



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

MANPOWER AND
RESERVE AFFAIRS

February 21, 2023

The Honorable Senator Jarrett Keohokalole
Chair, Senate Committee on Commerce and Consumer Protection
415 South Beretania St.
Honolulu, HI 96813

SUBJ: SB 317 SD 1 (Relating to the Audiology and Speech-Language Pathology Interstate Compact).

Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

On behalf of the U.S. Department of Defense (DoD) and military families, I am writing to express strong support for the policy addressed in Senate Bill (SB) 317 SD 1.

DoD has advocated for improved licensure and career portability for military Service members and their spouses for several years. Military spouses are disproportionately affected by state-specific professional licensing requirements that can cause delays and gaps in employment, with thirty-six percent requiring a state license to practice in their professions and an annual cross-state relocation rate ten times higher than their civilian counterparts. Accordingly, military spouses experience unemployment and underemployment at significantly higher rates than their civilian peers.

State policies enacting interstate licensure compacts, such as the Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC) relieve one of the many stressors of frequent military moves by enabling military spouses to transfer their licenses more quickly across state lines and obtain employment as soon as they relocate to a new state. These policies facilitate greater career sustainability for military spouses, improving their families' financial security and overall resilience.

Finally, interstate licensure compacts benefit not only military spouses, but also apply to all eligible professionals to include active duty Service members, members of the reserve components, veterans, and civilians. By enacting the ASLP-IC policy, Hawaii would have the opportunity to increase its healthcare workforce available to serve the local community while supporting military families.

In closing, the Department of Defense is very appreciative of Hawaii's ongoing commitment and efforts to support members of the military and their families who sacrifice much in service to our country. Thank you for providing me the opportunity to provide comments in support of this policy proposal.

Sincerely,

A handwritten signature in cursive script that reads "Kelli May Douglas".

Kelli May Douglas
Pacific Southwest Regional Liaison
Defense-State Liaison Office
DoD, Military Community & Family Policy
571-265-0075

Testimony of the Board of Speech Pathology and Audiology

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 22, 2023
9:35 a.m.
Videoconference**

**On the following measure:
S.B. 317 S.D. 1, RELATING TO THE AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY INTERSTATE COMPACT**

WRITTEN TESTIMONY ONLY

Chair Keohokalole and Members of the Committee:

My name is Christopher Fernandez, and I am the Executive Officer of the Board of Speech Pathology and Audiology (Board). The Board's legislative committee (Committee) appreciates the intent of and offers comments on this bill.

The purpose of this bill are to: (1) establish provisions relating to the Audiology and Speech-Language Pathology Interstate Compact (Compact) to facilitate interstate practice of audiology and speech-language pathology; and (2) require the Department of Commerce and Consumer Affairs to adopt rules to implement and administer the Compact.

The Committee provides the following comments and concerns:

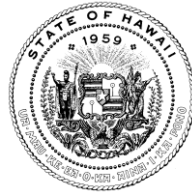
- (1) S.B. 317, S.D. 1 represents the first time the Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC) has been introduced in the Legislature, it would be premature to adopt it without further discussion, particularly since the Commission of ISLP-IC has not yet established many of its bylaws and rules, including those regarding fees to participate in the Compact for the member states. Currently, ASLP-IC legislation has been enacted by twenty-three (23) states; however, no privileges have yet been issued by the ASLP-IC, and that roll-out of the first authorizations may not happen until the end of 2023 or later;
- (2) The Committee is concerned that the bill language would allow Compact privilege holders to provide:

- (a) Unlicensed telehealth mental health services to Hawaii consumers;
 - and
 - (b) Unlicensed in-person services.
- (3) Currently, the Board does not perform Federal Bureau of Investigations (FBI) background checks on applicants as this is not required by HRS chapter 468E. Page 8, line 7 to page 9, line 7, of the Compact requires this capability. To comply with the Compact, HRS chapter 468E and HRS chapter 846 would have to be amended to require Hawaii applicants to acquire FBI background checks.
- (4) The Board has expressed concerns about establishing telehealth laws in HRS chapter 468E for Audiologists and Speech Pathologists. Audiologists and speech pathologists sometimes utilize measuring equipment that must also function remotely, adding a layer of complexity to telehealth for audiologists and speech pathologists. The Board is actively researching to prepare appropriate telehealth language for HRS chapter 468E, and is concerned that this measure may affect the Board's authority to develop appropriate telehealth regulations;
- (5) If a Compact user is disciplined in this State, the Board is responsible for any costs related to travel, etc. Therefore, this may represent a loss for the State if it is unable to recoup the costs of travel by fines or fees established for the use of the privilege in this State. It is important to note that this aspect of ASLP-IC has not established rules for this aspect of the Compact administration at this time;
- (6) Part of ASLP-IC's purpose is to allow Speech Pathologists and Audiologists with unencumbered licenses from having to acquire and maintain numerous licenses, and to increase the speed of licensure in a new state. The fees currently charged are necessary to ensure that regulation of the profession has the resources needed to protect the public and consumers. The majority of applicants for licensure as a Speech Pathologist obtain their license by holding a current and undisciplined Certificate of Clinical Competence (CCC) from the American Speech-Language-Hearing Association (ASHA). Review of such

