORTERFIELD AND BATES

[Passed March 7, 2020; in effect ninety days from
passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article
2 designated §30-32A-1, §30-32A-2, §30-32A-3, §30-32A-4, §30-32A-5, §30-32A-6, §30-
3 32A-7, §30-32A-8, §30-32A-9, §30-32A-10, §30-32A-11, §30-32A-12, §30-32A-13, and
4 §30-32A-14, all relating to joining the Audiology and Speech-Language Pathology
5 Compact Commission; providing for a purpose; providing for definitions; providing for
6 telehealth; requiring criminal background check and setting educational and other
7 requirements for audiologists and speech-language pathologists; authorizing member
8 state to charge fee for granting compact privilege; providing for state participation in the
9 compact; establishing the privilege to practice in member states; providing for change in
10 primary state or residence procedures relating to licensing for active duty military
11 personnel and their spouses; providing for procedures relating to duties, meetings,
12 responsibilities, and adverse actions; establishing the Audiology and Speech-Language
13 Pathology Compact Commission and providing for an executive committee; providing for
14 a data system available for use among the member states; providing for rulemaking
15 authority of the commission; providing for dispute resolution, and enforcement provisions
16 of the commission among the member states; providing for date of implementation among
17 the member states; providing for applicability of the existing rules at the time a new
18 member state joins the commission; providing for withdrawal of any member states and
19 conditions that must be met until withdrawal is effective; providing for a six-month period
20 before withdrawal is effective; providing for construction and severability of the provisions
21 of the compact; and providing for a binding effect of the laws and rules of the compact
22 among the member states.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 32A. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS
COMPACT.**

§30-32A-1. Purpose.

1 The purpose of this compact is to facilitate interstate practice of audiology and speech-
2 language pathology with the goal of improving public access to audiology and speech-language
3 pathology services. The practice of audiology and speech-language pathology occurs in the state
4 where the patient, client, or student is located at the time of the patient, client, or student
5 encounter. The compact preserves the regulatory authority of states to protect public health and
6 safety through the current system of state licensure. This compact is designed to achieve the
7 following objectives:

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

10 (2) Enhance the state’s ability to protect the public’s health and safety;

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

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

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

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

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

§30-32A-2. Definitions.

1 As used in this compact, except as otherwise provided, the following definitions shall
2 apply:

3 “Active duty military” means full-time duty status in the active uniformed service of the
4 United States, including members of the National Guard and Reserve on active duty orders
5 pursuant to 10 U.S.C. Section 1209 and 1211.

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

11 “Alternative program” means a nondisciplinary monitoring process approved by an
12 audiology or speech-language pathology licensing board to address impaired practitioners.

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

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

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

19 “Audiology and speech-language pathology licensing board”, “audiology licensing board”,
20 “speech-language pathology licensing board”, or “licensing board” means the agency of a state
21 that is responsible for the licensing and regulation of audiologists or speech-language
22 pathologists, or both, which in West Virginia is the West Virginia Board of Examiners for Speech-
23 Language Pathology and Audiology (“board”).

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

29 “Current significant investigative information” means investigative information that a
30 licensing board, after an inquiry or investigation that includes notification and an opportunity for

31 the audiologist or speech-language pathologist to respond, if required by state law, has reason to
32 believe is not groundless and, if proved true, would indicate more than a minor infraction.

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

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

39 “Executive committee” means a group of directors elected or appointed to act on behalf
40 of, and within the powers granted to them by, the commission.

41 “Home state” means the member state that is the licensee’s primary state of residence.

42 “Impaired practitioner” means individuals whose professional practice is adversely
43 affected by substance abuse, addiction, or other health-related conditions.

44 “Licensee” means an individual who currently holds an authorization from the state
45 licensing board to practice as an audiologist or speech-language pathologist.

46 “Member state” means a state that has enacted the compact.

47 “Privilege to practice” means a legal authorization permitting the practice of audiology or
48 speech-language pathology in a remote state.

