

# **AGENDA ITEM 7**

***IOWA***

# Senate File 463 - Introduced

SENATE FILE 463  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO SSB 1185)

## A BILL FOR

1 An Act establishing the occupational therapy licensure compact. 2 BE IT  
ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **147E.1 Occupational therapy**  
2 **licensure compact.**

3 1. *Purpose.* The purpose of this compact is to facilitate 4 interstate  
practice of occupational therapy with the goal of 5 improving public access to  
occupational therapy services. The 6 practice of occupational therapy occurs in  
the state where

7 the patient or client is located at the time of the patient  
8 or client encounter. The compact preserves the regulatory  
9 authority of the states to protect public health and safety

10 through the current system of state licensure. This compact is 11 designed  
to achieve the following objectives:

12 a. Increase public access to occupational therapy services 13 by  
providing for the mutual recognition of other member state 14 licenses.

15 b. Enhance the states' ability to protect the public's  
16 health and safety.

17 c. Encourage the cooperation of member states in regulating 18  
multistate occupational therapy practice.

19 d. Support spouses of relocating military members.

20 e. Enhance the exchange of licensure, investigative, and 21 disciplinary  
information between member states.

22 f. Allow a remote state to hold a provider of services with 23 a compact  
privilege in that state accountable to that state's 24 practice standards.

25 g. Facilitate the use of telehealth technology in order to 26 increase  
access to occupational therapy services.

27 2. *Definitions.* As used in this compact, and except as  
28 otherwise 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, including 31 members of  
the national guard and reserve on active duty orders 32 pursuant to 10 U.S.C.  
ch. 1209 or 1211, respectively.

33 b. "*Adverse action*" means any administrative, civil,  
34 equitable, or criminal action permitted by a state's laws which 35 is imposed  
by a licensing board or other authority against

1 an occupational therapist or occupational therapy assistant,  
2 including actions against an individual's license or compact  
3 privilege such as censure, revocation, suspension, probation,  
4 monitoring of the licensee, or restriction on the licensee's  
5 practice.

6     *c. "Alternative program"* means a nondisciplinary monitoring  
7 process approved by an occupational therapy licensing board.

8     *d. "Compact privilege"* means the authorization, which  
9 is equivalent to a license, granted by a remote state to  
10 allow a licensee from another member state to practice as an  
11 occupational therapist or practice as an occupational therapy  
12 assistant in the remote state under its laws and rules. The  
13 practice of occupational therapy occurs in the member state  
14 where the patient or client is located at the time of the  
15 patient or client encounter.

16     *e. "Continuing competence or education"* means a requirement,  
17 as a condition of license renewal, to provide evidence  
18 of participation in, and completion of, educational and  
19 professional activities relevant to the practice or area of 20 work.

21     *f. "Current significant investigative information"* means  
22 investigative information that a licensing board, after an  
23 inquiry or investigation that includes notification and an  
24 opportunity for the occupational therapist or occupational  
25 therapy assistant to respond, if required by state law, has 26 reason to  
believe is not groundless and, if proved true, would 27 indicate more than a  
minor infraction.

28     *g. "Data system"* means a repository of information about 29 licensees,  
including but not limited to license status,  
30 investigative information, compact privileges, and adverse  
31 actions.

32     *h. "Encumbered license"* means a license in which an adverse 33 action  
restricts the practice of occupational therapy by the 34 licensee or said adverse  
action has been reported to the  
35 national practitioners data bank.

1     *i. "Executive committee"* means a group of directors elected  
2 or appointed to act on behalf of, and within the powers granted  
3 to them by, the commission.

4     *j. "Home state"* means the member state that is the  
5 licensee's primary state of residence.

6     *k. "Impaired practitioner"* means individuals whose  
7 professional practice is adversely affected by substance abuse,  
8 addiction, or other health-related conditions.

9     *l. "Investigative information"* means information, records,

10 or documents received or generated by an occupational therapy  
11 licensing board pursuant to an investigation.

12     *m. "Jurisprudence requirement"* means the assessment of an  
13 individual's knowledge of the laws and rules governing the  
14 practice of occupational therapy in a state.

15     *n. "Licensee"* means an individual who currently holds an  
16 authorization from the state to practice as an occupational  
17 therapist or as an occupational therapy assistant.

18     *o. "Member state"* means a state that has enacted the  
19 compact.

20     *p. "Occupational therapist"* means an individual who is  
21 licensed by a state to practice occupational therapy.

22     *q. "Occupational therapy", "occupational therapy practice",*  
23 *and "practice of occupational therapy"* mean the care and  
24 services provided by an occupational therapist or an  
25 occupational therapy assistant as set forth in the member  
26 state's statutes and regulations.

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

30     *s. "Occupational therapy compact commission" or "commission"*  
31 means the national administrative body whose membership  
32 consists of all states that have enacted the compact.