applications and ensuing licensure is already relatively quick, diminishing the Compact's perceived benefit of reducing licensure times.

- (7) Finally, the Committee notes that there may be a significant impact on the fees collected by the Board for licensure, which partially funds the Professional Vocational Licensing Division's and the Regulated Industries Complaints Office's administrative and enforcement functions. Although the Compact language allows each member state to set the fees for use of the privilege, this amount will likely be far less than Hawaii licenses for audiologists and speech pathologists.

Thank you for the opportunity to testify on this bill.



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 22, 2023
9:35 a.m.
VIA VIDEOCONFERENCE

On the following measure:
S.B. 317, S.D.1, RELATING TO THE AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY INTERSTATE COMPACT

Chair Keohokalole and Members of the Committee:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Regulated Industries Complaints Office (RICO), which is an agency within the Department of Commerce and Consumer Affairs. RICO is charged with enforcing the licensing laws of various professional and trade industries in the State through the receipt, investigation and prosecution of, in this case, licensees who fall within the purview of the Hawaii Board of Speech Pathology and Audiology (Board). The Board sets industry policy and standards through laws and rules, and regulates practitioners through the issuance, denial and/or discipline of licensees who are authorized to practice in Hawaii. RICO, therefore, defers to and fully supports the Board's position on the measure's policy, administration and implementation. RICO **offers comments** on provisions that could impact RICO's enforcement authority, practices and/or daily operations.

The purpose of this bill is to authorize the Governor to enter into the Audiology and Speech-Language Pathology Interstate Compact (Compact) on behalf of the State of

Hawaii. Under the Compact, qualified speech-language pathologists and audiologists licensed in Compact states are permitted to practice in other Compact states, including through telehealth, under a practice privilege without the need to obtain another license.

1. Notice, fees, limited duration licensure, respecting privacy of licensees under investigation and patient treatment records. The following four factors are often key to the effective administration and enforcement of a licensure regulatory scheme in Hawaii: (a) notification to the licensing authority, by a practitioner, of the practitioner's actual or intent to practice in the State; (b) prompt payment by the practitioner of fees at initial licensure and renewals so that the regulatory functions (administrative and enforcement), are adequately staffed and sustained, (c) a limitation on the term of licensure through a renewal process that helps to ensure that practitioners are competent and credible still, and (d) the regulatory scheme respects the significant privacy right that a practitioner under investigation for fitness has, as well as a patient's right to privacy in the medical and treatment records that may be acquired during an investigation.

- a) Notice. The notification component is present in the measure at page 9, line 8, ("On application for a privilege to practice,").
- b) Licensure fees. The measure references an ability to charge fees for the practice privilege at page 14, lines 18 – 19, and page 15, lines 14 – 15. It also mentions the ability to recoup costs at the back end for adverse actions taken. See page 21, lines 9 – 13.
- c) Renewals. The measure mentions a renewal process at page 9, line 18.
- d) Respecting privacy.
 - Possible broad interpretation of "investigative information." I note for the Committee that SB674, SD1, which is the proposed Interstate Medical Licensure Compact that is currently supported by the Hawaii Medical Board, appears to narrowly-define "investigative information" to include only the licensure and "disciplinary records" of physicians. (See SB674, SD1, at page 15, lines 12 – 13). The narrowly-tailored definition comports with the Hawaii regulators' current practice of disclosing only license information, and

complaint status, to outsiders during an ongoing investigation into a licensee's fitness to practice. In contrast, this measure does not define investigative information but presumes it will be inputted into the governing body's data system and made available to other states, should Hawaii become a compact member. See page 36, line 10, and page 37, lines 8 – 9.