49 “Remote state” means a member state other than the home state where a licensee is
50 exercising or seeking to exercise the compact privilege.

51 “Rule” means a regulation, principle, or directive promulgated by the commission that has
52 the force of law.

53 “Single-state license” means an audiology or speech-language pathology license issued
54 by a member state that authorizes practice only within the issuing state and does not include a
55 privilege to practice in any other member state.

56 “Speech-language pathologist” means an individual who is licensed by a state to practice
57 speech-language pathology.

58 “Speech-language pathology” means the care and services provided by a licensed
59 speech-language pathologist as set forth in the member state’s statutes and rules.

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

62 “State practice laws” means a member state’s laws, rules, and regulations that govern the
63 practice of audiology or speech-language pathology, define the scope of audiology or speech-
64 language pathology practice, and create the methods and grounds for imposing discipline.

65 “Telehealth” means the application of telecommunication, audio-visual, or other
66 technologies that meets the applicable standard of care to deliver audiology or speech-language
67 pathology services at a distance for assessment, intervention, or consultation.

§30-32A-3. State participation in the compact.

1 (a) Upon the grant of the compact privilege, a license issued to an audiologist or speech-
2 language pathologist by a home state to a resident in that state shall be recognized by each
3 member state as authorizing an audiologist or speech-language pathologist to practice audiology
4 or speech-language pathology, under a privilege to practice, in the member state where the
5 licensee obtains this privilege.

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

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

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

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

23 (d) Each member state shall require an applicant to obtain or retain a license in the home
24 state and meet the home state's qualifications for licensure or renewal of licensure, as well as all
25 other applicable state laws.

26 (e) An audiologist:

27 (1) Must meet one of the following educational requirements:

28 (A) On or before, December 31, 2007, the applicant graduated with a master's degree or
29 doctorate in audiology, or equivalent degree regardless of degree name, from a program that is
30 accredited by an accrediting agency recognized by the Council for Higher Education
31 Accreditation, or its successor, or by the United States Department of Education, and operated
32 by a college or university accredited by a regional or national accrediting organization recognized
33 by the board;

34 (B) After Jan. 1, 2008, the applicant graduated with a doctoral degree in audiology, or
35 equivalent degree, regardless of degree name, from a program that is accredited by an
36 accrediting agency recognized by the Council for Higher Education Accreditation, or its successor,
37 or by the United States Department of Education, and operated by a college or university
38 accredited by a regional or national accrediting organization recognized by the board; or

39 (C) The applicant graduated from an audiology program that is housed in an institution of
40 higher education outside of the United States: (i) For which the program and institution have been
41 approved by the authorized accrediting body in the applicable country; and (ii) the degree program
42 has been verified by an independent credentials review agency to be comparable to a state
43 licensing board-approved program;

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

46 (3) Successfully passed a national examination approved by the commission;

47 (4) Holds an active, unencumbered license;

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

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

51 (f) A speech-language pathologist:

52 (1) Must meet one of the following educational requirements:

53 (A) The applicant graduated with a master's degree from a speech-language pathology
54 program that is accredited by an organization recognized by the United States Department of
55 Education and operated by a college or university accredited by a regional or national accrediting
56 organization recognized by the board; or

57 (B) The applicant graduated from a speech-language pathology program that is housed in
58 an institution of higher education outside of the United States: (i) For which the program and
59 institution have been approved by the authorized accrediting body in the applicable country; and
60 (ii) the degree program has been verified by an independent credentials review agency to be
61 comparable to a state licensing board-approved program.

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

64 (3) Completed a supervised postgraduate professional experience as required by the
65 commission;

66 (4) Successfully passed a national examination approved by the commission;

67 (5) Holds an active, unencumbered license;

68 (6) Has not been convicted or found guilty, and has not entered into an agreed disposition,
69 of a felony related to the practice of speech-language pathology under applicable state or federal
70 criminal law; and

71 (7) Has a valid United States Social Security or National Practitioner Identification number.

