

## **AGENDA ITEM 8**

### **REVIEW AND DISCUSSION OF VARIOUS STATES' LEGISLATION INTRODUCED TO JOIN OCCUPATIONAL THERAPY LICENSURE COMPACT.**

Attached are the following:

- a. State Legislation Bill Status
- b. Georgia House Bill (HB) 268 (Werkheiser), The Occupational Therapy Licensure Compact Act; enact
- c. Missouri House Bill (HB) 542 (Shields), Amend to add a new section relating to the Occupational Therapy Licensure Compact.
- d. Missouri Senate Bill (SB) 330 (Burlison), Adopt the Occupational Therapy Licensure Compact.
- e. Nebraska Legislative Bill (LB) 15 (Blood), Adopt the Occupational Therapy Practice Interstate Compact.
- f. South Carolina House Bill (H) 3599 (Newton), Occupational Licensure Reform Act
- g. Texas Senate Bill (SB) 458 (Lucio), Relating to the Occupational Therapy Licensure Compact; authorizing fees.
- h. Utah Senate Bill (SB) 112 (Pulsipher), Enact the Occupational Therapy Licensure Compact.
- i. Virginia Senate Bill (SB) 1189 (Hashmi)(Kiggans), Occupational therapists; licensure.

## STATE LEGISLATION ESTABLISHING OCCUPATIONAL THERAPY LICENSURE COMPACT

<b>STATE</b>	<b>BILL</b>	<b>TITLE</b>	<b>STATUS</b>
<b>Georgia</b>	HB 268	The Occupational Therapy Licensure Compact Act; enact	02/03/2021 – House Hopper
<b>Missouri</b>	HB 542	Establishes the Occupational Therapy Licensure Compact.	01/07/2021 – Read Second Time (H), Hearing not scheduled.
<b>Missouri</b>	SB 330	Adopts the Occupational Therapy Licensure Compact	02/10/2021 – Voted Do Pass S Professional Registration Committee.
<b>Nebraska</b>	LB 15	Adopt the Occupational Therapy Practice Interstate Compact	01/21/2021- Notice of hearing for January 28, 2021. <i>(No further update as of 02/12/2021)</i>
<b>South Carolina</b>	H 3559	Occupational Therapy Licensure Compact.	01/12/2021 – House Referred to Committee on Medical, Military, Public and Municipal Affairs.
<b>Texas</b>	SB 458	Relating to the Occupational Therapy Licensure Compact: authorizing fees.	01/26/2021 – Received by Secretary of the Senate and Filed.
<b>Utah</b>	SB 112	Occupational Therapy Licensure Compact.	02/02/2021 – Senate/ committee report favorable, Senate placed on second reading calendar.
<b>Virginia</b>	SB 1189	Licensure of occupational therapists; Occupational Therapy Interjurisdictional Licensure Compact.	02/02/2021 – House: Referred to Committee on Health, Welfare and Institutions.

**GEORGIA**  
**HB 268**

## House Bill 268

By: Representatives Werkheiser of the 157<sup>th</sup>, Lott of the 122<sup>nd</sup>, Belton of the 112<sup>th</sup>, Bennett of the 94<sup>th</sup>, Hawkins of the 27<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 28 of Title 43 of the Official Code of Georgia Annotated, relating to  
2 occupational therapists, so as to revise licensing provisions; to enter into an interstate  
3 compact known as the "Occupational Therapy Licensure Compact"; to authorize the State  
4 Board of Occupational Therapy to administer the compact in this state; to provide  
5 definitions; to provide for conditions; to provide for eligibility; to provide for related matters;  
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 28 of Title 43 of the Official Code of Georgia Annotated, relating to occupational  
10 therapists, is amended by revising paragraph (2) of Code Section 43-28-3, relating to  
11 definitions relative to occupational therapists, as follows:

12 "(2) 'License' means a valid and current certificate of registration issued by the division  
13 director or holding a valid Occupational Therapy Compact Privilege pursuant to Article 2  
14 of this chapter."

**SECTION 2.**

15

16 Said chapter is further amended by revising Code Section 43-28-6, relating to the general  
17 powers and duties of the board and continuing professional education, by adding two new  
18 subsections to read as follows:

19 "(h) The board shall administer the Occupational Therapy Licensure Compact contained  
20 in Article 2 of this chapter.

21 (i) The board is authorized to conduct national background checks by the submission of  
22 fingerprints to the Federal Bureau of Investigation through the Georgia Crime Information  
23 Center; provided, however, that reports from such background checks shall not be shared  
24 with entities outside the state."

25

**SECTION 3.**

26 Said chapter is further amended by revising subsection (a) of Code Section 43-28-9, relating  
27 to qualifications of license applicants and waiver, as follows:

28 "(a) An applicant applying for a license as an occupational therapist or as an occupational  
29 therapy assistant shall file an application, on forms provided by the board, showing to the  
30 satisfaction of the board that such applicant:

31 (1) Is of good moral character;

32 (2) Has successfully completed the academic requirements of an accredited educational  
33 program in occupational therapy recognized by the board, with concentration in  
34 biological or physical science, psychology, and sociology and with education in selected  
35 manual skills. For an occupational therapist or occupational therapy assistant, such a  
36 program shall be accredited by a recognized accrediting agency acceptable to the board.  
37 Other comparable educational programs such as those approved by the World Federation  
38 of Occupational Therapists may be recognized by the board upon evaluation of detailed  
39 program and course content. An applicant who is foreign trained shall complete an

40 academic program that is recognized or approved by the World Federation of  
41 Occupational Therapists or such other credentialing entity recognized by the board;  
42 (3) Has successfully completed a period of supervised field work experience approved  
43 by the board; ~~and~~  
44 (4) Has passed an examination approved by the board as provided for in Code Section  
45 43-28-10; ~~and~~  
46 (5) Has satisfactory results from a fingerprint record check report conducted by the  
47 Georgia Crime Information Center and the Federal Bureau of Investigation, as  
48 determined by the board. Application for the issuance of a license under this Code  
49 section shall constitute express consent and authorization for the board or its  
50 representative to perform a criminal background check. Each applicant who submits an  
51 application to the board for licensure agrees to provide the board with any and all  
52 information necessary to run a criminal background check, including, but not limited to,  
53 classifiable sets of fingerprints. Such applicant shall be responsible for all fees associated  
54 with the performance of such background check."

55 **SECTION 4.**

56 Said chapter is further amended by redesignating provisions of said chapter as Article 1, by  
57 replacing "this chapter" with "this article" everywhere such term occurs in the new article,  
58 and by adding a new article to read as follows:

59 "ARTICLE 2

60 43-28-20.

61 This article shall be known and may be cited as 'The Occupational Therapy Licensure  
62 Compact Act.'

63 43-28-21.

64 The Occupational Therapy Licensure Compact is enacted into law and entered into by the  
65 State of Georgia with any and all other states legally joining therein in the form  
66 substantially as follows:

67 'OCCUPATIONAL THERAPY LICENSURE COMPACT

68 SECTION 1. PURPOSE

69 The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with  
70 the goal of improving public access to Occupational Therapy services. The Practice of  
71 Occupational Therapy occurs in the State where the patient/client is located at the time of the  
72 patient/client encounter. The Compact preserves the regulatory authority of States to protect  
73 public health and safety through the current system of State licensure.

74 This Compact is designed to achieve the following objectives:

75 A. Increase public access to Occupational Therapy services by providing for the mutual  
76 recognition of other Member State licenses;

77 B. Enhance the States' ability to protect the public's health and safety;

78 C. Encourage the cooperation of Member States in regulating multi-State Occupational  
79 Therapy Practice;

80 D. Support spouses of relocating military members;

81 E. Enhance the exchange of licensure, investigative, and disciplinary information between  
82 Member States;

83 F. Allow a Remote State to hold a provider of services with a Compact Privilege in that  
84 State accountable to that State's practice standards; and

85 G. Facilitate the use of Telehealth technology in order to increase access to Occupational  
86 Therapy services.

87 SECTION 2. DEFINITIONS

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

90 A. "Active Duty Military" means full-time duty status in the active uniformed service of  
91 the United States, including members of the National Guard and Reserve on active duty  
92 orders pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

93 B. "Adverse Action" means any administrative, civil, equitable, or criminal action  
94 permitted by a State's laws which is imposed by a Licensing Board or other authority  
95 against an Occupational Therapist or Occupational Therapy Assistant, including actions  
96 against an individual's license or Compact Privilege such as censure, revocation,  
97 suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

98 C. "Alternative Program" means a non-disciplinary monitoring process approved by an  
99 Occupational Therapy Licensing Board.

100 D. "Compact Privilege" means the authorization, which is equivalent to a license, granted  
101 by a Remote State to allow a Licensee from another Member State to practice as an  
102 Occupational Therapist or practice as an Occupational Therapy Assistant in the Remote  
103 State under its laws and rules. The Practice of Occupational Therapy occurs in the Member  
104 State where the patient/client is located at the time of the patient/client encounter.

105 E. "Continuing Competence/Education" means a requirement, as a condition of license  
106 renewal, to provide evidence of participation in, and/or completion of, educational and  
107 professional activities relevant to practice or area of work.

108 F. "Current Significant Investigative Information" means Investigative Information that  
109 a Licensing Board, after an inquiry or investigation that includes notification and an  
110 opportunity for the Occupational Therapist or Occupational Therapy Assistant to respond,  
111 if required by State law, has reason to believe is not groundless and, if proved true, would  
112 indicate more than a minor infraction.



- 113 G. "Data System" means a repository of information about Licensees, including but not  
114 limited to license status, Investigative Information, Compact Privileges, and Adverse  
115 Actions.
- 116 H. "Encumbered License" means a license in which an Adverse Action restricts the  
117 Practice of Occupational Therapy by the Licensee or said Adverse Action has been  
118 reported to the National Practitioners Data Bank (NPDB).
- 119 I. "Executive Committee" means a group of directors elected or appointed to act on behalf  
120 of, and within the powers granted to them by, the Commission.
- 121 J. "Home State" means the Member State that is the Licensee's Primary State of Residence.
- 122 K. "Impaired Practitioner" means individuals whose professional practice is adversely  
123 affected by substance abuse, addiction, or other health-related conditions.
- 124 L. "Investigative Information" means information, records, and/or documents received or  
125 generated by an Occupational Therapy Licensing Board pursuant to an investigation.
- 126 M. "Jurisprudence Requirement" means the assessment of an individual's knowledge of  
127 the laws and rules governing the Practice of Occupational Therapy in a State.
- 128 N. "Licensee" means an individual who currently holds an authorization from the State to  
129 practice as an Occupational Therapist or as an Occupational Therapy Assistant.
- 130 O. "Member State" means a State that has enacted the Compact.
- 131 P. "Occupational Therapist" means an individual who is licensed by a State to practice  
132 Occupational Therapy.
- 133 Q. "Occupational Therapy Assistant" means an individual who is licensed by a State to  
134 assist in the Practice of Occupational Therapy.
- 135 R. "Occupational Therapy," "Occupational Therapy Practice," and the "Practice of  
136 Occupational Therapy" mean the care and services provided by an Occupational Therapist  
137 or an Occupational Therapy Assistant as set forth in the Member State's statutes and  
138 regulations.

139 S. "Occupational Therapy Compact Commission" or "Commission" means the national  
140 administrative body whose membership consists of all States that have enacted the  
141 Compact.

142 T. "Occupational Therapy Licensing Board" or "Licensing Board" means the agency of  
143 a State that is authorized to license and regulate Occupational Therapists and Occupational  
144 Therapy Assistants.

145 U. "Primary State of Residence" means the state (also known as the Home State) in which  
146 an Occupational Therapist or Occupational Therapy Assistant who is not Active Duty  
147 Military declares a primary residence for legal purposes as verified by: driver's license,  
148 federal income tax return, lease, deed, mortgage or voter registration or other verifying  
149 documentation as further defined by Commission Rules.

150 V. "Remote State" means a Member State other than the Home State, where a Licensee  
151 is exercising or seeking to exercise the Compact Privilege.

152 W. "Rule" means a regulation promulgated by the Commission that has the force of law.

153 X. "State" means any state, commonwealth, district, or territory of the United States of  
154 America that regulates the Practice of Occupational Therapy.

155 Y. "Single-State License" means an Occupational Therapist or Occupational Therapy  
156 Assistant license issued by a Member State that authorizes practice only within the issuing  
157 State and does not include a Compact Privilege in any other Member State.

158 Z. "Telehealth" means the application of telecommunication technology to deliver  
159 Occupational Therapy services for assessment, intervention and/or consultation.

### 160 SECTION 3. STATE PARTICIPATION IN THE COMPACT

161 A. To participate in the Compact, a Member State shall:

162 1. License Occupational Therapists and Occupational Therapy Assistants

163 2. Participate fully in the Commission's Data System, including but not limited to using  
164 the Commission's unique identifier as defined in Rules of the Commission;

- 165 3. Have a mechanism in place for receiving and investigating complaints about  
166 Licensees;
- 167 4. Notify the Commission, in compliance with the terms of the Compact and Rules, of  
168 any Adverse Action or the availability of Investigative Information regarding a Licensee;
- 169 5. Implement or utilize procedures for considering the criminal history records of  
170 applicants for an initial Compact Privilege. These procedures shall include the  
171 submission of fingerprints or other biometric-based information by applicants for the  
172 purpose of obtaining an applicant's criminal history record information from the Federal  
173 Bureau of Investigation and the agency responsible for retaining that State's criminal  
174 records;
- 175 a. A Member State shall, within a time frame established by the Commission, require  
176 a criminal background check for a Licensee seeking/applying for a Compact Privilege  
177 whose Primary State of Residence is that Member State, by receiving the results of the  
178 Federal Bureau of Investigation criminal record search, and shall use the results in  
179 making licensure decisions.
- 180 b. Communication between a Member State, the Commission and among Member  
181 States regarding the verification of eligibility for licensure through the Compact shall  
182 not include any information received from the Federal Bureau of Investigation relating  
183 to a federal criminal records check performed by a Member State under Public  
184 Law 92-544.
- 185 6. Comply with the Rules of the Commission;
- 186 7. Utilize only a recognized national examination as a requirement for licensure pursuant  
187 to the Rules of the Commission; and
- 188 8. Have Continuing Competence/Education requirements as a condition for license  
189 renewal.

190 B. A Member State shall grant the Compact Privilege to a Licensee holding a valid  
191 unencumbered license in another Member State in accordance with the terms of the  
192 Compact and Rules.

193 C. Member States may charge a fee for granting a Compact Privilege.

194 D. A Member State shall provide for the State's delegate to attend all Occupational  
195 Therapy Compact Commission meetings.

196 E. Individuals not residing in a Member State shall continue to be able to apply for a  
197 Member State's Single-State License as provided under the laws of each Member State.  
198 However, the Single-State License granted to these individuals shall not be recognized as  
199 granting the Compact Privilege in any other Member State.

200 F. Nothing in this Compact shall affect the requirements established by a Member State  
201 for the issuance of a Single-State License.

202 SECTION 4. COMPACT PRIVILEGE

203 A. To exercise the Compact Privilege under the terms and provisions of the Compact, the  
204 Licensee shall:

205 1. Hold a license in the Home State;

206 2. Have a valid United States Social Security Number or National Practitioner  
207 Identification number;

208 3. Have no encumbrance on any State license;

209 4. Be eligible for a Compact Privilege in any Member State in accordance with  
210 Section 4D, F, G, and H;

211 5. Have paid all fines and completed all requirements resulting from any Adverse Action  
212 against any license or Compact Privilege, and two years have elapsed from the date of  
213 such completion;

214 6. Notify the Commission that the Licensee is seeking the Compact Privilege within a  
215 Remote State(s);

- 216 7. Pay any applicable fees, including any State fee, for the Compact Privilege;  
217 8. Complete a criminal background check in accordance with Section 3A(5);  
218 a. The Licensee shall be responsible for the payment of any fee associated with the  
219 completion of a criminal background check.  
220 9. Meet any Jurisprudence Requirements established by the Remote State(s) in which the  
221 Licensee is seeking a Compact Privilege; and  
222 10. Report to the Commission Adverse Action taken by any non-Member State within  
223 30 days from the date the Adverse Action is taken.  
224 B. The Compact Privilege is valid until the expiration date of the Home State license. The  
225 Licensee must comply with the requirements of Section 4A to maintain the Compact  
226 Privilege in the Remote State.  
227 C. A Licensee providing Occupational Therapy in a Remote State under the Compact  
228 Privilege shall function within the laws and regulations of the Remote State.  
229 D. Occupational Therapy Assistants practicing in a Remote State shall be supervised by  
230 an Occupational Therapist licensed or holding a Compact Privilege in that Remote State.  
231 E. A Licensee providing Occupational Therapy in a Remote State is subject to that State's  
232 regulatory authority. A Remote State may, in accordance with due process and that State's  
233 laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of  
234 time, impose fines, and/or take any other necessary actions to protect the health and safety  
235 of its citizens. The Licensee may be ineligible for a Compact Privilege in any State until  
236 the specific time for removal has passed and all fines are paid.  
237 F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege  
238 in any Remote State until the following occur:  
239 1. The Home State license is no longer encumbered; and  
240 2. Two years have elapsed from the date on which the Home State license is no longer  
241 encumbered in accordance with Section 4(F)(1).

242 G. Once an Encumbered License in the Home State is restored to good standing, the  
243 Licensee must meet the requirements of Section 4A to obtain a Compact Privilege in any  
244 Remote State.

245 H. If a Licensee's Compact Privilege in any Remote State is removed, the individual may  
246 lose the Compact Privilege in any other Remote State until the following occur:

247 1. The specific period of time for which the Compact Privilege was removed has ended;

248 2. All fines have been paid and all conditions have been met;

249 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2);  
250 and

251 4. The Compact Privileges are reinstated by the Commission, and the compact Data  
252 System is updated to reflect reinstatement.

253 I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous  
254 charge, privileges shall be restored through the compact Data System.

255 J. Once the requirements of Section 4H have been met, the license must meet the  
256 requirements in Section 4A to obtain a Compact Privilege in a Remote State.

257 SECTION 5: OBTAINING A NEW HOME STATE LICENSE  
258 BY VIRTUE OF COMPACT PRIVILEGE

259 A. An Occupational Therapist or Occupational Therapy Assistant may hold a Home State  
260 license, which allows for Compact Privileges in Member States, in only one Member State  
261 at a time.

262 B. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State  
263 of Residence by moving between two Member States:

264 1. The Occupational Therapist or Occupational Therapy Assistant shall file an  
265 application for obtaining a new Home State license by virtue of a Compact Privilege, pay  
266 all applicable fees, and notify the current and new Home State in accordance with  
267 applicable Rules adopted by the Commission.

- 268 2. Upon receipt of an application for obtaining a new Home State license by virtue of  
269 compact privilege, the new Home State shall verify that the Occupational Therapist or  
270 Occupational Therapy Assistant meets the pertinent criteria outlined in Section 4 via the  
271 Data System, without need for primary source verification except for:
- 272 a. An FBI fingerprint based criminal background check if not previously performed or  
273 updated pursuant to applicable Rules adopted by the Commission in accordance with  
274 Public Law 92-544;
  - 275 b. Other criminal background check as required by the new Home State; and
  - 276 c. Submission of any requisite Jurisprudence Requirements of the new Home State.
- 277 3. The former Home State shall convert the former Home State license into a Compact  
278 Privilege once the new Home State has activated the new Home State license in  
279 accordance with applicable Rules adopted by the Commission.
- 280 4. Notwithstanding any other provision of this Compact, if the Occupational Therapist  
281 or Occupational Therapy Assistant cannot meet the criteria in Section 4, the new Home  
282 State shall apply its requirements for issuing a new Single-State License.
- 283 5. The Occupational Therapist or the Occupational Therapy Assistant shall pay all  
284 applicable fees to the new Home State in order to be issued a new Home State license.
- 285 C. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State  
286 of Residence by moving from a Member State to a non-Member State, or from a  
287 non-Member State to a Member State, the State criteria shall apply for issuance of a  
288 Single-State License in the new State.
- 289 D. Nothing in this compact shall interfere with a Licensee's ability to hold a Single-State  
290 License in multiple States; however, for the purposes of this compact, a Licensee shall have  
291 only one Home State license.
- 292 E. Nothing in this Compact shall affect the requirements established by a Member State  
293 for the issuance of a Single-State License.

294 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

295 A. Active Duty Military personnel, or their spouses, shall designate a Home State where  
296 the individual has a current license in good standing. The individual may retain the Home  
297 State designation during the period the service member is on active duty. Subsequent to  
298 designating a Home State, the individual shall only change their Home State through  
299 application for licensure in the new State or through the process described in Section 5.

300 SECTION 7. ADVERSE ACTIONS

301 A. A Home State shall have exclusive power to impose Adverse Action against an  
302 Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home  
303 State.

304 B. In addition to the other powers conferred by State law, a Remote State shall have the  
305 authority, in accordance with existing State due process law, to:

306 1. Take Adverse Action against an Occupational Therapist's or Occupational Therapy  
307 Assistant's Compact Privilege within that Member State.

308 2. Issue subpoenas for both hearings and investigations that require the attendance and  
309 testimony of witnesses as well as the production of evidence. Subpoenas issued by a  
310 Licensing Board in a Member State for the attendance and testimony of witnesses or the  
311 production of evidence from another Member State shall be enforced in the latter State  
312 by any court of competent jurisdiction, according to the practice and procedure of that  
313 court applicable to subpoenas issued in proceedings pending before it. The issuing  
314 authority shall pay any witness fees, travel expenses, mileage and other fees required by  
315 the service statutes of the State in which the witnesses or evidence are located.

316 C. For purposes of taking Adverse Action, the Home State shall give the same priority and  
317 effect to reported conduct received from a Member State as it would if the conduct had  
318 occurred within the Home State. In so doing, the Home State shall apply its own State laws  
319 to determine appropriate action.



320 D. The Home State shall complete any pending investigations of an Occupational  
321 Therapist or Occupational Therapy Assistant who changes Primary State of Residence  
322 during the course of the investigations. The Home State, where the investigations were  
323 initiated, shall also have the authority to take appropriate action(s) and shall promptly  
324 report the conclusions of the investigations to the OT Compact Commission Data System.  
325 The Occupational Therapy Compact Commission Data System administrator shall  
326 promptly notify the new Home State of any Adverse Actions.

327 E. A Member State, if otherwise permitted by State law, may recover from the affected  
328 Occupational Therapist or Occupational Therapy Assistant the costs of investigations and  
329 disposition of cases resulting from any Adverse Action taken against that Occupational  
330 Therapist or Occupational Therapy Assistant.

331 F. A Member State may take Adverse Action based on the factual findings of the Remote  
332 State, provided that the Member State follows its own procedures for taking the Adverse  
333 Action.

334 G. Joint Investigations

335 1. In addition to the authority granted to a Member State by its respective State  
336 Occupational Therapy laws and regulations or other applicable State law, any Member  
337 State may participate with other Member States in joint investigations of Licensees.

338 2. Member States shall share any investigative, litigation, or compliance materials in  
339 furtherance of any joint or individual investigation initiated under the Compact.

340 H. If an Adverse Action is taken by the Home State against an Occupational Therapist's  
341 or Occupational Therapy Assistant's license, the Occupational Therapist's or Occupational  
342 Therapy Assistant's Compact Privilege in all other Member States shall be deactivated until  
343 all encumbrances have been removed from the State license. All Home State disciplinary  
344 orders that impose Adverse Action against an Occupational Therapist's or Occupational  
345 Therapy Assistant's license shall include a Statement that the Occupational Therapist's or

346 Occupational Therapy Assistant's Compact Privilege is deactivated in all Member States  
347 during the pendency of the order.

348 I. If a Member State takes Adverse Action, it shall promptly notify the administrator of the  
349 Data System. The administrator of the Data System shall promptly notify the Home State  
350 of any Adverse Actions by Remote States.

351 J. Nothing in this Compact shall override a Member State's decision that participation in  
352 an Alternative Program may be used in lieu of Adverse Action.

353 SECTION 8. ESTABLISHMENT OF THE  
354 OCCUPATIONAL THERAPY COMPACT COMMISSION.

355 A. The Compact Member States hereby create and establish a joint public agency known  
356 as the Occupational Therapy Compact Commission:

357 1. The Commission is an instrumentality of the Compact States.

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

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

364 B. Membership, Voting, and Meetings

365 1. Each Member State shall have and be limited to one (1) delegate selected by that  
366 Member State's Licensing Board.

367 2. The delegate shall be either:

368 a. A current member of the Licensing Board, who is an Occupational Therapist,  
369 Occupational Therapy Assistant, or public member; or

370 b. An administrator of the Licensing Board.

371 3. Any delegate may be removed or suspended from office as provided by the law of the  
372 State from which the delegate is appointed.

373 4. The Member State board shall fill any vacancy occurring in the Commission within  
374 90 days.

375 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of  
376 Rules and creation of bylaws and shall otherwise have an opportunity to participate in the  
377 business and affairs of the Commission. A delegate shall vote in person or by such other  
378 means as provided in the bylaws. The bylaws may provide for delegates' participation  
379 in meetings by telephone or other means of communication.

380 6. The Commission shall meet at least once during each calendar year. Additional  
381 meetings shall be held as set forth in the bylaws.

382 7. The Commission shall establish by Rule a term of office for delegates.

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

384 1. Establish a Code of Ethics for the Commission;

385 2. Establish the fiscal year of the Commission;

386 3. Establish bylaws;

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

388 5. Meet and take such actions as are consistent with the provisions of this Compact and  
389 the bylaws;

390 6. Promulgate uniform Rules to facilitate and coordinate implementation and  
391 administration of this Compact. The Rules shall have the force and effect of law and  
392 shall be binding in all Member States;

393 7. Bring and prosecute legal proceedings or actions in the name of the Commission,  
394 provided that the standing of any State Occupational Therapy Licensing Board to sue or  
395 be sued under applicable law shall not be affected;

396 8. Purchase and maintain insurance and bonds;

- 397 9. Borrow, accept, or contract for services of personnel, including, but not limited to,  
398 employees of a Member State;
- 399 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such  
400 individuals appropriate authority to carry out the purposes of the Compact, and establish  
401 the Commission's personnel policies and programs relating to conflicts of interest,  
402 qualifications of personnel, and other related personnel matters;
- 403 11. Accept any and all appropriate donations and grants of money, equipment, supplies,  
404 materials and services, and receive, utilize and dispose of the same; provided that at all  
405 times the Commission shall avoid any appearance of impropriety and/or conflict of  
406 interest;
- 407 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,  
408 improve or use, any property, real, personal or mixed; provided that at all times the  
409 Commission shall avoid any appearance of impropriety;
- 410 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
411 any property real, personal, or mixed;
- 412 14. Establish a budget and make expenditures;
- 413 15. Borrow money;
- 414 16. Appoint committees, including standing committees composed of members, State  
415 regulators, State legislators or their representatives, and consumer representatives, and  
416 such other interested persons as may be designated in this Compact and the bylaws;
- 417 17. Provide and receive information from, and cooperate with, law enforcement  
418 agencies;
- 419 18. Establish and elect an Executive Committee; and
- 420 19. Perform such other functions as may be necessary or appropriate to achieve the  
421 purposes of this Compact consistent with the State regulation of Occupational Therapy  
422 licensure and practice.

423 D. The Executive Committee

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

426 1. The Executive Committee shall be composed of nine members:

427 a. Seven voting members who are elected by the Commission from the current  
428 membership of the Commission;

429 b. One ex-officio, nonvoting member from a recognized national Occupational  
430 Therapy professional association; and

431 c. One ex-officio, nonvoting member from a recognized national Occupational Therapy  
432 certification organization.

433 2. The ex-officio members will be selected by their respective organizations.

434 3. The Commission may remove any member of the Executive Committee as provided  
435 in bylaws.

436 4. The Executive Committee shall meet at least annually.

437 5. The Executive Committee shall have the following Duties and responsibilities:

438 a. Recommend to the entire Commission changes to the Rules or bylaws, changes to  
439 this Compact legislation, fees paid by Compact Member States such as annual dues, and  
440 any Commission Compact fee charged to Licensees for the Compact Privilege;

441 b. Ensure Compact administration services are appropriately provided, contractual or  
442 otherwise;

443 c. Prepare and recommend the budget;

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

445 e. Monitor Compact compliance of Member States and provide compliance reports to  
446 the Commission;

447 f. Establish additional committees as necessary; and

448 g. Perform other duties as provided in Rules or bylaws.

449 E. Meetings of the Commission

450 1. All meetings shall be open to the public, and public notice of meetings shall be given  
451 in the same manner as required under the Rulemaking provisions in Section 10.

452 2. The Commission or the Executive Committee or other committees of the Commission  
453 may convene in a closed, non-public meeting if the Commission or Executive Committee  
454 or other committees of the Commission must discuss:

455 a. Non-compliance of a Member State with its obligations under the Compact;

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

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

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

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

463 f. Disclosure of trade secrets or commercial or financial information that is privileged  
464 or confidential;

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

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

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

471 j. Matters specifically exempted from disclosure by federal or Member State statute.

472 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
473 Commission's legal counsel or designee shall certify that the meeting may be closed and  
474 shall reference each relevant exempting provision.

475 4. The Commission shall keep minutes that fully and clearly describe all matters  
476 discussed in a meeting and shall provide a full and accurate summary of actions taken,  
477 and the reasons therefore, including a description of the views expressed. All documents  
478 considered in connection with an action shall be identified in such minutes. All minutes  
479 and documents of a closed meeting shall remain under seal, subject to release by a  
480 majority vote of the Commission or order of a court of competent jurisdiction.

481 F. Financing of the Commission

482 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of  
483 its establishment, organization, and ongoing activities.

484 2. The Commission may accept any and all appropriate revenue sources, donations, and  
485 grants of money, equipment, supplies, materials, and services.

486 3. The Commission may levy on and collect an annual assessment from each Member  
487 State or impose fees on other parties to cover the cost of the operations and activities of  
488 the Commission and its staff, which must be in a total amount sufficient to cover its  
489 annual budget as approved by the Commission each year for which revenue is not  
490 provided by other sources. The aggregate annual assessment amount shall be allocated  
491 based upon a formula to be determined by the Commission, which shall promulgate a  
492 Rule binding upon all Member States.

493 4. The Commission shall not incur obligations of any kind prior to securing the funds  
494 adequate to meet the same; nor shall the Commission pledge the credit of any of the  
495 Member States, except by and with the authority of the Member State.

496 5. The Commission shall keep accurate accounts of all receipts and disbursements. The  
497 receipts and disbursements of the Commission shall be subject to the audit and  
498 accounting procedures established under its bylaws. However, all receipts and  
499 disbursements of funds handled by the Commission shall be audited yearly by a certified  
500 or licensed public accountant, and the report of the audit shall be included in and become  
501 part of the annual report of the Commission.

502 G. Qualified Immunity, Defense, and Indemnification

503 1. The members, officers, executive director, employees and representatives of the  
504 Commission shall be immune from suit and liability, either personally or in their official  
505 capacity, for any claim for damage to or loss of property or personal injury or other civil  
506 liability caused by or arising out of any actual or alleged act, error or omission that  
507 occurred, or that the person against whom the claim is made had a reasonable basis for  
508 believing occurred within the scope of Commission employment, duties or  
509 responsibilities; provided that nothing in this paragraph shall be construed to protect any  
510 such person from suit and/or liability for any damage, loss, injury, or liability caused by  
511 the intentional or willful or wanton misconduct of that person.

512 2. The Commission shall defend any member, officer, executive director, employee, or  
513 representative of the Commission in any civil action seeking to impose liability arising  
514 out of any actual or alleged act, error, or omission that occurred within the scope of  
515 Commission employment, duties, or responsibilities, or that the person against whom the  
516 claim is made had a reasonable basis for believing occurred within the scope of  
517 Commission employment, duties, or responsibilities; provided that nothing herein shall  
518 be construed to prohibit that person from retaining his or her own counsel; and provided  
519 further, that the actual or alleged act, error, or omission did not result from that person's  
520 intentional or willful or wanton misconduct.

521 3. The Commission shall indemnify and hold harmless any member, officer, executive  
522 director, employee, or representative of the Commission for the amount of any settlement  
523 or judgment obtained against that person arising out of any actual or alleged act, error or  
524 omission that occurred within the scope of Commission employment, duties, or  
525 responsibilities, or that such person had a reasonable basis for believing occurred within  
526 the scope of Commission employment, duties, or responsibilities, provided that the actual  
527 or alleged act, error, or omission did not result from the intentional or willful or wanton  
528 misconduct of that person.



529 SECTION 9. DATA SYSTEM

530 A. The Commission shall provide for the development, maintenance, and utilization of a  
531 coordinated database and reporting system containing licensure, Adverse Action, and  
532 Investigative Information on all licensed individuals in Member States.

533 B. A Member State shall submit a uniform data set to the Data System on all individuals  
534 to whom this Compact is applicable (utilizing a unique identifier) as required by the Rules  
535 of the Commission, including:

536 1. Identifying information;

537 2. Licensure data;

538 3. Adverse Actions against a license or Compact Privilege;

539 4. Non-confidential information related to Alternative Program participation;

540 5. Any denial of application for licensure, and the reason(s) for such denial;

541 6. Other information that may facilitate the administration of this Compact, as  
542 determined by the Rules of the Commission; and

543 7. Current Significant Investigative Information.

544 C. Current Significant Investigative Information and other Investigative Information  
545 pertaining to a Licensee in any Member State will only be available to other Member  
546 States.

547 D. The Commission shall promptly notify all Member States of any Adverse Action taken  
548 against a Licensee or an individual applying for a license. Adverse Action information  
549 pertaining to a Licensee in any Member State will be available to any other Member State.

550 E. Member States contributing information to the Data System may designate information  
551 that may not be shared with the public without the express permission of the contributing  
552 State.

553 F. Any information submitted to the Data System that is subsequently required to be  
554 expunged by the laws of the Member State contributing the information shall be removed  
555 from the Data System.

556 SECTION 10. RULEMAKING

557 A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth  
558 in this Section and the Rules adopted thereunder. Rules and amendments shall become  
559 binding as of the date specified in each Rule or amendment.

560 B. The Commission shall promulgate reasonable rules in order to effectively and  
561 efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the  
562 event the Commission exercises its rulemaking authority in a manner that is beyond the  
563 scope of the purposes of the Compact, or the powers granted hereunder, then such an action  
564 by the Commission shall be invalid and have no force and effect.

565 C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of  
566 a statute or resolution in the same manner used to adopt the Compact within 4 years of the  
567 date of adoption of the Rule, then such Rule shall have no further force and effect in any  
568 Member State.

569 D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of  
570 the Commission.

571 E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at  
572 least thirty (30) days in advance of the meeting at which the Rule will be considered and  
573 voted upon, the Commission shall file a Notice of Proposed Rulemaking:

- 574 1. On the website of the Commission or other publicly accessible platform; and  
575 2. On the website of each Member State Occupational Therapy Licensing Board or other  
576 publicly accessible platform or the publication in which each State would otherwise  
577 publish proposed Rules.

578 F. The Notice of Proposed Rulemaking shall include:

- 579 1. The proposed time, date, and location of the meeting in which the Rule will be  
580 considered and voted upon;  
581 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;  
582 3. A request for comments on the proposed Rule from any interested person; and

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

585 G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit  
586 written data, facts, opinions, and arguments, which shall be made available to the public.

587 H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule  
588 or amendment if a hearing is requested by:

589 1. At least twenty five (25) persons;

590 2. A State or federal governmental subdivision or agency; or

591 3. An association or organization having at least twenty five (25) members.

592 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish  
593 the place, time, and date of the scheduled public hearing. If the hearing is held via  
594 electronic means, the Commission shall publish the mechanism for access to the electronic  
595 hearing.

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

600 2. Hearings shall be conducted in a manner providing each person who wishes to  
601 comment a fair and reasonable opportunity to comment orally or in writing.

602 3. All hearings will be recorded. A copy of the recording will be made available on  
603 request.

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

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

610 K. If no written notice of intent to attend the public hearing by interested parties is  
611 received, the Commission may proceed with promulgation of the proposed Rule without  
612 a public hearing.

613 L. The Commission shall, by majority vote of all members, take final action on the  
614 proposed Rule and shall determine the effective date of the Rule, if any, based on the  
615 Rulemaking record and the full text of the Rule.

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

- 622 1. Meet an imminent threat to public health, safety, or welfare;
- 623 2. Prevent a loss of Commission or Member State funds;
- 624 3. Meet a deadline for the promulgation of an administrative Rule that is established by  
625 federal law or Rule; or
- 626 4. Protect public health and safety.

627 N. The Commission or an authorized committee of the Commission may direct revisions  
628 to a previously adopted Rule or amendment for purposes of correcting typographical errors,  
629 errors in format, errors in consistency, or grammatical errors. Public notice of any  
630 revisions shall be posted on the website of the Commission. The revision shall be subject  
631 to challenge by any person for a period of thirty (30) days after posting. The revision may  
632 be challenged only on grounds that the revision results in a material change to a Rule. A  
633 challenge shall be made in writing and delivered to the chair of the Commission prior to  
634 the end of the notice period. If no challenge is made, the revision will take effect without  
635 further action. If the revision is challenged, the revision may not take effect without the  
636 approval of the Commission.

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION,  
AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

664 3. Termination of membership in the Compact shall be imposed only after all other  
665 means of securing compliance have been exhausted. Notice of intent to suspend or  
666 terminate shall be given by the Commission to the governor, the majority and minority  
667 leaders of the defaulting State's legislature, and each of the Member States.

668 4. A State that has been terminated is responsible for all assessments, obligations, and  
669 liabilities incurred through the effective date of termination, including obligations that  
670 extend beyond the effective date of termination.

671 5. The Commission shall not bear any costs related to a State that is found to be in  
672 default or that has been terminated from the Compact, unless agreed upon in writing  
673 between the Commission and the defaulting State.