- Potential compulsory sharing of sensitive investigative information. SB674, SD1 appears to give the Hawaii Medical Board discretion to participate in joint investigations with other Compact-member states, as well as in the handling of non-public investigative information. (See SB674, SD1, at page 15, line 16 (“may” participate), and page 16, lines 1 (“may” share)). The carefully-crafted language, therefore, appears to deliberately afford Hawaii regulators the ability to continue their current practice of safeguarding investigative material that an accused practitioner in Hawaii has a significant privacy interest in, and, not disclosing those treatment records that were subpoenaed or that the patient authorized receipt and use of by the Hawaii regulator only.

Under this proposed Compact, and similar to the Hawaii Medical Board under SB674, SD1, the Board “*may*” participate in “joint investigations” too, see page 21, lines 20 -21. Unlike SB674, SD1, however, this Board does not appear to have the choice *not* to share investigative materials gathered by Hawaii regulators that may have a significant privacy interest attached to them. See page 22, line 1 “member states *shall* share any investigative information” related to a joint or individual investigation initiated under the compact.

2. Miscellaneous issue – instrumentality of the state & assessments. Though we do not fully understand the implications of these provisions in the measure, we note for the Committee that:

a) The governing body under the Compact is considered an “instrumentality of the compact states,” see page 23, lines 9 – 10; and

b) The governing body has the ability to “levy on and collect an annual assessment from each member state” or “impose fees on other parties” to cover operations and activities, see page 33, lines 1 –5. If an assessment is levied, the amount will be based on a formula determined by the governing body, see page 33, lines 8 – 11.

3. Miscellaneous issue – no indemnification of Hawaii regulatory employees who may be required to “ignore” contrary provisions in state law. The measure protects the governing body and its agents and employees through immunity, limitation of liability, defend/indemnify and “hold harmless” provisions that run from page 34, line 5, through page 36, line 5, but on its face excludes any consideration of the regulatory entities in Hawaii should, for example, a Hawaii employee attempt to comply with mandatory provisions or rules or bylaws of the Compact that could conflict with provisions of existing state law. The scenario is more than hypothetical because Compact legislation seem to come with language that compel members to ignore state law . . . e.g., “notwithstanding any other provision of state law to the contrary, a member state shall . . .”, and that compulsory language exists in this measure too (see page 36, lines 12 -13).

Thank you for the opportunity to testify on this bill.



Testimony of the Audiology and Speech-Language Pathology Interstate Compact Commission

Before the

Senate Committee on

Commerce and Consumer Protection

On the following measure:

S.B. 317 RELATING TO THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

Chair Keohokalole and Members of the Committee:

My name is Nahale Kalfas, and I am Legal Counsel for the Audiology and Speech-Language Pathology Interstate Compact Commission (ASLP-ICC). The ASLP-ICC is the national administrative body whose membership consists of all states that have enacted the Compact. As a primary co-drafter and current counsel for the ASLP-ICC, I would like to address questions and concerns brought up by the Department of Commerce and Consumer Affairs and the Board of Speech Pathology and Audiology in Senate Health and Human Services Committee hearing. The purpose of this bill is to authorize Hawaii to enter into the Audiology and Speech-Language Pathology Interstate Compact.

First, DCCA mentioned that they were unclear about the meaning of the Compact being an “instrumentality of the states”. This term means that the Compact is a joint governmental body charged by the member states to administer the compact. If Hawaii were to pass this Compact, they would join with the other member states (through its delegates) to oversee the administration of the Compact and make any decisions related thereof.

Next, DCCA correctly indicates that the governing body can collect an annual assessment from member states. The Commission is allowed to assess states a fee for participating in the compact, however currently the only compacts that assess any fees are Nursing: \$6,000 per state flat fee, and Psychology: sliding scale based on usage. This Compact has not yet made a determination if they will charge a fee. If

Hawaii were to join the compact, Hawaii would be involved with other member states in making the decision (by majority commission vote) of the assessment, if any, to charge member states. Compact member states also have the ability to assess a fee for compact users to offset any losses from practitioners deciding to get a privilege to practice instead of a license. The decision regarding applicant fees is left to the independent discretion of each member.