72 (g) The privilege to practice is derived from the home state license.

73 (h) An audiologist or speech-language pathologist practicing in a member state must
74 comply with the state practice laws of the state in which the client is located at the time service is
75 provided. The practice of audiology and speech-language pathology shall include all audiology
76 and speech-language pathology practice as defined by the state practice laws of the member
77 state in which the client is located. The practice of audiology and speech-language pathology in
78 a member state under a privilege to practice shall subject an audiologist or speech-language
79 pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state
80 in which the client is located at the time service is provided.

81 (i) Individuals not residing in a member state shall continue to be able to apply for a
82 member state's single-state license as provided under the laws of each member state. However,
83 the single-state license granted to these individuals shall not be recognized as granting the
84 privilege to practice audiology or speech-language pathology in any other member state. Nothing
85 in this compact affects the requirements established by a member state for the issuance of a
86 single-state license.

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

88 (k) Member states must comply with the bylaws and rules and regulations of the
89 commission.

§30-32A-4. Compact privilege.

1 (a) To exercise the compact privilege under the terms and provisions of the compact, the
2 audiologist or speech-language pathologist shall:

3 (1) Hold an active license in the home state;

4 (2) Have no encumbrance on any state license;

5 (3) Be eligible for a compact privilege in any member state in accordance with §30-32A-3
6 of this code;

7 (4) Had no adverse action against any license or compact privilege within the previous two
8 years from date of application;

9 (5) Notify the Commission that the licensee is seeking the compact privilege within a
10 remote state or states;

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

12 (7) Report to the commission adverse action taken by any nonmember state within 30
13 days from the date the adverse action is taken.

14 (b) For the purposes of the compact privilege, an audiologist or speech-language
15 pathologist may only hold one home state license at a time.

16 (c) Except as provided in §30-32A-6 of this code, if an audiologist or speech-language
17 pathologist changes primary state of residence by moving between two member states, the
18 audiologist or speech-language pathologist must apply for licensure in the new home state, and
19 the license issued by the prior home state shall be deactivated in accordance with applicable rules
20 adopted by the commission.

21 (d) The audiologist or speech-language pathologist may apply for licensure in advance of
22 a change in primary state of residence.

23 (e) A license shall not be issued by the new home state until the audiologist or speech-
24 language pathologist provides satisfactory evidence of a change in primary state of residence to

25 the new home state and satisfies all applicable requirements to obtain a license from the new
26 home state.

27 (f) If an audiologist or speech-language pathologist changes primary state of residence by
28 moving from a member state to a nonmember state, the license issued by the prior home state
29 shall convert to a single-state license, valid only in the former home state, and the privilege to
30 practice in any member state is deactivated in accordance with the rules promulgated by the
31 commission.

32 (g) The compact privilege is valid until the expiration date of the home state license. The
33 licensee must comply with the requirements of subsection (a) of this section to maintain the
34 compact privilege in the remote state.

35 (h) A licensee providing audiology or speech-language pathology services in a remote
36 state under the compact privilege shall function within the laws and regulations of the remote
37 state.

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

43 (j) If a home state license is encumbered, the licensee shall lose the compact privilege in
44 any remote state until the following occur:

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

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

47 (k) Once an encumbered license in the home state is restored to good standing, the
48 licensee must meet the requirements of subsection (a) of this section to obtain a compact privilege
49 in any remote state.

§30-32A-5. Compact privilege to practice telehealth.

50 (a) Member states shall recognize the right of an audiologist or speech-language
51 pathologist, licensed by a home state in accordance with §30-32A-3 of this code and under rules
52 promulgated by the commission, to practice audiology or speech-language pathology in any
53 member state via telehealth under a privilege to practice as provided in the compact and rules
54 promulgated by the commission.

55 (b) A licensee providing audiology or speech-language pathology services in a remote
56 state under the compact privilege shall function within the laws and regulations of the state where
57 the patient, client, or student is located.

