

## 1 SENATE BILL NO. 214

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 6 A BILL FOR AN ACT ENTITLED: "AN ACT ENACTING THE AUDIOLOGY AND SPEECH-LANGUAGE  
 7 PATHOLOGY INTERSTATE COMPACT; PROVIDING FOR CRIMINAL BACKGROUND CHECKS OF  
 8 APPLICANTS; AND AMENDING SECTIONS 37-15-202 AND 37-15-314, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
 12 NEW SECTION. Section 1. Enactment -- provisions. The Audiology and Speech-Language  
 13 Pathology Interstate Compact is enacted into law and entered into with all other jurisdictions joining in the  
 14 compact in the form substantially as follows:

## 15 SECTION 1

## 16 PURPOSE

17 The purpose of this compact is to facilitate interstate practice of audiology and speech-language  
 18 pathology with the goal of improving public access to audiology and speech-language pathology services. The  
 19 practice of audiology and speech-language pathology occurs in the state where the patient/client/student is  
 20 located at the time of the patient/client/student encounter. The compact preserves the regulatory authority of  
 21 states to protect public health and safety through the current system of state licensure.

22 This compact is designed to achieve the following objectives:

- 23 (1) increase public access to audiology and speech-language pathology services by providing for  
 24 the mutual recognition of other member state licenses;
- 25 (2) enhance the states' ability to protect the public's health and safety;
- 26 (3) encourage the cooperation of member states in regulating multistate audiology and speech-  
 27 language pathology practice;
- 28 (4) support spouses of relocating active-duty military personnel;



1 laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the  
2 patient/client/student is located at the time of the patient/client/student encounter.

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

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

9 (11) "Encumbered license" means a license in which an adverse action restricts the practice of  
10 audiology or speech-language pathology by the licensee and said adverse action has been reported to the  
11 national practitioner data bank (NPDB).

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

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

15 (14) "Impaired practitioner" means individuals whose professional practice is adversely affected by  
16 substance abuse, addiction, or other health-related conditions.

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

19 (16) "Member state" means a state that has enacted the compact.

20 (17) "Privilege to practice" means a legal authorization permitting the practice of audiology or  
21 speech-language pathology in a remote state.

22 (18) "Remote state" means a member state other than the home state where a licensee is  
23 exercising or seeking to exercise the compact privilege.

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

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

1 (21) "Speech-language pathologist" means an individual who is licensed by a state to practice  
2 speech-language pathology.

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

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

7 (24) "State practice laws" means a member state's laws, rules, and regulations that govern the  
8 practice of audiology or speech-language pathology, define the scope of audiology or speech-language  
9 pathology practice, and create the methods and grounds for imposing discipline.

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

### 12 SECTION 3

#### 13 STATE PARTICIPATION IN THE COMPACT

14 (1) A license issued to an audiologist or speech-language pathologist by a home state to a  
15 resident in that state must be recognized by each member state as authorizing an audiologist or speech-  
16 language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each  
17 member state.

18 (2) A state shall implement or utilize procedures for considering the criminal history records of  
19 applicants for initial privilege to practice. These procedures must include the submission of fingerprints or other  
20 biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record  
21 information from the federal bureau of investigation and the agency responsible for retaining that state's  
22 criminal records.

23 (a) A member state shall fully implement a criminal background check requirement, within a time  
24 frame established by rule, by receiving the results of the federal bureau of investigation record search on  
25 criminal background checks and use the results in making licensure decisions.

26 (b) Communication between a member state, the commission, and among member states  
27 regarding the verification of eligibility for licensure through the compact may not include any information  
28 received from the federal bureau of investigation relating to a federal criminal records check performed by a

1 member state under Public Law 92-544.