674 6. The defaulting State may appeal the action of the Commission by petitioning the U.S.  
675 District Court for the District of Columbia or the federal district where the Commission  
676 has its principal offices. The prevailing member shall be awarded all costs of such  
677 litigation, including reasonable attorney's fees.

#### 678 C. Dispute Resolution

679 1. Upon request by a Member State, the Commission shall attempt to resolve disputes  
680 related to the Compact that arise among Member States and between member and  
681 non-Member States.

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

#### 684 D. Enforcement

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

687 2. By majority vote, the Commission may initiate legal action in the United States  
688 District Court for the District of Columbia or the federal district where the Commission  
689 has its principal offices against a Member State in default to enforce compliance with the  
690 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may

691 include both injunctive relief and damages. In the event judicial enforcement is  
692 necessary, the prevailing member shall be awarded all costs of such litigation, including  
693 reasonable attorney's fees.

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

696 SECTION 12. DATE OF IMPLEMENTATION OF THE  
697 INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE  
698 AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

699 A. The Compact shall come into effect on the date on which the Compact statute is  
700 enacted into law in the tenth Member State. The provisions, which become effective at that  
701 time, shall be limited to the powers granted to the Commission relating to assembly and the  
702 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking  
703 powers necessary to the implementation and administration of the Compact.

704 B. Any State that joins the Compact subsequent to the Commission's initial adoption of  
705 the Rules shall be subject to the Rules as they exist on the date on which the Compact  
706 becomes law in that State. Any Rule that has been previously adopted by the Commission  
707 shall have the full force and effect of law on the day the Compact becomes law in that  
708 State.

709 C. Any Member State may withdraw from this Compact by enacting a statute repealing  
710 the same.

711 1. A Member State's withdrawal shall not take effect until six (6) months after enactment  
712 of the repealing statute.

713 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's  
714 Occupational Therapy Licensing Board to comply with the investigative and Adverse  
715 Action reporting requirements of this act prior to the effective date of withdrawal.

716 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
717 Occupational Therapy licensure agreement or other cooperative arrangement between a  
718 Member State and a non-Member State that does not conflict with the provisions of this  
719 Compact.

720 E. This Compact may be amended by the Member States. No amendment to this Compact  
721 shall become effective and binding upon any Member State until it is enacted into the laws  
722 of all Member States.

### 723 SECTION 13. CONSTRUCTION AND SEVERABILITY

724 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
725 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision  
726 of this Compact is declared to be contrary to the constitution of any Member State or of the  
727 United States or the applicability thereof to any government, agency, person, or circumstance  
728 is held invalid, the validity of the remainder of this Compact and the applicability thereof to  
729 any government, agency, person, or circumstance shall not be affected thereby. If this  
730 Compact shall be held contrary to the constitution of any Member State, the Compact shall  
731 remain in full force and effect as to the remaining Member States and in full force and effect  
732 as to the Member State affected as to all severable matters.

### 733 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

734 A. A Licensee providing Occupational Therapy in a Remote State under the Compact  
735 Privilege shall function within the laws and regulations of the Remote State.

736 B. Nothing herein prevents the enforcement of any other law of a Member State that is not  
737 inconsistent with the Compact.

738 C. Any laws in a Member State in conflict with the Compact are superseded to the extent  
739 of the conflict.



740 D. Any lawful actions of the Commission, including all Rules and bylaws promulgated by  
741 the Commission, are binding upon the Member States.

742 E. All agreements between the Commission and the Member States are binding in  
743 accordance with their terms.

744 F. In the event any provision of the Compact exceeds the constitutional limits imposed on  
745 the legislature of any Member State, the provision shall be ineffective to the extent of the  
746 conflict with the constitutional provision in question in that Member State."

747 **SECTION 5.**

748 All laws and parts of laws in conflict with this Act are repealed.

**MISSOURI**  
**HB 542**

FIRST REGULAR SESSION

# HOUSE BILL NO. 542

101ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE SHIELDS.

1311H.011

DANA RADEMAN MILLER, Chief Clerk

---

## AN ACT

To amend chapter 324, RSMo, by adding thereto one new section relating to the occupational therapy licensure compact.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 324, RSMo, is amended by adding thereto one new section, to be known as section 324.093, to read as follows:

### **324.093. OCCUPATIONAL THERAPY LICENSURE COMPACT**

#### **SECTION 1. PURPOSE**

**The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The Practice of Occupational Therapy occurs in the State where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.**

**This Compact is designed to achieve the following objectives:**

**A. Increase public access to Occupational Therapy services by providing for the mutual recognition of other Member State licenses;**

**B. Enhance the States' ability to protect the public's health and safety;**

**C. Encourage the cooperation of Member States in regulating multi-State Occupational Therapy Practice;**

**D. Support spouses of relocating military members;**

**E. Enhance the exchange of licensure, investigative, and disciplinary information between Member States;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           **F. Allow a Remote State to hold a provider of services with a Compact Privilege in**  
19 **that State accountable to that State's practice standards; and**

20           **G. Facilitate the use of Telehealth technology in order to increase access to**  
21 **Occupational Therapy services.**

22           **SECTION 2. DEFINITIONS**

23 **As used in this Compact, and except as otherwise provided, the following definitions shall**  
24 **apply:**

25           **A. "Active Duty Military" means full-time duty status in the active uniformed**  
26 **service of the United States, including members of the National Guard and Reserve on**  
27 **active duty orders pursuant to 10 U.S.C. Chapter 1209 and Section 1211.**

28           **B. "Adverse Action" means any administrative, civil, equitable, or criminal action**  
29 **permitted by a State's laws which is imposed by a Licensing Board or other authority**  
30 **against an Occupational Therapist or Occupational Therapy Assistant, including actions**  
31 **against an individual's license or Compact Privilege such as censure, revocation,**  
32 **suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.**

33           **C. "Alternative Program" means a non-disciplinary monitoring process approved**  
34 **by an Occupational Therapy Licensing Board.**

35           **D. "Compact Privilege" means the authorization, which is equivalent to a license,**  
36 **granted by a Remote State to allow a Licensee from another Member State to practice as**  
37 **an Occupational Therapist or practice as an Occupational Therapy Assistant in the**  
38 **Remote State under its laws and rules. The Practice of Occupational Therapy occurs in**  
39 **the Member State where the patient/client is located at the time of the patient/client**  
40 **encounter.**

41           **E. "Continuing Competence/Education" means a requirement, as a condition of**  
42 **license renewal, to provide evidence of participation in, and/or completion of, educational**  
43 **and professional activities relevant to practice or area of work.**

44           **F. "Current Significant Investigative Information" means Investigative**  
45 **Information that a Licensing Board, after an inquiry or investigation that includes**  
46 **notification and an opportunity for the Occupational Therapist or Occupational Therapy**  
47 **Assistant to respond, if required by State law, has reason to believe is not groundless and,**  
48 **if proved true, would indicate more than a minor infraction.**

49           **G. "Data System" means a repository of information about Licensees, including**  
50 **but not limited to license status, Investigative Information, Compact Privileges, and**  
51 **Adverse Actions.**

52           **H. "Encumbered License"** means a license in which an Adverse Action restricts the  
53 Practice of Occupational Therapy by the Licensee or said Adverse Action has been  
54 reported to the National Practitioners Data Bank (NPDB).

55           **I. "Executive Committee"** means a group of directors elected or appointed to act  
56 on behalf of, and within the powers granted to them by, the Commission.

57           **J. "Home State"** means the Member State that is the Licensee's Primary State of  
58 Residence.

59           **K. "Impaired Practitioner"** means individuals whose professional practice is  
60 adversely affected by substance abuse, addiction, or other health-related conditions.

61           **L. "Investigative Information"** means information, records, and/or documents  
62 received or generated by an Occupational Therapy Licensing Board pursuant to an  
63 investigation.

64           **M. "Jurisprudence Requirement"** means the assessment of an individual's  
65 knowledge of the laws and rules governing the Practice of Occupational Therapy in a State.

66           **N. "Licensee"** means an individual who currently holds an authorization from the  
67 State to practice as an Occupational Therapist or as an Occupational Therapy Assistant.

68           **O. "Member State"** means a State that has enacted the Compact.

69           **P. "Occupational Therapist"** means an individual who is licensed by a State to  
70 practice Occupational Therapy.

71           **Q. "Occupational Therapy Assistant"** means an individual who is licensed by a  
72 State to assist in the Practice of Occupational Therapy.

73           **R. "Occupational Therapy," "Occupational Therapy Practice," and the "Practice  
74 of Occupational Therapy"** mean the care and services provided by an Occupational  
75 Therapist or an Occupational Therapy Assistant as set forth in the Member State's statutes  
76 and regulations.

77           **S. "Occupational Therapy Compact Commission" or "Commission"** means the  
78 national administrative body whose membership consists of all States that have enacted the  
79 Compact.

80           **T. "Occupational Therapy Licensing Board" or "Licensing Board"** means the  
81 agency of a State that is authorized to license and regulate Occupational Therapists and  
82 Occupational Therapy Assistants.

83           **U. "Primary State of Residence"** means the state (also known as the Home State)  
84 in which an Occupational Therapist or Occupational Therapy Assistant who is not Active  
85 Duty Military declares a primary residence for legal purposes as verified by: driver's  
86 license, federal income tax return, lease, deed, mortgage or voter registration or other  
87 verifying documentation as further defined by Commission Rules.

88           **V. "Remote State" means a Member State other than the Home State, where a**  
89 **Licensee is exercising or seeking to exercise the Compact Privilege.**

90           **W. "Rule" means a regulation promulgated by the Commission that has the force**  
91 **of law.**

92           **X. "State" means any state, commonwealth, district, or territory of the United**  
93 **States of America that regulates the Practice of Occupational Therapy.**

94           **Y. "Single-State License" means an Occupational Therapist or Occupational**  
95 **Therapy Assistant license issued by a Member State that authorizes practice only within**  
96 **the issuing State and does not include a Compact Privilege in any other Member State.**

97           **Z. "Telehealth" means the application of telecommunication technology to deliver**  
98 **Occupational Therapy services for assessment, intervention and/or consultation.**

99           **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

100           **A. To participate in the Compact, a Member State shall:**

101           **1. License Occupational Therapists and Occupational Therapy Assistants;**

102           **2. Participate fully in the Commission's Data System, including but not limited to**  
103 **using the Commission's unique identifier as defined in Rules of the Commission;**

104           **3. Have a mechanism in place for receiving and investigating complaints about**  
105 **Licensees;**

106           **4. Notify the Commission, in compliance with the terms of the Compact and Rules,**  
107 **of any Adverse Action or the availability of Investigative Information regarding a**  
108 **Licensee;**

109           **5. Implement or utilize procedures for considering the criminal history records of**  
110 **applicants for an initial Compact Privilege. These procedures shall include the submission**  
111 **of fingerprints or other biometric-based information by applicants for the purpose of**  
112 **obtaining an applicant's criminal history record information from the Federal Bureau of**  
113 **Investigation and the agency responsible for retaining that State's criminal records;**

114           **a. A Member State shall, within a time frame established by the Commission,**  
115 **require a criminal background check for a Licensee seeking/applying for a Compact**  
116 **Privilege whose Primary State of Residence is that Member State, by receiving the results**  
117 **of the Federal Bureau of Investigation criminal record search, and shall use the results in**  
118 **making licensure decisions.**

119           **b. Communication between a Member State, the Commission and among Member**  
120 **States regarding the verification of eligibility for licensure through the Compact shall not**  
121 **include any information received from the Federal Bureau of Investigation relating to a**  
122 **federal criminal records check performed by a Member State under Public Law 92-544.**

123           **6. Comply with the Rules of the Commission;**

124           7. Utilize only a recognized national examination as a requirement for licensure  
125 pursuant to the Rules of the Commission; and

126           8. Have Continuing Competence/Education requirements as a condition for license  
127 renewal.

128           B. A Member State shall grant the Compact Privilege to a Licensee holding a valid  
129 unencumbered license in another Member State in accordance with the terms of the  
130 Compact and Rules.

131           C. Member States may charge a fee for granting a Compact Privilege.

132           D. A Member State shall provide for the State's delegate to attend all Occupational  
133 Therapy Compact Commission meetings.

134           E. Individuals not residing in a Member State shall continue to be able to apply for  
135 a Member State's Single-State License as provided under the laws of each Member State.  
136 However, the Single-State License granted to these individuals shall not be recognized as  
137 granting the Compact Privilege in any other Member State.

138           F. Nothing in this Compact shall affect the requirements established by a Member  
139 State for the issuance of a Single-State License.

#### 140           SECTION 4. COMPACT PRIVILEGE

141           A. To exercise the Compact Privilege under the terms and provisions of the  
142 Compact, the Licensee shall:

143           1. Hold a license in the Home State;

144           2. Have a valid United States Social Security Number or National Practitioner  
145 Identification number;

146           3. Have no encumbrance on any State license;

147           4. Be eligible for a Compact Privilege in any Member State in accordance with  
148 Section 4D, F, G, and H;

149           5. Have paid all fines and completed all requirements resulting from any Adverse  
150 Action against any license or Compact Privilege, and two years have elapsed from the date  
151 of such completion;

152           6. Notify the Commission that the Licensee is seeking the Compact Privilege within  
153 a Remote State(s);

154           7. Pay any applicable fees, including any State fee, for the Compact Privilege;

155           8. Complete a criminal background check in accordance with Section 3A(5);

156           a. The Licensee shall be responsible for the payment of any fee associated with the  
157 completion of a criminal background check.

158           9. Meet any Jurisprudence Requirements established by the Remote State(s) in  
159 which the Licensee is seeking a Compact Privilege; and

160           **10. Report to the Commission Adverse Action taken by any non-Member State**  
161 **within 30 days from the date the Adverse Action is taken.**

162           **B. The Compact Privilege is valid until the expiration date of the Home State**  
163 **license. The Licensee must comply with the requirements of Section 4A to maintain the**  
164 **Compact Privilege in the Remote State.**

165           **C. A Licensee providing Occupational Therapy in a Remote State under the**  
166 **Compact Privilege shall function within the laws and regulations of the Remote State.**

167           **D. Occupational Therapy Assistants practicing in a Remote State shall be**  
168 **supervised by an Occupational Therapist licensed or holding a Compact Privilege in that**  
169 **Remote State.**

170           **E. A Licensee providing Occupational Therapy in a Remote State is subject to that**  
171 **State's regulatory authority. A Remote State may, in accordance with due process and that**  
172 **State's laws, remove a Licensee's Compact Privilege in the Remote State for a specific**  
173 **period of time, impose fines, and/or take any other necessary actions to protect the health**  
174 **and safety of its citizens. The Licensee may be ineligible for a Compact Privilege in any**  
175 **State until the specific time for removal has passed and all fines are paid.**

176           **F. If a Home State license is encumbered, the Licensee shall lose the Compact**  
177 **Privilege in any Remote State until the following occur:**

178           **1. The Home State license is no longer encumbered; and**

179           **2. Two years have elapsed from the date on which the Home State license is no**  
180 **longer encumbered in accordance with Section 4(F)(1).**

181           **G. Once an Encumbered License in the Home State is restored to good standing,**  
182 **the Licensee must meet the requirements of Section 4A to obtain a Compact Privilege in**  
183 **any Remote State.**

184           **H. If a Licensee's Compact Privilege in any Remote State is removed, the individual**  
185 **may lose the Compact Privilege in any other Remote State until the following occur:**

186           **1. The specific period of time for which the Compact Privilege was removed has**  
187 **ended;**

188           **2. All fines have been paid and all conditions have been met;**

189           **3. Two years have elapsed from the date of completing requirements for 4(H)(1)**  
190 **and (2); and**

191           **4. The Compact Privileges are reinstated by the Commission, and the compact Data**  
192 **System is updated to reflect reinstatement.**

193           **I. If a Licensee's Compact Privilege in any Remote State is removed due to an**  
194 **erroneous charge, privileges shall be restored through the compact Data System.**



195           **J. Once the requirements of Section 4H have been met, the license must meet the**  
196 **requirements in Section 4A to obtain a Compact Privilege in a Remote State.**

197           **SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF**  
198 **COMPACT PRIVILEGE**

199           **A. An Occupational Therapist or Occupational Therapy Assistant may hold a**  
200 **Home State license, which allows for Compact Privileges in Member States, in only one**  
201 **Member State at a time.**

202           **B. If an Occupational Therapist or Occupational Therapy Assistant changes**  
203 **Primary State of Residence by moving between two Member States:**

204           **1. The Occupational Therapist or Occupational Therapy Assistant shall file an**  
205 **application for obtaining a new Home State license by virtue of a Compact Privilege, pay**  
206 **all applicable fees, and notify the current and new Home State in accordance with**  
207 **applicable Rules adopted by the Commission.**

208           **2. Upon receipt of an application for obtaining a new Home State license by virtue**  
209 **of compact privilege, the new Home State shall verify that the Occupational Therapist or**  
210 **Occupational Therapy Assistant meets the pertinent criteria outlined in Section 4 via the**  
211 **Data System, without need for primary source verification except for:**

212           **a. an FBI fingerprint based criminal background check if not previously performed**  
213 **or updated pursuant to applicable Rules adopted by the Commission in accordance with**  
214 **Public Law 92-544;**

215           **b. other criminal background check as required by the new Home State; and**

216           **c. submission of any requisite Jurisprudence Requirements of the new Home State.**

217           **3. The former Home State shall convert the former Home State license into a**  
218 **Compact Privilege once the new Home State has activated the new Home State license in**  
219 **accordance with applicable Rules adopted by the Commission.**

220           **4. Notwithstanding any other provision of this Compact, if the Occupational**  
221 **Therapist or Occupational Therapy Assistant cannot meet the criteria in Section 4, the new**  
222 **Home State shall apply its requirements for issuing a new Single-State License.**

223           **5. The Occupational Therapist or the Occupational Therapy Assistant shall pay all**  
224 **applicable fees to the new Home State in order to be issued a new Home State license.**

225           **C. If an Occupational Therapist or Occupational Therapy Assistant changes**  
226 **Primary State of Residence by moving from a Member State to a non-Member State, or**  
227 **from a non-Member State to a Member State, the State criteria shall apply for issuance of**  
228 **a Single-State License in the new State.**

229 **D. Nothing in this compact shall interfere with a Licensee's ability to hold a**  
230 **Single-State License in multiple States; however, for the purposes of this compact, a**  
231 **Licensee shall have only one Home State license.**

232 **E. Nothing in this Compact shall affect the requirements established by a Member**  
233 **State for the issuance of a Single-State License.**

234 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

235 **A. Active Duty Military personnel, or their spouses, shall designate a Home State**  
236 **where the individual has a current license in good standing. The individual may retain the**  
237 **Home State designation during the period the service member is on active duty.**  
238 **Subsequent to designating a Home State, the individual shall only change their Home State**  
239 **through application for licensure in the new State or through the process described in**  
240 **Section 5.**

241 **SECTION 7. ADVERSE ACTIONS**

242 **A. A Home State shall have exclusive power to impose Adverse Action against an**  
243 **Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home**  
244 **State.**

245 **B. In addition to the other powers conferred by State law, a Remote State shall**  
246 **have the authority, in accordance with existing State due process law, to:**

247 **1. Take Adverse Action against an Occupational Therapist's or Occupational**  
248 **Therapy Assistant's Compact Privilege within that Member State.**

249 **2. Issue subpoenas for both hearings and investigations that require the attendance**  
250 **and testimony of witnesses as well as the production of evidence. Subpoenas issued by a**  
251 **Licensing Board in a Member State for the attendance and testimony of witnesses or the**  
252 **production of evidence from another Member State shall be enforced in the latter State by**  
253 **any court of competent jurisdiction, according to the practice and procedure of that court**  
254 **applicable to subpoenas issued in proceedings pending before it. The issuing authority**  
255 **shall pay any witness fees, travel expenses, mileage and other fees required by the service**  
256 **statutes of the State in which the witnesses or evidence are located.**

257 **C. For purposes of taking Adverse Action, the Home State shall give the same**  
258 **priority and effect to reported conduct received from a Member State as it would if the**  
259 **conduct had occurred within the Home State. In so doing, the Home State shall apply its**  
260 **own State laws to determine appropriate action.**

261 **D. The Home State shall complete any pending investigations of an Occupational**  
262 **Therapist or Occupational Therapy Assistant who changes Primary State of Residence**  
263 **during the course of the investigations. The Home State, where the investigations were**  
264 **initiated, shall also have the authority to take appropriate action(s) and shall promptly**

265 report the conclusions of the investigations to the OT Compact Commission Data System.  
266 The Occupational Therapy Compact Commission Data System administrator shall  
267 promptly notify the new Home State of any Adverse Actions.

268 E. A Member State, if otherwise permitted by State law, may recover from the  
269 affected Occupational Therapist or Occupational Therapy Assistant the costs of  
270 investigations and disposition of cases resulting from any Adverse Action taken against  
271 that Occupational Therapist or Occupational Therapy Assistant.

272 F. A Member State may take Adverse Action based on the factual findings of the  
273 Remote State, provided that the Member State follows its own procedures for taking the  
274 Adverse Action.

275 G. Joint Investigations

276 1. In addition to the authority granted to a Member State by its respective State  
277 Occupational Therapy laws and regulations or other applicable State law, any Member  
278 State may participate with other Member States in joint investigations of Licensees.

279 2. Member States shall share any investigative, litigation, or compliance materials  
280 in furtherance of any joint or individual investigation initiated under the Compact.

281 H. If an Adverse Action is taken by the Home State against an Occupational  
282 Therapist's or Occupational Therapy Assistant's license, the Occupational Therapist's or  
283 Occupational Therapy Assistant's Compact Privilege in all other Member States shall be  
284 deactivated until all encumbrances have been removed from the State license. All Home  
285 State disciplinary orders that impose Adverse Action against an Occupational Therapist's  
286 or Occupational Therapy Assistant's license shall include a Statement that the  
287 Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege is  
288 deactivated in all Member States during the pendency of the order.

289 I. If a Member State takes Adverse Action, it shall promptly notify the  
290 administrator of the Data System. The administrator of the Data System shall promptly  
291 notify the Home State of any Adverse Actions by Remote States.

292 J. Nothing in this Compact shall override a Member State's decision that  
293 participation in an Alternative Program may be used in lieu of Adverse Action.

294 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY  
295 COMPACT COMMISSION

296 A. The Compact Member States hereby create and establish a joint public agency  
297 known as the Occupational Therapy Compact Commission:

298 1. The Commission is an instrumentality of the Compact States.

299 2. Venue is proper and judicial proceedings by or against the Commission shall be  
300 brought solely and exclusively in a court of competent jurisdiction where the principal

301 office of the Commission is located. The Commission may waive venue and jurisdictional  
302 defenses to the extent it adopts or consents to participate in alternative dispute resolution  
303 proceedings.

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

305 B. Membership, Voting, and Meetings

306 1. Each Member State shall have and be limited to one (1) delegate selected by that  
307 Member State's Licensing Board.

308 2. The delegate shall be either:

309 a. A current member of the Licensing Board, who is an Occupational Therapist,  
310 Occupational Therapy Assistant, or public member; or

311 b. An administrator of the Licensing Board.

312 3. Any delegate may be removed or suspended from office as provided by the law  
313 of the State from which the delegate is appointed.

314 4. The Member State board shall fill any vacancy occurring in the Commission  
315 within 90 days.

316 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation  
317 of Rules and creation of bylaws and shall otherwise have an opportunity to participate in  
318 the business and affairs of the Commission. A delegate shall vote in person or by such  
319 other means as provided in the bylaws. The bylaws may provide for delegates'  
320 participation in meetings by telephone or other means of communication.

321 6. The Commission shall meet at least once during each calendar year. Additional  
322 meetings shall be held as set forth in the bylaws.

323 7. The Commission shall establish by Rule a term of office for delegates.

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

325 1. Establish a Code of Ethics for the Commission;

326 2. Establish the fiscal year of the Commission;

327 3. Establish bylaws;

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

329 5. Meet and take such actions as are consistent with the provisions of this Compact  
330 and the bylaws;

331 6. Promulgate uniform Rules to facilitate and coordinate implementation and  
332 administration of this Compact. The Rules shall have the force and effect of law and shall  
333 be binding in all Member States;

334 7. Bring and prosecute legal proceedings or actions in the name of the Commission,  
335 provided that the standing of any State Occupational Therapy Licensing Board to sue or  
336 be sued under applicable law shall not be affected;

- 337           **8. Purchase and maintain insurance and bonds;**
- 338           **9. Borrow, accept, or contract for services of personnel, including, but not limited**  
339 **to, employees of a Member State;**
- 340           **10. Hire employees, elect or appoint officers, fix compensation, define duties, grant**  
341 **such individuals appropriate authority to carry out the purposes of the Compact, and**  
342 **establish the Commission's personnel policies and programs relating to conflicts of interest,**  
343 **qualifications of personnel, and other related personnel matters;**
- 344           **11. Accept any and all appropriate donations and grants of money, equipment,**  
345 **supplies, materials and services, and receive, utilize and dispose of the same; provided that**  
346 **at all times the Commission shall avoid any appearance of impropriety and/or conflict of**  
347 **interest;**
- 348           **12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own,**  
349 **hold, improve or use, any property, real, personal or mixed; provided that at all times the**  
350 **Commission shall avoid any appearance of impropriety;**
- 351           **13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose**  
352 **of any property real, personal, or mixed;**
- 353           **14. Establish a budget and make expenditures;**
- 354           **15. Borrow money;**
- 355           **16. Appoint committees, including standing committees composed of members,**  
356 **State regulators, State legislators or their representatives, and consumer representatives,**  
357 **and such other interested persons as may be designated in this Compact and the bylaws;**
- 358           **17. Provide and receive information from, and cooperate with, law enforcement**  
359 **agencies;**
- 360           **18. Establish and elect an Executive Committee; and**
- 361           **19. Perform such other functions as may be necessary or appropriate to achieve the**  
362 **purposes of this Compact consistent with the State regulation of Occupational Therapy**  
363 **licensure and practice.**
- 364           **D. The Executive Committee**
- 365 **The Executive Committee shall have the power to act on behalf of the Commission**  
366 **according to the terms of this Compact.**
- 367           **1. The Executive Committee shall be composed of nine members:**
- 368           **a. Seven voting members who are elected by the Commission from the current**  
369 **membership of the Commission;**
- 370           **b. One ex-officio, nonvoting member from a recognized national Occupational**  
371 **Therapy professional association; and**

- 372 c. One ex-officio, nonvoting member from a recognized national Occupational  
373 Therapy certification organization.
- 374 2. The ex-officio members will be selected by their respective organizations.
- 375 3. The Commission may remove any member of the Executive Committee as  
376 provided in bylaws.
- 377 4. The Executive Committee shall meet at least annually.
- 378 5. The Executive Committee shall have the following Duties and responsibilities:
- 379 a. Recommend to the entire Commission changes to the Rules or bylaws, changes  
380 to this Compact legislation, fees paid by Compact Member States such as annual dues, and  
381 any Commission Compact fee charged to Licensees for the Compact Privilege;
- 382 b. Ensure Compact administration services are appropriately provided, contractual  
383 or otherwise;
- 384 c. Prepare and recommend the budget;
- 385 d. Maintain financial records on behalf of the Commission;
- 386 e. Monitor Compact compliance of Member States and provide compliance reports  
387 to the Commission;
- 388 f. Establish additional committees as necessary; and
- 389 g. Perform other duties as provided in Rules or bylaws.
- 390 E. Meetings of the Commission
- 391 1. All meetings shall be open to the public, and public notice of meetings shall be  
392 given in the same manner as required under the Rulemaking provisions in Section 10.
- 393 2. The Commission or the Executive Committee or other committees of the  
394 Commission may convene in a closed, non-public meeting if the Commission or Executive  
395 Committee or other committees of the Commission must discuss:
- 396 a. Non-compliance of a Member State with its obligations under the Compact;
- 397 b. The employment, compensation, discipline or other matters, practices or  
398 procedures related to specific employees or other matters related to the Commission's  
399 internal personnel practices and procedures;
- 400 c. Current, threatened, or reasonably anticipated litigation;
- 401 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real  
402 estate;
- 403 e. Accusing any person of a crime or formally censuring any person;
- 404 f. Disclosure of trade secrets or commercial or financial information that is  
405 privileged or confidential;
- 406 g. Disclosure of information of a personal nature where disclosure would constitute  
407 a clearly unwarranted invasion of personal privacy;

- 408           **h. Disclosure of investigative records compiled for law enforcement purposes;**  
409           **i. Disclosure of information related to any investigative reports prepared by or on**  
410 **behalf of or for use of the Commission or other committee charged with responsibility of**  
411 **investigation or determination of compliance issues pursuant to the Compact; or**  
412           **j. Matters specifically exempted from disclosure by federal or Member State**  
413 **statute.**
- 414           **3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the**  
415 **Commission's legal counsel or designee shall certify that the meeting may be closed and**  
416 **shall reference each relevant exempting provision.**
- 417           **4. The Commission shall keep minutes that fully and clearly describe all matters**  
418 **discussed in a meeting and shall provide a full and accurate summary of actions taken, and**  
419 **the reasons therefore, including a description of the views expressed. All documents**  
420 **considered in connection with an action shall be identified in such minutes. All minutes**  
421 **and documents of a closed meeting shall remain under seal, subject to release by a majority**  
422 **vote of the Commission or order of a court of competent jurisdiction.**
- 423           **F. Financing of the Commission**
- 424           **1. The Commission shall pay, or provide for the payment of, the reasonable**  
425 **expenses of its establishment, organization, and ongoing activities.**
- 426           **2. The Commission may accept any and all appropriate revenue sources, donations,**  
427 **and grants of money, equipment, supplies, materials, and services.**
- 428           **3. The Commission may levy on and collect an annual assessment from each**  
429 **Member State or impose fees on other parties to cover the cost of the operations and**  
430 **activities of the Commission and its staff, which must be in a total amount sufficient to**  
431 **cover its annual budget as approved by the Commission each year for which revenue is not**  
432 **provided by other sources. The aggregate annual assessment amount shall be allocated**  
433 **based upon a formula to be determined by the Commission, which shall promulgate a Rule**  
434 **binding upon all Member States.**
- 435           **4. The Commission shall not incur obligations of any kind prior to securing the**  
436 **funds adequate to meet the same; nor shall the Commission pledge the credit of any of the**  
437 **Member States, except by and with the authority of the Member State.**
- 438           **5. The Commission shall keep accurate accounts of all receipts and disbursements.**  
439 **The receipts and disbursements of the Commission shall be subject to the audit and**  
440 **accounting procedures established under its bylaws. However, all receipts and**  
441 **disbursements of funds handled by the Commission shall be audited yearly by a certified**  
442 **or licensed public accountant, and the report of the audit shall be included in and become**  
443 **part of the annual report of the Commission.**

444 **G. Qualified Immunity, Defense, and Indemnification**

445 **1. The members, officers, executive director, employees and representatives of the**  
446 **Commission shall be immune from suit and liability, either personally or in their official**  
447 **capacity, for any claim for damage to or loss of property or personal injury or other civil**  
448 **liability caused by or arising out of any actual or alleged act, error or omission that**  
449 **occurred, or that the person against whom the claim is made had a reasonable basis for**  
450 **believing occurred within the scope of Commission employment, duties or responsibilities;**  
451 **provided that nothing in this paragraph shall be construed to protect any such person from**  
452 **suit and/or liability for any damage, loss, injury, or liability caused by the intentional or**  
453 **willful or wanton misconduct of that person.**

454 **2. The Commission shall defend any member, officer, executive director, employee,**  
455 **or representative of the Commission in any civil action seeking to impose liability arising**  
456 **out of any actual or alleged act, error, or omission that occurred within the scope of**  
457 **Commission employment, duties, or responsibilities, or that the person against whom the**  
458 **claim is made had a reasonable basis for believing occurred within the scope of**  
459 **Commission employment, duties, or responsibilities; provided that nothing herein shall be**  
460 **construed to prohibit that person from retaining his or her own counsel; and provided**  
461 **further, that the actual or alleged act, error, or omission did not result from that person's**  
462 **intentional or willful or wanton misconduct.**

463 **3. The Commission shall indemnify and hold harmless any member, officer,**  
464 **executive director, employee, or representative of the Commission for the amount of any**  
465 **settlement or judgment obtained against that person arising out of any actual or alleged**  
466 **act, error or omission that occurred within the scope of Commission employment, duties,**  
467 **or responsibilities, or that such person had a reasonable basis for believing occurred within**  
468 **the scope of Commission employment, duties, or responsibilities, provided that the actual**  
469 **or alleged act, error, or omission did not result from the intentional or willful or wanton**  
470 **misconduct of that person.**

471 **SECTION 9. DATA SYSTEM**

472 **A. The Commission shall provide for the development, maintenance, and utilization**  
473 **of a coordinated database and reporting system containing licensure, Adverse Action, and**  
474 **Investigative Information on all licensed individuals in Member States.**

475 **B. A Member State shall submit a uniform data set to the Data System on all**  
476 **individuals to whom this Compact is applicable (utilizing a unique identifier) as required**  
477 **by the Rules of the Commission, including:**

- 478 **1. Identifying information;**  
479 **2. Licensure data;**



- 480           **3. Adverse Actions against a license or Compact Privilege;**  
481           **4. Non-confidential information related to Alternative Program participation;**  
482           **5. Any denial of application for licensure, and the reason(s) for such denial;**  
483           **6. Other information that may facilitate the administration of this Compact, as**  
484 **determined by the Rules of the Commission; and**  
485           **7. Current Significant Investigative Information.**

486           **C. Current Significant Investigative Information and other Investigative**  
487 **Information pertaining to a Licensee in any Member State will only be available to other**  
488 **Member States.**

489           **D. The Commission shall promptly notify all Member States of any Adverse Action**  
490 **taken against a Licensee or an individual applying for a license. Adverse Action**  
491 **information pertaining to a Licensee in any Member State will be available to any other**  
492 **Member State.**

493           **E. Member States contributing information to the Data System may designate**  
494 **information that may not be shared with the public without the express permission of the**  
495 **contributing State.**

496           **F. Any information submitted to the Data System that is subsequently required to**  
497 **be expunged by the laws of the Member State contributing the information shall be**  
498 **removed from the Data System.**

499           **SECTION 10. RULEMAKING**

500           **A. The Commission shall exercise its Rulemaking powers pursuant to the criteria**  
501 **set forth in this Section and the Rules adopted thereunder. Rules and amendments shall**  
502 **become binding as of the date specified in each Rule or amendment.**

503           **B. The Commission shall promulgate reasonable rules in order to effectively and**  
504 **efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the**  
505 **event the Commission exercises its rulemaking authority in a manner that is beyond the**  
506 **scope of the purposes of the Compact, or the powers granted hereunder, then such an**  
507 **action by the Commission shall be invalid and have no force and effect.**

508           **C. If a majority of the legislatures of the Member States rejects a Rule, by**  
509 **enactment of a statute or resolution in the same manner used to adopt the Compact within**  
510 **4 years of the date of adoption of the Rule, then such Rule shall have no further force and**  
511 **effect in any Member State.**

512           **D. Rules or amendments to the Rules shall be adopted at a regular or special**  
513 **meeting of the Commission.**

514           **E. Prior to promulgation and adoption of a final Rule or Rules by the Commission,**  
515 **and at least thirty (30) days in advance of the meeting at which the Rule will be considered**  
516 **and voted upon, the Commission shall file a Notice of Proposed Rulemaking:**

517           **1. On the website of the Commission or other publicly accessible platform; and**

518           **2. On the website of each Member State Occupational Therapy Licensing Board**  
519 **or other publicly accessible platform or the publication in which each State would**  
520 **otherwise publish proposed Rules.**

521           **F. The Notice of Proposed Rulemaking shall include:**

522           **1. The proposed time, date, and location of the meeting in which the Rule will be**  
523 **considered and voted upon;**

524           **2. The text of the proposed Rule or amendment and the reason for the proposed**  
525 **Rule;**

526           **3. A request for comments on the proposed Rule from any interested person; and**

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

529           **G. Prior to adoption of a proposed Rule, the Commission shall allow persons to**  
530 **submit written data, facts, opinions, and arguments, which shall be made available to the**  
531 **public.**

532           **H. The Commission shall grant an opportunity for a public hearing before it adopts**  
533 **a Rule or amendment if a hearing is requested by:**

534           **1. At least twenty five (25) persons;**

535           **2. A State or federal governmental subdivision or agency; or**

536           **3. An association or organization having at least twenty five (25) members.**

537           **I. If a hearing is held on the proposed Rule or amendment, the Commission shall**  
538 **publish the place, time, and date of the scheduled public hearing. If the hearing is held via**  
539 **electronic means, the Commission shall publish the mechanism for access to the electronic**  
540 **hearing.**

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

545           **2. Hearings shall be conducted in a manner providing each person who wishes to**  
546 **comment a fair and reasonable opportunity to comment orally or in writing.**

547           **3. All hearings will be recorded. A copy of the recording will be made available on**  
548 **request.**

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

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

555           **K. If no written notice of intent to attend the public hearing by interested parties**  
556 **is received, the Commission may proceed with promulgation of the proposed Rule without**  
557 **a public hearing.**

558           **L. The Commission shall, by majority vote of all members, take final action on the**  
559 **proposed Rule and shall determine the effective date of the Rule, if any, based on the**  
560 **Rulemaking record and the full text of the Rule.**

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

- 567           **1. Meet an imminent threat to public health, safety, or welfare;**  
568           **2. Prevent a loss of Commission or Member State funds;**  
569           **3. Meet a deadline for the promulgation of an administrative Rule that is**  
570 **established by federal law or Rule; or**  
571           **4. Protect public health and safety.**

572           **N. The Commission or an authorized committee of the Commission may direct**  
573 **revisions to a previously adopted Rule or amendment for purposes of correcting**  
574 **typographical errors, errors in format, errors in consistency, or grammatical errors.**  
575 **Public notice of any revisions shall be posted on the website of the Commission. The**  
576 **revision shall be subject to challenge by any person for a period of thirty (30) days after**  
577 **posting. The revision may be challenged only on grounds that the revision results in a**  
578 **material change to a Rule. A challenge shall be made in writing and delivered to the chair**  
579 **of the Commission prior to the end of the notice period. If no challenge is made, the**  
580 **revision will take effect without further action. If the revision is challenged, the revision**  
581 **may not take effect without the approval of the Commission.**

582           **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

583           **A. Oversight**

584           1. The executive, legislative, and judicial branches of State government in each  
585 Member State shall enforce this Compact and take all actions necessary and appropriate  
586 to effectuate the Compact's purposes and intent. The provisions of this Compact and the  
587 Rules promulgated hereunder shall have standing as statutory law.