§30-32A-6. Active duty military personnel or their spouses.

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

§30-32A-7. Adverse actions.

1 (a) In addition to the other powers conferred by state law, a remote state may, in
2 accordance with existing state due process law:

3 (1) Take adverse action against an audiologist's or speech-language pathologist's
4 privilege to practice within that member state; and

5 (2) Issue subpoenas for both hearings and investigations that require the attendance and
6 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing
7 board in a member state for the attendance and testimony of witnesses or the production of
8 evidence from another member state shall be enforced in the latter state by any court of
9 competent jurisdiction, according to the practice and procedure of that court applicable to

10 subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness
11 fees, travel expenses, mileage, and other fees required by the service statutes of the state in
12 which the witnesses or evidence are located.

13 (b) Only the home state may take adverse action against an audiologist's or speech-
14 language pathologist's license issued by the home state.

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

19 (d) The home state shall complete any pending investigations of an audiologist or speech-
20 language pathologist who changes primary state of residence during the course of the
21 investigation. The home state may also take appropriate action or actions and shall promptly
22 report the conclusions of the investigations to the administrator of the data system. The
23 administrator of the data system shall promptly notify the new home state of any adverse actions.

24 (e) If otherwise permitted by state law, the home state may recover from the affected
25 audiologist or speech-language pathologist the costs of investigations and disposition of cases
26 resulting from any adverse action taken against that audiologist or speech-language pathologist.

27 (f) The home state may take adverse action based on the factual findings of the remote
28 state, provided that the home state follows its own procedures for taking the adverse action.

29 (g) *Joint Investigations* -

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

33 (2) Member states shall share any investigative, litigation, or compliance materials in
34 furtherance of any joint or individual investigation initiated under the compact.

35 (h) If adverse action is taken by the home state against an audiologist's or speech-
36 language pathologist's license, the audiologist's or speech-language pathologist's privilege to
37 practice in all other member states shall be suspended until all encumbrances have been
38 removed from the state license. All home state disciplinary orders that impose adverse action
39 against an audiologist's or speech-language pathologist's license shall include a statement that
40 the audiologist's or speech-language pathologist's privilege to practice is deactivated in all
41 member states during the pendency of the order.

42 (i) If a member state takes adverse action against a licensee, it shall promptly notify the
43 administrator of the data system. The administrator of the data system shall promptly notify the
44 home state and any remote states in which the licensee has the privilege to practice of any
45 adverse actions by the home state or remote states.

46 (j) Nothing in this compact shall override a member state's decision that participation in an
47 alternative program may be used in lieu of adverse action.

**§30-32A-8. Establishment of the Audiology and Speech-Language Pathology Compact
Commission.**

1 (a) The compact member states hereby create and establish a joint public agency known
2 as the Audiology and Speech-Language Pathology Compact Commission:

3 (1) The commission is an instrumentality of the compact states;

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

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

9 (b) *Membership, voting and meetings -*

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

13 (2) An additional five delegates, who are either a public member or board administrators
14 from a state licensing board, shall be chosen by the executive committee from a pool of nominees
15 provided by the commission at large.

16 (3) Any delegate may be removed or suspended from office as provided by the law of the
17 state from which the delegate is appointed.

18 (4) The member state board shall fill any vacancy occurring on the commission within 90
19 days.

20 (5) Each delegate is entitled to one vote with regard to the promulgation of rules and
21 creation of bylaws and shall otherwise have an opportunity to participate in the business and
22 affairs of the commission.

23 (6) A delegate shall vote in person or by other means as provided in the bylaws. The
24 bylaws may provide for delegates' participation in meetings by telephone or other means of
25 communication.