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

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

10 (5) For an audiologist:

11 (a) must meet one of the following educational requirements:

12 (i) on or before December 31, 2007, has graduated with a master's degree or doctorate in  
13 audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting  
14 agency recognized by the council for higher education accreditation, or its successor, or by the United States  
15 department of education and operated by a college or university accredited by a regional or national accrediting  
16 organization recognized by the board; or

17 (ii) on or after January 1, 2008, has graduated with a doctoral degree in audiology, or equivalent  
18 degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by  
19 the council for higher education accreditation, or its successor, or by the United States department of education  
20 and operated by a college or university accredited by a regional or national accrediting organization recognized  
21 by the board; or

22 (iii) has graduated from an audiology program that is housed in an institution of higher education  
23 outside of the United States:

24 (A) for which the program and institution have been approved by the authorized accrediting body in  
25 the applicable country; and

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

28 (b) has completed a supervised clinical practicum experience from an accredited educational

- 1 institution or its cooperating programs as required by the commission;
- 2 (c) has successfully passed a national examination approved by the commission;
- 3 (d) holds an active, unencumbered license;
- 4 (e) has not been convicted or found guilty, and has not entered into an agreed disposition, of a  
5 felony related to the practice of audiology, under applicable state or federal criminal law;
- 6 (f) has a valid United States social security or national practitioner identification number.
- 7 (6) For a speech-language pathologist:
- 8 (a) must meet one of the following educational requirements:
- 9 (i) has graduated with a master's degree from a speech-language pathology program that is  
10 accredited by an organization recognized by the United States department of education and operated by a  
11 college or university accredited by a regional or national accrediting organization recognized by the board; or
- 12 (ii) has graduated from a speech-language pathology program that is housed in an institution of  
13 higher education outside of the United States:
- 14 (A) for which the program and institution have been approved by the authorized accrediting body in  
15 the applicable country; and
- 16 (B) the degree program has been verified by an independent credentials review agency to be  
17 comparable to a state licensing board-approved program;
- 18 (b) has completed a supervised clinical practicum experience from an educational institution or its  
19 cooperating programs as required by the commission;
- 20 (c) has completed a supervised postgraduate professional experience as required by the  
21 commission;
- 22 (d) has successfully passed a national examination approved by the commission;
- 23 (e) holds an active, unencumbered license;
- 24 (f) has not been convicted or found guilty, and has not entered into an agreed disposition, of a  
25 felony related to the practice of speech-language pathology, under applicable state or federal criminal law;
- 26 (g) has a valid United States social security or national practitioner identification number.
- 27 (7) The privilege to practice is derived from the home state license.
- 28 (8) An audiologist or speech-language pathologist practicing in a member state shall comply with

1 the state practice laws of the state in which the client is located at the time service is provided. The practice of  
2 audiology and speech-language pathology must include all audiology and speech-language pathology practice  
3 as defined by the state practice laws of the member state in which the client is located. The practice of  
4 audiology and speech-language pathology in a member state under a privilege to practice must subject an  
5 audiologist or speech language pathologist to the jurisdiction of the licensing board, the courts, and the laws of  
6 the member state in which the client is located at the time service is provided.

7 (9) Individuals not residing in a member state must continue to be able to apply for a member  
8 state's single-state license as provided under the laws of each member state. However, the single-state license  
9 granted to these individuals may not be recognized as granting the privilege to practice audiology or speech-  
10 language pathology in any other member state. Nothing in this compact may affect the requirements  
11 established by a member state for the issuance of a single-state license.

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

13 (11) Member states shall comply with the bylaws and rules and regulations of the commission.

#### 14 SECTION 4

#### 15 COMPACT PRIVILEGE

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

18 (a) must hold an active license in the home state;

19 (b) must have no encumbrance on any state license;

20 (c) must be eligible for a compact privilege in any member state in accordance with section 3;

21 (d) may not have had any adverse action against any license or compact privilege within the  
22 previous 2 years from the date of application;

23 (e) shall notify the commission that the licensee is seeking the compact privilege within a remote  
24 state(s);

25 (f) shall pay any applicable fees, including any state fee, for the compact privilege;

26 (g) shall report to the commission adverse action taken by any nonmember state within 30 days  
27 from the date the adverse action is taken.

28 (2) For the purposes of the compact privilege, an audiologist or speech-language pathologist may

1 only hold one home state license at a time.

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

6 (4) The audiologist or speech-language pathologist may apply for licensure in advance of a  
7 change in primary state of residence.