Additional comments from the Board indicate concern about the impact of fees on the licensing board's administrative enforcement functions, including travel. Existing boards, such as Nursing, have found this to be a de minimus effect. There is less administrative staffing burden with regard to the entry of compact privilege holders as remote member state boards do not have to engage in primary source verification for those seeking a privilege. Home member state boards already conduct primary document source vetting which will be accessed through the compact data system. Hawaii would only be responsible for investigating violations occurring within the state due to availability of witnesses and evidence. The compact provides for joint investigations which allow for member states to share 'current significant investigative information' and work together if the licensee respondent is in a different member state. A member state can recoup any costs incurred that Hawaii otherwise allows from the practitioner.

Moreover, DCCA refers to ambiguity regarding indemnification for Hawaii Board or RICO employees. Participation in the commission or assistance given to administer the compact is an extension of state actor/employee duties. The same immunity these state actors have in Hawaii flows to their work on the Commission. The reason this immunity is co-terminus with immunity provided by the compact is because the compact becomes current state law in Hawaii and thereby does not create an actual conflict in the state.

Furthermore, the Board implies that the compact privilege holders would provide unlicensed practice in the state both in person and through telehealth. Well-settled compact doctrine states a privilege to practice is equivalent to a license. This doctrine has been recognized by Centers for Medicare & Medicaid Services and private payers for purposes of reimbursement of services. There will be a public protection mechanism that is at least equivalent to current state licensing public protection mechanisms with the provision of a data system that tracks privilege holders and allows for expanded information

sharing among the member states. Additionally, because telehealth is just another mode of service delivery, not all patients or treatment or screening modalities are appropriate for telehealth services. Practitioners must follow the scope of practice within the state in which the patient is being treated and the onus is on the practitioner to determine whether or not it is appropriate to provide the service via telehealth. If there is harm affiliated with the inappropriate provision of services via telehealth, the compact privilege holder can be subjected to discipline in accordance with the scope of practice and due process laws of the state where the violation occurred..

Finally, the Board is concerned with adopting the compact as no privileges have yet been issued, however, as mentioned, early adoption allows Hawaii to have a “seat at the table” to determine rules that affect administration and implementation of the Compact, in addition to determining whatever fee structure the compact commission decides upon. There is a conventional and necessary period of time that all compact commissions require to create the centralized data system, onboard member states and ensure that public protection requirements have been met before privileges are issued. Therefore, we encourage you to have an immediate effective date so that Hawai’I can join with other states in these decision making processes for the compact operation.

Ultimately, the public policy benefit of the compact will increase access to competent care and the increase the recruitment and retention of qualified practitioners in the state.



ASHA
American
Speech-Language-Hearing
Association

February 21, 2023

Senator Jarrett Keohokalole
Chair
Senate Committee on Commerce and Consumer Protection
Hawai'i State Legislature
415 South Beretania St.
Honolulu, HI 96813

RE: SB 317

Dear Senator Keohokalole:

On behalf of the American Speech-Language-Hearing Association, I write to support SB 317, which adopts the Audiology and Speech-Language Pathology Interstate Compact.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 223,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students. Over 600 ASHA members reside in Hawai'i.¹

ASHA members often have difficulty obtaining multiple state licenses to practice due to administrative burdens. These burdens hinder their ability to provide quality services and restrict consumer access in underserved and rural communities. I am pleased to support SB 317, which will address these issues by:

- increasing access to care for patients, clients, and/or students; and
- facilitating continuity of care when patients, clients, and/or students relocate or travel to another state, specifically with members of the military and their spouses.

Passage of this bill would allow Hawai'i to enjoy the same benefits of the 23 other ASLP-IC member states. The United States Department of Defense State Liaison Office and the Hawai'i Speech-Language-Hearing Associations joins ASHA in supporting SB 317. We appreciate your sponsorship and hope that the Committee will pass this important legislation.

If you or your staff have any questions, please contact Susan Adams, ASHA's director of state legislative and regulatory affairs, at sadams@asha.org.

Sincerely,

Robert M. Augustine, PhD, CCC-SLP
2023 ASHA President

¹ American Speech-Language-Hearing Association. (2021). *Hawaii* [Quick Facts]. <https://www.asha.org/siteassets/advocacy/state-fliers/hawaii-state-flyer.pdf>.



February 22, 2023

9:35 a.m.

Conference Room 229

VIA VIDEOCONFERENCE

To: Senate Committee on Commerce and Consumer Protection

Sen. Jarrett Keohokalole, Chair

Sen. Carol Fukunaga, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SB317 SD1 — RELATING TO THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
INTERSTATE COMPACT

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB317 SD1](#), which would allow Hawaii to enter into the Audiology and Speech-Language Pathology Interstate Compact.