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

28 (c) The commission may:

29 (1) Establish the fiscal year of the commission;

30 (2) Establish bylaws;

31 (3) Establish a code of ethics;

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

33 (5) Meet and take actions as are consistent with the provisions of this compact and the
34 bylaws;

35 (6) Promulgate uniform rules to facilitate and coordinate implementation and
36 administration of this compact. The rules shall have the force and effect of law and shall be binding
37 in all member states to the extent and in the manner provided for in the compact;

38 (7) Bring legal proceedings or prosecute actions in the name of the commission, provided
39 that the standing of any state audiology or speech-language pathology licensing board to sue or
40 be sued under applicable law shall not be affected;

41 (8) Purchase and maintain insurance and bonds;

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

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

48 (11) Accept any and all appropriate donations and grants of money, equipment, supplies,
49 materials, and services, and receive, use, and dispose of the same: *Provided*, That at all times
50 the commission shall avoid any appearance of impropriety or conflict of interest;

51 (12) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,
52 improve, or use, any property, real, personal, or mixed: *Provided*, That at all times the commission
53 shall avoid any appearance of impropriety;

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

56 (14) Establish a budget and make expenditures;

57 (15) Borrow money;

58 (16) Appoint committees, including standing committees composed of members and other
59 interested persons designated in this compact and the bylaws;

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

61 (18) Establish and elect an executive committee; and

62 (19) Perform other functions necessary or appropriate to achieve the purposes of this
63 compact consistent with the state regulation of audiology and speech-language pathology
64 licensure and practice.

65 (d) The commission may not change or modify the laws of the member states which define
66 the practice of audiology and speech-language pathology in the respective states.

67 (e) The executive committee may act on behalf of the commission, within the powers of
68 the commission, according to the terms of this compact. The executive committee shall be
69 composed of 10 members:

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

72 (2) Two ex officio members, consisting of one nonvoting member from a recognized
73 national audiology professional association and one nonvoting member from a recognized
74 national speech-language pathology association; and

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

77 (f) The ex officio members shall be selected by their respective organizations.

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

80 (2) The executive committee shall meet at least annually.

81 (3) The executive committee shall:

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

85 (B) Ensure compact administration services are appropriately provided, contractual or
86 otherwise;

87 (C) Prepare and recommend the budget;

88 (D) Maintain financial records on behalf of the commission;

89 (E) Monitor compact compliance of member states and provide compliance reports to the
90 commission;

91 (F) Establish additional committees as necessary; and

92 (G) Perform duties as provided in rules or bylaws.

93 (4) All meetings of the commission or the executive committee shall be open to the public,
94 and public notice of meetings shall be given in the same manner as required under the rule-
95 making provisions in §30-32A-10 of this code.

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

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

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

103 (C) Current, threatened, or reasonably anticipated litigation;

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

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

107 (F) Disclosure of trade secrets or commercial or financial information that is privileged or
108 confidential;

109 (G) Disclosure of information of a personal nature where disclosure would constitute a
110 clearly unwarranted invasion of personal privacy;

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

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

115 (J) Matters specifically exempted from disclosure by federal or member state statutes.

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

119 (7) The commission shall keep minutes that fully and clearly describe all matters discussed
120 in a meeting and shall provide a full and accurate summary of actions taken, and the reasons
121 therefore, including a description of the views expressed. All documents considered in connection
122 with an action shall be identified in the minutes. All minutes and documents of meetings, other
123 than closed meetings, shall be made available to members of the public upon request. All minutes
124 and documents of a closed meeting shall remain under seal, subject to release by a majority vote
125 of the commission or order of a court of competent jurisdiction.

126 (8) *Financing of the commission -*

127 (A) The commission shall pay, or provide for the payment of, the reasonable expenses of
128 its establishment, organization, and ongoing activities.

129 (B) The commission may accept any and all appropriate revenue sources, donations, and
130 grants of money, equipment, supplies, materials, and services.