8 (5) A license may not be issued by the new home state until the audiologist or speech-language  
9 pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and  
10 satisfies all applicable requirements to obtain a license from the new home state.

11 (6) If an audiologist or speech-language pathologist changes primary state of residence by moving  
12 from a member state to a nonmember state, the license issued by the prior home state must convert to a  
13 single-state license, valid only in the former home state.

14 (7) The compact privilege is valid until the expiration date of the home state license. The licensee  
15 shall comply with the requirements of section 4(1) to maintain the compact privilege in the remote state.

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

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

22 (10) If a home state license is encumbered, the licensee shall lose the compact privilege in any  
23 remote state until the following occur:

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

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

26 (11) Once an encumbered license in the home state is restored to good standing, the licensee must  
27 meet the requirements of section 4(1) to obtain a compact privilege in any remote state.

28 (12) Once the requirements of section 4(10) have been met, the licensee must meet the



1 requirements in section 4(1) to obtain a compact privilege in a remote state.

2 SECTION 5

3 COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

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

8 SECTION 6

9 ACTIVE-DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

14 SECTION 7

15 ADVERSE ACTIONS

16 (1) In addition to the other powers conferred by state law, a remote state must have the authority,  
17 in accordance with existing state due process law, to:

18 (a) take adverse action against an audiologist's or speech-language pathologist's privilege to  
19 practice within that member state;

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

27 (c) Only the home state may have the power to take adverse action against an audiologist's or  
28 speech-language pathologist's license issued by the home state.

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

4           (3)     The home state shall complete any pending investigations of an audiologist or speech-  
5 language pathologist who changes primary state of residence during the course of the investigations. The home  
6 state must also have the authority to take appropriate action(s) and shall promptly report the conclusions of the  
7 investigations to the administrator of the data system. The administrator of the coordinated licensure  
8 information system shall promptly notify the new home state of any adverse actions.

9           (4)     If otherwise permitted by state law, the member state may recover from the affected audiologist  
10 or speech-language pathologist the costs of the investigations and disposition of cases resulting from any  
11 adverse action taken against that audiologist or speech language pathologist.

12           (5)     The member state may take adverse action based on the factual findings of the remote state,  
13 provided that the member state follows the member state's own procedures for taking the adverse action.

14           (6)     Joint investigations.

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

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

20           (7)     If adverse action is taken by the home state against an audiologist's or speech-language  
21 pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member  
22 states must be deactivated until all encumbrances have been removed from the state license. All home state  
23 disciplinary orders that impose adverse action against an audiologist's or speech-language pathologist's license  
24 must include a statement that the audiologist's or speech-language pathologist's privilege to practice is  
25 deactivated in all member states during the pendency of the order.

26           (8)     If a member state takes adverse action, it shall promptly notify the administrator of the data  
27 system. The administrator of the data system shall promptly notify the home state of any adverse actions by  
28 remote states.

1 (9) Nothing in this compact may override a member state's decision that participation in an  
 2 alternative program may be used in lieu of adverse action.

### 3 SECTION 8

#### 4 ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE

#### 5 PATHOLOGY COMPACT COMMISSION

6 (1) The compact member states hereby create and establish a joint public agency known as the  
 7 audiology and speech-language pathology compact commission.

8 (a) The commission is an instrumentality of the compact states.

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

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

14 (2) Membership, voting, and meetings.

15 (a) Each member state must have two delegates selected by that member state's licensing board.  
 16 The delegates must be current members of the licensing board. One must be an audiologist and one must be a  
 17 speech-language pathologist.

18 (b) An additional five delegates, who are either a public member or board administrator from a  
 19 state licensing board, must be chosen by the executive committee from a pool of nominees provided by the  
 20 commission at large.

21 (c) Any delegate may be removed or suspended from office as provided by the law of the state  
 22 from which the delegate is appointed.

23 (d) The member state board shall fill any vacancy occurring on the commission within 90 days.

24 (e) Each delegate must be entitled to one vote with regard to the promulgation of rules and  
 25 creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the  
 26 commission.