588           2. All courts shall take judicial notice of the Compact and the Rules in any judicial  
589 or administrative proceeding in a Member State pertaining to the subject matter of this  
590 Compact which may affect the powers, responsibilities, or actions of the Commission.

591           3. The Commission shall be entitled to receive service of process in any such  
592 proceeding, and shall have standing to intervene in such a proceeding for all purposes.  
593 Failure to provide service of process to the Commission shall render a judgment or order  
594 void as to the Commission, this Compact, or promulgated Rules.

595           **B. Default, Technical Assistance, and Termination**

596           1. If the Commission determines that a Member State has defaulted in the  
597 performance of its obligations or responsibilities under this Compact or the promulgated  
598 Rules, the Commission shall:

599           a. Provide written notice to the defaulting State and other Member States of the  
600 nature of the default, the proposed means of curing the default and/or any other action to  
601 be taken by the Commission; and

602           b. Provide remedial training and specific technical assistance regarding the default.

603           2. If a State in default fails to cure the default, the defaulting State may be  
604 terminated from the Compact upon an affirmative vote of a majority of the Member States,  
605 and all rights, privileges and benefits conferred by this Compact may be terminated on the  
606 effective date of termination. A cure of the default does not relieve the offending State of  
607 obligations or liabilities incurred during the period of default.

608           3. Termination of membership in the Compact shall be imposed only after all other  
609 means of securing compliance have been exhausted. Notice of intent to suspend or  
610 terminate shall be given by the Commission to the governor, the majority and minority  
611 leaders of the defaulting State's legislature, and each of the Member States.

612           4. A State that has been terminated is responsible for all assessments, obligations,  
613 and liabilities incurred through the effective date of termination, including obligations that  
614 extend beyond the effective date of termination.

615           5. The Commission shall not bear any costs related to a State that is found to be in  
616 default or that has been terminated from the Compact, unless agreed upon in writing  
617 between the Commission and the defaulting State.

618           6. The defaulting State may appeal the action of the Commission by petitioning the  
619 U.S. District Court for the District of Columbia or the federal district where the

620 Commission has its principal offices. The prevailing member shall be awarded all costs of  
621 such litigation, including reasonable attorney's fees.

622 **C. Dispute Resolution**

623 1. Upon request by a Member State, the Commission shall attempt to resolve  
624 disputes related to the Compact that arise among Member States and between member and  
625 non-Member States.

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

628 **D. Enforcement**

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

631 2. By majority vote, the Commission may initiate legal action in the United States  
632 District Court for the District of Columbia or the federal district where the Commission  
633 has its principal offices against a Member State in default to enforce compliance with the  
634 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may  
635 include both injunctive relief and damages. In the event judicial enforcement is necessary,  
636 the prevailing member shall be awarded all costs of such litigation, including reasonable  
637 attorney's fees.

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

640 **SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE**  
641 **COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED**  
642 **RULES, WITHDRAWAL, AND AMENDMENT**

643 **A. The Compact shall come into effect on the date on which the Compact statute**  
644 **is enacted into law in the tenth Member State. The provisions, which become effective at**  
645 **that time, shall be limited to the powers granted to the Commission relating to assembly**  
646 **and the promulgation of Rules. Thereafter, the Commission shall meet and exercise**  
647 **Rulemaking powers necessary to the implementation and administration of the Compact.**

648 **B. Any State that joins the Compact subsequent to the Commission's initial**  
649 **adoption of the Rules shall be subject to the Rules as they exist on the date on which the**  
650 **Compact becomes law in that State. Any Rule that has been previously adopted by the**  
651 **Commission shall have the full force and effect of law on the day the Compact becomes law**  
652 **in that State.**

653 **C. Any Member State may withdraw from this Compact by enacting a statute**  
654 **repealing the same.**

655 1. A Member State's withdrawal shall not take effect until six (6) months after  
656 enactment of the repealing statute.

657 2. Withdrawal shall not affect the continuing requirement of the withdrawing  
658 State's Occupational Therapy Licensing Board to comply with the investigative and  
659 Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

660 D. Nothing contained in this Compact shall be construed to invalidate or prevent  
661 any Occupational Therapy licensure agreement or other cooperative arrangement between  
662 a Member State and a non-Member State that does not conflict with the provisions of this  
663 Compact.

664 E. This Compact may be amended by the Member States. No amendment to this  
665 Compact shall become effective and binding upon any Member State until it is enacted into  
666 the laws of all Member States.

667 SECTION 13. CONSTRUCTION AND SEVERABILITY

668 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
669 provisions of this Compact shall be severable and if any phrase, clause, sentence or  
670 provision of this Compact is declared to be contrary to the constitution of any Member  
671 State or of the United States or the applicability thereof to any government, agency, person,  
672 or circumstance is held invalid, the validity of the remainder of this Compact and the  
673 applicability thereof to any government, agency, person, or circumstance shall not be  
674 affected thereby. If this Compact shall be held contrary to the constitution of any Member  
675 State, the Compact shall remain in full force and effect as to the remaining Member States  
676 and in full force and effect as to the Member State affected as to all severable matters.

677 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

678 A. A Licensee providing Occupational Therapy in a Remote State under the  
679 Compact Privilege shall function within the laws and regulations of the Remote State.

680 B. Nothing herein prevents the enforcement of any other law of a Member State  
681 that is not inconsistent with the Compact.

682 C. Any laws in a Member State in conflict with the Compact are superseded to the  
683 extent of the conflict.

684 D. Any lawful actions of the Commission, including all Rules and bylaws  
685 promulgated by the Commission, are binding upon the Member States.

686 E. All agreements between the Commission and the Member States are binding in  
687 accordance with their terms.

688 F. In the event any provision of the Compact exceeds the constitutional limits  
689 imposed on the legislature of any Member State, the provision shall be ineffective to the  
690 extent of the conflict with the constitutional provision in question in that Member State.

✓

**MISSOURI**  
**SB 330**

FIRST REGULAR SESSION

# SENATE BILL NO. 330

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

1247S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To amend chapter 324, RSMo, by adding thereto one new section relating to the occupational therapy licensure compact.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

1 Section A. Chapter 324, RSMo, is amended by adding thereto  
2 one new section, to be known as section 324.087, to read as 3  
follows:

1 **324.087. SECTION 1. PURPOSE**



2       The purpose of this Compact is to facilitate interstate  
3 practice of Occupational Therapy with the goal of improving  
4 public access to Occupational Therapy services. The Practice  
5 of Occupational Therapy occurs in the State where the  
6 patient/client is located at the time of the patient/client  
7 encounter. The Compact preserves the regulatory authority of  
8 States to protect public health and safety through the current  
9 system of State licensure. This Compact is designed to  
10 achieve the following objectives:       A. Increase public  
11 access to Occupational Therapy services by providing for the  
12 mutual recognition of other  
13 Member State licenses;  
14 B. Enhance the States' ability to protect the public's health  
15 and safety;  
16 C. Encourage the cooperation of Member States in regulating  
17 multi-State Occupational Therapy Practice;  
18 D. Support spouses of relocating military members;

- 19 E. Enhance the exchange of licensure, investigative, and  
20 disciplinary information between Member States;
- 21 F. Allow a Remote State to hold a provider of services with  
22 a Compact Privilege in that State accountable to that  
23 State's practice standards; and
- 24 G. Facilitate the use of Telehealth technology in order to  
25 increase access to Occupational Therapy services.

26 SECTION 2. DEFINITIONS

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

- 29 A. "Active Duty Military" means full-time duty status in  
30 the active uniformed service of the United States,  
31 including members of the National Guard and Reserve on  
32 active duty orders pursuant to 10 U.S.C. Chapter 1209 and  
33 Section 1211.
- 34 B. "Adverse Action" means any administrative, civil,  
35 equitable, or criminal action permitted by a State's laws  
36 which is imposed by a Licensing Board or other authority  
37 against an Occupational Therapist or Occupational Therapy  
38 Assistant, including actions against an individual's  
39 license or Compact Privilege such as censure, revocation,  
40 suspension, probation, monitoring of the Licensee, or  
41 restriction on the Licensee's practice.
- 42 C. "Alternative Program" means a non-disciplinary  
43 monitoring process approved by an Occupational Therapy  
44 Licensing Board.
- 45 D. "Compact Privilege" means the authorization, which is  
46 equivalent to a license, granted by a Remote State to allow  
47 a Licensee from another Member State to practice as an  
48 Occupational Therapist or practice as an Occupational  
49 Therapy Assistant in the Remote State under its laws and

50 rules. The Practice of Occupational Therapy occurs in the  
51 Member State where the patient/client is located at the  
52 time of the patient/client encounter.

53 E. "Continuing Competence/Education" means a requirement,  
54 as a condition of license renewal, to provide evidence of  
55 participation in, and/or completion of, educational and  
56 professional activities relevant to practice or area of  
57 work.

58 F. "Current Significant Investigative Information" means  
59 Investigative Information that a Licensing Board, after an  
60 inquiry or investigation that includes notification and an  
61 opportunity for the Occupational Therapist or  
62 Occupational Therapy Assistant to respond, if required by  
63 State law, has reason to believe is not groundless and, if  
64 proved true, would indicate more than a minor infraction.

65 G. "Data System" means a repository of information about  
66 Licensees, including but not limited to license status,  
67 Investigative Information, Compact Privileges, and Adverse  
68 Actions.

69 H. "Encumbered License" means a license in which an  
70 Adverse Action restricts the Practice of Occupational  
71 Therapy by the Licensee or said Adverse Action has been  
72 reported to the National Practitioners Data Bank (NPDB).

73 I. "Executive Committee" means a group of directors  
74 elected or appointed to act on behalf of, and within the  
75 powers granted to them by, the Commission.

76 J. "Home State" means the Member State that is the  
77 Licensee's Primary State of Residence.

- 78 K. "Impaired Practitioner" means individuals whose  
79 professional practice is adversely affected by substance  
80 abuse, addiction, or other health-related conditions.
- 81 L. "Investigative Information" means information, records,  
82 and/or documents received or generated by an  
83 Occupational Therapy Licensing Board pursuant to an  
84 investigation.
- 85 M. "Jurisprudence Requirement" means the assessment of an  
86 individual's knowledge of the laws and rules governing  
87 the Practice of Occupational Therapy in a State.
- 88 N. "Licensee" means an individual who currently holds an  
89 authorization from the State to practice as an  
90 Occupational Therapist or as an Occupational Therapy  
91 Assistant.
- 92 O. "Member State" means a State that has enacted the  
93 Compact.
- 94 P. "Occupational Therapist" means an individual who is  
95 licensed by a State to practice 63 Occupational Therapy.
- 96 Q. "Occupational Therapy Assistant" means an  
97 individual who is licensed by a State to assist in the  
98 Practice of Occupational Therapy.
- 99 R. "Occupational Therapy," "Occupational Therapy  
100 Practice," and the "Practice of Occupational Therapy" mean  
101 the care and services provided by an Occupational Therapist  
102 or an Occupational Therapy Assistant as set forth in the  
103 Member State's statutes and regulations.
- 104 S. "Occupational Therapy Compact Commission" or  
105 "Commission" means the national administrative body whose  
106 membership consists of all States that have enacted the  
107 Compact.

- 108 T. "Occupational Therapy Licensing Board" or "Licensing  
109 Board" means the agency of a State that is authorized to  
110 license and regulate Occupational Therapists and  
111 Occupational Therapy Assistants.
- 112 U. "Primary State of Residence" means the state (also  
113 known as the Home State) in which an Occupational Therapist  
114 or Occupational Therapy Assistant who is not Active Duty  
115 Military declares a primary residence for legal purposes as  
116 verified by: driver's license, federal income tax return,  
117 lease, deed, mortgage or voter registration or other  
118 verifying documentation as further defined by Commission  
119 Rules.
- 120 V. "Remote State" means a Member State other than the  
121 Home State, where a Licensee is exercising or seeking to  
122 exercise the Compact Privilege.
- 123 W. "Rule" means a regulation promulgated by the  
124 Commission that has the force of law.
- 125 X. "State" means any state, commonwealth, district, or  
126 territory of the United States of America that regulates  
127 the Practice of Occupational Therapy.
- 128 Y. "Single-State License" means an Occupational Therapist  
129 or Occupational Therapy Assistant license issued by a  
130 Member State that authorizes practice only within the  
131 issuing State and does not include a Compact Privilege in  
132 any other Member State.
- 133 Z. "Telehealth" means the application of  
134 telecommunication technology to deliver Occupational

135 Therapy services for assessment, intervention and/or  
136 consultation.

137 SECTION 3. STATE PARTICIPATION IN THE COMPACT

138 A. To participate in the Compact, a Member State shall:

- 139 1. License Occupational Therapists and Occupational  
140 Therapy Assistants;
- 141 2. Participate fully in the Commission's Data System,  
142 including but not limited to using the Commission's  
143 unique identifier as defined in Rules of the  
144 Commission; 3. Have a mechanism in place for  
145 receiving and investigating complaints about Licensees;
- 146 4. Notify the Commission, in compliance with the terms of  
147 the Compact and Rules, of any Adverse Action or the  
148 availability of Investigative Information regarding a  
149 Licensee;
- 150 5. Implement or utilize procedures for considering the  
151 criminal history records of applicants for an initial  
152 Compact Privilege. These procedures shall include the  
153 submission of fingerprints or other biometric-based  
154 information by applicants for the purpose of obtaining an  
155 applicant's criminal history record information from the  
156 Federal Bureau of Investigation and the agency responsible  
157 for retaining that State's criminal records;
  - 158 a. A Member State shall, within a time frame established  
159 by the Commission, require a criminal background check for  
160 a Licensee seeking/applying for a Compact  
161 Privilege whose Primary State of Residence is that Member  
162 State, by receiving the results of the Federal Bureau of  
163 Investigation criminal record search, and shall use the  
164 results in making licensure decisions.

- 165 b. Communication between a Member State, the Commission  
166 and among Member States regarding the verification of  
167 eligibility for licensure through the  
168 Compact shall not include any information received from the  
169 Federal Bureau of Investigation relating to a federal  
170 criminal records check performed by a Member State under  
171 Public Law 92-544.
- 172 6. Comply with the Rules of the Commission;
- 173 7. Utilize only a recognized national examination as a  
174 requirement for licensure pursuant to the Rules of the  
175 Commission; and
- 176 8. Have Continuing Competence/Education requirements as a  
177 condition for license renewal.
- 178 B. A Member State shall grant the Compact Privilege to a  
179 Licensee holding a valid unencumbered license in another  
180 Member State in accordance with the terms of the Compact  
181 and Rules.
- 182 C. Member States may charge a fee for granting a Compact  
183 Privilege.
- 184 D. A Member State shall provide for the State's delegate  
185 to attend all Occupational Therapy Compact Commission  
186 meetings.
- 187 E. Individuals not residing in a Member State shall  
188 continue to be able to apply for a Member State's  
189 Single-State License as provided under the laws of each  
190 Member State. However, the Single-State License  
191 granted to these individuals shall not be recognized as

192 granting the Compact Privilege in any other Member  
193 State.

194 F. Nothing in this Compact shall affect the requirements  
195 established by a Member State for the issuance of a  
196 Single-State License.

197 SECTION 4. COMPACT PRIVILEGE

198 A. To exercise the Compact Privilege under the terms  
199 and provisions of the Compact, the Licensee shall:

- 200 1. Hold a license in the Home State;
- 201 2. Have a valid United States Social Security Number or  
202 National Practitioner Identification number;
- 203 3. Have no encumbrance on any State license;
- 204 4. Be eligible for a Compact Privilege in any Member  
205 State in accordance with Section 4D, F, G, and H;
- 206 5. Have paid all fines and completed all requirements  
207 resulting from any Adverse Action against any license or  
208 Compact Privilege, and two years have elapsed from the  
209 date of such completion;
- 210 6. Notify the Commission that the Licensee is seeking the  
211 Compact Privilege within a Remote State(s);
- 212 7. Pay any applicable fees, including any State fee, for  
213 the Compact Privilege;
- 214 8. Complete a criminal background check in accordance with  
215 Section 3A(5);
  - 216 a. The Licensee shall be responsible for the payment  
217 of any fee associated with the completion of a criminal  
218 background check.
- 219 9. Meet any Jurisprudence Requirements established by the  
220 Remote State(s) in which the Licensee is seeking a  
221 Compact Privilege; and



- 222 10. Report to the Commission Adverse Action taken by any  
223 non-Member State within 30 days from the date the Adverse  
224 Action is taken.
- 225 B. The Compact Privilege is valid until the expiration  
226 date of the Home State license. The Licensee must  
227 comply with the requirements of Section 4A to maintain  
228 the Compact Privilege in the Remote State.
- 229 C. A Licensee providing Occupational Therapy in a  
230 Remote State under the Compact Privilege shall function  
231 within the laws and regulations of the Remote State.
- 232 D. Occupational Therapy Assistants practicing in a Remote  
233 State shall be supervised by an Occupational Therapist  
234 licensed or holding a Compact Privilege in that Remote  
235 State.
- 236 E. A Licensee providing Occupational Therapy in a Remote  
237 State is subject to that State's regulatory authority.  
238 A Remote State may, in accordance with due process and  
239 that State's laws, remove a Licensee's Compact  
240 Privilege in the Remote State for a specific period of  
241 time, impose fines, and/or take any other necessary  
242 actions to protect the health and safety of its  
243 citizens. The Licensee may be ineligible for a Compact  
244 Privilege in any State until the specific time for  
245 removal has passed and all fines are paid.
- 246 F. If a Home State license is encumbered, the Licensee  
247 shall lose the Compact Privilege in any Remote State  
248 until the following occur: 1. The Home State  
249 license is no longer encumbered; and

- 250           2. Two years have elapsed from the date on which the  
251 Home State license is no longer encumbered in accordance  
252 with Section 4(F) (1) .
- 253 G. Once an Encumbered License in the Home State is  
254 restored to good standing, the Licensee must meet the  
255 requirements of Section 4A to obtain a Compact Privilege  
256 in any Remote State.
- 257 H. If a Licensee's Compact Privilege in any Remote State  
258 is removed, the individual may lose the Compact  
259 Privilege in any other Remote State until the following  
260 occur:
- 261 1. The specific period of time for which the Compact  
262 Privilege was removed has ended;
  - 263 2. All fines have been paid and all conditions have been  
264 met;
  - 265 3. Two years have elapsed from the date of completing  
266 requirements for 4(H) (1) and (2); and
  - 267 4. The Compact Privileges are reinstated by the  
268 Commission, and the compact Data System is updated to  
269 reflect reinstatement.
- 270 I. If a Licensee's Compact Privilege in any Remote State  
271 is removed due to an erroneous charge, privileges shall  
272 be restored through the compact Data System.
- 273 J. Once the requirements of Section 4H have been met, the  
274 license must meet the requirements in Section 4A to  
275 obtain a Compact Privilege in a Remote State.

276           SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE  
277 OF COMPACT PRIVILEGE

- 278 A. An Occupational Therapist or Occupational Therapy  
279 Assistant may hold a Home State license, which allows for

280 Compact Privileges in Member States, in only one Member  
281 State at a time.

282 B. If an Occupational Therapist or Occupational Therapy  
283 Assistant changes Primary State of Residence by moving  
284 between two Member States:

285 1. The Occupational Therapist or Occupational Therapy  
286 Assistant shall file an application for obtaining a new Home  
287 State license by virtue of a Compact Privilege, pay all  
288 applicable fees, and notify the current and new Home State  
289 in accordance with applicable Rules adopted by the  
290 Commission.

291 2. Upon receipt of an application for obtaining a new Home  
292 State license by virtue of compact privilege, the new  
293 Home State shall verify that the Occupational Therapist or  
294 Occupational Therapy Assistant meets the pertinent criteria  
295 outlined in Section 4 via the Data System, without need for  
296 primary source verification except for:

297 a. an FBI fingerprint based criminal background check if  
298 not previously performed or updated pursuant to applicable  
299 Rules adopted by the Commission in accordance with Public  
300 Law 92-544;

301 b. other criminal background check as required by the new  
302 Home State; and

303 c. submission of any requisite Jurisprudence Requirements  
304 of the new Home State.

305 3. The former Home State shall convert the former Home  
306 State license into a Compact Privilege once the new Home  
307 State has activated the new Home State license in

308           accordance with applicable Rules adopted by the  
309           Commission.

310 4. Notwithstanding any other provision of this  
311 Compact, if the Occupational Therapist or Occupational  
312 Therapy Assistant cannot meet the criteria in Section 4,  
313 the new Home State shall apply its requirements for issuing  
314 a new Single-State License.

315 5. The Occupational Therapist or the Occupational Therapy  
316 Assistant shall pay all applicable fees to the new Home  
317 State in order to be issued a new Home State license.

318 C. If an Occupational Therapist or Occupational Therapy  
319 Assistant changes Primary State of Residence by moving from  
320 a Member State to a non-Member State, or from a non-Member  
321 State to a Member State, the State criteria shall apply for  
322 issuance of a Single-State License in the new State.

323 D. Nothing in this compact shall interfere with a  
324 Licensee's ability to hold a Single-State License in  
325 multiple States; however, for the purposes of this compact,  
326 a Licensee shall have only one Home State license.           E.

327 Nothing in this Compact shall affect the requirements  
328 established by a Member State for the issuance of a Single-  
329 State License.

330           SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR  
331 SPOUSES

332           A. Active Duty Military personnel, or their spouses,  
333 shall designate a Home State where the individual has a  
334 current license in good standing. The individual may  
335 retain the Home State designation during the period the  
336 service member is on active duty. Subsequent to  
337 designating a Home State, the individual shall only change

338 their Home State through application for licensure in the  
339 new State or through the process described in Section 5.

340 SECTION 7. ADVERSE ACTIONS

341 A. A Home State shall have exclusive power to impose  
342 Adverse Action against an Occupational Therapist's or  
343 Occupational Therapy Assistant's license issued by the Home  
344 State.

345 B. In addition to the other powers conferred by State  
346 law, a Remote State shall have the authority, in accordance  
347 with existing State due process law, to:

348 1. Take Adverse Action against an Occupational  
349 Therapist's or Occupational Therapy Assistant's Compact  
350 Privilege within that Member State.

351 2. Issue subpoenas for both hearings and investigations  
352 that require the attendance and testimony of witnesses as  
353 well as the production of evidence. Subpoenas issued by a  
354 Licensing Board in a Member State for the attendance and  
355 testimony of witnesses or the production of evidence from  
356 another Member State shall be enforced in the latter State  
357 by any court of competent jurisdiction, according to the  
358 practice and procedure of that court applicable to  
359 subpoenas issued in proceedings pending before it. The  
360 issuing authority shall pay any witness fees, travel  
361 expenses, mileage and other fees required by the service  
362 statutes of the State in which the witnesses or evidence  
363 are located.

364 C. For purposes of taking Adverse Action, the Home State  
365 shall give the same priority and effect to reported

366 conduct received from a Member State as it would if the  
367 conduct had occurred within the Home State. In so  
368 doing, the Home State shall apply its own State laws to  
369 determine appropriate action.

370 D. The Home State shall complete any pending  
371 investigations of an Occupational Therapist or  
372 Occupational Therapy Assistant who changes Primary  
373 State of Residence during the course of the  
374 investigations. The Home State, where the  
375 investigations were initiated, shall also have the  
376 authority to take appropriate action(s) and shall  
377 promptly report the conclusions of the investigations  
378 to the OT

379 Compact Commission Data System. The Occupational Therapy  
380 Compact Commission Data System administrator shall promptly  
381 notify the new Home State of any Adverse Actions.

382 E. A Member State, if otherwise permitted by State law,  
383 may recover from the affected Occupational Therapist or  
384 Occupational Therapy Assistant the costs of  
385 investigations and disposition of cases resulting from  
386 any Adverse Action taken against that Occupational  
387 Therapist or Occupational Therapy Assistant.

388 F. A Member State may take Adverse Action based on the  
389 factual findings of the Remote State, provided that the  
390 Member State follows its own procedures for taking the  
391 Adverse Action.

392 G. Joint Investigations

393 1. In addition to the authority granted to a Member State  
394 by its respective State Occupational Therapy laws and  
395 regulations or other applicable State law, any Member State

396 may participate with other Member States in joint  
397 investigations of Licensees.

398 2. Member States shall share any investigative,  
399 litigation, or compliance materials in furtherance of any  
400 joint or individual investigation initiated under the  
401 Compact.

402 H. If an Adverse Action is taken by the Home State against  
403 an Occupational Therapist's or Occupational Therapy  
404 Assistant's license, the Occupational Therapist's or  
405 Occupational Therapy Assistant's Compact Privilege in  
406 all other Member States shall be deactivated until all  
407 encumbrances have been removed from the State license.  
408 All Home State disciplinary orders that impose Adverse  
409 Action against an Occupational Therapist's or  
410 Occupational Therapy Assistant's license shall include  
411 a Statement that the  
412 Occupational Therapist's or Occupational Therapy Assistant's  
413 Compact Privilege is deactivated in all Member States  
414 during the pendency of the order.

415 I. If a Member State takes Adverse Action, it shall  
416 promptly notify the administrator of the Data System.  
417 The administrator of the Data System shall promptly  
418 notify the Home State of any Adverse Actions by Remote  
419 States.

420 J. Nothing in this Compact shall override a Member  
421 State's decision that participation in an Alternative  
422 Program may be used in lieu of Adverse Action.

423 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY  
424 COMPACT COMMISSION.

425 A. The Compact Member States hereby create and  
426 establish a joint public agency known as the Occupational  
427 Therapy Compact Commission:

428 1. The Commission is an instrumentality of the Compact  
429 States.

430 2. Venue is proper and judicial proceedings by or against  
431 the Commission shall be brought solely and exclusively in a  
432 court of competent jurisdiction where the principal office  
433 of the Commission is located. The Commission may waive  
434 venue and jurisdictional defenses to the extent it adopts  
435 or consents to participate in alternative dispute  
436 resolution proceedings.

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

439 B. Membership, Voting, and Meetings

440 1. Each Member State shall have and be limited to one  
441 (1) delegate selected by that Member State's Licensing  
442 Board.

443 2. The delegate shall be either:

444 a. A current member of the Licensing Board, who is an  
445 Occupational Therapist, Occupational Therapy Assistant,  
446 or public member; or

447 b. An administrator of the Licensing Board.

448 3. Any delegate may be removed or suspended from office  
449 as provided by the law of the State from which the delegate  
450 is appointed.

451 4. The Member State board shall fill any vacancy  
452 occurring in the Commission within 90 days.



453 5. Each delegate shall be entitled to one (1) vote with  
454 regard to the promulgation of Rules and creation of bylaws  
455 and shall otherwise have an opportunity to participate in  
456 the business and affairs of the Commission. A delegate  
457 shall vote in person or by such other means as provided in  
458 the bylaws. The bylaws may provide for delegates'  
459 participation in meetings by telephone or other means of  
460 communication.

461 6. The Commission shall meet at least once during each  
462 calendar year. Additional meetings shall be held as set  
463 forth in the bylaws.

464 7. The Commission shall establish by Rule a term of  
465 office for delegates.

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

- 468 1. Establish a Code of Ethics for the Commission;
- 469 2. Establish the fiscal year of the Commission;
- 470 3. Establish bylaws;
- 471 4. Maintain its financial records in accordance with the  
472 bylaws;
- 473 5. Meet and take such actions as are consistent with the  
474 provisions of this Compact and the bylaws;
- 475 6. Promulgate uniform Rules to facilitate and coordinate  
476 implementation and administration of this Compact. The  
477 Rules shall have the force and effect of law and shall  
478 be binding in all Member States;
- 479 7. Bring and prosecute legal proceedings or actions in  
480 the name of the Commission, provided that the standing of

481 any State Occupational Therapy Licensing Board to sue or  
482 be sued under applicable law shall not be affected;

483 8. Purchase and maintain insurance and bonds; 9.  
484 Borrow, accept, or contract for services of personnel,  
485 including, but not limited to, employees of a  
486 Member State;

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

494 11. Accept any and all appropriate donations and grants  
495 of money, equipment, supplies, materials and services, and  
496 receive, utilize and dispose of the same; provided that at  
497 all times the Commission shall avoid any appearance of  
498 impropriety and/or conflict of interest; 12. Lease,  
499 purchase, accept appropriate gifts or donations of, or  
500 otherwise own, hold, improve or use, any property, real,  
501 personal or mixed; provided that at all times the  
502 Commission shall avoid any appearance of impropriety;

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

506 14. Establish a budget and make expenditures;

507 15. Borrow money;

508 16. Appoint committees, including standing committees  
509 composed of members, State regulators, State  
510 legislators or their representatives, and consumer

511           representatives, and such other interested persons as  
512           may be designated in this

513 Compact and the bylaws;

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

516 18. Establish and elect an Executive Committee; and

517 19. Perform such other functions as may be necessary  
518       or appropriate to achieve the purposes of this Compact  
519       consistent with the State regulation of Occupational  
520       Therapy licensure and practice.

521       D. The Executive Committee

522           The Executive Committee shall have the power to act on  
523       behalf of the Commission according to the terms of this  
524       Compact.

525           1. The Executive Committee shall be composed of nine  
526       members:

527       a. Seven voting members who are elected by the Commission  
528       from the current membership of the Commission;

529       b. One ex-officio, nonvoting member from a recognized  
530       national Occupational Therapy professional association; and

531       c. One ex-officio, nonvoting member from a recognized  
532       national Occupational Therapy certification organization.

533       2. The ex-officio members will be selected by their  
534       respective organizations.

535       3. The Commission may remove any member of the Executive  
536       Committee as provided in bylaws.

537       4. The Executive Committee shall meet at least annually.

- 538 5. The Executive Committee shall have the following  
539 Duties and responsibilities:
- 540 a. Recommend to the entire Commission changes to the Rules  
541 or bylaws, changes to this Compact legislation, fees  
542 paid by Compact Member States such as annual dues, and  
543 any  
544 Commission Compact fee charged to Licensees for the Compact  
545 Privilege;
- 546 b. Ensure Compact administration services are  
547 appropriately provided, contractual or otherwise;
- 548 c. Prepare and recommend the budget;
- 549 d. Maintain financial records on behalf of the  
550 Commission;
- 551 e. Monitor Compact compliance of Member States and provide  
552 compliance reports to the Commission;
- 553 f. Establish additional committees as necessary; and
- 554 g. Perform other duties as provided in Rules or bylaws.
- 555 E. Meetings of the Commission
- 556 1. All meetings shall be open to the public, and public  
557 notice of meetings shall be given in the same manner as  
558 required under the Rulemaking provisions in Section 10.
- 559 2. The Commission or the Executive Committee or other  
560 committees of the Commission may convene in a closed, non-  
561 public meeting if the Commission or Executive Committee or  
562 other committees of the Commission must discuss:
- 563 a. Non-compliance of a Member State with its obligations  
564 under the Compact;
- 565 b. The employment, compensation, discipline or other  
566 matters, practices or procedures related to specific  
567 employees or other matters related to the Commission's  
568 internal personnel practices and procedures;

- 569 c. Current, threatened, or reasonably anticipated  
570 litigation;
- 571 d. Negotiation of contracts for the purchase, lease, or  
572 sale of goods, services, or real estate;
- 573 e. Accusing any person of a crime or formally censuring  
574 any person;
- 575 f. Disclosure of trade secrets or commercial or financial  
576 information that is privileged or confidential;
- 577 g. Disclosure of information of a personal nature where  
578 disclosure would constitute a clearly unwarranted invasion  
579 of personal privacy;
- 580 h. Disclosure of investigative records compiled for law  
581 enforcement purposes;
- 582 i. Disclosure of information related to any investigative  
583 reports prepared by or on behalf of or for use of the  
584 Commission or other committee charged with responsibility  
585 of investigation or determination of compliance issues  
586 pursuant to the Compact; or
- 587 j. Matters specifically exempted from disclosure by  
588 federal or Member State statute.
- 589 3. If a meeting, or portion of a meeting, is closed  
590 pursuant to this provision, the Commission's legal counsel  
591 or designee shall certify that the meeting may be closed  
592 and shall reference each relevant exempting provision.
- 593 4. The Commission shall keep minutes that fully and  
594 clearly describe all matters discussed in a meeting and  
595 shall provide a full and accurate summary of actions taken,  
596 and the reasons therefore, including a description of the

597 views expressed. All documents considered in connection  
598 with an action shall be identified in such minutes. All  
599 minutes and documents of a closed meeting shall remain  
600 under seal, subject to release by a majority vote of the  
601 Commission or order of a court of competent jurisdiction.

602 F. Financing of the Commission

- 603 1. The Commission shall pay, or provide for the payment  
604 of, the reasonable expenses of its establishment,  
605 organization, and ongoing activities.
- 606 2. The Commission may accept any and all appropriate  
607 revenue sources, donations, and grants of money, equipment,  
608 supplies, materials, and services.
- 609 3. The Commission may levy on and collect an annual  
610 assessment from each Member State or impose fees on other  
611 parties to cover the cost of the operations and activities  
612 of the Commission and its staff, which must be in a total  
613 amount sufficient to cover its annual budget as approved by  
614 the Commission each year for which revenue is not provided  
615 by other sources. The aggregate annual assessment amount  
616 shall be allocated based upon a formula to be determined by  
617 the Commission, which shall promulgate a Rule binding upon  
618 all Member States.
- 619 4. The Commission shall not incur obligations of any kind  
620 prior to securing the funds adequate to meet the same; nor  
621 shall the Commission pledge the credit of any of the  
622 Member States, except by and with the authority of the  
623 Member State.
- 624 5. The Commission shall keep accurate accounts of all  
625 receipts and disbursements. The receipts and disbursements  
626 of the Commission shall be subject to the audit and  
627 accounting procedures established under its bylaws.

628 However, all receipts and disbursements of funds handled by  
629 the Commission shall be audited yearly by a certified or  
630 licensed public accountant, and the report of the audit  
631 shall be included in and become part of the annual report  
632 of the Commission.

633 G. Qualified Immunity, Defense, and Indemnification

634 1. The members, officers, executive director, employees  
635 and representatives of the Commission shall be immune from  
636 suit and liability, either personally or in their official  
637 capacity, for any claim for damage to or loss of property  
638 or personal injury or other civil liability caused by or  
639 arising out of any actual or alleged act, error, or  
640 omission that occurred, or that the person against whom the  
641 claim is made had a reasonable basis for believing occurred  
642 within the scope of Commission employment, duties or  
643 responsibilities; provided that nothing in this paragraph  
644 shall be construed to protect any such person from suit  
645 and/or liability for any damage, loss, injury, or liability  
646 caused by the intentional or willful or wanton misconduct  
647 of that person.

648 2. The Commission shall defend any member, officer,  
649 executive director, employee, or representative of the  
650 Commission in any civil action seeking to impose liability  
651 arising out of any actual or alleged act, error, or  
652 omission that occurred within the scope of Commission  
653 employment, duties, or responsibilities, or that the person  
654 against whom the claim is made had a reasonable basis for  
655 believing occurred within the scope of Commission

656 employment, duties, or responsibilities; provided that  
657 nothing herein shall be construed to prohibit that person  
658 from retaining his or her own counsel; and provided  
659 further, that the actual or alleged act, error, or omission  
660 did not result from that person's intentional or willful or  
661 wanton misconduct.

662 3. The Commission shall indemnify and hold harmless any  
663 member, officer, executive director, employee, or  
664 representative of the Commission for the amount of any  
665 settlement or judgment obtained against that person arising  
666 out of any actual or alleged act, error, or omission that  
667 occurred within the scope of Commission employment, duties,  
668 or responsibilities, or that such person had a reasonable  
669 basis for believing occurred within the scope of Commission  
670 employment, duties, or responsibilities, provided that the  
671 actual or alleged act, error, or omission did not result  
672 from the intentional or willful or wanton misconduct of  
673 that person.

674 SECTION 9. DATA SYSTEM

675 A. The Commission shall provide for the development,  
676 maintenance, and utilization of a coordinated database and  
677 reporting system containing licensure, Adverse Action, and  
678 Investigative Information on all licensed individuals in  
679 Member States.

680 B. A Member State shall submit a uniform data set to the  
681 Data System on all individuals to whom this Compact is  
682 applicable (utilizing a unique identifier) as required by  
683 the Rules of the Commission, including:

- 684 1. Identifying information;
- 685 2. Licensure data;
- 686 3. Adverse Actions against a license or Compact



687 Privilege;

688 4. Non-confidential information related to Alternative  
689 Program participation;

690 5. Any denial of application for licensure, and the  
691 reason(s) for such denial;

692 6. Other information that may facilitate the  
693 administration of this Compact, as determined by the  
694 Rules of the Commission; and

695 7. Current Significant Investigative Information.

696 C. Current Significant Investigative Information and  
697 other Investigative Information pertaining to a Licensee in  
698 any Member State will only be available to other Member  
699 States.