If this bill is enacted, the Legislature will take an important step toward addressing Hawaii's shortage of medical practitioners and specialists, a problem that has existed for years and has become a serious obstacle to healthcare access in our state.

Across the state, and especially in rural areas, Hawaii is facing shortages of experienced health professionals, from primary care providers to nurses, specialists and staff. Fixing the problem requires a multipronged strategy that will address everything from Hawaii's high cost of living to the state's regulatory scheme for healthcare facilities. Perhaps most important is the need to reform licensing regulations for healthcare professionals.

One-fourth of all licensed workers in the U.S. work in healthcare.¹ Their licenses can be difficult to obtain, are expensive and carry geographic or "scope of practice" limitations.

¹ Ryann Nunn, "[Improving Health Care Through Occupational Licensing Reform.](#)" RealClear Markets, Aug. 28, 2018

As discussed in an upcoming policy brief on medical licensing by the Grassroot Institute of Hawaii, the state's shortage of healthcare professionals makes its restrictions on healthcare workers who already hold licenses in other U.S. states seem redundant and self-defeating.

As the Federal Trade Commission noted in a report on occupational licensing portability:

There is little justification for the burdensome, costly, and redundant licensing processes that many states impose on qualified, licensed, out-of-state applicants. Such requirements likely inhibit multistate practice and delay or even prevent licensees from working in their occupations upon relocation to a new state. Indeed, for occupations that have not implemented any form of license portability, the harm to competition from suppressed mobility may far outweigh any plausible consumer protection benefit from the failure to provide for license portability.²

In other words, though medical licensing is intended to protect the public, there is a point at which the level of regulation reduces the number of people in practice without an appreciable public benefit.

One study of licensing among medical professionals found that "licensing is associated with restricted labor supply, an increased wage of the licensed occupation, rents, increased output prices, and no measurable effect on output quality."³

This is where we can benefit from the lessons learned during the coronavirus situation. The governor's emergency modification to state licensing laws demonstrated a need to embrace license portability, making it a simple matter for a doctor licensed in another state to practice in Hawaii.

The interstate compact approach outlined in this bill would allow licensed audiologists and speech-language pathologists from other participating compact states to apply for the privilege of practicing in Hawaii.

² Karen Goldman, "[Options to Enhance Occupational License Portability.](#)" U.S. Federal Trade Commission, September 2018, p. 25.

³ Sean Nicholson and Carol Propper, "[Chapter Fourteen — Medical Workforce.](#)" in "Handbook of Health Economics, Vol. 2," Elsevier, B.V., 2012, p. 885, cited also in the previously mentioned [FTC study](#), footnote #9, p3.

This legislation would increase the pool of audiologists and speech-language pathologists able to practice in Hawaii and shorten the time it would take for them to begin working here.

With one bill, the Legislature will be able to improve access to and choice of audiology and speech-language pathology providers for all Hawaii residents.

At present, the [ASLP Compact](#) includes 23 states. Nine additional states have introduced legislation to join as well. The Compact's successful implementation speaks to the safety and effectiveness of this approach to license reciprocity.

Joining the ASLP Compact would be an important step toward attracting more medical providers to our state, thereby improving healthcare access for all.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns,
Grassroot Institute of Hawaii

SB-317-SD-1

Submitted on: 2/21/2023 10:54:53 AM

Testimony for CPN on 2/22/2023 9:35:00 AM



Submitted By	Organization	Testifier Position	Testify
SallyAnn Giess	Testifying for HSHA	Support	Written Testimony Only

Comments:

To: **Sen. Joy A. San Buenaventura, Chair**
Sen. Henry J.C. Aquino, Vice Chair

Re: Testimony in SUPPORT of SB317: Relating to Audiology and Speech-Language Pathology Interstate Compact

My name is SallyAnn Giess. I am speech-language pathologist. I am writing in **support** of SB317 for Hawai'i to become part of the Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC) to facilitate interstate practice of our professional services. In a profession with high demands, having a simplified way to be licensed and have privileges in Hawaii and the other 23 states currently part of the ASLP-IC would allow us to provide needed services in rural communities, like ours, more quickly and efficiently. The burdens of the administrative process with reviewing license applications, verifying eligibility and approving licenses would be eliminated with the use of the nationwide database run by the ASLP-IC commission and have much more effective communication between states.

Thank you for your time and consideration. I hope that you pass this important legislation.

Sincerely,

SallyAnn Giess, PhD, CCC-SLP

sallyann.giess@gmail.com