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

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

3 (3) The commission must have the following powers and duties:

4 (a) establish the fiscal year of the commission;

5 (b) establish bylaws;

6 (c) establish a code of ethics;

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

8 (e) meet and take actions as are consistent with the provisions of this compact and the bylaws;

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

11 (g) bring and prosecute legal proceedings or actions in the name of the commission, provided that  
12 the standing of any state audiology or speech-language pathology licensing board to sue or be sued under  
13 applicable law is not affected;

14 (h) purchase and maintain insurance and bonds;

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

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

21 (k) accept any and all appropriate donations and grants of money, equipment, supplies, materials,  
22 and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall  
23 avoid any appearance of impropriety and/or conflict of interest;

24 (l) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or  
25 use, any property, real, personal, or mixed, provided that at all times the commission shall avoid any  
26 appearance of impropriety;

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

1 (n) establish a budget and make expenditures;

2 (o) borrow money;

3 (p) appoint committees, including standing committees composed of members, and other

4 interested persons as may be designated in the compact and the bylaws;

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

6 (r) establish and elect an executive committee; and

7 (s) perform other functions as may be necessary or appropriate to achieve the purposes of this

8 compact consistent with the state regulation of audiology and speech-language pathology licensure and

9 practice.

10 (4) The executive committee.

11 The executive committee must have the power to act on behalf of the commission according to the

12 terms of this compact:

13 (a) The executive committee must be composed of 10 members:

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

16 (ii) two ex-officio members, consisting of one nonvoting member from a recognized national  
17 audiology professional association and one nonvoting member from a recognized national speech-language  
18 pathology association; and

19 (iii) one ex-officio, nonvoting member from the recognized membership organization of the  
20 audiology and speech-language pathology licensing boards.

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

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

23 (b) The executive committee shall meet at least annually.

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

25 (i) recommend to the entire commission changes to the rules or bylaws, changes to this compact  
26 legislation, fees paid by compact member states such as annual dues, and any commission compact fee  
27 charged to licensees for the compact privilege;

28 (ii) ensure compact administration services are appropriately provided, contractual or otherwise;

- 1 (iii) prepare and recommend the budget;
- 2 (iv) maintain financial records on behalf of the commission;
- 3 (v) monitor compact compliance of member states and provide compliance reports to the
- 4 commission;
- 5 (vi) establish additional committees as necessary; and
- 6 (vii) other duties as provided in rules or bylaws.
- 7 (d) Meetings of the commission.

8 All meetings must be open to the public, and public notice of meetings must be given in the same  
9 manner as required under the rulemaking provision in section 10.

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

- 13 (i) noncompliance of a member state with its obligations under the compact;
- 14 (ii) the employment, compensation, discipline, or other matters, practices, or procedures related to  
15 specific employees or other matters related to the commission's internal personnel practices and procedures;
- 16 (iii) current, threatened, or reasonably anticipated litigation;
- 17 (iv) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- 18 (v) accusing any person of a crime or formally censuring any person;
- 19 (vi) disclosure of trade secrets or commercial or financial information that is privileged or  
20 confidential;
- 21 (vii) disclosure of information of a personal nature where disclosure would constitute a clearly  
22 unwarranted invasion of personal privacy;
- 23 (viii) disclosure of investigative records compiled for law enforcement purposes;
- 24 (ix) disclosure of information related to any investigative reports prepared by or on behalf of or for  
25 use of the commission or other committee charged with responsibility of investigation or determination of  
26 compliance issues pursuant to the compact; or
- 27 (x) matters specifically exempted from disclosure by federal or member state statute.
- 28 (f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's

1 legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant  
2 exempting provision.

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

8 (h) Financing of the commission.

9 (i) The commission shall pay, or provide for the payment of, the reasonable expenses of its  
10 establishment, organization, and ongoing activities.

11 (ii) The commission may accept any and all appropriate revenue sources, donations, and grants of  
12 money, equipment, supplies, materials, and services.

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

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

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

26 (6) Defense and indemnification.