700 D. The Commission shall promptly notify all Member States  
701 of any Adverse Action taken against a Licensee or an  
702 individual applying for a license. Adverse Action  
703 information pertaining to a Licensee in any Member State  
704 will be available to any other Member State.

705 E. Member States contributing information to the Data  
706 System may designate information that may not be shared  
707 with the public without the express permission of the  
708 contributing State.

709 F. Any information submitted to the Data System that is  
710 subsequently required to be expunged by the laws of the  
711 Member State contributing the information shall be removed  
712 from the Data System.

713 SECTION 10. RULEMAKING

- 714 A. The Commission shall exercise its Rulemaking powers  
715 pursuant to the criteria set forth in this Section and the  
716 Rules adopted thereunder. Rules and amendments shall  
717 become binding as of the date specified in each Rule or  
718 amendment.
- 719 B. The Commission shall promulgate reasonable rules in  
720 order to effectively and efficiently achieve the purposes  
721 of the Compact. Notwithstanding the foregoing, in the  
722 event the Commission exercises its rulemaking authority in  
723 a manner that is beyond the scope of the purposes of the  
724 Compact, or the powers granted hereunder, then such an  
725 action by the Commission shall be invalid and have no force  
726 and effect.
- 727 C. If a majority of the legislatures of the Member States  
728 rejects a Rule, by enactment of a statute or resolution in  
729 the same manner used to adopt the Compact within 4 years of  
730 the date of adoption of the Rule, then such Rule shall have  
731 no further force and effect in any Member State.
- 732 D. Rules or amendments to the Rules shall be adopted at a  
733 regular or special meeting of the Commission.
- 734 E. Prior to promulgation and adoption of a final Rule or  
735 Rules by the Commission, and at least thirty (30) days in  
736 advance of the meeting at which the Rule will be considered  
737 and voted upon, the Commission shall file a Notice of  
738 Proposed Rulemaking:
- 739 1. On the website of the Commission or other publicly  
740 accessible platform; and
  - 741 2. On the website of each Member State Occupational  
742 Therapy Licensing Board or other publicly accessible  
743 platform or the publication in which each State would  
744 otherwise publish proposed Rules.

745 F. The Notice of Proposed Rulemaking shall include:

746 1. The proposed time, date, and location of the meeting in  
747 which the Rule will be considered and voted upon; 2.  
748 The text of the proposed Rule or amendment and the reason  
749 for the proposed Rule;

750 3. A request for comments on the proposed Rule from any  
751 interested person; and

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

755 G. Prior to adoption of a proposed Rule, the Commission  
756 shall allow persons to submit written data, facts,  
757 opinions, and arguments, which shall be made available to  
758 the public.

759 H. The Commission shall grant an opportunity for a public  
760 hearing before it adopts a Rule or amendment if a hearing  
761 is requested by: 1. At least twenty five (25)  
762 persons;

763 2. A State or federal governmental subdivision or agency;  
764 or

765 3. An association or organization having at least twenty  
766 five (25) members.

767 I. If a hearing is held on the proposed Rule or  
768 amendment, the Commission shall publish the place, time,  
769 and date of the scheduled public hearing. If the hearing  
770 is held via electronic means, the Commission shall publish  
771 the mechanism for access to the electronic hearing.

- 772 1. All persons wishing to be heard at the hearing shall  
773 notify the executive director of the Commission or other  
774 designated member in writing of their desire to appear and  
775 testify at the hearing not less than five (5) business days  
776 before the scheduled date of the hearing.
- 777 2. Hearings shall be conducted in a manner providing each  
778 person who wishes to comment a fair and reasonable  
779 opportunity to comment orally or in writing.
- 780 3. All hearings will be recorded. A copy of the  
781 recording will be made available on request.
- 782 4. Nothing in this section shall be construed as  
783 requiring a separate hearing on each Rule. Rules may be  
784 grouped for the convenience of the Commission at hearings  
785 required by this section.
- 786 J. Following the scheduled hearing date, or by the close  
787 of business on the scheduled hearing date if the hearing  
788 was not held, the Commission shall consider all written and  
789 oral comments received.
- 790 K. If no written notice of intent to attend the public  
791 hearing by interested parties is received, the Commission  
792 may proceed with promulgation of the proposed Rule without  
793 a public hearing.
- 794 L. The Commission shall, by majority vote of all members,  
795 take final action on the proposed Rule and shall determine  
796 the effective date of the Rule, if any, based on the  
797 Rulemaking record and the full text of the Rule.
- 798 M. Upon determination that an emergency exists, the  
799 Commission may consider and adopt an emergency Rule without  
800 prior notice, opportunity for comment, or hearing, provided  
801 that the usual Rulemaking procedures provided in the  
802 Compact and in this section shall be retroactively applied

803 to the Rule as soon as reasonably possible, in no event  
804 later than ninety (90) days after the effective date of the  
805 Rule. For the purposes of this provision, an emergency  
806 Rule is one that must be adopted immediately in order to:

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

809 2. Prevent a loss of Commission or Member State funds;

810 3. Meet a deadline for the promulgation of an  
811 administrative Rule that is established by federal law or  
812 Rule; or

813 4. Protect public health and safety.

814 N. The Commission or an authorized committee of the  
815 Commission may direct revisions to a previously adopted  
816 Rule or amendment for purposes of correcting typographical  
817 errors, errors in format, errors in consistency, or  
818 grammatical errors. Public notice of any revisions shall  
819 be posted on the website of the Commission. The revision  
820 shall be subject to challenge by any person for a period of  
821 thirty (30) days after posting. The revision may be  
822 challenged only on grounds that the revision results in a  
823 material change to a Rule. A challenge shall be made in  
824 writing and delivered to the chair of the Commission prior  
825 to the end of the notice period. If no challenge is made,  
826 the revision will take effect without further action. If  
827 the revision is challenged, the revision may not take  
828 effect without the approval of the Commission.

829 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND  
830 ENFORCEMENT

## 831           A. Oversight

- 832   1.   The executive, legislative, and judicial branches of  
833   State government in each Member State shall enforce this  
834   Compact and take all actions necessary and appropriate to  
835   effectuate the Compact's purposes and intent.  The  
836   provisions of this Compact and the Rules promulgated  
837   hereunder shall have standing as statutory law.
- 838   2.   All courts shall take judicial notice of the Compact  
839   and the Rules in any judicial or administrative proceeding  
840   in a Member State pertaining to the subject matter of this  
841   Compact which may affect the powers, responsibilities, or  
842   actions of the Commission.
- 843   3.   The Commission shall be entitled to receive service of  
844   process in any such proceeding, and shall have standing to  
845   intervene in such a proceeding for all purposes.  Failure  
846   to provide service of process to the Commission shall  
847   render a judgment or order void as to the Commission, this  
848   Compact, or promulgated Rules.

## 849           B. Default, Technical Assistance, and Termination

- 850   1.   If the Commission determines that a Member State  
851   has defaulted in the performance of its obligations or  
852   responsibilities under this Compact or the promulgated  
853   Rules, the Commission shall:
- 854   a.   Provide written notice to the defaulting State and  
855   other Member States of the nature of the default, the  
856   proposed means of curing the default and/or any other  
857   action to be taken by the Commission; and
- 858   b.   Provide remedial training and specific technical  
859   assistance regarding the default.
- 860   2.   If a State in default fails to cure the default, the  
861   defaulting State may be terminated from the Compact upon an

862 affirmative vote of a majority of the Member States, and  
863 all rights, privileges and benefits conferred by this  
864 Compact may be terminated on the effective date of  
865 termination. A cure of the default does not relieve the  
866 offending State of obligations or liabilities incurred  
867 during the period of default.

868 3. Termination of membership in the Compact shall be  
869 imposed only after all other means of securing compliance  
870 have been exhausted. Notice of intent to suspend or  
871 terminate shall be given by the Commission to the governor,  
872 the majority and minority leaders of the defaulting State's  
873 legislature, and each of the Member States.

874 4. A State that has been terminated is responsible for  
875 all assessments, obligations, and liabilities incurred  
876 through the effective date of termination, including  
877 obligations that extend beyond the effective date of  
878 termination.

879 5. The Commission shall not bear any costs related to a  
880 State that is found to be in default or that has been  
881 terminated from the Compact, unless agreed upon in writing  
882 between the Commission and the defaulting State.

883 6. The defaulting State may appeal the action of the  
884 Commission by petitioning the U.S. District Court for the  
885 District of Columbia or the federal district where the  
886 Commission has its principal offices. The prevailing member  
887 shall be awarded all costs of such litigation, including  
888 reasonable attorney's fees. C. Dispute Resolution

889 1. Upon request by a Member State, the Commission shall  
890 attempt to resolve disputes related to the Compact that  
891 arise among Member States and between member and non-Member  
892 States.

893 2. The Commission shall promulgate a Rule providing for  
894 both mediation and binding dispute resolution for disputes  
895 as appropriate.

896 D. Enforcement

897 1. The Commission, in the reasonable exercise of its  
898 discretion, shall enforce the provisions and Rules of this  
899 Compact.

900 2. By majority vote, the Commission may initiate legal  
901 action in the United States District Court for the District  
902 of Columbia or the federal district where the Commission  
903 has its principal offices against a Member State in default  
904 to enforce compliance with the provisions of the Compact  
905 and its promulgated Rules and bylaws. The relief sought  
906 may include both injunctive relief and damages. In the  
907 event judicial enforcement is necessary, the prevailing  
908 member shall be awarded all costs of such litigation,  
909 including reasonable attorney's fees.

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

913 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE  
914 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED  
915 RULES, WITHDRAWAL, AND AMENDMENT

916 A. The Compact shall come into effect on the date on which  
917 the Compact statute is enacted into law in the tenth  
918 Member State. The provisions, which become effective at



919 that time, shall be limited to the powers granted to the  
920 Commission relating to assembly and the promulgation of  
921 Rules. Thereafter, the Commission shall meet and exercise  
922 Rulemaking powers necessary to the implementation and  
923 administration of the Compact.

924 B. Any State that joins the Compact subsequent to the  
925 Commission's initial adoption of the Rules shall be subject  
926 to the Rules as they exist on the date on which the Compact  
927 becomes law in that State. Any Rule that has been  
928 previously adopted by the Commission shall have the full  
929 force and effect of law on the day the Compact becomes law  
930 in that State.

931 C. Any Member State may withdraw from this Compact by  
932 enacting a statute repealing the same.

933 1. A Member State's withdrawal shall not take effect  
934 until six (6) months after enactment of the repealing  
935 statute.

936 2. Withdrawal shall not affect the continuing requirement  
937 of the withdrawing State's Occupational Therapy  
938 Licensing Board to comply with the investigative and Adverse  
939 Action reporting requirements of this act prior to the  
940 effective date of withdrawal.

941 D. Nothing contained in this Compact shall be construed  
942 to invalidate or prevent any Occupational Therapy licensure  
943 agreement or other cooperative arrangement between a Member  
944 State and a non-Member State that does not conflict with  
945 the provisions of this Compact.

946 E. This Compact may be amended by the Member States. No  
947 amendment to this Compact shall become effective and  
948 binding upon any Member State until it is enacted into the  
949 laws of all Member States.

950 SECTION 13. CONSTRUCTION AND SEVERABILITY This  
951 Compact shall be liberally construed so as to effectuate  
952 the purposes thereof. The provisions of this Compact shall  
953 be severable and if any phrase, clause, sentence or  
954 provision of this Compact is declared to be contrary to the  
955 constitution of any Member State or of the United States or  
956 the applicability thereof to any government, agency,  
957 person, or circumstance is held invalid, the validity of  
958 the remainder of this Compact and the applicability thereof  
959 to any government, agency, person, or circumstance shall  
960 not be affected thereby. If this Compact shall be held  
961 contrary to the constitution of any Member State, the  
962 Compact shall remain in full force and effect as to the  
963 remaining Member States and in full force and effect as to  
964 the Member State affected as to all severable matters.

965 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

- 966 A. A Licensee providing Occupational Therapy in a  
967 Remote State under the Compact Privilege shall function  
968 within the laws and regulations of the Remote State.
- 969 B. Nothing herein prevents the enforcement of any other  
970 law of a Member State that is not inconsistent with the  
971 Compact.
- 972 C. Any laws in a Member State in conflict with the Compact  
973 are superseded to the extent of the conflict.
- 974 D. Any lawful actions of the Commission, including all  
975 Rules and bylaws promulgated by the Commission, are  
976 binding upon the Member States.

- 977 E. All agreements between the Commission and the  
978 Member States are binding in accordance with their terms.
- 979 F. In the event any provision of the Compact exceeds the  
980 constitutional limits imposed on the legislature of any  
981 Member State, the provision shall be ineffective to the  
982 extent of the conflict with the constitutional provision  
983 in question in that Member State.

984

✓

**NEBRASKA**

**LB 15**

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 15**

Introduced by Blood, 3.

Read first time January 07, 2021

Committee: Health and Human Services

1       A BILL FOR AN ACT relating to occupational therapy; to amend section  
2       38-2516, Reissue Revised Statutes of Nebraska; to adopt the  
3       Occupational Therapy Practice Interstate Compact; to authorize  
4       practice as an occupational therapist or occupational therapy  
5       assistant as prescribed; and to repeal the original section.  
6       Be it enacted by the people of the State of Nebraska,

1  
2  
3  
4

Section 1. Section 38-2516, Reissue Revised Statutes of Nebraska, is amended to read:

38-2516 (1) No person may represent himself or herself to be a licensed occupational therapist or occupational therapy assistant unless the person he or she is licensed in accordance with the Occupational Therapy Practice Act or has a compact privilege to practice in accordance with the Occupational Therapy Practice Interstate Compact.

(2) Nothing in the Occupational Therapy Practice Act ~~Nothing in such~~ act shall be construed to prevent:

(a) ~~(1)~~ Any person licensed in this state pursuant to the Uniform Credentialing Act from engaging in the profession or occupation for which he or she is licensed;

(b) ~~(2)~~ The activities and services of any person employed as an occupational therapist or occupational therapy assistant who serves in the armed forces of the United States or the United States Public Health Service or who is employed by the United States Department of Veterans Affairs or other federal agencies, if their practice is limited to that service or employment;

(c) ~~(3)~~ The activities and services of any person pursuing an accredited course of study leading to a degree or certificate in occupational therapy if such activities and services constitute a part of

1  
2  
3  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
4  
5  
6  
7  
8  
9  
10  
11  
12  
30  
31

a supervised course of study and if such a person is designated by a title which clearly indicates his or her status as a student or trainee;

(d) ~~(4)~~ The activities and services of any person fulfilling the supervised fieldwork experience requirements of sections 38-2518 and 38-2519 if such activities and services constitute a part of the experience necessary to meet the requirements of such sections; or

(e) ~~(5)~~ Qualified members of other professions or occupations, including, but not limited to, recreation specialists or therapists, special education teachers, independent living specialists, work adjustment trainers, caseworkers, and persons pursuing courses of study leading to a degree or certification in such fields, from doing work similar to occupational therapy which is consistent with their training if they do not represent themselves by any title or description to be

occupational therapists.

Sec. 2. The State of Nebraska adopts the Occupational Therapy Practice Interstate Compact in the form substantially as follows:

ARTICLE 1. PURPOSE.

The purpose of the Occupational Therapy Practice Interstate Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient or client is located at the time of the patient or client encounter. This

1

2

3

4

13 Compact preserves the regulatory authority of states to protect public  
14 health and safety through the current system of state licensure.

15 This Compact is designed to achieve the following objectives:

16 A. Increase public access to occupational therapy services by 17  
providing for the mutual recognition of other Member State licenses;

18 B. Enhance the states' ability to protect the public health and 19 safety;

20 C. Encourage the cooperation of Member States in regulating  
21 multistate occupational therapy practice;

22 D. Support spouses of relocating military members;

23 E. Enhance the exchange of licensure, investigative, and  
24 disciplinary information between Member States;

25 F. Allow a Remote State to hold a provider of services with a  
26 Compact Privilege in that state accountable to that state's practice  
27 standards; and

28 G. Facilitate the use of telehealth technology in order to increase  
29 access to occupational therapy services.

ARTICLE 2. DEFINITIONS.

As used in the Occupational Therapy Practice Interstate Compact, and  
except as otherwise provided, the following definitions apply:

5

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

6

7

B. Adverse action means any administrative, civil, equitable, or  
criminal action permitted by a state's laws which is imposed by a



1  
2  
3  
8  
10  
12  
13  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
26  
27  
28  
29  
30  
31

licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's

license or Compact Privilege such as revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

C. Alternative program means a nondisciplinary monitoring process approved by an occupational therapy licensing board to address Impaired Practitioners.

D. Compact Privilege means the authorization, which is equivalent to a license, granted by a Remote State to allow a Licensee from another Member State to practice as an occupational therapist or practice as an occupational therapy assistant in the Remote State under its laws and rules. The practice of occupational therapy occurs in the Member State where the patient or client is located at the time of the patient or client encounter.

E. Continuing Competence/Education means a requirement, as a condition of license renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to practice or area of work.

F. Current significant investigative information means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by

1

2

3

4

30 state law, has reason to believe is not groundless and, if proved  
true,

31 would indicate more than a minor infraction.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
30  
31

G. Data system means a repository of information about Licensees, including, but not limited to, licensure, investigative information, Compact Privilege, and adverse action.

H. Encumbered License means a license in which an adverse action restricts the practice of occupational therapy by the Licensee and the adverse action has been reported to the National Practitioner Data Bank.

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

J. Home State means the Member State that is the Licensee's primary state of residence.

K. Impaired Practitioner means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

L. Investigative information means information, records, or documents received or generated by an occupational therapy licensing board pursuant to an investigation.

M. Jurisprudence requirement means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

N. Licensee means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant.

1

2

3

4

24 O. Member State means a state that has enacted this Compact. 25 P.  
Occupational therapist means an individual who is licensed by a 26  
state to practice occupational therapy.

27 Q. Occupational therapy assistant means an individual who is 28 licensed by  
a state to assist in the practice of occupational therapy.

29 R. Occupational therapy, occupational therapy practice, and the practice of  
occupational therapy mean the care and services provided by an occupational  
therapist or an occupational therapy assistant as set  
forth in the Member State's statutes and regulations.

S. Occupational Therapy Interstate Compact Commission or Commission  
means the national administrative body whose membership consists of all  
states that have enacted this Compact.

5 T. Occupational therapy licensing board or licensing board means the  
6 agency of a state that is responsible for the licensing and regulation  
of 7 occupational therapists and occupational therapy assistants.

8 U. Remote State means a Member State other than the Home State, 9 where a  
Licensee is exercising or seeking to exercise the Compact 10 Privilege.

11 V. Rule means a regulation promulgated by the Commission that has 12 the  
force of law.

13 W. State means any state, commonwealth, district, or territory of  
14 the United States of America that regulates the practice of  
occupational 15 therapy.

16 X. Single-State License means an occupational therapist or  
17 occupational therapy assistant license issued by a Member State that

1  
18 authorizes practice only within the issuing state and does not include  
a 19 Compact Privilege in any other Member State.

20 Y. Telehealth means the application of telecommunication technology  
21 to deliver occupational therapy services for assessment, intervention,  
or  
22 consultation.

23 ARTICLE 3. STATE PARTICIPATION IN THIS COMPACT.

24 A. To participate in this Compact, a Member State shall:

25 1. License occupational therapists and occupational therapy 26  
assistants;

27 2. Participate fully in the data system, including using the 28 Commission's  
unique identifier as defined in Rules;

29 3. Have a mechanism in place for receiving and investigating 30 complaints  
about Licensees;

31 4. Notify the Commission, in compliance with the terms of this Compact  
and Rules, of any adverse action or the availability of 2 investigative  
information regarding a Licensee;

3 5. Implement or utilize procedures for considering the criminal  
4 history records of applicants for an initial Compact Privilege. These  
5 procedures shall include the submission of fingerprints or other  
6 biometric-based information by applicants for the purpose of obtaining  
an  
7 applicant's criminal history record information from the Federal  
Bureau  
8 of Investigation and the agency responsible for retaining that state's  
9 criminal records.

10 a. A Member State shall fully implement a criminal background check

30  
31

1

2

3

4

11 requirement, within a timeframe established by Rule, by receiving the  
12 results of the Federal Bureau of Investigation record search on  
criminal 13 background checks and use the results in making licensure  
decisions.

14 b. Communication between a Member State, the Commission, and among  
15 Member States regarding the verification of eligibility for licensure  
16 through this Compact shall not include any information received from  
the  
17 Federal Bureau of Investigation relating to a federal criminal records  
18 check performed by a Member State under Public Law 92-544.

19 6. Comply with the Rules of the Commission;

20 7. Utilize only a recognized national examination as a requirement 21  
for licensure pursuant to the Rules of the Commission; and

22 8. Have Continuing Competence/Education requirements as a condition 23 for  
license renewal.

24 B. A Member State shall grant the Compact Privilege to a Licensee  
25 holding a valid unencumbered license in another Member State in 26  
accordance with the terms of this Compact and Rules.

27 C. Member States may charge a fee for granting a Compact Privilege. 28 D. A  
Member State shall provide for the state's delegate to attend 29 all Commission  
meetings.

E. Individuals not residing in a Member State shall continue to be  
able to apply for a Member State's Single-State License as provided under

1

2

the laws of each Member State. However, the Single-State License granted to these individuals shall not be recognized as granting the Compact

3

Privilege in any other Member State.

4

F. Nothing in this Compact shall affect the requirements established

5

by a Member State for the issuance of a Single-State License.

6

ARTICLE 4. COMPACT PRIVILEGE.

7

A. To exercise the Compact Privilege under the terms and provisions 8 of this Compact, the Licensee shall:

9

1. Have a valid United States social security number or national

10

practitioner identification number;

11

2. Hold a license in the Home State;

12

3. Have no encumbrance on any state license;

13

4. Be eligible for a Compact Privilege in any Member State in 14 accordance with sections D, G, and H of this Article 4;

15

5. Have not had any adverse action against any license or Compact 16 Privilege within the previous two years;

17

6. Notify the Commission that the Licensee is seeking the Compact 18 Privilege within a Remote State(s);

19

7. Pay any applicable fees, including any state fee, for the Compact 20 Privilege;

21

8. Meet any jurisprudence requirements established by the Remote 22 State(s) in which the Licensee is seeking a Compact Privilege; and

23

9. Report to the Commission adverse action taken by any nonMember 24 State within thirty days from the date the adverse action is taken.

25

B. The Compact Privilege is valid until the expiration date of the

26

Home State license. The Licensee must comply with the requirements of

1

2

3

4

27 section A of this Article 4 to maintain this Compact Privilege in the  
28 Remote State.

29 C. A Licensee providing occupational therapy in a Remote State under  
30 the Compact Privilege shall function within the laws and regulations  
31 of

31 the Remote State.

D. Occupational therapy assistants practicing in a Remote State shall  
be supervised by an occupational therapist licensed or holding a

3 Compact Privilege in that Remote State.

4 E. A Licensee providing occupational therapy in a Remote State is  
5 subject to that state's regulatory authority. A Remote State may, in  
6 accordance with due process and that state's laws, remove a Licensee's  
7 Compact Privilege in the Remote State for a specific period of time,  
8 impose fines, and take any other necessary actions to protect the  
health 9 and safety of its citizens. The Licensee is not eligible for  
a Compact

10 Privilege in any state until the specific time for removal has passed and  
11 all fines are paid.

12 F. If a Home State license is encumbered, the Licensee shall lose  
13 the Compact Privilege in any Remote State until the following occur:

14 1. The Home State license is no longer encumbered; and

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

16 G. Once an Encumbered License in the Home State is restored to good  
17 standing, the Licensee must meet the requirements of section A of this  
18 Article 4 to obtain a Compact Privilege in any Remote State.



1  
2  
19  
20  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

H. If a Licensee's Compact Privilege in any Remote State is removed, the individual shall lose the Compact Privilege in any other Remote State until the following occur:

- 1. The specific period of time for which the Compact Privilege was removed has ended;
- 2. All fines have been paid;
- 3. Two years have elapsed from the date of the adverse action; and
- 4. The Compact Privileges are reinstated or restored through a revision to the data system.

I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous charge, privileges shall be restored through a revision to the data system.

J. Once the requirements of section H of this Article 4 have been met, the license must meet the requirements in section A of this Article 4 to obtain a Compact Privilege in a Remote State.

ARTICLE 5. CONVERTING COMPACT PRIVILEGES.

A. An occupational therapist and an occupational therapy assistant may hold a license, issued by the Home State which allows for Compact Privileges, in only one Member State at a time.

B. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two Member States:

- 1. The occupational therapist or occupational therapy assistant shall notify the current and new Member States in accordance with applicable Rules adopted by the Commission.
- 2. The current Home State shall deactivate the current license and

1  
2  
3  
4  
13  
15  
16  
17  
18  
19  
20  
22  
23  
25  
26  
27  
28  
30  
31

the new Home State shall activate the new license in accordance with applicable Rules adopted by the Commission.

3. The activation of the license in the new Home State shall be based upon the same criteria as in Article 4, which allows an occupational therapist or an occupational therapy assistant to have Compact Privileges to work in a Member State.

4. If the occupational therapist or occupational therapy assistant cannot meet the criteria in Article 4, the new Home State shall apply its requirements for issuing a new Single-State License.

5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a Member State to a nonMember State, or from a nonMember State to a Member State, the state criteria shall apply for issuance of a Single-State License in the new state.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single-State License in multiple states, however, for the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
31

purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

ARTICLE 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES. 6 Active duty

military personnel, or their spouse, shall designate a

Home State where the individual has a current license in good standing.

The individual may retain the Home State designation during the period 9  
the service member is on active duty. Subsequent to designating a Home

State, the individual shall only change their Home State through  
application for licensure in the new state.

ARTICLE 7. ADVERSE ACTIONS.

A. A Home State shall have exclusive power to impose adverse action  
14 against a license issued by the Home State.

B. In addition to the other powers conferred by state law, a Remote  
State shall have the authority, in accordance with existing state due  
17 process law, to:

1. Take adverse action against an occupational therapist's or  
occupational therapy assistant's Compact Privilege within that Member  
20 State.

2. Issue subpoenas for both hearings and investigations that require  
the attendance and testimony of witnesses as well as the production  
of  
evidence. Subpoenas issued by a licensing board in a Member State for  
the  
attendance and testimony of witnesses or the production of evidence  
from

1  
2  
3  
4  
25  
26  
27  
28  
29  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

another Member State shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in 30 which the witnesses or evidence are located.

3. Only the Home State shall have the power to take adverse action against an occupational therapist's or occupational therapy assistant's license issued by the Home State.

C. For purposes of taking adverse action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own state laws to determine appropriate action.

D. The Home State shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The Home State, where the investigations were initiated, shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the data system. The data system administrator of the coordinated licensure information system shall promptly notify the new Home State of any adverse actions.

E. A Member State, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy

1

2

3

4

18 assistant the costs of investigations and disposition of cases  
resulting

19 from any adverse action taken against that occupational therapist or  
20 occupational therapy assistant.

21 F. A Member State may take adverse action based on the factual  
22 findings of the Remote State, provided that the Member State follows  
its

23 own procedures for taking the adverse action.

24 G. Joint Investigations.

25 1. In addition to the authority granted to a Member State by its  
26 respective state occupational therapy laws and regulations or other  
27 applicable State law, any Member State may participate with other  
Member 28 States in joint investigations of Licensees.

29 2. Member States shall share any investigative, litigation, or 30 compliance  
materials in furtherance of any joint or individual  
31 investigation initiated under this Compact.

H. If an adverse action is taken by the Home State against an  
occupational therapist's or occupational therapy assistant's license, the  
occupational therapist's or occupational therapy assistant's Compact

Privilege in all other Member States shall be deactivated until all  
5 encumbrances have been removed from the state license. All Home State  
6 disciplinary orders that impose adverse action against an occupational  
7 therapist's or occupational therapy assistant's license shall include a

31

1  
2  
3  
4

8 statement that the occupational therapist's or occupational therapy 9  
assistant's Compact Privilege is deactivated in all Member States during 10  
the pendency of the order.

11 I. If a Member State takes adverse action, it shall promptly notify  
12 the administrator of the data system. The administrator of the data  
13 system shall promptly notify the Home State of any adverse actions by  
14 Remote States.

15 J. Nothing in this Compact shall override a Member State's decision  
16 that participation in an alternative program may be used in lieu of  
17 adverse action.

18 ARTICLE 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT 19 COMMISSION.

20 A. The Member States hereby create and establish a joint public  
21 agency known as the Occupational Therapy Interstate Compact  
Commission:

22 1. The Commission is an instrumentality of the Compact States.  
23 2. Venue is proper and judicial proceedings by or against the  
24 Commission shall be brought solely and exclusively in a court of  
25 competent jurisdiction where the principal office of the Commission  
is  
26 located. The Commission may waive venue and jurisdictional defenses  
to  
27 the extent it adopts or consents to participate in alternative dispute  
28 resolution proceedings.

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

B. Membership, Voting, and Meetings.

1  
2  
3  
4

1. Each Member State shall have and be limited to one delegate selected by that Member State's licensing board.

2. The delegate shall be a current member of the licensing board, who is an occupational therapist, occupational therapy assistant, public member, or the board administrator.

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 in the Commission within sixty days.

5. Each delegate shall be 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.

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

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws. 7. Terms for delegates shall be three years. Delegates shall not

serve more than two terms.

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

1. Establish a Code of Ethics for the Commission;

2. Establish the fiscal year of the Commission;

3. Establish bylaws;

31

1  
2  
3  
4  
24  
25  
27  
5  
6  
7  
8  
10  
11  
12  
41  
29  
30  
31

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

5. Meet and take such actions as are consistent with the provisions  
26 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;

7. Bring and prosecute legal proceedings or actions in the name of the  
Commission, provided that the standing of any state 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 such individuals appropriate authority to carry out  
the purposes of this Compact, and to establish the Commission's  
personnel  
policies and programs relating to conflicts of interest,  
qualifications 9 of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money,  
equipment, supplies, materials, and services, and to receive, utilize,  
and dispose of the same; provided that at all times the Commission  
shall 13 avoid any appearance of impropriety or conflict of interest;



1

2

3

4

14 12. Lease, purchase, accept appropriate gifts or donations of, or  
15 otherwise to own, hold, improve, or use, any property, real, personal,  
or

16 mixed; provided that at all times the Commission shall avoid any 17  
appearance of impropriety;

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

20 14. Establish a budget and make expenditures;

21 15. Borrow money;

22 16. Appoint committees, including standing committees composed of  
23 members, state regulators, state legislators or their representatives,  
24 and consumer representatives, and such other interested persons as  
may be 25 designated in this Compact and the bylaws;

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

28 18. Establish and elect an executive committee; and

29 19. Perform such other functions as may be necessary or appropriate  
30 to achieve the purposes of this Compact consistent with the state  
regulation of occupational therapy licensure and practice.

D. The Executive Committee.

The executive committee shall have the power to act on behalf of the  
Commission according to the terms of this Compact.

1. The executive committee shall be composed of nine members:

5 a. Seven voting members who are elected by the Commission from the 6 current  
membership of the Commission;

31

1  
2  
3  
4  
7  
9  
11  
13  
14  
15  
16  
18  
19  
20  
22  
23  
24  
25  
26  
27  
41  
29  
30  
31

b. One ex officio, nonvoting member from a recognized national occupational therapy professional association; and

c. One ex officio, nonvoting member from a recognized national occupational therapy certification organization.

2. The ex officio members will be selected by their respective organizations.

3. The Commission may remove any member of the executive committee as provided in bylaws.

4. The executive committee shall meet at least annually.

5. The executive committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact, fees paid by 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;

1  
2  
3  
4

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.E. Meetings  
of the Commission.

1. All meetings shall be open to the public, and public notice of

1

meetings shall be given in the same manner as required under the

2

Rulemaking provisions in Article 10.

3

2. The Commission or the executive committee or other committees of

4

the Commission may convene in a closed, nonpublic meeting if the

5

Commission or executive committee or other committees of the

Commission 6 must discuss:

7

a. Noncompliance of a Member State with its obligations under this 8 Compact;

9

b. The employment, compensation, discipline, or other matters,

10

practices, or procedures related to specific employees or other  
matters

11

related to the Commission's internal personnel practices and  
procedures;

12

c. Current, threatened, or reasonably anticipated litigation;

13

d. Negotiation of contracts for the purchase, lease, or sale of

14

goods, services, or real estate;

15

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

16

f. Disclosure of trade secrets or commercial or financial

17

information that is privileged or confidential;

18

g. Disclosure of information of a personal nature where disclosure 19

would constitute a clearly unwarranted invasion of personal privacy;

20

h. Disclosure of investigative records compiled for law enforcement 21

purposes;

22

i. Disclosure of information related to any investigative reports

23

prepared by or on behalf of or for use of the Commission or other

24

committee charged with responsibility of investigation or

determination 25 of compliance issues pursuant to this Compact; or

26

j. Matters specifically exempted from disclosure by federal or 27 Member

State statute.

1  
28 3. If a meeting, or portion of a meeting, is closed pursuant to this  
29 provision, the Commission's legal counsel or designee shall certify  
that  
30 the meeting may be closed and shall reference each relevant exempting  
31 provision.

4. 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 therefor, including a description  
of the views expressed. All documents considered in  
5 connection with an action shall be identified in such minutes. All  
6 minutes and documents of a closed meeting shall remain under seal,  
7 subject to release by a majority vote of the Commission or order of  
a  
8 court of competent jurisdiction.

9 F. Financing of the Commission.

10 1. The Commission shall pay, or provide for the payment of, the  
11 reasonable expenses of its establishment, organization, and ongoing  
12 activities.

13 2. The Commission may accept any and all appropriate revenue  
14 sources, donations, and grants of money, equipment, supplies,  
materials, 15 and services.

16 3. The Commission may levy on and collect an annual assessment from  
17 each Member State or impose fees on other parties to cover the cost  
of  
18 the operations and activities of the Commission and its staff, which  
must

41  
29  
30  
31

1  
2  
3  
4  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

be in a total amount sufficient to cover its annual budget as approved by

the Commission 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 23 a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the 27 authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public

accountant, and the report of the audit shall be included in and become

part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification.

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and

1  
2  
3  
4  
5  
6 liability, either personally or in their official capacity, for any  
7 claim  
8 for damage to or loss of property or personal injury or other civil 9  
9 liability caused by or arising out of any actual or alleged act,  
10 error,  
11 or omission that occurred, or that the person against whom the claim is  
12 made had a reasonable basis for believing occurred within the scope of  
13 Commission employment, duties, or responsibilities; provided that nothing  
14 in this paragraph shall be construed to protect any such person from suit  
15 or liability for any damage, loss, injury, or liability caused by the  
16 intentional or willful or wanton misconduct of that person.

17 2. The Commission shall defend any member, officer, executive  
18 director, employee, or representative of the Commission in any civil  
19 action seeking to impose liability arising out of any actual or alleged  
20 act, error, or omission that occurred within the scope of Commission  
21 employment, duties, or responsibilities, or that the person against  
22 whom  
23 the claim is made had a reasonable basis for believing occurred within  
24 the scope of Commission employment, duties, or responsibilities;  
25 provided  
26 that nothing herein shall be construed to prohibit that person from  
27 retaining his or her own counsel; and provided further, that the  
28 actual  
29 or alleged act, error, or omission did not result from that person's  
30 intentional or willful or wanton misconduct.

31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55

1  
2  
3  
4

27 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 such 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

5 misconduct of that person.

6 ARTICLE 9. DATA SYSTEM.

7 A. The Commission shall provide for the development, maintenance,

8 and utilization of a coordinated data base and reporting system 9  
containing licensure, adverse action, and investigative information on 10 all  
licensed individuals in Member States.

11 B. A Member State shall submit a uniform data set to the data system  
12 on all individuals to whom this Compact is applicable as required by the

13 Rules of the Commission, including:

14 1. Identifying information;

15 2. Licensure data;

16 3. Adverse actions against a license or Compact Privilege;

41  
29  
30  
31



- 1  
17 4. Nonconfidential information related to alternative program 18  
participation;
- 19 5. Any denial of application for licensure, and the reason for such 20 denial;
- 21 6. Other information that may facilitate the administration of this  
22 Compact, as determined by the Rules of the Commission; and
- 23 7. Current significant investigative information.
- 24 C. Investigative information pertaining to a Licensee in any Member  
25 State will only be available to other Member States.
- 26 D. The Commission shall promptly notify all Member States of any  
27 adverse action taken against a Licensee or an individual applying for  
a license. Adverse action information pertaining to a Licensee in any  
Member State will be available to any other Member State.
- E. Member States contributing information to the data system may  
designate information that may not be shared with the public without the

41  
29  
30  
31

1 express permission of the contributing state.

2 F. Any information submitted to the data system that is subsequently  
3 required to be expunged by the laws of the Member State contributing  
4 the

4 information shall be removed from the data system.

5 ARTICLE 10. RULEMAKING.

6 A. The Commission shall exercise its Rulemaking powers pursuant to  
7 the criteria set forth in this Article and the Rules adopted  
8 thereunder.

8 Rules and amendments shall become binding as of the date specified in  
9 each Rule or amendment.

10 B. If a majority of the legislatures of the Member States rejects a  
11 Rule, by enactment of a statute or resolution in the same manner used  
12 to

12 adopt this Compact within four years of the date of adoption of the  
13 Rule,

13 then such Rule shall have no further force and effect in any Member  
14 State.

15 C. Rules or amendments to the Rules shall be adopted at a regular or 16  
16 special meeting of the Commission.

17 D. Prior to promulgation and adoption of a final Rule or Rules by  
18 the Commission, and at least thirty days in advance of the meeting at  
19 which the Rule will be considered and voted upon, the Commission shall  
20 file a Notice of Proposed Rulemaking:

21 1. On the web site of the Commission or other publicly accessible 22 platform;  
22 and

23 2. On the web site of each Member State occupational therapy  
24 licensing board or other publicly accessible platform or the  
25 publication

25 in which each State would otherwise publish proposed Rules.

