

# WEST VIRGINIA CODE: §30-32A-8

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

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

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

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

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

(b) *Membership, voting and meetings -*

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

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

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

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

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

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

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

(c) The commission may:

- (1) Establish the fiscal year of the commission;
- (2) Establish bylaws;
- (3) Establish a code of ethics;
- (4) Maintain its financial records in accordance with the bylaws;
- (5) Meet and take actions as are consistent with the provisions of this compact and the bylaws;
- (6) Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states to the extent and in the manner provided for in the compact;
- (7) Bring legal proceedings or prosecute actions in the name of the commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;
- (8) Purchase and maintain insurance and bonds;
- (9) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
- (10) Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- (11) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the same: *Provided*, That at all times the commission shall avoid any appearance of impropriety or conflict of interest;
- (12) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed: *Provided*, That at all times the commission shall avoid any appearance of impropriety;
- (13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
- (14) Establish a budget and make expenditures;
- (15) Borrow money;

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

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

(18) Establish and elect an executive committee; and

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

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

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

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

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

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

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

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

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

(3) The executive committee shall:

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

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

(C) Prepare and recommend the budget;

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

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

(F) Establish additional committees as necessary; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons

therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of meetings, other than closed meetings, shall be made available to members of the public upon request. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

*(8) Financing of the commission -*

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

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

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

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

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

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

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

misconduct of that person;

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities: *Provided*, That nothing in this subdivision prohibits that person from retaining his or her own counsel: *Provided, however*, That the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct; and

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