131 (C) The commission may levy on and collect an annual assessment from each member
132 state's licensing board, which in West Virginia is the West Virginia Board of Examiners for Speech-
133 Language Pathology and Audiology Board, or impose fees on parties, other than the member
134 states, to cover the cost of the operations and activities of the commission and its staff, which
135 must be in a total amount sufficient to cover its annual budget as approved each year for which
136 revenue is not provided by other sources. The aggregate annual assessment amount shall be

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

139 (9) The commission shall not incur obligations of any kind prior to securing the funds
140 adequate to meet the obligation; nor shall the commission pledge the credit of any of the member
141 states, except by and with the authority of the member state.

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

147 (g) *Qualified immunity, defense, and indemnification -*

148 (1) The members, officers, executive director, employees, and representatives of the
149 Commission are immune from suit and liability, either personally or in their official capacity, for
150 any claim for damage to or loss of property or personal injury or other civil liability caused by or
151 arising out of any actual or alleged act, error, or omission that occurred, or that the person against
152 whom the claim is made had a reasonable basis for believing occurred within the scope of
153 Commission employment, duties or responsibilities: *Provided*, That nothing in this subdivision
154 shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability
155 caused by the intentional or willful or wanton misconduct of that person;

156 (2) The commission shall defend any member, officer, executive director, employee, or
157 representative of the commission in any civil action seeking to impose liability arising out of any
158 actual or alleged act, error, or omission that occurred within the scope of commission
159 employment, duties, or responsibilities, or that the person against whom the claim is made had a
160 reasonable basis for believing occurred within the scope of commission employment, duties, or
161 responsibilities: *Provided*, That nothing in this subdivision prohibits that person from retaining his

162 or her own counsel: *Provided, however,* That the actual or alleged act, error, or omission did not
163 result from that person's intentional or willful or wanton misconduct; and

164 (3) The commission shall indemnify and hold harmless any member, officer, executive
165 director, employee, or representative of the commission for the amount of any settlement or
166 judgment obtained against that person arising out of any actual or alleged act, error, or omission
167 that occurred within the scope of commission employment, duties, or responsibilities, or that
168 person had a reasonable basis for believing occurred within the scope of commission
169 employment, duties, or responsibilities: *Provided,* That the actual or alleged act, error, or omission
170 did not result from the intentional or willful or wanton misconduct of that person.

§30-32A-9. Data system.

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

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

7 (1) Identifying information;

8 (2) Licensure data;

9 (3) Adverse actions against a license or compact privilege;

10 (4) Nonconfidential information related to alternative program participation;

11 (5) Any denial of application for licensure, and the reason for denial; and

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

14 (c) Investigative information pertaining to a licensee in any member state shall only be
15 available to other member states.

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

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

21 (f) Any information submitted to the data system that is subsequently required to be
22 expunged by the laws of the member state contributing the information shall be removed from the
23 data system.

§30-32A-10. Rulemaking.

1 (a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth
2 in this section and the rules adopted thereunder. Rules and amendments become binding as of
3 the date specified in each rule or amendment.

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

7 (c) Rules or amendments to the rules shall be adopted at a regular or special meeting of
8 the commission.

9 (d) Prior to promulgation and adoption of a final rule or rules by the commission, and at
10 least 30 days in advance of the meeting at which the rule shall be considered and voted upon,
11 the commission shall file a Notice of Proposed Rulemaking:

12 (1) On the website of the commission or other publicly accessible platform; and

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

16 (e) The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

26 (g) The commission shall grant an opportunity for a public hearing before it adopts a rule
27 or amendment if a hearing is requested by:

28 (1) At least 25 persons;

29 (2) A state or federal governmental subdivision or agency; or

30 (3) An association having at least 25 members.

31 (h) If a hearing is held on the proposed rule or amendment, the commission shall publish
32 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
33 means, the commission shall publish the mechanism for access to the electronic hearing.

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

37 (2) Hearings shall be conducted in a manner providing each person who wishes to
38 comment a fair and reasonable opportunity to comment orally or in writing.

39 (3) All hearings shall be recorded. A copy of the recording shall be made available to any
40 person, upon request, at his or her own expense.