27 (a) The commission shall defend any member, officer, executive director, employee, or  
28 representative of the commission in any civil action seeking to impose liability arising out of any actual or

1 alleged act, error, or omission that occurred within the scope of commission employment, duties, or  
2 responsibilities, or that the person against whom the claim is made had a reasonable basis for believing  
3 occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein  
4 may be construed to prohibit that person from retaining his or her own counsel, and provided further, that the  
5 actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton  
6 misconduct.

7 (b) The commission shall indemnify and hold harmless any member, officer, executive director,  
8 employee, or representative of the commission for the amount of any settlement or judgment obtained against  
9 that person arising out of any actual or alleged act, error, or omission that occurred within the scope of  
10 commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing  
11 occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or  
12 alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

## 13 SECTION 9

### 14 DATA SYSTEM

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

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

- 21 (a) identifying information;
- 22 (b) licensure data;
- 23 (c) adverse actions against a license or compact privilege;
- 24 (d) nonconfidential information related to alternative program participation;
- 25 (e) any denial of application for licensure, and the reason(s) for denial; and
- 26 (f) other information that may facilitate the administration of this compact, as determined by the  
27 rules of the commission.

28 (3) Investigative information pertaining to a licensee in any member state may only be available to



1 other member states.

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

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

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

9 SECTION 10

10 RULEMAKING

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

14 (2) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or  
15 resolution in the same manner used to adopt the compact within 4 years of the date of adoption of the rule, the  
16 rule must have no further force and effect in any member state.

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

19 (4) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30  
20 days in advance of the meeting at which the rule is to be considered and voted upon, the commission shall file  
21 a notice of proposed rulemaking:

22 (a) on the website of the commission or other publicly accessible platform; and

23 (b) on the website of each member state audiology or speech-language pathology licensing board  
24 or other publicly accessible platform or the publication in which each state would otherwise publish proposed  
25 rules.

26 (5) The notice of proposed rulemaking must include:

27 (a) the proposed time, date, and location of the meeting in which the rule is to be considered and  
28 voted upon;

- 1 (b) the text of the proposed rule or amendment and the reason for the proposed rule;
- 2 (c) a request for comments on the proposed rule from any interested person; and
- 3 (d) the manner in which interested persons may submit notice to the commission of their intention
- 4 to attend the public hearing and any written comments.
- 5 (6) Prior to the adoption of a proposed rule, the commission shall allow persons to submit written
- 6 data, facts, opinions, and arguments, which must be made available to the public.
- 7 (7) The commission shall grant an opportunity for a public hearing before it adopts a rule or
- 8 amendment if a hearing is requested by:
- 9 (a) at least 25 persons;
- 10 (b) a state or federal governmental subdivision or agency; or
- 11 (c) an association having at least 25 members.
- 12 (8) If a hearing is held on the proposed rule or amendment, the commission shall publish the
- 13 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
- 14 commission shall publish the mechanism for access to the electronic hearing.
- 15 (a) All persons wishing to be heard at the hearing shall notify the executive director of the
- 16 commission or other designated member in writing of their desire to appear and testify at the hearing not less
- 17 than 5 business days before the scheduled date of the hearing.
- 18 (b) Hearings must be conducted in a manner providing each person who wishes to comment a fair
- 19 and reasonable opportunity to comment orally or in writing.
- 20 (c) All hearings must be recorded. A copy of the recording must be made available on request.
- 21 (d) Nothing in this section may be construed as requiring a separate hearing on each rule. Rules
- 22 may be grouped for the convenience of the commission at hearings required by this section.
- 23 (9) Following the scheduled hearing date, or by the close of business on the scheduled hearing
- 24 date if the hearing was not held, the commission shall consider all written and oral comments received.
- 25 (10) If no written notice of intent to attend the public hearing by interested parties is received, the
- 26 commission may proceed with promulgation of the proposed rule without a public meeting.
- 27 (11) The commission shall, by majority vote of all members, take final action on the proposed rule
- 28 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the

1 rule.

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

7 (a) meet an imminent threat to public health, safety, or welfare;

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

9 (c) meet a deadline for the promulgation of an administrative rule that is established by federal law

10 or rule.