31

1  
2  
3  
4  
26  
27  
29  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
41  
29  
30  
31

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;

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

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

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

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

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

- 1. At least twenty-five persons;
- 2. A State or federal governmental subdivision or agency; or
- 3. An association or organization having at least twenty-five members.

H. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the

1  
2  
3  
4  
17

Commission shall publish the mechanism for access to the electronic  
18 hearing.

19  
20  
21  
22

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

23  
24

2. Hearings shall be conducted in a manner providing each person who  
wishes to comment a fair and reasonable opportunity to comment orally  
or 25 in writing.

26

3. All hearings will be recorded. A copy of the recording will be 27 made  
available on request.

28

4. Nothing in this Article shall be construed as requiring a 29 separate  
hearing on each Rule.

30  
31

Rules may be grouped for the convenience of the Commission at  
hearings required by this Article.

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

J. If no written notice of intent to attend the public hearing by  
5 interested parties is received, the Commission may proceed with 6  
promulgation of the proposed Rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final  
7 action on the proposed Rule and shall determine the effective date of the  
8 Rule, if any, based on the Rulemaking record and the full text of the 10  
Rule.

1  
2  
3  
4  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
  
41  
29  
30  
31

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

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the web site of the Commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that

- 1
- 2
- 3
- 4

the revision results in a material change to a Rule. A challenge shall  
be made in

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each Member State shall enforce this Compact and take all 9 actions necessary and appropriate to effectuate this Compact's purposes

and intent. The provisions of this Compact and the Rules promulgated 11 hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of this Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the 15 powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the

Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

1  
2  
3  
4  
21  
22  
23  
25  
26  
27  
5  
6  
7  
8  
9  
10  
11  
12

B. Default, Technical Assistance, and Termination.

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact 24 or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting state and other Member States of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from this Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.



1  
2  
3  
4  
14  
15  
16  
18  
19  
20  
22  
23  
24  
25  
27  
41  
29  
30  
31

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from this Compact, unless agreed upon in writing between the Commission and the defaulting 17 state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. 21 The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution.

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to this Compact that arise among Member States 26 and between member and nonMember States.

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

D. Enforcement.

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

1  
2  
3  
4

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of this Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

9  
10

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

12  
13

ARTICLE 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT.

15  
16

A. This Compact shall come into effect on the date on which this Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the

17  
18

powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise

19  
20

Rulemaking powers necessary to the implementation and administration of this Compact.

22  
23

B. Any state that joins this Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist

1

2

3

4

24 on the date on which this Compact becomes law in that state. Any Rule  
25 that has been previously adopted by the Commission shall have the full  
26 force and effect of law on the day this Compact becomes law in that  
27 State.

28 C. Any Member State may withdraw from this Compact by enacting a 29 statute  
repealing the same.

30 1. A Member State's withdrawal shall not take effect until six  
31 months after enactment of the repealing statute.

41

29

30

31

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

5 D. Nothing contained in this Compact shall be construed to  
6 invalidate or prevent any occupational therapy licensure agreement or  
7 other cooperative arrangement between a Member State and a nonMember  
8 State that does not conflict with the provisions of this Compact.

9 E. This Compact may be amended by the Member States. No amendment to  
10 this Compact shall become effective and binding upon any Member State  
11 until it is enacted into the laws of all Member States.

12 ARTICLE 13. CONSTRUCTION AND SEVERABILITY.

13 This Compact shall be liberally construed so as to effectuate the  
14 purposes thereof. The provisions of this Compact shall be severable  
15 and  
16 if any phrase, clause, sentence, or provision of this Compact is  
17 declared  
18 to be contrary to the constitution of any Member State or of the  
19 United  
20 States or the applicability thereof to any government, agency, person,  
21 or  
22 circumstance is held invalid, the validity of the remainder of this  
23 Compact and the applicability thereof to any government, agency,  
24 person,  
25 or circumstance shall not be affected thereby. If this Compact shall  
26 be  
27 held contrary to the constitution of any Member State, this Compact  
28 shall  
29 remain in full force and effect as to the remaining Member States and  
30 in  
31 full force and effect as to the Member State affected as to all  
32 severable  
33 matters.

1  
2  
3

4  
25 ARTICLE 14. BINDING EFFECT OF COMPACT AND OTHER LAWS.

26 A. A Licensee providing occupational therapy in a Remote State under  
27 the Compact Privilege shall function within the laws and regulations  
of 28 the Remote State.

29 B. Nothing herein prevents the enforcement of any other law of a 30 Member  
State that is not inconsistent with this Compact.

C. Any laws in a Member State in conflict with this Compact are  
1 superseded to the extent of the conflict.

2 D. Any lawful actions of the Commission, including all Rules and 3 bylaws  
promulgated by the Commission, are binding upon the Member States. 4 E.  
All agreements between the Commission and the Member States are 5 binding  
in accordance with their terms.

6 F. In the event any provision of this Compact exceeds the  
7 constitutional limits imposed on the legislature of any Member State,  
the  
8 provision shall be ineffective to the extent of the conflict with the  
9 constitutional provision in question in that Member State.

10 Sec. 3. Original section 38-2516, Reissue Revised Statutes of  
11 Nebraska, is repealed.

31

**SOUTH CAROLINA**  
**H 3559**

1  
2  
3 **A BILL**  
4

5 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING  
6 ARTICLE 3 TO CHAPTER 36, TITLE 40 SO AS TO ENACT THE "OCCUPATIONAL  
7 THERAPY LICENSURE COMPACT" WHICH ENTERS SOUTH CAROLINA INTO A  
8 MULTISTATE OCCUPATIONAL LICENSURE COMPACT TO PROVIDE FOR THE  
9 RECIPROCAL PRACTICE OF OCCUPATIONAL THERAPY AMONG THE STATES  
10 THAT ARE PARTIES TO THE COMPACT; AND TO DESIGNATE THE EXISTING  
11 SECTIONS OF CHAPTER 36 AS ARTICLE 1, ENTITLED "GENERAL  
12 PROVISIONS".

13  
14 Be it enacted by the General Assembly of the State of South Carolina:

15  
16 SECTION 1. Chapter 36, Title 40 of the 1976 Code is amended by adding:

17  
18 "Article 3

19  
20 Occupational Therapy Licensure Compact  
21

22 Section 40-36-510. (A) The purpose of this compact is to facilitate interstate  
23 practice of occupational therapy with the goal of improving public access to  
24 occupational therapy services. The practice of occupational therapy occurs in  
25 the state where the patient/client is located at the time of the patient/client  
26 encounter. The compact preserves the regulatory authority of states to protect  
27 public health and safety through the current system of state licensure.

28 (B) This compact is designed to achieve the following objectives:

29 (1) increase public access to occupational therapy services by providing  
30 for the mutual recognition of other member state licenses;

31 (2) enhance the ability of the states to protect the health and safety of the  
32 public;

33 (3) encourage the cooperation of member states in regulating multistate  
34 occupational therapy practice;

35 (4) support spouses of relocating military members;

36 (5) enhance the exchange of licensure, investigative, and disciplinary  
37 information between member states;

38 (6) allow a remote state to hold a provider of services with a compact  
39 privilege in that state accountable to the practice standards of that state; and

40 (7) facilitate the use of telehealth technology in order to increase access  
41 to occupational therapy services.

42  
43 Section 40-36-520. As used in this compact and except as otherwise  
44 provided:

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

5 (2) 'Adverse action' means any administrative, civil, equitable, or criminal  
6 action permitted by the laws of a state that is imposed by a licensing board or  
7 other authority against an occupational therapist or occupational therapy  
8 assistant, including actions against the license or compact privilege of an  
9 individual, such as censure, revocation, suspension, probation, monitoring of  
10 the licensee, or restriction on the practice of the licensee.

11 (3) 'Alternative program' means a nondisciplinary monitoring process  
12 approved by an occupational therapy licensing board.

13 (4) 'Compact privilege' means the authorization, which is equivalent to a  
14 license, granted by a remote state to allow a licensee from another member  
15 state to practice as an occupational therapist or practice as an occupational  
16 therapy assistant in the remote state under its laws and rules. The practice of  
17 occupational therapy occurs in the member state where the patient/client is  
18 located at the time of the patient/client encounter.

19 (5) 'Continuing competence/education' means a requirement, as a  
20 condition of license renewal, to provide evidence of participation in, and  
21 completion of, educational and professional activities relevant to practice or  
22 area of work.

23 (6) 'Current significant investigative information' means investigative  
24 information that a licensing board, after an inquiry or investigation that  
25 includes notification and an opportunity for the occupational therapist or  
26 occupational therapy assistant to respond, if required by state law, has reason  
27 to believe is not groundless and, if proved true, would indicate more than a  
28 minor infraction.

29 (7) 'Data system' means a repository of information about licensees  
30 including, but not limited to, license status, investigative information, compact  
31 privileges, and adverse actions.

32 (8) 'Encumbered license' means a license in which an adverse action  
33 restricts the practice of occupational therapy by the licensee or said adverse  
34 action has been reported to the National Practitioners Data Bank (NPDB).

35 (9) 'Executive committee' means a group of directors elected or appointed  
36 to act on behalf of, and within the powers granted to them by, the commission.

37 (10) 'Home state' means the member state that is the licensee's primary  
38 state of residence.

39 (11) 'Impaired practitioner' means individuals whose professional practice  
40 is adversely affected by substance abuse, addiction, or other health-related  
41 conditions.

42 (12) 'Investigative information' means information, records, and  
43 documents received or generated by an occupational therapy licensing board  
44 pursuant to an investigation.



1 (13) 'Jurisprudence requirement' means the assessment of an individual's  
2 knowledge of the laws and rules governing the practice of occupational  
3 therapy in a state.

4 (14) 'Licensee' means an individual who currently holds an authorization  
5 from the state to practice as an occupational therapist or as an occupational  
6 therapy assistant.

7 (15) 'Member state' means a state that has enacted the compact.

8 (16) 'Occupational therapist' means an individual who is licensed by a  
9 state to practice occupational therapy.

10 (17) 'Occupational therapy assistant' means an individual who is licensed  
11 by a state to assist in the practice of occupational therapy.

12 (18) 'Occupational therapy,' 'occupational therapy practice,' or the  
13 'practice of occupational therapy' means the care and services provided by an  
14 occupational therapist or an occupational therapy assistant as set forth in the  
15 statutes and regulations of the member state.

16 (19) 'Occupational Therapy Compact Commission' or 'commission' means  
17 the national administrative body whose membership consists of all states that  
18 have enacted the compact.

19 (20) 'Occupational therapy licensing board' or 'licensing board' means the  
20 agency of a state that is authorized to license and regulate occupational  
21 therapists and occupational therapy assistants.

22 (21) 'Primary state of residence' means the state, also known as the home  
23 state, in which an occupational therapist or occupational therapy assistant who  
24 is not active duty military declares a primary residence for legal purposes as  
25 verified by a driver's license, federal income tax return, lease, deed,  
26 mortgage, voter registration, or other verifying documentation as further  
27 defined by commission rules.

28 (22) 'Remote state' means a member state, other than the home state,  
29 where a licensee is exercising or seeking to exercise the compact privilege.

30 (23) 'Rule' means a regulation promulgated by the commission that has  
31 the force of law.

32 (24) 'State' means a state, commonwealth, district, or territory of the  
33 United States of America that regulates the practice of occupational therapy.

34 (25) 'Single-state license' means an occupational therapist license or  
35 occupational therapy assistant license issued by a member state that  
36 authorizes practice only within the issuing state and does not include a  
37 compact privilege in another member state.

38 (26) 'Telehealth' means the application of telecommunication technology  
39 to deliver occupational therapy services for:

40 (a) assessment;

41 (b) intervention;

42 (c) consultation; or

43 (d) any combination of (a) through (c).

44

1 Section 40-36-530. (A) To participate in the compact, a member state shall:  
2 (1) license occupational therapists and occupational therapy assistants;  
3 (2) participate fully in the commission's data system including, but not  
4 limited to, using the commission's unique identifier as defined in rules of the  
5 commission;  
6 (3) have a mechanism in place for receiving and investigating complaints  
7 about licensees;  
8 (4) notify the commission, in compliance with the terms of the compact  
9 and rules, of an adverse action or the availability of investigative information  
10 regarding a licensee;  
11 (5) implement or use procedures for considering the criminal history  
12 records of applicants for an initial compact privilege, provided these  
13 procedures must include the submission of fingerprints or other  
14 biometric-based information by applicants for the purpose of obtaining an  
15 applicant's criminal history record information from the Federal Bureau of  
16 Investigation and the agency responsible for retaining that state's criminal  
17 records, and:  
18 (a) within a period established by the commission, require a criminal  
19 background check for a licensee seeking or applying for a compact privilege  
20 whose primary date of residence is that member state, by receiving the results  
21 of the Federal Bureau of Investigation criminal record search, and shall use  
22 the results in making licensure decisions; and  
23 (b) ensure communication between a member state, the commission,  
24 and among member states regarding the verification of eligibility for licensure  
25 through the compact may not include information received from the Federal  
26 Bureau of Investigation relating to a federal criminal records check performed  
27 by a member state under Public Law 92-544;  
28 (6) comply with the rules of the commission;  
29 (7) use only a recognized national examination as a requirement for  
30 licensure pursuant to the rules of the commission; and  
31 (8) have continuing competence/education requirements as a condition for  
32 license renewal.  
33 (B) A member state shall grant the compact privilege to a licensee holding a  
34 valid unencumbered license in another member state in accordance with the  
35 terms of the compact and rules.  
36 (C) A member state may charge a fee for granting a compact privilege.  
37 (D) A member state shall provide for the state's delegate to attend all  
38 occupational therapy compact commission meetings.  
39 (E) An individual not residing in a member state shall continue to be able to  
40 apply for a member state's single-state license as provided under the laws of  
41 each member state. However, the single-state license granted to these  
42 individuals may not be recognized as granting the compact privilege in another  
43 member state.

1 (F) Nothing in this compact may affect the requirements established by a  
2 member state for the issuance of a single-state license.

3  
4 Section 40-36-540.(A) To exercise the compact privilege under the terms  
5 and provisions of the compact, the licensee shall:

6 (1) hold a license in the home state;

7 (2) have a valid United States Social Security Number or national  
8 practitioner identification number;

9 (3) have no encumbrance on a state license;

10 (4) be eligible for a compact privilege in a member state in accordance  
11 with subsections (D), (F), (G), and (H);

12 (5) have paid all fines and completed all requirements resulting from an  
13 adverse action against a license or compact privilege, and two years have  
14 elapsed from the date of such completion;

15 (6) notify the commission that the licensee is seeking the compact  
16 privilege within a remote state;

17 (7) pay applicable fees, including a state fee, for the compact privilege;

18 (8) complete a criminal background check in accordance with Section  
19 40-36-530(A)(5), provided the licensee must be responsible for the payment  
20 of a fee associated with the completion of a criminal background check;

21 (9) meet jurisprudence requirements established by the remote state in  
22 which the licensee is seeking a compact privilege; and

23 (10) report to the commission adverse action taken by a nonmember state  
24 within thirty days from the date the adverse action is taken.

25 (B) The compact privilege is valid until the expiration date of the home state  
26 license. The licensee must comply with the requirements of subsection (A) to  
27 maintain the compact privilege in the remote state.

28 (C) A licensee providing occupational therapy in a remote state under the  
29 compact privilege shall function within the laws and regulations of the remote  
30 state.

31 (D) Occupational therapy assistants practicing in a remote state must be  
32 supervised by an occupational therapist licensed or holding a compact  
33 privilege in that remote state.

34 (E) A licensee providing occupational therapy in a remote state is subject to  
35 that state's regulatory authority. A remote state may, in accordance with due  
36 process and that state's laws, remove a licensee's compact privilege in the  
37 remote state for a specific period, impose fines, and take other necessary  
38 actions to protect the health and safety of its citizens. The licensee may be  
39 ineligible for a compact privilege in any state until the specific time for removal  
40 has passed and all fines are paid.

41 (F) If a home state license is encumbered, the licensee shall lose the  
42 compact privilege in any remote state until the following occur:

43 (1) the home state license is no longer encumbered; and

1 (2) two years have elapsed from the date on which the home state license  
2 is no longer encumbered in accordance with item (1).

3 (G) Once an encumbered license in the home state is restored to good  
4 standing, the licensee must meet the requirements of subsection (A) to obtain  
5 a compact privilege in a remote state.

6 (H) If a licensee's compact privilege in a remote state is removed, the  
7 individual may lose the compact privilege in any other remote state until the  
8 following occur:

9 (1) the specific period of time for which the compact privilege was removed  
10 has ended;

11 (2) all fines have been paid and all conditions have been met;

12 (3) two years have elapsed from the date of completing requirements for  
13 items (1) and (2); and

14 (4) the compact privileges are reinstated by the commission, and the  
15 compact data system is updated to reflect reinstatement.

16 (I) If a licensee's compact privilege in a remote state is removed due to an  
17 erroneous charge, privileges must be restored through the compact data  
18 system.

19 (J) Once the requirements of subsection (H) have been met, the license  
20 must meet the requirements in subsection (A) to obtain a compact privilege  
21 in a remote state.

22

23 Section 40-36-550.(A) An occupational therapist or occupational therapy  
24 assistant may hold a home state license, which allows for compact privileges  
25 in member states, in only one member state at a time.

26 (B) If an occupational therapist or occupational therapy assistant changes  
27 primary state of residence by moving between two member states:

28 (1) the occupational therapist or occupational therapy assistant shall file  
29 an application for obtaining a new home state license by virtue of a compact  
30 privilege, pay all applicable fees, and notify the current and new home states  
31 in accordance with applicable rules adopted by the commission;

32 (2) upon receipt of an application for obtaining a new home state license  
33 by virtue of compact privilege, the new home state shall verify that the  
34 occupational therapist or occupational therapy assistant meets the pertinent  
35 criteria outlined in Section 40-36-540 by means of the data system, without  
36 need for primary source verification except for:

37 (a) an FBI fingerprint-based criminal background check if not previously  
38 performed or updated pursuant to applicable rules adopted by the commission  
39 in accordance with Public Law 92-544;

40 (b) other criminal background check as required by the new home state;  
41 and

42 (c) submission of requisite jurisprudence requirements of the new home  
43 state;

1 (3) the former home state shall convert the former home state license into  
2 a compact privilege once the new home state has activated the new home  
3 state license in accordance with applicable rules adopted by the commission;

4 (4) notwithstanding another provision of this compact, if the occupational  
5 therapist or occupational therapy assistant cannot meet the criteria in Section  
6 40-36-540, the new home state shall apply its requirements for issuing a new  
7 single-state license; and

8 (5) the occupational therapist or the occupational therapy assistant shall  
9 pay all applicable fees to the new home state in order to be issued a new home  
10 state license.

11 (C) If an occupational therapist or occupational therapy assistant changes  
12 primary state of residence by moving from a member state to a nonmember  
13 state, or from a nonmember state to a member state, the state criteria applies  
14 for issuance of a single-state license in the new state.

15 (D) Nothing in this compact may be construed to interfere with the ability of  
16 a licensee to hold a single-state license in multiple states; however, for the  
17 purposes of this compact, a licensee only may have one home state license.

18 (E) Nothing in this compact maybe construed to affect the requirements  
19 established by a member state for the issuance of a single-state license.

20

21 Section 40-36-560. Active duty military personnel, or their spouses, shall  
22 designate a home state where the individual has a current license in good  
23 standing. The individual may retain the home state designation during the  
24 period the service member is on active duty. Subsequent to designating a  
25 home state, the individual only shall change their home state through  
26 application for licensure in the new state or through the process described in  
27 Section 40-36-550.

28

29 Section 40-36-570. (A) A home state has exclusive power to impose adverse  
30 action against an occupational therapist license or occupational therapy  
31 assistant license issued by the home state.

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

34 (1) take adverse action against an occupational therapist's or occupational  
35 therapy assistant's compact privilege within that member state; and

36 (2) issue subpoenas for both hearings and investigations that require the  
37 attendance and testimony of witnesses as well as the production of evidence.  
38 Subpoenas issued by a licensing board in a member state for the attendance  
39 and testimony of witnesses or the production of evidence from another  
40 member state must be enforced in the latter state by a court of competent  
41 jurisdiction, according to the practice and procedure of that court applicable  
42 to subpoenas issued in proceedings pending before it. The issuing authority  
43 shall pay witness fees, travel expenses, mileage, and other fees required by

1 the service statutes of the state in which the witnesses or evidence are  
2 located.

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

7 (D) The home state shall complete pending investigations of an occupational  
8 therapist or occupational therapy assistant who changes primary state of  
9 residence during the course of the investigations. The home state, where the  
10 investigations were initiated, also shall have the authority to take appropriate  
11 action and promptly shall report the conclusions of the investigations to the  
12 occupational therapy compact commission data system. The data system  
13 administrator shall promptly notify the new home state of adverse actions.

14 (E) A member state, if otherwise permitted by state law, may recover from  
15 the affected occupational therapist or occupational therapy assistant the costs  
16 of investigations and disposition of cases resulting from an adverse action  
17 taken against that occupational therapist or occupational therapy assistant.

18 (F) A member state may take adverse action based on the factual findings  
19 of the remote state if the member state follows its own procedures for taking  
20 the adverse action.

21 (G) In addition to the authority granted to a member state by its respective  
22 state occupational therapy laws and regulations or other applicable state law,  
23 a member state may participate with other member states in joint  
24 investigations of licensees. In such joint investigations, member states shall  
25 share investigative, litigation, or compliance materials in furtherance of any  
26 joint or individual investigation initiated under the compact.

27 (H) If an adverse action is taken by the home state against an occupational  
28 therapist license or occupational therapy assistant license, the compact  
29 privilege of the occupational therapist or occupational therapy assistant in all  
30 other member states must be deactivated until all encumbrances have been  
31 removed from the state license. All home state disciplinary orders that impose  
32 adverse action against an occupational therapist license or occupational  
33 therapy assistant license shall include a statement that the compact privilege  
34 of the occupational therapist or occupational therapy assistant is deactivated  
35 in all member states during the pendency of the order.

36 (I) If a member state takes adverse action, it promptly shall notify the data  
37 system administrator, who promptly shall notify the home state of adverse  
38 actions by remote states.

39 (J) Nothing in this compact may be construed to override a member state's  
40 decision that participation in an alternative program may be used in lieu of  
41 adverse action.

42

1 Section 40-36-580.(A) The compact member states hereby create and  
2 establish a joint public agency known as the 'Occupational Therapy Compact  
3 Commission'.

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

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

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

12 (B) With respect to commission membership, voting, and meetings:

13 (1) each member state has, and is limited to, one delegate selected by  
14 that member state's licensing board;

15 (2) the delegate must be either:

16 (a) a current member of the licensing board, who is an occupational  
17 therapist, occupational therapy assistant, or public member; or

18 (b) an administrator of the licensing board;

19 (3) a delegate may be removed or suspended from office as provided by  
20 the law of the state from which the delegate is appointed;

21 (4) the member state board shall fill a vacancy occurring in the commission  
22 within ninety days;

23 (5) each delegate is entitled to one vote with regard to the promulgation  
24 of rules and creation of bylaws and shall otherwise have an opportunity to  
25 participate in the business and affairs of the commission, provided a delegate  
26 shall vote in person or by such other means as provided in the bylaws, and  
27 the bylaws may provide for delegates' participation in meetings by telephone  
28 or other means of communication;

29 (6) the commission shall meet at least once during each calendar year and  
30 additional meetings must be held as set forth in the bylaws; and

31 (7) the commission shall establish by rule a term of office for delegates.

32 (C) The commission has powers and duties to:

33 (1) establish a code of ethics for the commission;

34 (2) establish the fiscal year of the commission;

35 (3) establish bylaws;

36 (4) maintain its financial records in accordance with the bylaws;

37 (5) meet and take such actions as are consistent with the provisions of this  
38 compact and the bylaws;

39 (6) promulgate uniform rules to facilitate and coordinate implementation  
40 and administration of this compact, which have the force and effect of law and  
41 are binding in all member states;

42 (7) bring and prosecute legal proceedings or actions in the name of the  
43 commission if the standing of a state occupational therapy licensing board to  
44 sue or be sued under applicable law may not be affected;

1 (8) purchase and maintain insurance and bonds;  
2 (9) borrow, accept, or contract for services of personnel including, but not  
3 limited to, employees of a member state;  
4 (10) hire employees, elect or appoint officers, fix compensation, define  
5 duties, grant such individuals appropriate authority to carry out the purposes  
6 of the compact, and establish the commission's personnel policies and  
7 programs relating to conflicts of interest, qualifications of personnel, and other  
8 related personnel matters;  
9 (11) accept appropriate donations and grants of money, equipment,  
10 supplies, materials and services, and receive, and use and dispose of them;  
11 provided that the commission shall avoid any appearance of impropriety, or  
12 conflict of interest;  
13 (12) lease, purchase, accept appropriate gifts or donations of, or  
14 otherwise own, hold, improve or use, any property, real, personal or mixed;  
15 provided that at all times the commission shall avoid any appearance of  
16 impropriety;  
17 (13) sell, convey, mortgage, pledge, lease, exchange, abandon, or  
18 otherwise dispose of real property, personal property, or a mixture of real and  
19 personal property;  
20 (14) establish a budget and make expenditures;  
21 (15) borrow money;  
22 (16) appoint committees, including standing committees composed of  
23 members, state regulators, state legislators or their representatives, and  
24 consumer representatives, and such other interested persons as may be  
25 designated in this compact and the bylaws;  
26 (17) provide and receive information from, and cooperate with, law  
27 enforcement agencies;  
28 (18) establish and elect an executive committee; and  
29 (19) perform such other functions as may be necessary or appropriate to  
30 achieve the purposes of this compact consistent with the state regulation of  
31 occupational therapy licensure and practice.  
32 (D) With respect to the executive committee:  
33 (1) the executive committee may act on behalf of the commission  
34 according to the terms of this compact;  
35 (2) the executive committee is composed of nine members, consisting of:  
36 (a) seven voting members who are elected by the commission from the  
37 current membership of the commission;  
38 (b) one ex officio, nonvoting member from a recognized national  
39 occupational therapy professional association; and  
40 (c) one ex officio, nonvoting member from a recognized national  
41 occupational therapy certification organization;  
42 (3) the ex officio members must be selected by their respective  
43 organizations;



1 (4) the commission may remove a member of the executive committee as  
2 provided in bylaws;

3 (5) the executive committee shall meet at least annually; and

4 (6) the executive committee has the duties and responsibilities to:

5 (a) recommend to the entire commission changes to the rules or bylaws,  
6 changes to this compact legislation, fees paid by compact member states such  
7 as annual dues, and any commission compact fee charged to licensees for the  
8 compact privilege;

9 (b) ensure compact administration services are appropriately provided,  
10 contractual or otherwise;

11 (c) prepare and recommend the budget;

12 (d) maintain financial records on behalf of the commission;

13 (e) monitor compact compliance of member states and provide  
14 compliance reports to the commission;

15 (f) establish additional committees as necessary; and

16 (g) perform other duties as provided in rules or bylaws.

17 (E) With respect to meetings of the commission:

18 (1) all meetings of the commission are open to the public, and public notice  
19 of meetings must be given in the same manner as required under the  
20 rulemaking provisions in Section 40-36-600;

21 (2) the commission, executive committee, or other committees of the  
22 commission may convene in a closed, nonpublic meeting if the commission,  
23 executive committee, or other committees of the commission must discuss:

24 (a) noncompliance of a member state with its obligations under the  
25 compact;

26 (b) the employment, compensation, discipline or other matters, practices  
27 or procedures related to specific employees or other matters related to the  
28 commission's internal personnel practices and procedures;

29 (c) current, threatened, or reasonably anticipated litigation;

30 (d) negotiation of contracts for the purchase, lease, or sale of goods,  
31 services, or real estate;

32 (e) accusing a person of a crime or formally censuring a person;

33 (f) disclosure of trade secrets or commercial or financial information that  
34 is privileged or confidential;

35 (g) disclosure of information of a personal nature where disclosure would  
36 constitute a clearly unwarranted invasion of personal privacy;

37 (h) disclosure of investigative records compiled for law enforcement  
38 purposes;

39 (i) disclosure of information related to an investigative report prepared  
40 by or on behalf of or for use of the commission or other committee charged  
41 with responsibility of investigation or determination of compliance issues  
42 pursuant to the compact; or

43 (j) matters specifically exempted from disclosure by federal or  
44 member-state statute;

1 (3) if a meeting, or portion of a meeting, is closed pursuant to this  
2 provision, the commission's legal counsel or designee shall certify that the  
3 meeting may be closed and shall reference each relevant exempting provision;  
4 and

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

12 (F) With respect to financing of the commission, the commission:

13 (1) shall pay, or provide for the payment of, the reasonable expenses of  
14 its establishment, organization, and ongoing activities;

15 (2) may accept appropriate revenue sources, donations, and grants of  
16 money, equipment, supplies, materials, and services;

17 (3) may levy on and collect an annual assessment from each member state  
18 or impose fees on other parties to cover the cost of the operations and  
19 activities of the commission and its staff, which must be in a total amount  
20 sufficient to cover its annual budget as approved by the commission each year  
21 for which revenue is not provided by other sources, provided the aggregate  
22 annual assessment amount must be allocated based upon a formula to be  
23 determined by the commission, which shall promulgate a rule binding upon all  
24 member states;

25 (4) may not incur obligations of any kind prior to securing the funds  
26 adequate to meet the same, nor shall the commission pledge the credit of any  
27 of the member states, except by and with the authority of the member state;  
28 and

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

35 (G) With respect to qualified immunity, defense, and indemnification:

36 (1) the members, officers, executive director, employees and  
37 representatives of the commission are immune from suit and liability, either  
38 personally or in their official capacity, for any claim for damage to or loss of  
39 property or personal injury or other civil liability caused by or arising out of  
40 any actual or alleged act, error or omission that occurred, or that the person  
41 against whom the claim is made had a reasonable basis for believing occurred  
42 within the scope of commission employment, duties or responsibilities,  
43 provided that nothing in this paragraph may be construed to protect any such

1 person from suit or liability for damage, loss, injury, or liability caused by the  
2 intentional or wilful or wanton misconduct of that person;

3 (2) the commission shall defend any member, officer, executive director,  
4 employee, or representative of the commission in a civil action seeking to  
5 impose liability arising out of an actual or alleged act, error, or omission that  
6 occurred within the scope of commission employment, duties, or  
7 responsibilities, or that the person against whom the claim is made had a  
8 reasonable basis for believing occurred within the scope of commission  
9 employment, duties, or responsibilities, provided that no provision of this item  
10 may be construed to prohibit that person from retaining his own counsel, and  
11 provided further, that the actual or alleged act, error, or omission did not  
12 result from that person's intentional or wilful or wanton misconduct;

13 (3) the commission shall indemnify and hold harmless a member, officer,  
14 executive director, employee, or representative of the commission for the  
15 amount of a settlement or judgment obtained against that person arising out  
16 of an actual or alleged act, error, or omission that occurred within the scope  
17 of commission employment, duties, or responsibilities, or that such person  
18 had a reasonable basis for believing occurred within the scope of commission  
19 employment, duties, or responsibilities, provided that the actual or alleged  
20 act, error, or omission did not result from the intentional or wilful or wanton  
21 misconduct of that person.

22

23 Section 40-36-590. (A) The Commission shall provide for the development,  
24 maintenance, and use of a coordinated database and reporting system  
25 containing licensure, adverse action, and investigative information on all  
26 licensed individuals in member states.

27 (B) A member state shall submit a uniform data set to the data system on  
28 all individuals to whom this compact is applicable, using a unique identifier,  
29 as required by the rules of the commission, including:

30 (1) identifying information;

31 (2) licensure data;

32 (3) adverse actions against a license or compact privilege;

33 (4) nonconfidential information related to alternative program  
34 participation;

35 (5) any denial of application for licensure, and the basis for the denial;

36 (6) other information that may facilitate the administration of this  
37 compact, as determined by the rules of the commission; and

38 (7) current significant investigative information.

39 (C) Current significant investigative information and other investigative  
40 information pertaining to a licensee in a member state is only available to  
41 other member states.

42 (D) The commission shall promptly notify all member states of an adverse  
43 action taken against a licensee or an individual applying for a license. A

1 member state is entitled to adverse action information pertaining to a licensee  
2 in another member state.

3 (E) A member state that contributes information to the data system may  
4 designate information that may not be shared with the public without the  
5 express permission of the contributing state.

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

9

10 Section 40-36-600. (A) The commission shall exercise its rulemaking powers  
11 pursuant to the criteria set forth in this section and the rules adopted pursuant  
12 to it. Rules and amendments become binding as of the date specified in each  
13 rule or amendment.

14 (B) The commission shall promulgate reasonable rules in order to effectively  
15 and efficiently achieve the purposes of the compact. Notwithstanding the  
16 foregoing, in the event the commission exercises its rulemaking authority in  
17 a manner that is beyond the scope of the purposes of the compact, or the  
18 powers granted hereunder, then such an action by the commission is invalid  
19 and has no force and effect.

20 (C) If a majority of the legislatures of the member states rejects a rule, by  
21 enactment of a statute or resolution in the same manner used to adopt the  
22 compact within four years of the date of adoption of the rule, then the rule  
23 has no further force and effect in any member state.

24 (D) Rules or amendments to the rules only may be adopted at a regular or  
25 special meeting of the commission.

26 (E) Prior to promulgation and adoption of a final rule by the commission, and  
27 at least thirty days in advance of the meeting at which the rule is to be  
28 considered and voted upon, the commission shall file a notice of proposed  
29 rulemaking on the respective websites of:

30 (1) the commission or other publicly accessible platform; and

31 (2) each member-state occupational therapy licensing board or other  
32 publicly accessible platform or the publication in which each state would  
33 otherwise publish proposed rules.

34 (F) The notice of proposed rulemaking must include:

35 (1) the proposed time, date, and location of the meeting in which the rule  
36 will be considered and voted upon;

37 (2) the text of the proposed rule or amendment and the reason for the  
38 proposed rule;

39 (3) a request for comments on the proposed rule from any interested  
40 person; and

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

1 (G) Prior to adoption of a proposed rule, the commission shall allow persons  
2 to submit written data, facts, opinions, and arguments, which must be made  
3 available to the public.

4 (H) The commission shall grant an opportunity for a public hearing before it  
5 adopts a rule or amendment if a hearing is requested by:

6 (1) at least twenty-five persons;

7 (2) a state or federal governmental subdivision or agency; or

8 (3) an association or organization having at least twenty-five members.

9 (I) If a hearing is held on the proposed rule or amendment, the commission  
10 shall publish the place, time, and date of the scheduled public hearing. If the  
11 hearing is held via electronic means, the commission shall publish the  
12 mechanism for access to the electronic hearing.

13 (1) A person wishing to be heard at the hearing shall notify the executive  
14 director of the commission or other designated member in writing of their  
15 desire to appear and testify at the hearing no less than five business days  
16 before the scheduled date of the hearing.

17 (2) A hearing must be conducted in a manner providing each person who  
18 wishes to comment a fair and reasonable opportunity to comment orally or in  
19 writing.

20 (3) A hearing must be recorded. A copy of the recording must be made  
21 available on request.

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

25 (J) Following the scheduled hearing date, or by the close of business on the  
26 scheduled hearing date if the hearing was not held, the commission shall  
27 consider all written and oral comments received.

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

31 (L) The commission shall, by majority vote of all members, take final action  
32 on the proposed rule and shall determine the effective date of the rule, if any,  
33 based on the rulemaking record and the full text of the rule.

34 (M) Upon determination that an emergency exists, the commission may  
35 consider and adopt an emergency rule without prior notice, opportunity for  
36 comment, or hearing, provided that the usual rulemaking procedures provided  
37 in the compact and in this section must be retroactively applied to the rule as  
38 soon as reasonably possible, in no event later than ninety days after the  
39 effective date of the rule. For the purposes of this provision, an emergency  
40 rule is one that must be adopted immediately in order to:

41 (1) meet an imminent threat to public health, safety, or welfare;

42 (2) prevent a loss of commission or member-state funds;

43 (3) meet a deadline for the promulgation of an administrative rule that is  
44 established by federal law or rule; or

1 (4) protect public health and safety.

2 (N) The commission or an authorized committee of the commission may  
3 direct revisions to a previously adopted rule or amendment for purposes of  
4 correcting typographical errors, errors in format, errors in consistency, or  
5 grammatical errors. Public notice of a revision must be posted on the website  
6 of the commission. The revision is subject to challenge by any person for a  
7 period of thirty days after posting. The revision may be challenged only on  
8 grounds that the revision results in a material change to a rule. A challenge  
9 must be made in writing and delivered to the chair of the commission prior to  
10 the end of the notice period. If no challenge is made, the revision will take  
11 effect without further action. If the revision is challenged, the revision may  
12 not take effect without the approval of the commission.

13

#### 14 Section 40-36-610. (A) Oversight

15 (1) The executive, legislative, and judicial branches of state government  
16 in each member state shall enforce this compact and take all actions necessary  
17 and appropriate to effect the compact's purposes and intent. The provisions  
18 of this compact and the rules promulgated hereunder have standing as  
19 statutory law.

20 (2) All courts shall take judicial notice of the compact and the rules in any  
21 judicial or administrative proceeding in a member state pertaining to the  
22 subject matter of this compact which may affect the powers, responsibilities,  
23 or actions of the commission.

24 (3) The commission is entitled to receive service of process in any such  
25 proceeding, and has standing to intervene in such a proceeding for all  
26 purposes. Failure to provide service of process to the commission renders a  
27 judgment or order void as to the commission, this compact, or promulgated  
28 rules.