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

43 (i) Following the scheduled hearing date, or by the close of business on the scheduled
44 hearing date if the hearing was not held, the Commission shall consider all written and oral
45 comments received.

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

48 (k) The commission shall, by majority vote of all members, take final action on the
49 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking
50 record and the full text of the rule.

51 (l) Upon determination that an emergency exists, the commission may consider and adopt
52 an emergency rule without prior notice, opportunity for comment, or hearing, provided that the
53 usual rule-making procedures provided in the compact and in this section are retroactively applied
54 to the rule as soon as reasonably possible, in no event later than 90 days after the effective date
55 of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
56 immediately in order to:

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

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

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

61 (m) The commission or an authorized committee of the commission may direct revisions
62 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors
63 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be
64 posted on the website of the commission. The revision is subject to challenge by any person for
65 a period of 30 days after posting. The revision may be challenged only on grounds that the revision
66 results in a material change to a rule. A challenge shall be made in writing and delivered to the
67 chair of the commission prior to the end of the notice period. If no challenge is made, the revision

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

§30-32A-11. Dispute resolution and enforcement.

1 (a) *Dispute resolution* -

2 (1) Upon request by a member state, the commission shall attempt to resolve disputes
3 related to the compact that arise among member states and between member and nonmember
4 states.

5 (2) The commission shall promulgate a rule providing for both mediation and binding
6 dispute resolution for disputes as appropriate.

7 (b) *Enforcement* -

8 (1) The commission, in the reasonable exercise of its discretion, shall enforce the
9 provisions and rules of this compact.

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

16 (3) The remedies in this section are not the exclusive remedies of the commission. The
17 commission may pursue any other remedies available under federal or state law.

**§30-32A-12. Date of implementation of the interstate commission for audiology and
speech-language pathology practice and associated rules, withdrawal, and
amendment.**

1 (a) The compact takes effect on the date on which the compact statute is enacted into law
2 in the 10th member state. The provisions, which become effective at that time, shall be limited to
3 the powers granted to the commission relating to assembly and the promulgation of rules.

4 Thereafter, the commission shall meet and exercise rulemaking powers necessary to the
5 implementation and administration of the compact.

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

10 (c) Any member state may withdraw from this compact by enacting a statute repealing
11 participation in this compact.

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

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

17 (d) Nothing contained in this compact shall be construed to invalidate or prevent any
18 audiology or speech-language pathology licensure agreement or other cooperative arrangement
19 between a member state and a nonmember state that does not conflict with the provisions of this
20 compact.

21 (e) This compact may be amended by the member states. No amendment to this compact
22 shall become effective and binding upon any member state until it is enacted into the laws of all
23 member states.

§30-32A-13. Construction and severability.

1 This compact shall be liberally construed so as to effectuate the purposes of the compact.
2 The provisions of this compact are severable and if any phrase, clause, sentence, or provision of
3 this compact is declared to be contrary to the Constitution of any member state or of the United
4 States or the applicability thereof to any government, agency, person, or circumstance is held
5 invalid, the validity of the remainder of this compact and the applicability thereof to any

6 government, agency, person, or circumstance shall not be affected. If this compact is held
7 contrary to the constitution of any member state, the compact shall remain in full force and effect
8 as to the remaining member states and in full force and effect as to the member state affected as
9 to all severable matters.

§30-32A-14. Binding effect of compact and other laws.

1 (a) Nothing in this article prevents the enforcement of any other law of a member state
2 that is not inconsistent with the compact.

3 (b) All laws in a member state in conflict with the compact are superseded to the extent of
4 the conflict.

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

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

9 (e) In the event any provision of the compact exceeds the constitutional limits imposed on
10 the legislature of any member state, the provision shall be ineffective to the extent of the conflict
11 with the constitutional provision in question in that member state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, House Committee

.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

.....
Speaker of the House of Delegates

.....
President of the Senate

The within this the.....
day of, 2020.

.....
Governor