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

## 19 SECTION 11

### 20 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

21 (1) Dispute resolution.

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

24 (b) The commission shall promulgate a rule providing for both mediation and binding dispute  
25 resolution for disputes as appropriate.

26 (2) Enforcement.

27 (a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and  
28 rules of this compact.

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

6 (c) The remedies herein may not be the exclusive remedies of the commission. The commission  
7 may pursue any other remedies available under federal or state law.

## 8 SECTION 12

### 9 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION 10 FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND 11 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

12 (1) The compact must come into effect on the date on which the compact statute is enacted into  
13 law in the 10th member state. The provisions, which become effective at that time, must be limited to the  
14 powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the  
15 commission shall meet and exercise rulemaking powers necessary to the implementation and administration of  
16 the compact.

17 (2) Any state that joins the compact subsequent to the commission's initial adoption of the rules  
18 must be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule  
19 that has been previously adopted by the commission must have full force and effect of law on the day the  
20 compact becomes law in that state.

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

22 (a) A member state's withdrawal may not take effect until 6 months after enactment of the  
23 repealing statute.

24 (b) Withdrawal may not affect the continuing requirement of the withdrawing state's audiology or  
25 speech-language pathology licensing board to comply with the investigative and adverse action reporting  
26 requirements of this act prior to the effective date of withdrawal.

27 (4) Nothing contained in this compact may be construed to invalidate or prevent any audiology or  
28 speech-language pathology licensure agreement or other cooperative arrangement between a member state

1 and a nonmember state that does not conflict with the provisions of this compact.

2 (5) The compact may be amended by the member states. No amendment to this compact may  
3 become effective and binding upon any member state until it is enacted into the laws of all member states.

#### 4 SECTION 13

#### 5 CONSTRUCTION AND SEVERABILITY

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

#### 14 SECTION 14

#### 15 BINDING EFFECT OF COMPACT AND OTHER LAWS

16 (1) Nothing herein prevents the enforcement of any other law of a member state that is not  
17 inconsistent with the compact.

18 (2) All laws in a member state in conflict with the compact are superseded to the extent of the  
19 conflict.

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

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

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

27

28 NEW SECTION. **Section 2. Criminal background check.** (1) As provided in 37-1-307, the board is

1 authorized to require each applicant for licensure to submit a full set of the applicant's fingerprints to the board  
2 for the purpose of obtaining a state and federal criminal history background check.

3 (2) Each license applicant shall pay all fees charged in relation to obtaining the state and federal  
4 criminal history background check.

5 (3) The board may require licensees renewing their licenses to submit a full set of fingerprints to  
6 the board for the purpose of obtaining a state and federal criminal history background check.

7 (4) The Montana department of justice may share the fingerprint data gathered under this section  
8 with the federal bureau of investigation.

9

10 **Section 3.** Section 37-15-202, MCA, is amended to read:

11 **"37-15-202. Powers and duties of board and department.** (1) The board shall:

12 (a) administer, coordinate, and enforce the provisions of this chapter;

13 (b) evaluate the qualifications of each applicant for a license as issued under this chapter and  
14 supervise the examination of applicants;

15 (c) conduct hearings and keep records and minutes as the board considers necessary to an  
16 orderly dispatch of business;

17 (d) adopt rules, including but not limited to those governing ethical standards of practice or  
18 standards for telehealth under this chapter;

19 (e) make recommendations to the governor and other state officials regarding new and revised  
20 programs and legislation related to speech-language pathology or audiology which could be beneficial to the  
21 citizens of the state of Montana;

22 (f) cause the prosecution and enjoinder of all persons violating this chapter, by the complaints of  
23 its secretary filed with the county attorney in the county where the violation took place, and incur necessary  
24 expenses for the prosecution;

25 (g) adopt a seal by which the board shall authenticate its proceedings; and

26 (h) extend compact privileges as described in [section 1].

27 (2) Copies of the proceedings, records, and acts of the board, signed by the presiding officer or  
28 secretary of the board and stamped with the seal, are prima facie evidence of the validity of the documents.