#### 29 (B) Default, Technical Assistance, and Termination

30 (1) If the commission determines that a member state has defaulted in the  
31 performance of its obligations or responsibilities under this compact or the  
32 promulgated rules, the commission shall provide:

33 (a) written notice to the defaulting state and other member states of the  
34 nature of the default, the proposed means of curing the default and any other  
35 action, if any, to be taken by the commission; and

36 (b) remedial training and specific technical assistance regarding the  
37 default.

38 (2) If a state in default fails to cure the default, the defaulting state may  
39 be terminated from the compact upon an affirmative vote of a majority of the  
40 member states, and all rights, privileges and benefits conferred by this  
41 compact may be terminated on the effective date of termination. A cure of the  
42 default does not relieve the offending state of obligations or liabilities incurred  
43 during the period of default.

1 (3) Termination of membership in the compact must be imposed only after  
2 all other means of securing compliance have been exhausted. Notice of intent  
3 to suspend or terminate must be given by the commission to the governor,  
4 the majority and minority leaders of the defaulting state's legislature, and  
5 each of the member states.

6 (4) A state that has been terminated is responsible for all assessments,  
7 obligations, and liabilities incurred through the effective date of termination,  
8 including obligations that extend beyond the effective date of termination.

9 (5) The commission may not bear any costs related to a state that is found  
10 to be in default or that has been terminated from the compact, unless agreed  
11 upon in writing between the commission and the defaulting state.

12 (6) The defaulting state may appeal the action of the commission by  
13 petitioning the United States District Court for the District of Columbia or the  
14 federal district where the commission has its principal offices. The prevailing  
15 member must be awarded all costs of such litigation, including reasonable  
16 attorney's fees.

#### 17 (C) Dispute resolution

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

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

#### 23 (D) Enforcement

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

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

34 (3) The remedies in this section are not exclusive. The commission may  
35 pursue any other remedies available under federal or state law.

36

37 Section 40-36-620. (A) The compact shall come into effect on the date on  
38 which the compact statute is enacted into law in the tenth member state. The  
39 provisions, which become effective at that time, must be limited to the powers  
40 granted to the commission relating to assembly and the promulgation of rules.  
41 Thereafter, the commission shall meet and exercise rulemaking powers  
42 necessary to the implementation and administration of the compact.

43 (B) A state that joins the compact subsequent to the commission's initial  
44 adoption of the rules is subject to the rules as they exist on the date on which

1 the compact becomes law in that state. A rule that has been previously  
2 adopted by the commission must have the full force and effect of law on the  
3 day the compact becomes law in that state.

4 (C) A member state may withdraw from this compact by enacting a statute  
5 repealing the same. The withdrawal of a member state may not:

6 (1) take effect until six months after enactment of the repealing statute;  
7 or

8 (2) affect the continuing requirement of the withdrawing state's  
9 occupational therapy licensing board to comply with the investigative and  
10 adverse action reporting requirements of this act prior to the effective date of  
11 withdrawal.

12 (D) Nothing contained in this compact may be construed to invalidate or  
13 prevent any occupational therapy licensure agreement or other cooperative  
14 arrangement between a member state and a nonmember state that does not  
15 conflict with the provisions of this compact.

16 (E) This compact may be amended by the member states. No amendment  
17 to this compact may become effective and binding upon any member state  
18 until it is enacted into the laws of all member states.

19

20 Section 40-36-630. This compact must be liberally construed to effect the  
21 purposes of it. The provisions of this compact are severable and if any phrase,  
22 clause, sentence or provision of this compact is declared to be contrary to the  
23 constitution of a member state or of the United States or the applicability of it  
24 to any government, agency, person, or circumstance is held invalid, the  
25 validity of the remainder of this compact and the applicability of it to any  
26 government, agency, person, or circumstance may not be affected as a  
27 consequence. If this compact is held contrary to the constitution of any  
28 member state, the compact shall remain in full force and effect as to the  
29 remaining member states and in full force and effect as to the member state  
30 affected as to all severable matters.

31

32 Section 40-36-640. (A) A licensee providing occupational therapy in a  
33 remote state under the compact privilege shall function within the laws and  
34 regulations of the remote state.

35 (B) Nothing herein prevents the enforcement of another law of a member  
36 state that is not inconsistent with the compact.

37 (C) Any laws in a member state in conflict with the compact are superseded  
38 to the extent of the conflict.

39 (D) Any lawful actions of the commission, including all rules and bylaws  
40 promulgated by the commission, are binding upon the member states.

41 (E) All agreements between the commission and the member states are  
42 binding in accordance with their terms.

43 (F) In the event a provision of the compact exceeds the constitutional limits  
44 imposed on the legislature of a member state, the provision is ineffective to



1 the extent of the conflict with the constitutional provision in question in that  
2 member state.”

3

4 SECTION 2. Sections 40-36-5 through 40-36-310 of the 1976 Code are  
5 designated Article 1, entitled “General Provisions”.

6

7 SECTION 3. This act takes effect upon approval by the Governor.

8

-----XX-----

9

**TEXAS**  
**SB 458**

By: Lucio

S.B. No. 458

A BILL TO BE ENTITLED

AN ACT

relating to the Occupational Therapy Licensure Compact;  
authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 454, Occupations Code, is amended by  
adding Subchapter I to read as follows:

SUBCHAPTER I. OCCUPATIONAL THERAPY LICENSURE COMPACT

Sec. 454.401. OCCUPATIONAL THERAPY LICENSURE COMPACT. The  
Occupational Therapy Licensure Compact is enacted and entered into  
with all other jurisdictions that legally join in the compact,  
which reads as follows:

OCCUPATIONAL THERAPY LICENSURE COMPACT

SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate  
practice of Occupational Therapy with the goal of improving public  
access to Occupational Therapy services. The Practice of  
Occupational Therapy occurs in the State where the patient/client  
is located at the time of the patient/client encounter. The Compact  
preserves the regulatory authority of States to protect public  
health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Occupational Therapy services  
by providing for the mutual recognition of other Member State  
licenses;

1 B. Enhance the States' ability to protect the public's  
2 health and safety;

3 C. Encourage the cooperation of Member States in regulating  
4 multi-State Occupational Therapy Practice;

5 D. Support spouses of relocating military members;

6 E. Enhance the exchange of licensure, investigative, and  
7 disciplinary information between Member States;

8 F. Allow a Remote State to hold a provider of services with a  
9 Compact Privilege in that State accountable to that State's  
10 practice standards; and

11 G. Facilitate the use of Telehealth technology in order to  
12 increase access to Occupational Therapy services.

13 SECTION 2. DEFINITIONS

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

16 A. "Active Duty Military" means full-time duty status in the  
17 active uniformed service of the United States, including members of  
18 the National Guard and Reserve on active duty orders pursuant to 10  
19 U.S.C. Chapter 1209 and Section 1211.

20 B. "Adverse Action" means any administrative, civil,  
21 equitable, or criminal action permitted by a State's laws which is  
22 imposed by a Licensing Board or other authority against an  
23 Occupational Therapist or Occupational Therapy Assistant,  
24 including actions against an individual's license or Compact  
25 Privilege such as censure, revocation, suspension, probation,  
26 monitoring of the Licensee, or restriction on the Licensee's  
27 practice.

1        C. "Alternative Program" means a non-disciplinary  
2 monitoring process approved by an Occupational Therapy Licensing  
3 Board.

4        D. "Compact Privilege" means the authorization, which is  
5 equivalent to a license, granted by a Remote State to allow a  
6 Licensee from another Member State to practice as an Occupational  
7 Therapist or practice as an Occupational Therapy Assistant in the  
8 Remote State under its laws and rules. The Practice of Occupational  
9 Therapy occurs in the Member State where the patient/client is  
10 located at the time of the patient/client encounter.

11        E. "Continuing Competence/Education" means a requirement,  
12 as a condition of license renewal, to provide evidence of  
13 participation in, and/or completion of, educational and  
14 professional activities relevant to practice or area of work.

15        F. "Current Significant Investigative Information" means  
16 Investigative Information that a Licensing Board, after an inquiry  
17 or investigation that includes notification and an opportunity for  
18 the Occupational Therapist or Occupational Therapy Assistant to  
19 respond, if required by State law, has reason to believe is not  
20 groundless and, if proved true, would indicate more than a minor  
21 infraction.

22        G. "Data System" means a repository of information about  
23 Licensees, including but not limited to license status,  
24 Investigative Information, Compact Privileges, and Adverse  
25 Actions.

26        H. "Encumbered License" means a license in which an Adverse  
27 Action restricts the Practice of Occupational Therapy by the

1 Licensee or said Adverse Action has been reported to the National  
2 Practitioners Data Bank (NPDB).

3 I. "Executive Committee" means a group of directors elected  
4 or appointed to act on behalf of, and within the powers granted to  
5 them by, the Commission.

6 J. "Home State" means the Member State that is the  
7 Licensee's Primary State of Residence.

8 K. "Impaired Practitioner" means individuals whose  
9 professional practice is adversely affected by substance abuse,  
10 addiction, or other health-related conditions.

11 L. "Investigative Information" means information, records,  
12 and/or documents received or generated by an Occupational Therapy  
13 Licensing Board pursuant to an investigation.

14 M. "Jurisprudence Requirement" means the assessment of an  
15 individual's knowledge of the laws and rules governing the Practice  
16 of Occupational Therapy in a State.

17 N. "Licensee" means an individual who currently holds an  
18 authorization from the State to practice as an Occupational  
19 Therapist or as an Occupational Therapy Assistant.

20 O. "Member State" means a State that has enacted the  
21 Compact.

22 P. "Occupational Therapist" means an individual who is  
23 licensed by a State to practice Occupational Therapy.

24 Q. "Occupational Therapy Assistant" means an individual who  
25 is licensed by a State to assist in the Practice of Occupational  
26 Therapy.

27 R. "Occupational Therapy," "Occupational Therapy

1 Practice," and the "Practice of Occupational Therapy" mean the care  
2 and services provided by an Occupational Therapist or an  
3 Occupational Therapy Assistant as set forth in the Member State's  
4 statutes and regulations.

5 S. "Occupational Therapy Compact Commission" or  
6 "Commission" means the national administrative body whose  
7 membership consists of all States that have enacted the Compact.

8 T. "Occupational Therapy Licensing Board" or "Licensing  
9 Board" means the agency of a State that is authorized to license and  
10 regulate Occupational Therapists and Occupational Therapy  
11 Assistants.

12 U. "Primary State of Residence" means the state (also known  
13 as the Home State) in which an Occupational Therapist or  
14 Occupational Therapy Assistant who is not Active Duty Military  
15 declares a primary residence for legal purposes as verified by:  
16 driver's license, federal income tax return, lease, deed, mortgage  
17 or voter registration or other verifying documentation as further  
18 defined by Commission Rules.

19 V. "Remote State" means a Member State other than the Home  
20 State, where a Licensee is exercising or seeking to exercise the  
21 Compact Privilege.

22 W. "Rule" means a regulation promulgated by the Commission  
23 that has the force of law.

24 X. "State" means any state, commonwealth, district, or  
25 territory of the United States of America that regulates the  
26 Practice of Occupational Therapy.

27 Y. "Single-State License" means an Occupational Therapist

1 or Occupational Therapy Assistant license issued by a Member State  
2 that authorizes practice only within the issuing State and does not  
3 include a Compact Privilege in any other Member State.

4 Z. "Telehealth" means the application of telecommunication  
5 technology to deliver Occupational Therapy services for  
6 assessment, intervention and/or consultation.

7 SECTION 3. STATE PARTICIPATION IN THE COMPACT

8 A. To participate in the Compact, a Member State shall:

9 1. License Occupational Therapists and Occupational  
10 Therapy Assistants

11 2. Participate fully in the Commission's Data System,  
12 including but not limited to using the Commission's unique  
13 identifier as defined in Rules of the Commission;

14 3. Have a mechanism in place for receiving and  
15 investigating complaints about Licensees;

16 4. Notify the Commission, in compliance with the terms  
17 of the Compact and Rules, of any Adverse Action or the availability  
18 of Investigative Information regarding a Licensee;

19 5. Implement or utilize procedures for considering the  
20 criminal history records of applicants for an initial Compact  
21 Privilege. These procedures shall include the submission of  
22 fingerprints or other biometric-based information by applicants  
23 for the purpose of obtaining an applicant's criminal history record  
24 information from the Federal Bureau of Investigation and the agency  
25 responsible for retaining that State's criminal records;

26 a. A Member State shall, within a time frame  
27 established by the Commission, require a criminal background check



1 for a Licensee seeking/applying for a Compact Privilege whose  
2 Primary State of Residence is that Member State, by receiving the  
3 results of the Federal Bureau of Investigation criminal record  
4 search, and shall use the results in making licensure decisions.

5 b. Communication between a Member State, the  
6 Commission and among Member States regarding the verification of  
7 eligibility for licensure through the Compact shall not include any  
8 information received from the Federal Bureau of Investigation  
9 relating to a federal criminal records check performed by a Member  
10 State under Public Law 92-544.

11 6. Comply with the Rules of the Commission;

12 7. Utilize only a recognized national examination as a  
13 requirement for licensure pursuant to the Rules of the Commission;  
14 and

15 8. Have Continuing Competence/Education requirements  
16 as a condition for license renewal.

17 B. A Member State shall grant the Compact Privilege to a  
18 Licensee holding a valid unencumbered license in another Member  
19 State in accordance with the terms of the Compact and Rules.

20 C. Member States may charge a fee for granting a Compact  
21 Privilege.

22 D. A Member State shall provide for the State's delegate to  
23 attend all Occupational Therapy Compact Commission meetings.

24 E. Individuals not residing in a Member State shall continue  
25 to be able to apply for a Member State's Single-State License as  
26 provided under the laws of each Member State. However, the  
27 Single-State License granted to these individuals shall not be

1 recognized as granting the Compact Privilege in any other Member  
2 State.

3 F. Nothing in this Compact shall affect the requirements  
4 established by a Member State for the issuance of a Single-State  
5 License.

6 SECTION 4. COMPACT PRIVILEGE

7 A. To exercise the Compact Privilege under the terms and  
8 provisions of the Compact, the Licensee shall:

9 1. Hold a license in the Home State;

10 2. Have a valid United States Social Security Number  
11 or National Practitioner Identification number;

12 3. Have no encumbrance on any State license;

13 4. Be eligible for a Compact Privilege in any Member  
14 State in accordance with Section 4D, F, G, and H;

15 5. Have paid all fines and completed all requirements  
16 resulting from any Adverse Action against any license or Compact  
17 Privilege, and two years have elapsed from the date of such  
18 completion;

19 6. Notify the Commission that the Licensee is seeking  
20 the Compact Privilege within a Remote State(s);

21 7. Pay any applicable fees, including any State fee,  
22 for the Compact Privilege;

23 8. Complete a criminal background check in accordance  
24 with Section 3A(5);

25 a. The Licensee shall be responsible for the  
26 payment of any fee associated with the completion of a criminal  
27 background check.

1           9. Meet any Jurisprudence Requirements established by  
2 the Remote State(s) in which the Licensee is seeking a Compact  
3 Privilege; and

4           10. Report to the Commission Adverse Action taken by  
5 any non-Member State within 30 days from the date the Adverse Action  
6 is taken.

7           B. The Compact Privilege is valid until the expiration date  
8 of the Home State license. The Licensee must comply with the  
9 requirements of Section 4A to maintain the Compact Privilege in the  
10 Remote State.

11           C. A Licensee providing Occupational Therapy in a Remote  
12 State under the Compact Privilege shall function within the laws  
13 and regulations of the Remote State.

14           D. Occupational Therapy Assistants practicing in a Remote  
15 State shall be supervised by an Occupational Therapist licensed or  
16 holding a Compact Privilege in that Remote State.

17           E. A Licensee providing Occupational Therapy in a Remote  
18 State is subject to that State's regulatory authority. A Remote  
19 State may, in accordance with due process and that State's laws,  
20 remove a Licensee's Compact Privilege in the Remote State for a  
21 specific period of time, impose fines, and/or take any other  
22 necessary actions to protect the health and safety of its citizens.  
23 The Licensee may be ineligible for a Compact Privilege in any State  
24 until the specific time for removal has passed and all fines are  
25 paid.

26           F. If a Home State license is encumbered, the Licensee shall  
27 lose the Compact Privilege in any Remote State until the following

1 occur:

- 2 1. The Home State license is no longer encumbered; and  
3 2. Two years have elapsed from the date on which the  
4 Home State license is no longer encumbered in accordance with  
5 Section 4(F)(1).

6 G. Once an Encumbered License in the Home State is restored  
7 to good standing, the Licensee must meet the requirements of  
8 Section 4A to obtain a Compact Privilege in any Remote State.

9 H. If a Licensee's Compact Privilege in any Remote State is  
10 removed, the individual may lose the Compact Privilege in any other  
11 Remote State until the following occur:

- 12 1. The specific period of time for which the Compact  
13 Privilege was removed has ended;  
14 2. All fines have been paid and all conditions have  
15 been met;  
16 3. Two years have elapsed from the date of completing  
17 requirements for 4(H)(1) and (2); and  
18 4. The Compact Privileges are reinstated by the  
19 Commission, and the compact Data System is updated to reflect  
20 reinstatement.

21 I. If a Licensee's Compact Privilege in any Remote State is  
22 removed due to an erroneous charge, privileges shall be restored  
23 through the compact Data System.

24 J. Once the requirements of Section 4H have been met, the  
25 license must meet the requirements in Section 4A to obtain a Compact  
26 Privilege in a Remote State.

1 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT

2 PRIVILEGE

3 A. An Occupational Therapist or Occupational Therapy  
4 Assistant may hold a Home State license, which allows for Compact  
5 Privileges in Member States, in only one Member State at a time.

6 B. If an Occupational Therapist or Occupational Therapy  
7 Assistant changes Primary State of Residence by moving between two  
8 Member States:

9 1. The Occupational Therapist or Occupational Therapy  
10 Assistant shall file an application for obtaining a new Home State  
11 license by virtue of a Compact Privilege, pay all applicable fees,  
12 and notify the current and new Home State in accordance with  
13 applicable Rules adopted by the Commission.

14 2. Upon receipt of an application for obtaining a new  
15 Home State license by virtue of compact privilege, the new Home  
16 State shall verify that the Occupational Therapist or Occupational  
17 Therapy Assistant meets the pertinent criteria outlined in Section  
18 4 via the Data System, without need for primary source verification  
19 except for:

20 a. an FBI fingerprint based criminal background  
21 check if not previously performed or updated pursuant to applicable  
22 Rules adopted by the Commission in accordance with Public Law  
23 92-544;

24 b. other criminal background check as required by  
25 the new Home State; and

26 c. submission of any requisite Jurisprudence  
27 Requirements of the new Home State.

1           3. The former Home State shall convert the former Home  
2 State license into a Compact Privilege once the new Home State has  
3 activated the new Home State license in accordance with applicable  
4 Rules adopted by the Commission.

5           4. Notwithstanding any other provision of this  
6 Compact, if the Occupational Therapist or Occupational Therapy  
7 Assistant cannot meet the criteria in Section 4, the new Home State  
8 shall apply its requirements for issuing a new Single-State  
9 License.

10           5. The Occupational Therapist or the Occupational  
11 Therapy Assistant shall pay all applicable fees to the new Home  
12 State in order to be issued a new Home State license.

13           C. If an Occupational Therapist or Occupational Therapy  
14 Assistant changes Primary State of Residence by moving from a  
15 Member State to a non-Member State, or from a non-Member State to a  
16 Member State, the State criteria shall apply for issuance of a  
17 Single-State License in the new State.

18           D. Nothing in this compact shall interfere with a Licensee's  
19 ability to hold a Single-State License in multiple States; however,  
20 for the purposes of this compact, a Licensee shall have only one  
21 Home State license.

22           E. Nothing in this Compact shall affect the requirements  
23 established by a Member State for the issuance of a Single-State  
24 License.

25           SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

26           A. Active Duty Military personnel, or their spouses, shall  
27 designate a Home State where the individual has a current license in

1 good standing. The individual may retain the Home State designation  
2 during the period the service member is on active duty. Subsequent  
3 to designating a Home State, the individual shall only change their  
4 Home State through application for licensure in the new State or  
5 through the process described in Section 5.

6 SECTION 7. ADVERSE ACTIONS

7 A. A Home State shall have exclusive power to impose Adverse  
8 Action against an Occupational Therapist's or Occupational Therapy  
9 Assistant's license issued by the Home State.

10 B. In addition to the other powers conferred by State law, a  
11 Remote State shall have the authority, in accordance with existing  
12 State due process law, to:

13 1. Take Adverse Action against an Occupational  
14 Therapist's or Occupational Therapy Assistant's Compact Privilege  
15 within that Member State.

16 2. Issue subpoenas for both hearings and  
17 investigations that require the attendance and testimony of  
18 witnesses as well as the production of evidence. Subpoenas issued  
19 by a Licensing Board in a Member State for the attendance and  
20 testimony of witnesses or the production of evidence from another  
21 Member State shall be enforced in the latter State by any court of  
22 competent jurisdiction, according to the practice and procedure of  
23 that court applicable to subpoenas issued in proceedings pending  
24 before it. The issuing authority shall pay any witness fees, travel  
25 expenses, mileage and other fees required by the service statutes  
26 of the State in which the witnesses or evidence are located.

27 C. For purposes of taking Adverse Action, the Home State

1 shall give the same priority and effect to reported conduct  
2 received from a Member State as it would if the conduct had occurred  
3 within the Home State. In so doing, the Home State shall apply its  
4 own State laws to determine appropriate action.

5 D. The Home State shall complete any pending investigations  
6 of an Occupational Therapist or Occupational Therapy Assistant who  
7 changes Primary State of Residence during the course of the  
8 investigations. The Home State, where the investigations were  
9 initiated, shall also have the authority to take appropriate  
10 action(s) and shall promptly report the conclusions of the  
11 investigations to the OT Compact Commission Data System. The  
12 Occupational Therapy Compact Commission Data System administrator  
13 shall promptly notify the new Home State of any Adverse Actions.

14 E. A Member State, if otherwise permitted by State law, may  
15 recover from the affected Occupational Therapist or Occupational  
16 Therapy Assistant the costs of investigations and disposition of  
17 cases resulting from any Adverse Action taken against that  
18 Occupational Therapist or Occupational Therapy Assistant.

19 F. A Member State may take Adverse Action based on the  
20 factual findings of the Remote State, provided that the Member  
21 State follows its own procedures for taking the Adverse Action.

22 G. Joint Investigations

23 1. In addition to the authority granted to a Member  
24 State by its respective State Occupational Therapy laws and  
25 regulations or other applicable State law, any Member State may  
26 participate with other Member States in joint investigations of  
27 Licensees.



1           2. Member States shall share any investigative,  
2 litigation, or compliance materials in furtherance of any joint or  
3 individual investigation initiated under the Compact.

4           H. If an Adverse Action is taken by the Home State against an  
5 Occupational Therapist's or Occupational Therapy Assistant's  
6 license, the Occupational Therapist's or Occupational Therapy  
7 Assistant's Compact Privilege in all other Member States shall be  
8 deactivated until all encumbrances have been removed from the State  
9 license. All Home State disciplinary orders that impose Adverse  
10 Action against an Occupational Therapist's or Occupational Therapy  
11 Assistant's license shall include a Statement that the Occupational  
12 Therapist's or Occupational Therapy Assistant's Compact Privilege  
13 is deactivated in all Member States during the pendency of the  
14 order.

15           I. If a Member State takes Adverse Action, it shall promptly  
16 notify the administrator of the Data System. The administrator of  
17 the Data System shall promptly notify the Home State of any Adverse  
18 Actions by Remote States.

19           J. Nothing in this Compact shall override a Member State's  
20 decision that participation in an Alternative Program may be used  
21 in lieu of Adverse Action.

22           SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT

23                           COMMISSION.

24           A. The Compact Member States hereby create and establish a  
25 joint public agency known as the Occupational Therapy Compact  
26 Commission:

27           1. The Commission is an instrumentality of the Compact

1 States.

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

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

10 B. Membership, Voting, and Meetings

11 1. Each Member State shall have and be limited to one  
12 (1) delegate selected by that Member State's Licensing Board.

13 2. The delegate shall be either:

14 a. A current member of the Licensing Board, who  
15 is an Occupational Therapist, Occupational Therapy Assistant, or  
16 public member; or

17 b. An administrator of the Licensing Board.

18 3. Any delegate may be removed or suspended from  
19 office as provided by the law of the State from which the delegate  
20 is appointed.

21 4. The Member State board shall fill any vacancy  
22 occurring in the Commission within 90 days.

23 5. Each delegate shall be entitled to one (1) vote with  
24 regard to the promulgation of Rules and creation of bylaws and shall  
25 otherwise have an opportunity to participate in the business and  
26 affairs of the Commission. A delegate shall vote in person or by  
27 such other means as provided in the bylaws. The bylaws may provide

1 for delegates' participation in meetings by telephone or other  
2 means of communication.

3 6. The Commission shall meet at least once during each  
4 calendar year. Additional meetings shall be held as set forth in the  
5 bylaws.

6 7. The Commission shall establish by Rule a term of  
7 office for delegates.

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

10 1. Establish a Code of Ethics for the Commission;

11 2. Establish the fiscal year of the Commission;

12 3. Establish bylaws;

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

15 5. Meet and take such actions as are consistent with  
16 the provisions of this Compact and the bylaws;

17 6. Promulgate uniform Rules to facilitate and  
18 coordinate implementation and administration of this Compact. The  
19 Rules shall have the force and effect of law and shall be binding in  
20 all Member States;

21 7. Bring and prosecute legal proceedings or actions in  
22 the name of the Commission, provided that the standing of any State  
23 Occupational Therapy Licensing Board to sue or be sued under  
24 applicable law shall not be affected;

25 8. Purchase and maintain insurance and bonds;

26 9. Borrow, accept, or contract for services of  
27 personnel, including, but not limited to, employees of a Member

1 State;

2 10. Hire employees, elect or appoint officers, fix  
3 compensation, define duties, grant such individuals appropriate  
4 authority to carry out the purposes of the Compact, and establish  
5 the Commission's personnel policies and programs relating to  
6 conflicts of interest, qualifications of personnel, and other  
7 related personnel matters;

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

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

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

20 14. Establish a budget and make expenditures;

21 15. Borrow money;

22 16. Appoint committees, including standing committees  
23 composed of members, State regulators, State legislators or their  
24 representatives, and consumer representatives, and such other  
25 interested persons as may be designated in this Compact and the  
26 bylaws;

27 17. Provide and receive information from, and

1 cooperate with, law enforcement agencies;

2 18. Establish and elect an Executive Committee; and

3 19. Perform such other functions as may be necessary  
4 or appropriate to achieve the purposes of this Compact consistent  
5 with the State regulation of Occupational Therapy licensure and  
6 practice.

7 D. The Executive Committee

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

10 1. The Executive Committee shall be composed of nine  
11 members:

12 a. Seven voting members who are elected by the  
13 Commission from the current membership of the Commission;

14 b. One ex-officio, nonvoting member from a  
15 recognized national Occupational Therapy professional association;  
16 and

17 c. One ex-officio, nonvoting member from a  
18 recognized national Occupational Therapy certification  
19 organization.

20 2. The ex-officio members will be selected by their  
21 respective organizations.

22 3. The Commission may remove any member of the  
23 Executive Committee as provided in bylaws.

24 4. The Executive Committee shall meet at least  
25 annually.

26 5. The Executive Committee shall have the following  
27 Duties and responsibilities:

1           a. Recommend to the entire Commission changes to  
2 the Rules or bylaws, changes to this Compact legislation, fees paid  
3 by Compact Member States such as annual dues, and any Commission  
4 Compact fee charged to Licensees for the Compact Privilege;

5           b. Ensure Compact administration services are  
6 appropriately provided, contractual or otherwise;

7           c. Prepare and recommend the budget;

8           d. Maintain financial records on behalf of the  
9 Commission;

10          e. Monitor Compact compliance of Member States  
11 and provide compliance reports to the Commission;

12          f. Establish additional committees as necessary;  
13 and

14          g. Perform other duties as provided in Rules or  
15 bylaws.

16          E. Meetings of the Commission

17           1. All meetings shall be open to the public, and public  
18 notice of meetings shall be given in the same manner as required  
19 under the Rulemaking provisions in Section 10.

20           2. The Commission or the Executive Committee or other  
21 committees of the Commission may convene in a closed, non-public  
22 meeting if the Commission or Executive Committee or other  
23 committees of the Commission must discuss:

24           a. Non-compliance of a Member State with its  
25 obligations under the Compact;

26           b. The employment, compensation, discipline or  
27 other matters, practices or procedures related to specific

1 employees or other matters related to the Commission's internal  
2 personnel practices and procedures;

3 c. Current, threatened, or reasonably  
4 anticipated litigation;

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

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

9 f. Disclosure of trade secrets or commercial or  
10 financial information that is privileged or confidential;

11 g. Disclosure of information of a personal nature  
12 where disclosure would constitute a clearly unwarranted invasion of  
13 personal privacy;

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

16 i. Disclosure of information related to any  
17 investigative reports prepared by or on behalf of or for use of the  
18 Commission or other committee charged with responsibility of  
19 investigation or determination of compliance issues pursuant to the  
20 Compact; or

21 j. Matters specifically exempted from disclosure  
22 by federal or Member State statute.

23 3. If a meeting, or portion of a meeting, is closed  
24 pursuant to this provision, the Commission's legal counsel or  
25 designee shall certify that the meeting may be closed and shall  
26 reference each relevant exempting provision.

27 4. The Commission shall keep minutes that fully and

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

9 F. Financing of the Commission

10 1. The Commission shall pay, or provide for the  
11 payment of, the reasonable expenses of its establishment,  
12 organization, and ongoing activities.

13 2. The Commission may accept any and all appropriate  
14 revenue sources, donations, and grants of money, equipment,  
15 supplies, materials, and services.

16 3. The Commission may levy on and collect an annual  
17 assessment from each Member State or impose fees on other parties to  
18 cover the cost of the operations and activities of the Commission  
19 and its staff, which must be in a total amount sufficient to cover  
20 its annual budget as approved by the Commission each year for which  
21 revenue is not provided by other sources. The aggregate annual  
22 assessment amount shall be allocated based upon a formula to be  
23 determined by the Commission, which shall promulgate a Rule binding  
24 upon all Member States.

25 4. The Commission shall not incur obligations of any  
26 kind prior to securing the funds adequate to meet the same; nor  
27 shall the Commission pledge the credit of any of the Member States,



1 except by and with the authority of the Member State.

2 5. The Commission shall keep accurate accounts of all  
3 receipts and disbursements. The receipts and disbursements of the  
4 Commission shall be subject to the audit and accounting procedures  
5 established under its bylaws. However, all receipts and  
6 disbursements of funds handled by the Commission shall be audited  
7 yearly by a certified or licensed public accountant, and the report  
8 of the audit shall be included in and become part of the annual  
9 report of the Commission.

10 G. Qualified Immunity, Defense, and Indemnification

11 1. The members, officers, executive director,  
12 employees and representatives of the Commission shall be immune  
13 from suit and liability, either personally or in their official  
14 capacity, for any claim for damage to or loss of property or  
15 personal injury or other civil liability caused by or arising out of  
16 any actual or alleged act, error or omission that occurred, or that  
17 the person against whom the claim is made had a reasonable basis for  
18 believing occurred within the scope of Commission employment,  
19 duties or responsibilities; provided that nothing in this paragraph  
20 shall be construed to protect any such person from suit and/or  
21 liability for any damage, loss, injury, or liability caused by the  
22 intentional or willful or wanton misconduct of that person.

23 2. The Commission shall defend any member, officer,  
24 executive director, employee, or representative of the Commission  
25 in any civil action seeking to impose liability arising out of any  
26 actual or alleged act, error, or omission that occurred within the  
27 scope of Commission employment, duties, or responsibilities, or

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

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

19 SECTION 9. DATA SYSTEM

20 A. The Commission shall provide for the development,  
21 maintenance, and utilization of a coordinated database and  
22 reporting system containing licensure, Adverse Action, and  
23 Investigative Information on all licensed individuals in Member  
24 States.

25 B. A Member State shall submit a uniform data set to the Data  
26 System on all individuals to whom this Compact is applicable  
27 (utilizing a unique identifier) as required by the Rules of the

1 Commission, including:

2 1. Identifying information;

3 2. Licensure data;

4 3. Adverse Actions against a license or Compact  
5 Privilege;

6 4. Non-confidential information related to  
7 Alternative Program participation;

8 5. Any denial of application for licensure, and the  
9 reason(s) for such denial;

10 6. Other information that may facilitate the  
11 administration of this Compact, as determined by the Rules of the  
12 Commission; and

13 7. Current Significant Investigative Information.

14 C. Current Significant Investigative Information and other  
15 Investigative Information pertaining to a Licensee in any Member  
16 State will only be available to other Member States.

17 D. The Commission shall promptly notify all Member States of  
18 any Adverse Action taken against a Licensee or an individual  
19 applying for a license. Adverse Action information pertaining to a  
20 Licensee in any Member State will be available to any other Member  
21 State.

22 E. Member States contributing information to the Data  
23 System may designate information that may not be shared with the  
24 public without the express permission of the contributing State.

25 F. Any information submitted to the Data System that is  
26 subsequently required to be expunged by the laws of the Member State  
27 contributing the information shall be removed from the Data System.

SECTION 10. RULEMAKING

1  
2 A. The Commission shall exercise its Rulemaking powers  
3 pursuant to the criteria set forth in this Section and the Rules  
4 adopted thereunder. Rules and amendments shall become binding as of  
5 the date specified in each Rule or amendment.

6 B. The Commission shall promulgate reasonable rules in  
7 order to effectively and efficiently achieve the purposes of the  
8 Compact. Notwithstanding the foregoing, in the event the Commission  
9 exercises its rulemaking authority in a manner that is beyond the  
10 scope of the purposes of the Compact, or the powers granted  
11 hereunder, then such an action by the Commission shall be invalid  
12 and have no force and effect.

13 C. If a majority of the legislatures of the Member States  
14 rejects a Rule, by enactment of a statute or resolution in the same  
15 manner used to adopt the Compact within 4 years of the date of  
16 adoption of the Rule, then such Rule shall have no further force and  
17 effect in any Member State.

18 D. Rules or amendments to the Rules shall be adopted at a  
19 regular or special meeting of the Commission.

20 E. Prior to promulgation and adoption of a final Rule or  
21 Rules by the Commission, and at least thirty (30) days in advance of  
22 the meeting at which the Rule will be considered and voted upon, the  
23 Commission shall file a Notice of Proposed Rulemaking:

24 1. On the website of the Commission or other publicly  
25 accessible platform; and

26 2. On the website of each Member State Occupational  
27 Therapy Licensing Board or other publicly accessible platform or

1 the publication in which each State would otherwise publish  
2 proposed Rules.

3 F. The Notice of Proposed Rulemaking shall include:

4 1. The proposed time, date, and location of the  
5 meeting in which the Rule will be considered and voted upon;

6 2. The text of the proposed Rule or amendment and the  
7 reason for the proposed Rule;

8 3. A request for comments on the proposed Rule from any  
9 interested person; and

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

13 G. Prior to adoption of a proposed Rule, the Commission  
14 shall allow persons to submit written data, facts, opinions, and  
15 arguments, which shall be made available to the public.

16 H. The Commission shall grant an opportunity for a public  
17 hearing before it adopts a Rule or amendment if a hearing is  
18 requested by:

19 1. At least twenty five (25) persons;

20 2. A State or federal governmental subdivision or  
21 agency; or

22 3. An association or organization having at least  
23 twenty five (25) members.

24 I. If a hearing is held on the proposed Rule or amendment,  
25 the Commission shall publish the place, time, and date of the  
26 scheduled public hearing. If the hearing is held via electronic  
27 means, the Commission shall publish the mechanism for access to the

1 electronic hearing.

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

7 2. Hearings shall be conducted in a manner providing  
8 each person who wishes to comment a fair and reasonable opportunity  
9 to comment orally or in writing.

10 3. All hearings will be recorded. A copy of the  
11 recording will be made available on request.

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

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

20 K. If no written notice of intent to attend the public  
21 hearing by interested parties is received, the Commission may  
22 proceed with promulgation of the proposed Rule without a public  
23 hearing.

24 L. The Commission shall, by majority vote of all members,  
25 take final action on the proposed Rule and shall determine the  
26 effective date of the Rule, if any, based on the Rulemaking record  
27 and the full text of the Rule.

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

- 10 1. Meet an imminent threat to public health, safety,  
11 or welfare;  
12 2. Prevent a loss of Commission or Member State funds;  
13 3. Meet a deadline for the promulgation of an  
14 administrative Rule that is established by federal law or Rule; or  
15 4. Protect public health and safety.

16 N. The Commission or an authorized committee of the  
17 Commission may direct revisions to a previously adopted Rule or  
18 amendment for purposes of correcting typographical errors, errors  
19 in format, errors in consistency, or grammatical errors. Public  
20 notice of any revisions shall be posted on the website of the  
21 Commission. The revision shall be subject to challenge by any  
22 person for a period of thirty (30) days after posting. The revision  
23 may be challenged only on grounds that the revision results in a  
24 material change to a Rule. A challenge shall be made in writing and  
25 delivered to the chair of the Commission prior to the end of the  
26 notice period. If no challenge is made, the revision will take  
27 effect without further action. If the revision is challenged, the

1 revision may not take effect without the approval of the  
2 Commission.

3 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

4 A. Oversight

5 1. The executive, legislative, and judicial branches  
6 of State government in each Member State shall enforce this Compact  
7 and take all actions necessary and appropriate to effectuate the  
8 Compact's purposes and intent. The provisions of this Compact and  
9 the Rules promulgated hereunder shall have standing as statutory  
10 law.

11 2. All courts shall take judicial notice of the  
12 Compact and the Rules in any judicial or administrative proceeding  
13 in a Member State pertaining to the subject matter of this Compact  
14 which may affect the powers, responsibilities, or actions of the  
15 Commission.

16 3. The Commission shall be entitled to receive service  
17 of process in any such proceeding, and shall have standing to  
18 intervene in such a proceeding for all purposes. Failure to provide  
19 service of process to the Commission shall render a judgment or  
20 order void as to the Commission, this Compact, or promulgated  
21 Rules.

22 B. Default, Technical Assistance, and Termination

23 1. If the Commission determines that a Member State  
24 has defaulted in the performance of its obligations or  
25 responsibilities under this Compact or the promulgated Rules, the  
26 Commission shall:

27 a. Provide written notice to the defaulting State



1 and other Member States of the nature of the default, the proposed  
2 means of curing the default and/or any other action to be taken by  
3 the Commission; and

4 b. Provide remedial training and specific  
5 technical assistance regarding the default.

6 2. If a State in default fails to cure the default, the  
7 defaulting State may be terminated from the Compact upon an  
8 affirmative vote of a majority of the Member States, and all rights,  
9 privileges and benefits conferred by this Compact may be terminated  
10 on the effective date of termination. A cure of the default does not  
11 relieve the offending State of obligations or liabilities incurred  
12 during the period of default.

13 3. Termination of membership in the Compact shall be  
14 imposed only after all other means of securing compliance have been  
15 exhausted. Notice of intent to suspend or terminate shall be given  
16 by the Commission to the governor, the majority and minority  
17 leaders of the defaulting State's legislature, and each of the  
18 Member States.

19 4. A State that has been terminated is responsible for  
20 all assessments, obligations, and liabilities incurred through the  
21 effective date of termination, including obligations that extend  
22 beyond the effective date of termination.

23 5. The Commission shall not bear any costs related to a  
24 State that is found to be in default or that has been terminated  
25 from the Compact, unless agreed upon in writing between the  
26 Commission and the defaulting State.

27 6. The defaulting State may appeal the action of the

1 Commission by petitioning the U.S. District Court for the District  
2 of Columbia or the federal district where the Commission has its  
3 principal offices. The prevailing member shall be awarded all costs  
4 of such litigation, including reasonable attorney's fees.

5 C. Dispute Resolution

6 1. Upon request by a Member State, the Commission  
7 shall attempt to resolve disputes related to the Compact that arise  
8 among Member States and between member and non-Member States.

9 2. The Commission shall promulgate a Rule providing  
10 for both mediation and binding dispute resolution for disputes as  
11 appropriate.

12 D. Enforcement

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

15 2. By majority vote, the Commission may initiate legal  
16 action in the United States District Court for the District of  
17 Columbia or the federal district where the Commission has its  
18 principal offices against a Member State in default to enforce  
19 compliance with the provisions of the Compact and its promulgated  
20 Rules and bylaws. The relief sought may include both injunctive  
21 relief and damages. In the event judicial enforcement is necessary,  
22 the prevailing member shall be awarded all costs of such  
23 litigation, including reasonable attorney's fees.

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

1 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION  
2 FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES,  
3 WITHDRAWAL, AND AMENDMENT

4 A. The Compact shall come into effect on the date on which  
5 the Compact statute is enacted into law in the tenth Member State.  
6 The provisions, which become effective at that time, shall be  
7 limited to the powers granted to the Commission relating to  
8 assembly and the promulgation of Rules. Thereafter, the Commission  
9 shall meet and exercise Rulemaking powers necessary to the  
10 implementation and administration of the Compact.

11 B. Any State that joins the Compact subsequent to the  
12 Commission's initial adoption of the Rules shall be subject to the  
13 Rules as they exist on the date on which the Compact becomes law in  
14 that State. Any Rule that has been previously adopted by the  
15 Commission shall have the full force and effect of law on the day  
16 the Compact becomes law in that State.

17 C. Any Member State may withdraw from this Compact by  
18 enacting a statute repealing the same.

19 1. A Member State's withdrawal shall not take effect  
20 until six (6) months after enactment of the repealing statute.

21 2. Withdrawal shall not affect the continuing  
22 requirement of the withdrawing State's Occupational Therapy  
23 Licensing Board to comply with the investigative and Adverse Action  
24 reporting requirements of this act prior to the effective date of  
25 withdrawal.

26 D. Nothing contained in this Compact shall be construed to  
27 invalidate or prevent any Occupational Therapy licensure agreement

1 or other cooperative arrangement between a Member State and a  
2 non-Member State that does not conflict with the provisions of this  
3 Compact.

4 E. This Compact may be amended by the Member States. No  
5 amendment to this Compact shall become effective and binding upon  
6 any Member State until it is enacted into the laws of all Member  
7 States.

8 SECTION 13. CONSTRUCTION AND SEVERABILITY

9 This Compact shall be liberally construed so as to effectuate  
10 the purposes thereof. The provisions of this Compact shall be  
11 severable and if any phrase, clause, sentence or provision of this  
12 Compact is declared to be contrary to the constitution of any Member  
13 State or of the United States or the applicability thereof to any  
14 government, agency, person, or circumstance is held invalid, the  
15 validity of the remainder of this Compact and the applicability  
16 thereof to any government, agency, person, or circumstance shall  
17 not be affected thereby. If this Compact shall be held contrary to  
18 the constitution of any Member State, the Compact shall remain in  
19 full force and effect as to the remaining Member States and in full  
20 force and effect as to the Member State affected as to all severable  
21 matters.

22 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

23 A. A Licensee providing Occupational Therapy in a Remote  
24 State under the Compact Privilege shall function within the laws  
25 and regulations of the Remote State.

26 B. Nothing herein prevents the enforcement of any other law  
27 of a Member State that is not inconsistent with the Compact.

1        C. Any laws in a Member State in conflict with the Compact  
2 are superseded to the extent of the conflict.

3        D. Any lawful actions of the Commission, including all Rules  
4 and bylaws promulgated by the Commission, are binding upon the  
5 Member States.

6        E. All agreements between the Commission and the Member  
7 States are binding in accordance with their terms.

8        F. In the event any provision of the Compact exceeds the  
9 constitutional limits imposed on the legislature of any Member  
10 State, the provision shall be ineffective to the extent of the  
11 conflict with the constitutional provision in question in that  
12 Member State.

13        Sec. 454.402. ADMINISTRATION OF COMPACT. The board is the  
14 Occupational Therapy Licensure Compact administrator for this  
15 state.

16        Sec. 454.403. RULES. The board may adopt rules necessary to  
17 implement this subchapter.

18        SECTION 2. This Act takes effect September 1, 2021.

**UTAH**  
**SB 112**

1                   **OCCUPATIONAL THERAPY LICENSURE COMPACT**

2                                   2021 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Gene Davis**

5                                   House Sponsor: Susan Pulsipher

---

---

7 **LONG TITLE**

8 **General Description:**

9                   This bill enacts the Occupational Therapy Licensure Compact.

10 **Highlighted Provisions:**

11                   This bill:

- 12                   ▶ enacts the Occupational Therapy Licensure Compact; and
- 13                   ▶ authorizes the Division of Occupational and Professional Licensing to make rules to

14 implement the Occupational Therapy Licensure Compact.

15 **Money Appropriated in this Bill:**

16                   None

17 **Other Special Clauses:**

18                   None

19 **Utah Code Sections Affected:**

20 ENACTS:

21                   **58-42b-101**, Utah Code Annotated 1953

22                   **58-42b-201**, Utah Code Annotated 1953

23                   **58-42b-202**, Utah Code Annotated 1953

24                   **58-42b-203**, Utah Code Annotated 1953

25                   **58-42b-204**, Utah Code Annotated 1953

26                   **58-42b-205**, Utah Code Annotated 1953

27                   **58-42b-206**, Utah Code Annotated 1953



- 28 [58-42b-207](#), Utah Code Annotated 1953
- 29 [58-42b-208](#), Utah Code Annotated 1953
- 30 [58-42b-209](#), Utah Code Annotated 1953
- 31 [58-42b-210](#), Utah Code Annotated 1953
- 32 [58-42b-211](#), Utah Code Annotated 1953
- 33 [58-42b-212](#), Utah Code Annotated 1953
- 34 [58-42b-213](#), Utah Code Annotated 1953
- 35 [58-42b-214](#), Utah Code Annotated 1953
- 36 [58-42b-301](#), Utah Code Annotated 1953

37 

---

---

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

39 Section 1. Section **58-42b-101** is enacted to read:

40 **CHAPTER 42b. OCCUPATIONAL THERAPY LICENSURE COMPACT**

41 **58-42b-101. Title.**

42 This chapter is known as the "Occupational Therapy Licensure Compact."

43 Section 2. Section **58-42b-201** is enacted to read:

44 **Part 2. Compact Text**

45 **58-42b-201. Section 1 -- Purpose.**

46 The purpose of this Compact is to facilitate interstate practice of Occupational Therapy  
47 with the goal of improving public access to Occupational Therapy services. The Practice of  
48 Occupational Therapy occurs in the State where the patient/client is located at the time of the  
49 patient/client encounter. The Compact preserves the regulatory authority of States to protect  
50 public health and safety through the current system of State licensure.

51 This Compact is designed to achieve the following objectives:

52 (A) Increase public access to Occupational Therapy services by providing for the  
53 mutual recognition of other Member State licenses;

54 (B) Enhance the States' ability to protect the public's health and safety;

55 (C) Encourage the cooperation of Member States in regulating multi-State  
56 Occupational Therapy Practice;

57 (D) Support spouses of relocating military members;

58 (E) Enhance the exchange of licensure, investigative, and disciplinary information



59 between Member States;

60 (F) Allow a Remote State to hold a provider of services with a Compact Privilege in  
61 that State accountable to that State's practice standards; and

62 (G) Facilitate the use of Telehealth technology in order to increase access to  
63 Occupational Therapy services.

64 Section 3. Section **58-42b-202** is enacted to read:

65 **58-42b-202. Section 2 -- Definitions.**

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

68 (A) "Active Duty Military" means full-time duty status in the active uniformed service  
69 of the United States, including members of the National Guard and Reserve on active duty  
70 orders pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

71 (B) "Adverse Action" means any administrative, civil, equitable, or criminal action  
72 permitted by a State's laws which is imposed by a Licensing Board or other authority against an  
73 Occupational Therapist or Occupational Therapy Assistant, including actions against an  
74 individual's license or Compact Privilege such as censure, revocation, suspension, probation,  
75 monitoring of the Licensee, or restriction on the Licensee's practice.

76 (C) "Alternative Program" means a non-disciplinary monitoring process approved by  
77 an Occupational Therapy Licensing Board.

78 (D) "Compact Privilege" means the authorization, which is equivalent to a license,  
79 granted by a Remote State to allow a Licensee from another Member State to practice as an  
80 Occupational Therapist or practice as an Occupational Therapy Assistant in the Remote State  
81 under its laws and rules. The Practice of Occupational Therapy occurs in the Member State  
82 where the patient/client is located at the time of the patient/client encounter.

83 (E) "Continuing Competence/Education" means a requirement, as a condition of  
84 license renewal, to provide evidence of participation in, and/or completion of, educational and  
85 professional activities relevant to practice or area of work.

86 (F) "Current Significant Investigative Information" means Investigative Information  
87 that a Licensing Board, after an inquiry or investigation that includes notification and an  
88 opportunity for the Occupational Therapist or Occupational Therapy Assistant to respond, if  
89 required by State law, has reason to believe is not groundless and, if proved true, would

90 indicate more than a minor infraction.

91 (G) "Data System" means a repository of information about Licensees, including but  
92 not limited to license status, Investigative Information, Compact Privileges, and Adverse  
93 Actions.

94 (H) "Encumbered License" means a license in which an Adverse Action restricts the  
95 Practice of Occupational Therapy by the Licensee or said Adverse Action has been reported to  
96 the National Practitioners Data Bank (NPDB).

97 (I) "Executive Committee" means a group of directors elected or appointed to act on  
98 behalf of, and within the powers granted to them by, the Commission.

99 (J) "Home State" means the Member State that is the Licensee's Primary State of  
100 Residence.

101 (K) "Impaired Practitioner" means individuals whose professional practice is adversely  
102 affected by substance abuse, addiction, or other health-related conditions.

103 (L) "Investigative Information" means information, records, and/or documents received  
104 or generated by an Occupational Therapy Licensing Board pursuant to an investigation.

105 (M) "Jurisprudence Requirement" means the assessment of an individual's knowledge  
106 of the laws and rules governing the Practice of Occupational Therapy in a State.

107 (N) "Licensee" means an individual who currently holds an authorization from the  
108 State to practice as an Occupational Therapist or as an Occupational Therapy Assistant.

109 (O) "Member State" means a State that has enacted the Compact.

110 (P) "Occupational Therapist" means an individual who is licensed by a State to practice  
111 Occupational Therapy.

112 (Q) "Occupational Therapy Assistant" means an individual who is licensed by a State  
113 to assist in the Practice of Occupational Therapy.

114 (R) "Occupational Therapy," "Occupational Therapy Practice," and the "Practice of  
115 Occupational Therapy" mean the care and services provided by an Occupational Therapist or  
116 an Occupational Therapy Assistant as set forth in the Member State's statutes and regulations.

117 (S) "Occupational Therapy Compact Commission" or "Commission" means the  
118 national administrative body whose membership consists of all States that have enacted the  
119 Compact.

120 (T) "Occupational Therapy Licensing Board" or "Licensing Board" means the agency

121 of a State that is authorized to license and regulate Occupational Therapists and Occupational  
122 Therapy Assistants.

123 (U) "Primary State of Residence" means the state (also known as the Home State) in  
124 which an Occupational Therapist or Occupational Therapy Assistant who is not Active Duty  
125 Military declares a primary residence for legal purposes as verified by: driver's license, federal  
126 income tax return, lease, deed, mortgage or voter registration or other verifying documentation  
127 as further defined by Commission Rules.

128 (V) "Remote State" means a Member State other than the Home State, where a  
129 Licensee is exercising or seeking to exercise the Compact Privilege.

130 (W) "Rule" means a regulation promulgated by the Commission that has the force of  
131 law.

132 (X) "State" means any state, commonwealth, district, or territory of the United States of  
133 America that regulates the Practice of Occupational Therapy.

134 (Y) "Single-State License" means an Occupational Therapist or Occupational Therapy  
135 Assistant license issued by a Member State that authorizes practice only within the issuing  
136 State and does not include a Compact Privilege in any other Member State.

137 (Z) "Telehealth" means the application of telecommunication technology to deliver  
138 Occupational Therapy services for assessment, intervention and/or consultation.

139 Section 4. Section **58-42b-203** is enacted to read:

140 **58-42b-203. Section 3 -- State participation in the compact.**

141 (A) To participate in the Compact, a Member State shall:

142 (1) License Occupational Therapists and Occupational Therapy Assistants;

143 (2) Participate fully in the Commission's Data System, including but not limited to  
144 using the Commission's unique identifier as defined in Rules of the Commission;

145 (3) Have a mechanism in place for receiving and investigating complaints about  
146 Licensees;

147 (4) Notify the Commission, in compliance with the terms of the Compact and Rules, of  
148 any Adverse Action or the availability of Investigative Information regarding a Licensee;

149 (5) Implement or utilize procedures for considering the criminal history records of  
150 applicants for an initial Compact Privilege. These procedures shall include the submission of  
151 fingerprints or other biometric-based information by applicants for the purpose of obtaining an

152 applicant's criminal history record information from the Federal Bureau of Investigation and  
153 the agency responsible for retaining that State's criminal records;

154 (a) A Member State shall, within a time frame established by the Commission, require  
155 a criminal background check for a Licensee seeking/applying for a Compact Privilege whose  
156 Primary State of Residence is that Member State, by receiving the results of the Federal Bureau  
157 of Investigation criminal record search, and shall use the results in making licensure decisions.

158 (b) Communication between a Member State, the Commission and among Member  
159 States regarding the verification of eligibility for licensure through the Compact shall not  
160 include any information received from the Federal Bureau of Investigation relating to a federal  
161 criminal records check performed by a Member State under Public Law 92-544.

162 (6) Comply with the Rules of the Commission;

163 (7) Utilize only a recognized national examination as a requirement for licensure  
164 pursuant to the Rules of the Commission; and

165 (8) Have Continuing Competence/Education requirements as a condition for license  
166 renewal.

167 (B) A Member State shall grant the Compact Privilege to a Licensee holding a valid  
168 unencumbered license in another Member State in accordance with the terms of the Compact  
169 and Rules.

170 (C) Member States may charge a fee for granting a Compact Privilege.

171 (D) A Member State shall provide for the State's delegate to attend all Occupational  
172 Therapy Compact Commission meetings.

173 (E) Individuals not residing in a Member State shall continue to be able to apply for a  
174 Member State's Single-State License as provided under the laws of each Member State.  
175 However, the Single-State License granted to these individuals shall not be recognized as  
176 granting the Compact Privilege in any other Member State.

177 (F) Nothing in this Compact shall affect the requirements established by a Member  
178 State for the issuance of a Single-State License.

179 Section 5. Section **58-42b-204** is enacted to read:

180 **58-42b-204. Section 4 -- Compact privilege.**

181 (A) To exercise the Compact Privilege under the terms and provisions of the Compact,  
182 the Licensee shall:

- 183           (1) Hold a license in the Home State;  
184           (2) Have a valid United States Social Security Number or National Provider Identifier  
185 number;  
186           (3) Have no encumbrance on any State license;  
187           (4) Be eligible for a Compact Privilege in any Member State in accordance with  
188 Subsections (D), (F), (G), and (H);  
189           (5) Have paid all fines and completed all requirements resulting from any Adverse  
190 Action against any license or Compact Privilege, and two years have elapsed from the date of  
191 such completion;  
192           (6) Notify the Commission that the Licensee is seeking the Compact Privilege within a  
193 Remote State(s);  
194           (7) Pay any applicable fees, including any State fee, for the Compact Privilege;  
195           (8) Complete a criminal background check in accordance with Subsection  
196 58-42b-203(A)(5);  
197           (a) The Licensee shall be responsible for the payment of any fee associated with the  
198 completion of a criminal background check.  
199           (9) Meet any Jurisprudence Requirements established by the Remote State(s) in which  
200 the Licensee is seeking a Compact Privilege; and  
201           (10) Report to the Commission Adverse Action taken by any non-Member State within  
202 30 days from the date the Adverse Action is taken.  
203           (B) The Compact Privilege is valid until the expiration date of the Home State license.  
204 The Licensee must comply with the requirements of Subsection 58-42b-204(A) to maintain the  
205 Compact Privilege in the Remote State.  
206           (C) A Licensee providing Occupational Therapy in a Remote State under the Compact  
207 Privilege shall function within the laws and regulations of the Remote State.  
208           (D) Occupational Therapy Assistants practicing in a Remote State shall be supervised  
209 by an Occupational Therapist licensed or holding a Compact Privilege in that Remote State.  
210           (E) A Licensee providing Occupational Therapy in a Remote State is subject to that  
211 State's regulatory authority. A Remote State may, in accordance with due process and that  
212 State's laws, remove a Licensee's Compact Privilege in the Remote State for a specific period  
213 of time, impose fines, and/or take any other necessary actions to protect the health and safety of

214 its citizens. The Licensee may be ineligible for a Compact Privilege in any State until the  
215 specific time for removal has passed and all fines are paid.

216 (F) If a Home State license is encumbered, the Licensee shall lose the Compact  
217 Privilege in any Remote State until the following occur:

218 (1) The Home State license is no longer encumbered; and

219 (2) Two years have elapsed from the date on which the Home State license is no longer  
220 encumbered in accordance with Subsection 58-42b-204(F)(1).

221 (G) Once an Encumbered License in the Home State is restored to good standing, the  
222 Licensee must meet the requirements of Subsection (A) to obtain a Compact Privilege in any  
223 Remote State.

224 (H) If a Licensee's Compact Privilege in any Remote State is removed, the individual  
225 may lose the Compact Privilege in any other Remote State until the following occur:

226 (1) The specific period of time for which the Compact Privilege was removed has  
227 ended;

228 (2) All fines have been paid and all conditions have been met;

229 (3) Two years have elapsed from the date of completing requirements for Subsections  
230 (H)(1) and (2); and

231 (4) The Compact Privileges are reinstated by the Commission, and the compact Data  
232 System is updated to reflect reinstatement.

233 (I) If a Licensee's Compact Privilege in any Remote State is removed due to an  
234 erroneous charge, privileges shall be restored through the compact Data System.

235 (J) Once the requirements of Subsection (H) have been met, the licensee must meet the  
236 requirements in Subsection (A) to obtain a Compact Privilege in a Remote State.

237 Section 6. Section **58-42b-205** is enacted to read:

238 **58-42b-205. Section 5 -- Obtaining a new home state license by virtue of a**  
239 **compact privilege.**

240 (A) An Occupational Therapist or Occupational Therapy Assistant may hold a Home  
241 State license, which allows for Compact Privileges in Member States, in only one Member  
242 State at a time.

243 (B) If an Occupational Therapist or Occupational Therapy Assistant changes Primary  
244 State of Residence by moving between two Member States:

245 (1) The Occupational Therapist or Occupational Therapy Assistant shall file an  
246 application for obtaining a new Home State license by virtue of a Compact Privilege, pay all  
247 applicable fees, and notify the current and new Home State in accordance with applicable  
248 Rules adopted by the Commission.

249 (2) Upon receipt of an application for obtaining a new Home State license by virtue of  
250 compact privilege, the new Home State shall verify that the Occupational Therapist or  
251 Occupational Therapy Assistant meets the pertinent criteria outlined in Section [58-42b-204](#) via  
252 the Data System, without need for primary source verification except for:

253 (a) an FBI fingerprint based criminal background check if not previously performed or  
254 updated pursuant to applicable Rules adopted by the Commission in accordance with Public  
255 Law 92-544;

256 (b) other criminal background check as required by the new Home State; and

257 (c) submission of any requisite Jurisprudence Requirements of the new Home State.

258 (3) The former Home State shall convert the former Home State license into a  
259 Compact Privilege once the new Home State has activated the new Home State license in  
260 accordance with applicable Rules adopted by the Commission.

261 (4) Notwithstanding any other provision of this Compact, if the Occupational Therapist  
262 or Occupational Therapy Assistant cannot meet the criteria in Section [58-42b-204](#), the new  
263 Home State shall apply its requirements for issuing a new Single-State License.

264 (5) The Occupational Therapist or the Occupational Therapy Assistant shall pay all  
265 applicable fees to the new Home State in order to be issued a new Home State license.

266 (C) If an Occupational Therapist or Occupational Therapy Assistant changes Primary  
267 State of Residence by moving from a Member State to a non-Member State, or from a  
268 non-Member State to a Member State, the State criteria shall apply for issuance of a  
269 Single-State License in the new State.

270 (D) Nothing in this compact shall interfere with a Licensee's ability to hold a  
271 Single-State License in multiple States; however, for the purposes of this compact, a Licensee  
272 shall have only one Home State license.

273 (E) Nothing in this Compact shall affect the requirements established by a Member  
274 State for the issuance of a Single-State License.

275 Section 7. Section **58-42b-206** is enacted to read:

276 **58-42b-206. Section 6 -- Active duty military personnel or their spouses.**

277 (A) Active Duty Military personnel, or their spouses, shall designate a Home State  
278 where the individual has a current license in good standing. The individual may retain the  
279 Home State designation during the period the service member is on active duty. Subsequent to  
280 designating a Home State, the individual shall only change their Home State through  
281 application for licensure in the new State or through the process described in Section  
282 58-42b-205.

283 Section 8. Section **58-42b-207** is enacted to read:

284 **58-42b-207. Section 7 -- Adverse actions.**

285 (A) A Home State shall have exclusive power to impose Adverse Action against an  
286 Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home State.

287 (B) In addition to the other powers conferred by State law, a Remote State shall have  
288 the authority, in accordance with existing State due process law, to:

289 (1) Take Adverse Action against an Occupational Therapist's or Occupational Therapy  
290 Assistant's Compact Privilege within that Member State.

291 (2) Issue subpoenas for both hearings and investigations that require the attendance and  
292 testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing  
293 Board in a Member State for the attendance and testimony of witnesses or the production of  
294 evidence from another Member State shall be enforced in the latter State by any court of  
295 competent jurisdiction, according to the practice and procedure of that court applicable to  
296 subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness  
297 fees, travel expenses, mileage, and other fees required by the service statutes of the State in  
298 which the witnesses or evidence are located.

299 (C) For purposes of taking Adverse Action, the Home State shall give the same priority  
300 and effect to reported conduct received from a Member State as it would if the conduct had  
301 occurred within the Home State. In so doing, the Home State shall apply its own State laws to  
302 determine appropriate action.

303 (D) The Home State shall complete any pending investigations of an Occupational  
304 Therapist or Occupational Therapy Assistant who changes Primary State of Residence during  
305 the course of the investigations. The Home State, where the investigations were initiated, shall  
306 also have the authority to take appropriate action(s) and shall promptly report the conclusions



307 of the investigations to the Occupational Therapy Compact Commission Data System. The  
308 Occupational Therapy Compact Commission Data System administrator shall promptly notify  
309 the new Home State of any Adverse Actions.

310 (E) A Member State, if otherwise permitted by State law, may recover from the  
311 affected Occupational Therapist or Occupational Therapy Assistant the costs of investigations  
312 and disposition of cases resulting from any Adverse Action taken against that Occupational  
313 Therapist or Occupational Therapy Assistant.

314 (F) A Member State may take Adverse Action based on the factual findings of the  
315 Remote State, provided that the Member State follows its own procedures for taking the  
316 Adverse Action.

317 (G) Joint Investigations

318 (1) In addition to the authority granted to a Member State by its respective State  
319 Occupational Therapy laws and regulations or other applicable State law, any Member State  
320 may participate with other Member States in joint investigations of Licensees.

321 (2) Member States shall share any investigative, litigation, or compliance materials in  
322 furtherance of any joint or individual investigation initiated under the Compact.

323 (H) If an Adverse Action is taken by the Home State against an Occupational  
324 Therapist's or Occupational Therapy Assistant's license, the Occupational Therapist's or  
325 Occupational Therapy Assistant's Compact Privilege in all other Member States shall be  
326 deactivated until all encumbrances have been removed from the State license. All Home State  
327 disciplinary orders that impose Adverse Action against an Occupational Therapist's or  
328 Occupational Therapy Assistant's license shall include a Statement that the Occupational  
329 Therapist's or Occupational Therapy Assistant's Compact Privilege is deactivated in all  
330 Member States during the pendency of the order.

331 (I) If a Member State takes Adverse Action, it shall promptly notify the administrator  
332 of the Data System. The administrator of the Data System shall promptly notify the Home State  
333 of any Adverse Actions by Remote States.

334 (J) Nothing in this Compact shall override a Member State's decision that participation  
335 in an Alternative Program may be used in lieu of Adverse Action.

336 Section 9. Section **58-42b-208** is enacted to read:

337 **58-42b-208. Section 8 -- Establishment of the Occupational Therapy Compact**

338 **Commission.**

339 (A) The Compact Member States hereby create and establish a joint public agency  
340 known as the Occupational Therapy Compact Commission.

341 (1) The Commission is an instrumentality of the Compact States.

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

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

347 (B) Membership, Voting, and Meetings

348 (1) Each Member State shall have and be limited to one delegate selected by that  
349 Member State's Licensing Board.

350 (2) The delegate shall be either:

351 (a) A current member of the Licensing Board, who is an Occupational Therapist,  
352 Occupational Therapy Assistant, or public member; or

353 (b) An administrator of the Licensing Board.

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

356 (4) The Member State board shall fill any vacancy occurring in the Commission within  
357 90 days.

358 (5) Each delegate shall be entitled to one vote with regard to the promulgation of Rules  
359 and creation of bylaws and shall otherwise have an opportunity to participate in the business  
360 and affairs of the Commission. A delegate shall vote in person or by such other means as  
361 provided in the bylaws. The bylaws may provide for delegates' participation in meetings by  
362 telephone or other means of communication.

363 (6) The Commission shall meet at least once during each calendar year. Additional  
364 meetings shall be held as set forth in the bylaws.

365 (7) The Commission shall establish by Rule a term of office for delegates.

366 (C) The Commission shall have the following powers and duties:

367 (1) Establish a Code of Ethics for the Commission;

368 (2) Establish the fiscal year of the Commission;

- 369           (3) Establish bylaws;
- 370           (4) Maintain its financial records in accordance with the bylaws;
- 371           (5) Meet and take such actions as are consistent with the provisions of this Compact  
372 and the bylaws;
- 373           (6) Promulgate uniform Rules to facilitate and coordinate implementation and  
374 administration of this Compact. The Rules shall have the force and effect of law and shall be  
375 binding in all Member States;
- 376           (7) Bring and prosecute legal proceedings or actions in the name of the Commission,  
377 provided that the standing of any State Occupational Therapy Licensing Board to sue or be  
378 sued under applicable law shall not be affected;
- 379           (8) Purchase and maintain insurance and bonds;
- 380           (9) Borrow, accept, or contract for services of personnel, including, but not limited to,  
381 employees of a Member State;
- 382           (10) Hire employees, elect or appoint officers, fix compensation, define duties, grant  
383 such individuals appropriate authority to carry out the purposes of the Compact, and establish  
384 the Commission's personnel policies and programs relating to conflicts of interest,  
385 qualifications of personnel, and other related personnel matters;
- 386           (11) Accept any and all appropriate donations and grants of money, equipment,  
387 supplies, materials and services, and receive, utilize and dispose of the same, provided that at  
388 all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;
- 389           (12) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,  
390 improve or use, any property, real, personal or mixed, provided that at all times the  
391 Commission shall avoid any appearance of impropriety;
- 392           (13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
393 any property real, personal, or mixed;
- 394           (14) Establish a budget and make expenditures;
- 395           (15) Borrow money;
- 396           (16) Appoint committees, including standing committees composed of members, State  
397 regulators, State legislators or their representatives, and consumer representatives, and such  
398 other interested persons as may be designated in this Compact and the bylaws;
- 399           (17) Provide and receive information from, and cooperate with, law enforcement

400 agencies;

401 (18) Establish and elect an Executive Committee; and

402 (19) Perform such other functions as may be necessary or appropriate to achieve the

403 purposes of this Compact consistent with the State regulation of Occupational Therapy

404 licensure and practice.

405 (D) The Executive Committee. The Executive Committee shall have the power to act

406 on behalf of the Commission according to the terms of this Compact.

407 (1) The Executive Committee shall be composed of nine members:

408 (a) Seven voting members who are elected by the Commission from the current

409 membership of the Commission;

410 (b) One ex-officio, nonvoting member from a recognized national Occupational

411 Therapy professional association; and

412 (c) One ex-officio, nonvoting member from a recognized national Occupational

413 Therapy certification organization.

414 (2) The ex-officio members will be selected by their respective organizations.

415 (3) The Commission may remove any member of the Executive Committee as

416 provided in bylaws.

417 (4) The Executive Committee shall meet at least annually.

418 (5) The Executive Committee shall have the following Duties and responsibilities:

419 (a) Recommend to the entire Commission changes to the Rules or bylaws, changes to

420 this Compact legislation, fees paid by Compact Member States such as annual dues, and any

421 Commission Compact fee charged to Licensees for the Compact Privilege;

422 (b) Ensure Compact administration services are appropriately provided, contractual or

423 otherwise;

424 (c) Prepare and recommend the budget;

425 (d) Maintain financial records on behalf of the Commission;

426 (e) Monitor Compact compliance of Member States and provide compliance reports to

427 the Commission;

428 (f) Establish additional committees as necessary; and

429 (g) Perform other duties as provided in Rules or bylaws.

430 (E) Meetings of the Commission

431 (1) All meetings shall be open to the public, and public notice of meetings shall be  
432 given in the same manner as required under the Rulemaking provisions in Section 58-42b-210.

433 (2) The Commission or the Executive Committee or other committees of the  
434 Commission may convene in a closed, non-public meeting if the Commission or Executive  
435 Committee or other committees of the Commission must discuss:

436 (a) Non-compliance of a Member State with its obligations under the Compact;

437 (b) The employment, compensation, discipline or other matters, practices or procedures  
438 related to specific employees or other matters related to the Commission's internal personnel  
439 practices and procedures;

440 (c) Current, threatened, or reasonably anticipated litigation;

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

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

444 (f) Disclosure of trade secrets or commercial or financial information that is privileged  
445 or confidential;

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

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

449 (i) Disclosure of information related to any investigative reports prepared by or on  
450 behalf of or for use of the Commission or other committee charged with responsibility of  
451 investigation or determination of compliance issues pursuant to the Compact; or

452 (j) Matters specifically exempted from disclosure by federal or Member State statute.

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

456 (4) The Commission shall keep minutes that fully and clearly describe all matters  
457 discussed in a meeting and shall provide a full and accurate summary of actions taken, and the  
458 reasons therefore, including a description of the views expressed. All documents considered in  
459 connection with an action shall be identified in such minutes. All minutes and documents of a  
460 closed meeting shall remain under seal, subject to release by a majority vote of the Commission  
461 or order of a court of competent jurisdiction.

462 (F) Financing of the Commission

463 (1) The Commission shall pay, or provide for the payment of, the reasonable expenses  
464 of its establishment, organization, and ongoing activities.

465 (2) The Commission may accept any and all appropriate revenue sources, donations,  
466 and grants of money, equipment, supplies, materials, and services.

467 (3) The Commission may levy on and collect an annual assessment from each Member  
468 State or impose fees on other parties to cover the cost of the operations and activities of the  
469 Commission and its staff, which must be in a total amount sufficient to cover its annual budget  
470 as approved by the Commission each year for which revenue is not provided by other sources.  
471 The aggregate annual assessment amount shall be allocated based upon a formula to be  
472 determined by the Commission, which shall promulgate a Rule binding upon all Member  
473 States.

474 (4) The Commission shall not incur obligations of any kind prior to securing the funds  
475 adequate to meet the same, nor shall the Commission pledge the credit of any of the Member  
476 States, except by and with the authority of the Member State.

477 (5) The Commission shall keep accurate accounts of all receipts and disbursements.  
478 The receipts and disbursements of the Commission shall be subject to the audit and accounting  
479 procedures established under its bylaws. However, all receipts and disbursements of funds  
480 handled by the Commission shall be audited yearly by a certified or licensed public accountant,  
481 and the report of the audit shall be included in and become part of the annual report of the  
482 Commission.

483 (G) Qualified Immunity, Defense, and Indemnification

484 (1) The members, officers, executive director, employees and representatives of the  
485 Commission shall be immune from suit and liability, either personally or in their official  
486 capacity, for any claim for damage to or loss of property or personal injury or other civil  
487 liability caused by or arising out of any actual or alleged act, error or omission that occurred, or  
488 that the person against whom the claim is made had a reasonable basis for believing occurred  
489 within the scope of Commission employment, duties or responsibilities, provided that nothing  
490 in this paragraph shall be construed to protect any such person from suit and/or liability for any  
491 damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of  
492 that person.

493           (2) The Commission shall defend any member, officer, executive director, employee,  
494 or representative of the Commission in any civil action seeking to impose liability arising out  
495 of any actual or alleged act, error, or omission that occurred within the scope of Commission  
496 employment, duties, or responsibilities, or that the person against whom the claim is made had  
497 a reasonable basis for believing occurred within the scope of Commission employment, duties,  
498 or responsibilities, provided that nothing herein shall be construed to prohibit that person from  
499 retaining his or her own counsel, and provided further, that the actual or alleged act, error, or  
500 omission did not result from that person's intentional or willful or wanton misconduct.

501           (3) The Commission shall indemnify and hold harmless any member, officer, executive  
502 director, employee, or representative of the Commission for the amount of any settlement or  
503 judgment obtained against that person arising out of any actual or alleged act, error or omission  
504 that occurred within the scope of Commission employment, duties, or responsibilities, or that  
505 such person had a reasonable basis for believing occurred within the scope of Commission  
506 employment, duties, or responsibilities, provided that the actual or alleged act, error, or  
507 omission did not result from the intentional or willful or wanton misconduct of that person.

508           Section 10. Section **58-42b-209** is enacted to read:

509           **58-42b-209. Section 9 -- Data system.**

510           (A) The Commission shall provide for the development, maintenance, and utilization  
511 of a coordinated database and reporting system containing licensure, Adverse Action, and  
512 Investigative Information on all licensed individuals in Member States.

513           (B) A Member State shall submit a uniform data set to the Data System on all  
514 individuals to whom this Compact is applicable (utilizing a unique identifier) as required by the  
515 Rules of the Commission, including:

516           (1) Identifying information;

517           (2) Licensure data;

518           (3) Adverse Actions against a license or Compact Privilege;

519           (4) Non-confidential information related to Alternative Program participation;

520           (5) Any denial of application for licensure, and the reason(s) for such denial;

521           (6) Other information that may facilitate the administration of this Compact, as  
522 determined by the Rules of the Commission; and

523           (7) Current Significant Investigative Information.

524 (C) Current Significant Investigative Information and other Investigative Information  
525 pertaining to a Licensee in any Member State will only be available to other Member States.

526 (D) The Commission shall promptly notify all Member States of any Adverse Action  
527 taken against a Licensee or an individual applying for a license. Adverse Action information  
528 pertaining to a Licensee in any Member State will be available to any other Member State.

529 (E) Member States contributing information to the Data System may designate  
530 information that may not be shared with the public without the express permission of the  
531 contributing State.

532 (F) Any information submitted to the Data System that is subsequently required to be  
533 expunged by the laws of the Member State contributing the information shall be removed from  
534 the Data System.

535 Section 11. Section **58-42b-210** is enacted to read:

536 **58-42b-210. Section 10 -- Rulemaking.**

537 (A) The Commission shall exercise its Rulemaking powers pursuant to the criteria set  
538 forth in this Section and the Rules adopted thereunder. Rules and amendments shall become  
539 binding as of the date specified in each Rule or amendment.

540 (B) The Commission shall promulgate reasonable rules in order to effectively and  
541 efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event  
542 the Commission exercises its rulemaking authority in a manner that is beyond the scope of the  
543 purposes of the Compact, or the powers granted hereunder, then such an action by the  
544 Commission shall be invalid and have no force and effect.

545 (C) If a majority of the legislatures of the Member States rejects a Rule, by enactment  
546 of a statute or resolution in the same manner used to adopt the Compact within four years of  
547 the date of adoption of the Rule, then such Rule shall have no further force and effect in any  
548 Member State.

549 (D) Rules or amendments to the Rules shall be adopted at a regular or special meeting  
550 of the Commission.

551 (E) Prior to promulgation and adoption of a final Rule or Rules by the Commission,  
552 and at least thirty (30) days in advance of the meeting at which the Rule will be considered and  
553 voted upon, the Commission shall file a Notice of Proposed Rulemaking:

554 (1) On the website of the Commission or other publicly accessible platform; and



555 (2) On the website of each Member State Occupational Therapy Licensing Board or  
556 other publicly accessible platform or the publication in which each State would otherwise  
557 publish proposed Rules.

558 (F) The Notice of Proposed Rulemaking shall include:

559 (1) The proposed time, date, and location of the meeting in which the Rule will be  
560 considered and voted upon;

561 (2) The text of the proposed Rule or amendment and the reason for the proposed Rule;

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

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

565 (G) Prior to adoption of a proposed Rule, the Commission shall allow persons to  
566 submit written data, facts, opinions, and arguments, which shall be made available to the  
567 public.

568 (H) The Commission shall grant an opportunity for a public hearing before it adopts a  
569 Rule or amendment if a hearing is requested by:

570 (1) At least 25 persons;

571 (2) A State or federal governmental subdivision or agency; or

572 (3) An association or organization having at least 25 members.

573 (I) If a hearing is held on the proposed Rule or amendment, the Commission shall  
574 publish the place, time, and date of the scheduled public hearing. If the hearing is held via  
575 electronic means, the Commission shall publish the mechanism for access to the electronic  
576 hearing.

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

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

582 (3) All hearings will be recorded. A copy of the recording will be made available on  
583 request.

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

586 this section.

587 (J) Following the scheduled hearing date, or by the close of business on the scheduled  
588 hearing date if the hearing was not held, the Commission shall consider all written and oral  
589 comments received.

590 (K) If no written notice of intent to attend the public hearing by interested parties is  
591 received, the Commission may proceed with promulgation of the proposed Rule without a  
592 public hearing.

593 (L) The Commission shall, by majority vote of all members, take final action on the  
594 proposed Rule and shall determine the effective date of the Rule, if any, based on the  
595 Rulemaking record and the full text of the Rule.

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

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

603 (2) Prevent a loss of Commission or Member State funds;

604 (3) Meet a deadline for the promulgation of an administrative Rule that is established  
605 by federal law or Rule; or

606 (4) Protect public health and safety.

607 (N) The Commission or an authorized committee of the Commission may direct  
608 revisions to a previously adopted Rule or amendment for purposes of correcting typographical  
609 errors, errors in format, errors in consistency, or grammatical errors. Public notice of any  
610 revisions shall be posted on the website of the Commission. The revision shall be subject to  
611 challenge by any person for a period of 30 days after posting. The revision may be challenged  
612 only on grounds that the revision results in a material change to a Rule. A challenge shall be  
613 made in writing and delivered to the chair of the Commission prior to the end of the notice  
614 period. If no challenge is made, the revision will take effect without further action. If the  
615 revision is challenged, the revision may not take effect without the approval of the  
616 Commission.

617 Section 12. Section **58-42b-211** is enacted to read:

618 **58-42b-211. Section 11 -- Oversight, dispute resolution, and enforcement.**

619 (A) Oversight

620 (1) The executive, legislative, and judicial branches of State government in each  
621 Member State shall enforce this Compact and take all actions necessary and appropriate to  
622 effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules  
623 promulgated hereunder shall have standing as statutory law.

624 (2) All courts shall take judicial notice of the Compact and the Rules in any judicial or  
625 administrative proceeding in a Member State pertaining to the subject matter of this Compact  
626 which may affect the powers, responsibilities, or actions of the Commission.

627 (3) The Commission shall be entitled to receive service of process in any such  
628 proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure  
629 to provide service of process to the Commission shall render a judgment or order void as to the  
630 Commission, this Compact, or promulgated Rules.

631 (B) Default, Technical Assistance, and Termination

632 (1) If the Commission determines that a Member State has defaulted in the  
633 performance of its obligations or responsibilities under this Compact or the promulgated Rules,  
634 the Commission shall:

635 (a) Provide written notice to the defaulting State and other Member States of the nature  
636 of the default, the proposed means of curing the default, and/or any other action to be taken by  
637 the Commission; and

638 (b) Provide remedial training and specific technical assistance regarding the default.

639 (2) If a State in default fails to cure the default, the defaulting State may be terminated  
640 from the Compact upon an affirmative vote of a majority of the Member States, and all rights,  
641 privileges, and benefits conferred by this Compact may be terminated on the effective date of  
642 termination. A cure of the default does not relieve the offending State of obligations or  
643 liabilities incurred during the period of default.

644 (3) Termination of membership in the Compact shall be imposed only after all other  
645 means of securing compliance have been exhausted. Notice of intent to suspend or terminate  
646 shall be given by the Commission to the governor, the majority and minority leaders of the  
647 defaulting State's legislature, and each of the Member States.

648 (4) A State that has been terminated is responsible for all assessments, obligations, and  
649 liabilities incurred through the effective date of termination, including obligations that extend  
650 beyond the effective date of termination.

651 (5) The Commission shall not bear any costs related to a State that is found to be in  
652 default or that has been terminated from the Compact, unless agreed upon in writing between  
653 the Commission and the defaulting State.

654 (6) The defaulting State may appeal the action of the Commission by petitioning the  
655 U.S. District Court for the District of Columbia or the federal district where the Commission  
656 has its principal offices. The prevailing member shall be awarded all costs of such litigation,  
657 including reasonable attorney's fees.

658 (C) Dispute Resolution

659 (1) Upon request by a Member State, the Commission shall attempt to resolve disputes  
660 related to the Compact that arise among Member States and between member and non-Member  
661 States.

662 (2) The Commission shall promulgate a Rule providing for both mediation and binding  
663 dispute resolution for disputes as appropriate.

664 (D) Enforcement

665 (1) The Commission, in the reasonable exercise of its discretion, shall enforce the  
666 provisions and Rules of this Compact.

667 (2) By majority vote, the Commission may initiate legal action in the United States  
668 District Court for the District of Columbia or the federal district where the Commission has its  
669 principal offices against a Member State in default to enforce compliance with the provisions  
670 of the Compact and its promulgated Rules and bylaws. The relief sought may include both  
671 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing  
672 member shall be awarded all costs of such litigation, including reasonable attorney's fees.

673 (3) The remedies herein shall not be the exclusive remedies of the Commission. The  
674 Commission may pursue any other remedies available under federal or State law.

675 Section 13. Section **58-42b-212** is enacted to read:

676 **58-42b-212. Section 12 -- Date of implementation of the Interstate Commission for**  
677 **Occupational Therapy Practice and associated rules, withdrawal, and amendment.**

678 (A) The Compact shall come into effect on the date on which the Compact statute is

679 enacted into law in the tenth Member State. The provisions, which become effective at that  
680 time, shall be limited to the powers granted to the Commission relating to assembly and the  
681 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking  
682 powers necessary to the implementation and administration of the Compact.

683 (B) Any State that joins the Compact subsequent to the Commission's initial adoption  
684 of the Rules shall be subject to the Rules as they exist on the date on which the Compact  
685 becomes law in that State. Any Rule that has been previously adopted by the Commission shall  
686 have the full force and effect of law on the day the Compact becomes law in that State.

687 (C) Any Member State may withdraw from this Compact by enacting a statute  
688 repealing the same.

689 (1) A Member State's withdrawal shall not take effect until six (6) months after  
690 enactment of the repealing statute.

691 (2) Withdrawal shall not affect the continuing requirement of the withdrawing State's  
692 Occupational Therapy Licensing Board to comply with the investigative and Adverse Action  
693 reporting requirements of this act prior to the effective date of withdrawal.

694 (D) Nothing contained in this Compact shall be construed to invalidate or prevent any  
695 Occupational Therapy licensure agreement or other cooperative arrangement between a  
696 Member State and a non-Member State that does not conflict with the provisions of this  
697 Compact.

698 (E) This Compact may be amended by the Member States. No amendment to this  
699 Compact shall become effective and binding upon any Member State until it is enacted into the  
700 laws of all Member States.

701 Section 14. Section **58-42b-213** is enacted to read:

702 **58-42b-213. Section 13 -- Construction and severability.**

703 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
704 provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision  
705 of this Compact is declared to be contrary to the constitution of any Member State or of the  
706 United States or the applicability thereof to any government, agency, person, or circumstance is  
707 held invalid, the validity of the remainder of this Compact and the applicability thereof to any  
708 government, agency, person, or circumstance shall not be affected thereby. If this Compact  
709 shall be held contrary to the constitution of any Member State, the Compact shall remain in full

710 force and effect as to the remaining Member States and in full force and effect as to the  
711 Member State affected as to all severable matters.

712 Section 15. Section **58-42b-214** is enacted to read:

713 **58-42b-214. Section 14 -- Binding effect of compact and other laws.**

714 (A) A Licensee providing Occupational Therapy in a Remote State under the Compact  
715 Privilege shall function within the laws and regulations of the Remote State.

716 (B) Nothing herein prevents the enforcement of any other law of a Member State that is  
717 not inconsistent with the Compact.

718 (C) Any laws in a Member State in conflict with the Compact are superseded to the  
719 extent of the conflict.

720 (D) Any lawful actions of the Commission, including all Rules and bylaws  
721 promulgated by the Commission, are binding upon the Member States.

722 (E) All agreements between the Commission and the Member States are binding in  
723 accordance with their terms.

724 (F) In the event any provision of the Compact exceeds the constitutional limits  
725 imposed on the legislature of any Member State, the provision shall be ineffective to the extent  
726 of the conflict with the constitutional provision in question in that Member State.

727 Section 16. Section **58-42b-301** is enacted to read:

728 **Part 3. Rulemaking**

729 **58-42b-301. Rulemaking authority.**

730 The division may make rules in accordance with Title 63G, Chapter 3, Utah  
731 Administrative Rulemaking Act, to implement this chapter.

**VIRGINIA**

**SB 1189**

21101278D

SENATE BILL NO. 1189

Senate Amendments in [ ] - January 25, 2020

A BILL to amend the Code of Virginia by adding a section numbered 54.1-2956.7:1, relating to Occupational Therapy Interjurisdictional Licensure Compact.

Patron Prior to Engrossment—Senators Hashmi and Kiggans

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-2956.7:1 as follows: § 54.1-2956.7:1. Occupational Therapy Interjurisdictional Licensure Compact.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Occupational Therapy Interjurisdictional Licensure Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

OCCUPATIONAL THERAPY INTERJURISDICTIONAL LICENSURE COMPACT.

Article I. Purpose.

The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

- 1. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multi-state occupational therapy practice;
4. Support spouses of relocating military members;
5. Enhance the exchange of licensure, investigative, and disciplinary information between member states;
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and
7. Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

Article II. Definitions.

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

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

"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

"Alternative program" means a non-disciplinary monitoring process approved by an occupational therapy licensing board.

"Compact" means the Occupational Therapy Interjurisdictional Licensure Compact.

"Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

"Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

"Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is

ENGROSSED

SB1189E



59 *not groundless and, if proved true, would indicate more than a minor infraction.*

60 *"Data system" means a repository of information about licensees, including but not limited to license*  
61 *status, investigative information, compact privileges, and adverse actions.*

62 *"Encumbered license" means a license in which an adverse action restricts the practice of*  
63 *occupational therapy by the licensee or said adverse action has been reported to the National*  
64 *Practitioners Data Bank (NPDB).*

65 *"Executive committee" means a group of directors elected or appointed to act on behalf of, and*  
66 *within the powers granted to them by, the Commission.*

67 *"Home state" means the member state that is the licensee's primary state of residence.*

68 *"Impaired practitioner" means individuals whose professional practice is adversely affected by*  
69 *substance abuse, addiction, or other health-related conditions.*

70 *"Investigative information" means information, records, and/or documents received or generated by*  
71 *an occupational therapy licensing board pursuant to an investigation.*

72 *"Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and*  
73 *rules governing the practice of occupational therapy in a state.*

74 *"Licensee" means an individual who currently holds an authorization from the state to practice as an*  
75 *occupational therapist or as an occupational therapy assistant.*

76 *"Member state" means a state that has enacted the Compact.*

77 *"Occupational therapist" means an individual who is licensed by a state to practice occupational*  
78 *therapy.*

79 *"Occupational therapy assistant" means an individual who is licensed by a state to assist in the*  
80 *practice of occupational therapy.*

81 *"Occupational therapy," "occupational therapy practice," and the "practice of occupational therapy"*  
82 *mean the care and services provided by an occupational therapist or an occupational therapy assistant*  
83 *as set forth in the member state's statutes and regulations.*

84 *"Occupational Therapy Compact Commission" or "Commission" means the national administrative*  
85 *body whose membership consists of all states that have enacted the Compact.*

86 *"Occupational therapy licensing board" or "licensing board" means the agency of a state that is*  
87 *authorized to license and regulate occupational therapists and occupational therapy assistants.*

88 *"Primary state of residence" means the state (also known as the home state) in which an*  
89 *occupational therapist or occupational therapy assistant who is not active duty military declares a*  
90 *primary residence for legal purposes as verified by: driver's license, federal income tax return, lease,*  
91 *deed, mortgage or voter registration or other verifying documentation as further defined by Commission*  
92 *rules.*

93 *"Remote state" means a member state other than the home state, where a licensee is exercising or*  
94 *seeking to exercise the compact privilege.*

95 *"Rule" means a regulation promulgated by the Commission that has the force of law.*

96 *"State" means any state, commonwealth, district, or territory of the United States of America that*  
97 *regulates the practice of occupational therapy.*

98 *"Single-state license" means an occupational therapist or occupational therapy assistant license*  
99 *issued by a member state that authorizes practice only within the issuing state and does not include a*  
100 *compact privilege in any other member state.*

101 *"Telehealth" means the application of telecommunication technology to deliver occupational therapy*  
102 *services for assessment, intervention, and/or consultation.*

103 *Article III. State Participation in the Compact.*

104 *A. To participate in the Compact, a member state shall:*

105 *1. License occupational therapists and occupational therapy assistants;*

106 *2. Participate fully in the Commission's data system, including but not limited to using the*  
107 *Commission's unique identifier as defined in rules of the Commission;*

108 *3. Have a mechanism in place for receiving and investigating complaints about licensees;*

109 *4. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse*  
110 *action or the availability of investigative information regarding a licensee;*

111 *5. Implement or utilize procedures for considering the criminal history records of applicants for an*  
112 *initial compact privilege. These procedures shall include the submission of fingerprints or other*  
113 *biometric-based information by applicants for the purpose of obtaining an applicant's criminal history*  
114 *record information from the Federal Bureau of Investigation and the agency responsible for retaining*  
115 *that state's criminal records;*

116 *a. A member state shall, within a time frame established by the Commission, require a criminal*  
117 *background check for a licensee seeking/applying for a compact privilege whose primary state of*  
118 *residence is that member state, by receiving the results of the Federal Bureau of Investigation criminal*  
119 *record search, and shall use the results in making licensure decisions.*

120 *b. Communication between a member state, the Commission and among member states regarding the*

121 verification of eligibility for licensure through the Compact shall not include any information received  
122 from the Federal Bureau of Investigation relating to a federal criminal records check performed by a  
123 member state under P.L. 92-544.

124 6. Comply with the rules of the Commission;

125 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the  
126 rules of the Commission; and

127 8. Have continuing competence/education requirements as a condition for license renewal.

128 B. A member state shall grant the compact privilege to a licensee holding a valid unencumbered  
129 license in another member state in accordance with the terms of the Compact and rules.

130 C. Member states may charge a fee for granting a compact privilege.

131 D. A member state shall provide for the state's delegate to attend all Occupational Therapy Compact  
132 Commission meetings.

133 E. Individuals not residing in a member state shall continue to be able to apply for a member state's  
134 single-state license as provided under the laws of each member state. However, the single-state license  
135 granted to these individuals shall not be recognized as granting the compact privilege in any other  
136 member state.

137 F. Nothing in this Compact shall affect the requirements established by a member state for the  
138 issuance of a single-state license.

139 Article IV. Compact Privilege.

140 A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee  
141 shall:

142 1. Hold a license in the home state;

143 2. Have a valid United States social security number or national practitioner identification number;

144 3. Have no encumbrance on any state license;

145 4. Be eligible for a compact privilege in any member state in accordance with subsections D, F, G,  
146 and H;

147 5. Have paid all fines and completed all requirements resulting from any adverse action against any  
148 license or compact privilege, and two years have elapsed from the date of such completion;

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

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

151 8. Complete a criminal background check in accordance with subdivision A 5 of Article III. The  
152 licensee shall be responsible for the payment of any fee associated with the completion of a criminal  
153 background check;

154 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is  
155 seeking a compact privilege; and

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

158 B. The compact privilege is valid until the expiration date of the home state license. The licensee  
159 must comply with the requirements of subsection A to maintain the compact privilege in the remote  
160 state.

161 C. a licensee providing occupational therapy in a remote state under the compact privilege shall  
162 function within the laws and regulations of the remote state.

163 D. Occupational therapy assistants practicing in a remote state shall be supervised by an  
164 occupational therapist licensed or holding a compact privilege in that remote state.

165 E. A licensee providing occupational therapy in a remote state is subject to that state's regulatory  
166 authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's  
167 compact privilege in the remote state for a specific period of time, impose fines, and/or take any other  
168 necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a  
169 compact privilege in any state until the specific time for removal has passed and all fines are paid.

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

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

173 2. Two years have elapsed from the date on which the home state license is no longer encumbered in  
174 accordance with subdivision 1.

175 G. Once an encumbered license in the home state is restored to good standing, the licensee must  
176 meet the requirements of subsection A to obtain a compact privilege in any remote state.

177 H. If a licensee's compact privilege in any remote state is removed, the individual may lose the  
178 compact privilege in any other remote state until the following occur:

179 1. The specific period of time for which the compact privilege was removed has ended;

180 2. All fines have been paid and all conditions have been met;

181 3. Two years have elapsed from the date of completing requirements for subdivisions 1 and 2; and

182 4. The compact privileges are reinstated by the Commission, and the compact data system is updated  
183 to reflect reinstatement.

184 I. If a licensee's compact privilege in any remote state is removed due to an erroneous charge,  
185 privileges shall be restored through the compact data system.

186 J. Once the requirements of subsection H have been met, the license must meet the requirements in  
187 subsection A to obtain a compact privilege in a remote state.

188 Article V. Obtaining a New Home State License by Virtue of Compact Privilege.

189 A. An occupational therapist or occupational therapy assistant may hold a home state license, which  
190 allows for compact privileges in member states, in only one member state at a time.

191 B. If an occupational therapist or occupational therapy assistant changes primary state of residence  
192 by moving between two member states:

193 1. The occupational therapist or occupational therapy assistant shall file an application for obtaining  
194 a new home state license by virtue of a compact privilege, pay all applicable fees, and notify the current  
195 and new home state in accordance with applicable rules adopted by the Commission.

196 2. Upon receipt of an application for obtaining a new home state license by virtue of compact  
197 privilege, the new home state shall verify that the occupational therapist or occupational therapy  
198 assistant meets the pertinent criteria outlined in Article IV via the data system, without need for primary  
199 source verification except for:

200 a. An FBI fingerprint based criminal background check if not previously performed or updated  
201 pursuant to applicable rules adopted by the Commission in accordance with P.L. 92-544;

202 b. Other criminal background check as required by the new home state; and

203 c. Submission of any requisite jurisprudence requirements of the new home state.

204 3. The former home state shall convert the former home state license into a compact privilege once  
205 the new home state has activated the new home state license in accordance with applicable rules  
206 adopted by the Commission.

207 4. Notwithstanding any other provision of this Compact, if the occupational therapist or occupational  
208 therapy assistant cannot meet the criteria in Article IV, the new home state shall apply its requirements  
209 for issuing a new single-state license.

210 5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to  
211 the new home state in order to be issued a new home state license.

212 C. If an occupational therapist or occupational therapy assistant changes primary state of residence  
213 by moving from a member state to a non-member state, or from a non-member state to a member state,  
214 the state criteria shall apply for issuance of a single-state license in the new state.

215 D. Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in  
216 multiple states; however, for the purposes of this compact, a licensee shall have only one home state  
217 license.

218 E. Nothing in this Compact shall affect the requirements established by a member state for the  
219 issuance of a single-state license.

220 Article VI. Active Duty Military Personnel or their Spouses.

221 Active duty military personnel, or their spouses, shall designate a home state where the individual  
222 has a current license in good standing. The individual may retain the home state designation during the  
223 period the service member is on active duty. Subsequent to designating a home state, the individual  
224 shall only change their home state through application for licensure in the new state or through the  
225 process described in Article V.

226 Article VII. Adverse Actions.

227 A. A home state shall have exclusive power to impose adverse action against an occupational  
228 therapist's or occupational therapy assistant's license issued by the home state.

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

231 1. Take adverse action against an occupational therapist's or occupational therapy assistant's  
232 compact privilege within that member state.

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

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

243 D. The home state shall complete any pending investigations of an occupational therapist or

244 occupational therapy assistant who changes primary state of residence during the course of the  
 245 investigations. The home state, where the investigations were initiated, shall also have the authority to  
 246 take appropriate action(s) and shall promptly report the conclusions of the investigations to the OT  
 247 Compact Commission data system. The occupational therapy compact commission data system  
 248 administrator shall promptly notify the new home state of any adverse actions.

249 E. A member state, if otherwise permitted by state law, may recover from the affected occupational  
 250 therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting  
 251 from any adverse action taken against that occupational therapist or occupational therapy assistant.

252 F. A member state may take adverse action based on the factual findings of the remote state,  
 253 provided that the member state follows its own procedures for taking the adverse action.

254 G. Joint investigations.

255 1. In addition to the authority granted to a member state by its respective state occupational therapy  
 256 laws and regulations or other applicable state law, any member state may participate with other  
 257 member states in joint investigations of licensees.

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

260 H. If an adverse action is taken by the home state against an occupational therapist's or  
 261 occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's  
 262 compact privilege in all other member states shall be deactivated until all encumbrances have been  
 263 removed from the state license. All home state disciplinary orders that impose adverse action against an  
 264 occupational therapist's or occupational therapy assistant's license shall include a statement that the  
 265 occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all  
 266 member states during the pendency of the order.

267 I. If a member state takes adverse action, it shall promptly notify the administrator of the data  
 268 system. The administrator of the data system shall promptly notify the home state of any adverse actions  
 269 by remote states.

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

272 Article VIII. Establishment of the Occupational Therapy Compact Commission.

273 A. The Compact member states hereby create and establish a joint public agency known as the  
 274 Occupational Therapy Compact Commission:

275 1. The Commission is an instrumentality of the compact states.

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

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

281 B. Membership, voting, and meetings.

282 1. Each member state shall have and be limited to one delegate selected by that member state's  
 283 licensing board.

284 2. The delegate shall be either:

285 a. A current member of the licensing board, who is an occupational therapist, occupational therapy  
 286 assistant, or public member; or

287 b. An administrator of the licensing board.

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

290 4. The member state board shall fill any vacancy occurring in the Commission within 90 days.

291 5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation  
 292 of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the  
 293 Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The  
 294 bylaws may provide for delegates' participation in meetings by telephone or other means of  
 295 communication.

296 6. The Commission shall meet at least once during each calendar year. Additional meetings shall be  
 297 held as set forth in the bylaws.

298 7. The Commission shall establish by rule a term of office for delegates.

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

300 1. Establish a code of ethics for the Commission;

301 2. Establish the fiscal year of the Commission;

302 3. Establish bylaws;

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

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

- 305 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this  
306 Compact. The rules shall have the force and effect of law and shall be binding in all member states;  
307 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that  
308 the standing of any state occupational therapy licensing board to sue or be sued under applicable law  
309 shall not be affected;
- 310 8. Purchase and maintain insurance and bonds;
- 311 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a  
312 member state;
- 313 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals  
314 appropriate authority to carry out the purposes of the Compact, and establish the Commission's  
315 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other  
316 related personnel matters;
- 317 11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials  
318 and services, and receive, utilize and dispose of the same; provided that at all times the Commission  
319 shall avoid any appearance of impropriety and/or conflict of interest;
- 320 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or  
321 use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any  
322 appearance of impropriety;
- 323 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property  
324 real, personal, or mixed;
- 325 14. Establish a budget and make expenditures;
- 326 15. Borrow money;
- 327 16. Appoint committees, including standing committees composed of members, state regulators, state  
328 legislators or their representatives, and consumer representatives, and such other interested persons as  
329 may be designated in this Compact and the bylaws;
- 330 17. Provide and receive information from, and cooperate with, law enforcement agencies;
- 331 18. Establish and elect an executive committee; and
- 332 19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this  
333 Compact consistent with the state regulation of occupational therapy licensure and practice.
- 334 D. The executive committee.
- 335 The executive committee shall have the power to act on behalf of the Commission according to the  
336 terms of this Compact.
- 337 1. The executive committee shall be composed of nine members:
- 338 a. Seven voting members who are elected by the Commission from the current membership of the  
339 Commission;
- 340 b. One ex-officio, nonvoting member from a recognized national occupational therapy professional  
341 association; and
- 342 c. One ex officio, nonvoting member from a recognized national occupational therapy certification  
343 organization.
- 344 2. The ex officio members will be selected by their respective organizations.
- 345 3. The Commission may remove any member of the executive committee as provided in bylaws.
- 346 4. The executive committee shall meet at least annually.
- 347 5. The executive committee shall have the following duties and responsibilities:
- 348 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact  
349 legislation, fees paid by compact member states such as annual dues, and any commission compact fee  
350 charged to licensees for the compact privilege;
- 351 b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
- 352 c. Prepare and recommend the budget;
- 353 d. Maintain financial records on behalf of the Commission;
- 354 e. Monitor Compact compliance of member states and provide compliance reports to the  
355 Commission;
- 356 f. Establish additional committees as necessary; and
- 357 g. Perform other duties as provided in rules or bylaws.
- 358 E. Meetings of the Commission.
- 359 1. All meetings shall be open to the public, and public notice of meetings shall be given in the same  
360 manner as required under the rulemaking provisions in Article X.
- 361 2. The Commission or the executive committee or other committees of the Commission may convene  
362 in a closed, non-public meeting if the Commission or executive committee or other committees of the  
363 Commission must discuss:
- 364 a. Non-compliance of a member state with its obligations under the Compact;
- 365 b. The employment, compensation, discipline or other matters, practices or procedures related to  
366 specific employees or other matters related to the Commission's internal personnel practices and

367 procedures;

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

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

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

371 f. Disclosure of trade secrets or commercial or financial information that is privileged or

372 confidential;

373 g. Disclosure of information of a personal nature where disclosure would constitute a clearly

374 unwarranted invasion of personal privacy;

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

376 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for

377 use of the Commission or other committee charged with responsibility of investigation or determination

378 of compliance issues pursuant to the Compact; or

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

380 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal

381 counsel or designee shall certify that the meeting may be closed and shall reference each relevant

382 exempting provision.

383 4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a

384 meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore,

385 including a description of the views expressed. All documents considered in connection with an action

386 shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under

387 seal, subject to release by a majority vote of the Commission or order of a court of competent

388 jurisdiction.

389 F. Financing of the Commission.

390 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its

391 establishment, organization, and ongoing activities.

392 2. The Commission may accept any and all appropriate revenue sources, donations, and grants of

393 money, equipment, supplies, materials, and services.

394 3. The Commission may levy on and collect an annual assessment from each member state or impose

395 fees on other parties to cover the cost of the operations and activities of the Commission and its staff,

396 which must be in a total amount sufficient to cover its annual budget as approved by the Commission

397 each year for which revenue is not provided by other sources. The aggregate annual assessment amount

398 shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a

399 rule binding upon all member states.

400 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to

401 meet the same; nor shall the Commission pledge the credit of any of the member states, except by and

402 with the authority of the member state.

403 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and

404 disbursements of the Commission shall be subject to the audit and accounting procedures established

405 under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be

406 audited yearly by a certified or licensed public accountant, and the report of the audit shall be included

407 in and become part of the annual report of the Commission.

408 G. Qualified immunity, defense, and indemnification.

409 1. The members, officers, executive director, employees and representatives of the Commission shall

410 be immune from suit and liability, either personally or in their official capacity, for any claim for

411 damage to or loss of property or personal injury or other civil liability caused by or arising out of any

412 actual or alleged act, error or omission that occurred, or that the person against whom the claim is

413 made had a reasonable basis for believing occurred within the scope of Commission employment, duties

414 or responsibilities; provided that nothing in this paragraph shall be construed to protect any such

415 person from suit and/or liability for any damage, loss, injury, or liability caused by the [ grossly

416 negligent, ] intentional or willful or wanton misconduct of that person.

417 2. The Commission shall defend any member, officer, executive director, employee, or representative

418 of the Commission in any civil action seeking to impose liability arising out of any actual or alleged

419 act, error, or omission that occurred within the scope of Commission employment, duties, or

420 responsibilities, or that the person against whom the claim is made had a reasonable basis for believing

421 occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing

422 herein shall be construed to prohibit that person from retaining his or her own counsel, and provided

423 further, that the actual or alleged act, error, or omission did not result from that person's intentional or

424 willful or wanton misconduct.

425 3. The Commission shall indemnify and hold harmless any member, officer, executive director,

426 employee, or representative of the Commission for the amount of any settlement or judgment obtained

427 against that person arising out of any actual or alleged act, error or omission that occurred within the

428 *scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis*  
 429 *for believing occurred within the scope of Commission employment, duties, or responsibilities, provided*  
 430 *that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton*  
 431 *misconduct of that person.*

432 *Article IX. Data System.*

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

436 *B. A member state shall submit a uniform data set to the data system on all individuals to whom this*  
 437 *Compact is applicable (utilizing a unique identifier) as required by the rules of the Commission,*  
 438 *including:*

439 *1. Identifying information;*

440 *2. Licensure data;*

441 *3. Adverse actions against a license or compact privilege;*

442 *4. Non-confidential information related to alternative program participation;*

443 *5. Any denial of application for licensure, and the reason(s) for such denial;*

444 *6. Other information that may facilitate the administration of this Compact, as determined by the*  
 445 *rules of the Commission; and*

446 *7. Current significant investigative information.*

447 *C. Current significant investigative information and other investigative information pertaining to a*  
 448 *licensee in any member state will only be available to other member states.*

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

452 *E. Member states contributing information to the data system may designate information that may*  
 453 *not be shared with the public without the express permission of the contributing state.*

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

456 *Article X. Rulemaking.*

457 *A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this*  
 458 *article and the rules adopted thereunder. Rules and amendments shall become binding as of the date*  
 459 *specified in each rule or amendment.*

460 *B. The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve*  
 461 *the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its*  
 462 *rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the*  
 463 *powers granted hereunder, then such an action by the Commission shall be invalid and have no force*  
 464 *and effect.*

465 *C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or*  
 466 *resolution in the same manner used to adopt the Compact within four years of the date of adoption of*  
 467 *the rule, then such rule shall have no further force and effect in any member state.*

468 *D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the*  
 469 *Commission.*

470 *E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30*  
 471 *days in advance of the meeting at which the rule will be considered and voted upon, the Commission*  
 472 *shall file a notice of proposed rulemaking:*

473 *1. On the website of the Commission or other publicly accessible platform; and*

474 *2. On the website of each member state occupational therapy licensing board or other publicly*  
 475 *accessible platform or the publication in which each state would otherwise publish proposed rules.*

476 *F. The notice of proposed rulemaking shall include:*

477 *1. The proposed time, date, and location of the meeting in which the rule will be considered and*  
 478 *voted upon;*

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

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

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

483 *G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data,*  
 484 *facts, opinions, and arguments, which shall be made available to the public.*

485 *H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or*  
 486 *amendment if a hearing is requested by:*

487 *1. At least 25 persons;*

488 *2. A state or federal governmental subdivision or agency; or*

489 *3. An association or organization having at least 25 members.*

490 I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place,  
 491 time, and date of the scheduled public hearing. If the hearing is held via electronic means, the  
 492 Commission shall publish the mechanism for access to the electronic hearing.

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

496 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair  
 497 and reasonable opportunity to comment orally or in writing.

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

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

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

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

505 L. The Commission shall, by majority vote of all members, take final action on the proposed rule  
 506 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full  
 507 text of the rule.

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

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

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

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

518 4. Protect public health and safety.

519 N. The Commission or an authorized committee of the Commission may direct revisions to a  
 520 previously adopted rule or amendment for purposes of correcting typographical errors, errors in format,  
 521 errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the  
 522 website of the Commission. The revision shall be subject to challenge by any person for a period of 30  
 523 days after posting. The revision may be challenged only on grounds that the revision results in a  
 524 material change to a rule. A challenge shall be made in writing and delivered to the chair of the  
 525 Commission prior to the end of the notice period. If no challenge is made, the revision will take effect  
 526 without further action. If the revision is challenged, the revision may not take effect without the  
 527 approval of the Commission.

#### 528 Article XI. Oversight, Dispute Resolution, and Enforcement.

529 A. Oversight.

530 1. The executive, legislative, and judicial branches of state government in each member state shall  
 531 enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's  
 532 purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have  
 533 standing as statutory law.

534 2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative  
 535 proceeding in a member state pertaining to the subject matter of this Compact which may affect the  
 536 powers, responsibilities, or actions of the Commission.

537 3. The Commission shall be entitled to receive service of process in any such proceeding, and shall  
 538 have standing to intervene in such a proceeding for all purposes. Failure to provide service of process  
 539 to the Commission shall render a judgment or order void as to the Commission, this Compact, or  
 540 promulgated rules.

541 B. Default, technical assistance, and termination.

542 1. If the Commission determines that a member state has defaulted in the performance of its  
 543 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

544 a. Provide written notice to the defaulting state and other member states of the nature of the default,  
 545 the proposed means of curing the default and/or any other action to be taken by the Commission; and

546 b. Provide remedial training and specific technical assistance regarding the default.

547 2. If a state in default fails to cure the default, the defaulting state may be terminated from the  
 548 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and  
 549 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the  
 550 default does not relieve the offending state of obligations or liabilities incurred during the period of



551 default.

552 3. Termination of membership in the Compact shall be imposed only after all other means of  
553 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the  
554 Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and  
555 each of the member states.

556 4. A state that has been terminated is responsible for all assessments, obligations, and liabilities  
557 incurred through the effective date of termination, including obligations that extend beyond the effective  
558 date of termination.

559 5. The Commission shall not bear any costs related to a state that is found to be in default or that  
560 has been terminated from the Compact, unless agreed upon in writing between the Commission and the  
561 defaulting state.

562 6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District  
563 Court for the District of Columbia or the federal district where the Commission has its principal offices.  
564 The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

565 C. Dispute resolution.

566 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the  
567 Compact that arise among member states and between member and non-member states.

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

570 D. Enforcement.

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

573 By majority vote, the Commission may initiate legal action in the United States District Court for the  
574 District of Columbia or the federal district where the Commission has its principal offices against a  
575 member state in default to enforce compliance with the provisions of the Compact and its promulgated  
576 rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial  
577 enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including  
578 reasonable attorney fees.

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

581 Article XII. Date of Implementation of the Interstate Commission for Occupational Therapy Practice and  
582 Associated Rules, Withdrawal, and Amendment.

583 A. The Compact shall come into effect on the date on which the Compact statute is enacted into law  
584 in the tenth member state. The provisions, which become effective at that time, shall be limited to the  
585 powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the  
586 Commission shall meet and exercise rulemaking powers necessary to the implementation and  
587 administration of the Compact.

588 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall  
589 be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any  
590 rule that has been previously adopted by the Commission shall have the full force and effect of law on  
591 the day the Compact becomes law in that state.

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

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

595 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's occupational  
596 therapy licensing board to comply with the investigative and adverse action reporting requirements of  
597 this act prior to the effective date of withdrawal.

598 D. Nothing contained in this Compact shall be construed to invalidate or prevent any occupational  
599 therapy licensure agreement or other cooperative arrangement between a member state and a  
600 non-member state that does not conflict with the provisions of this Compact.

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

604 Article XIII. Construction and Severability.

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

613 *Article XIV. Binding Effect of Compact and Other Laws.*  
614 *A. A licensee providing occupational therapy in a remote state under the compact privilege shall*  
615 *function within the laws and regulations of the remote state.*  
616 *B. Nothing herein prevents the enforcement of any other law of a member state that is not*  
617 *inconsistent with the Compact.*  
618 *C. Any laws in a member state in conflict with the Compact are superseded to the extent of the*  
619 *conflict.*  
620 *D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the*  
621 *Commission, are binding upon the member states.*  
622 *E. All agreements between the Commission and the member states are binding in accordance with*  
623 *their terms.*  
624 *F. In the event any provision of the Compact exceeds the constitutional limits imposed on the*  
625 *legislature of any member state, the provision shall be ineffective to the extent of the conflict with the*  
626 *constitutional provision in question in that member state.*  
627 **2. That the Board of Medicine shall promulgate regulations to implement the provisions of this act**  
628 **to be effective within 280 days of its enactment.**  
629 **3. That the provisions of this act shall become effective on January 1, 2022.**

ENGROSSED

SB1189E