33     *t. "Occupational therapy licensing board" or "licensing*  
34 *board"* means the agency of a state that is authorized to license  
35 and regulate occupational therapists and occupational therapy

1 assistants.

2     u. *“Primary state of residence”* or *“home state”* means the  
3 state in which an occupational therapist or occupational  
4 therapy assistant who is not active duty military declares a  
5 primary residence for legal purposes as verified by a driver’s  
6 license, federal income tax return, lease, deed, mortgage,  
7 voter registration, or other verifying documentation as further  
8 defined by commission rules.

9     v. *“Remote state”* means a member state other than the home

10 state, where a licensee is exercising or seeking to exercise  
11 the compact privilege.

12     w. *“Rule”* means a regulation promulgated by the commission  
13 that has the force of law.

14     x. *“Single-state license”* means an occupational therapist or  
15 occupational therapy assistant license issued by a member state  
16 that authorizes practice only within the issuing state and does  
17 not include a compact privilege in any other member state.

18     y. *“State”* means any state, commonwealth, district, or  
19 territory of the United States that regulates the practice of  
20 occupational therapy.

21     z. *“Telehealth”* means the application of telecommunication  
22 technology to deliver occupational therapy services for  
23 assessment, intervention, or consultation.

24     3. *State participation in the compact.*

25     a. To participate in the compact, a member state shall do  
26 all of the following:

27         (1) License occupational therapists and occupational  
28 therapy assistants.

29         (2) Participate fully in the commission’s data system,  
30 including but not limited to using the commission’s unique  
31 identifier as defined in rules of the commission.

32         (3) Have a mechanism in place for receiving and  
33 investigating complaints about licensees.

34         (4) Notify the commission, in compliance with the terms  
35 of the compact and rules, of any adverse action or the

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1 availability of investigative information regarding a licensee.

2 (5) Implement or utilize procedures for considering the  
3 criminal history records of applicants for an initial compact  
4 privilege. These procedures shall include the submission of  
5 fingerprints or other biometric-based information by applicants  
6 for the purpose of obtaining an applicant's criminal history  
7 record information from the federal bureau of investigation  
8 and the agency responsible for retaining that state's criminal  
9 records.

10 (a) A member state shall, within a time frame established  
11 by the commission, require a criminal background check for a  
12 licensee seeking or applying for a compact privilege whose  
13 primary state of residence is that member state, by receiving  
14 the results of the federal bureau of investigation criminal  
15 record search, and shall use the results in making licensure  
16 decisions.

17 (b) Communication between a member state, the commission,  
18 and among member states regarding the verification of  
19 eligibility for licensure through the compact shall not  
20 include any information received from the federal bureau of  
21 investigation relating to a federal criminal records check  
22 performed by a member state under Pub. L. No. 92-544.

23 (6) Comply with the rules of the commission.

24 (7) Utilize only a recognized national examination as  
25 a requirement for licensure pursuant to the rules of the  
26 commission.

27 (8) Have continuing competence or education requirements as  
28 a condition for license renewal.

29 *b.* A member state shall grant the compact privilege to  
30 a licensee holding a valid, unencumbered license in another  
31 member state in accordance with the terms of the compact and  
32 rules.

33 *c.* A member state may charge a fee for granting a compact  
34 privilege.

35 *d.* A member state shall provide for the state's delegate to

1 attend all occupational therapy compact commission meetings.

2 e. Individuals not residing in a member state shall continue  
3 to be able to apply for a member state's single-state license  
4 as provided under the laws of each member state. However, the  
5 single-state license granted to these individuals shall not  
6 be recognized as granting the compact privilege in any other  
7 member state.

8 f. Nothing in this compact shall affect the requirements  
9 established by a member state for the issuance of a

10 single-state license.

11 4. *Compact privilege.*

12 a. To exercise the compact privilege under the terms and  
13 provisions of the compact, the licensee shall do all of the  
14 following:

15 (1) Hold a license in the home state.

16 (2) Have a valid United States social security number or  
17 national practitioner identification number.

18 (3) Have no encumbrance on any state license.

19 (4) Be eligible for a compact privilege in any member state  
20 in accordance with paragraphs "d", "f", "g", and "h".

21 (5) Have paid all fines and completed all requirements  
22 resulting from any adverse action against any license or  
23 compact privilege, and two years have elapsed from the date of  
24 such completion.

25 (6) Notify the commission that the licensee is seeking the  
26 compact privilege within a remote state.

27 (7) Pay any applicable fees, including any state fee, for  
28 the compact privilege.

29 (8) Complete a criminal background check in accordance with  
30 subsection 3, paragraph "a", subparagraph (5). The licensee  
31 shall be responsible for the payment of any fee associated with  
32 the completion of a criminal background check.

33 (9) Meet any jurisprudence requirements established by  
34 the remote state in which the licensee is seeking a compact  
35 privilege.



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1 (10) Report to the commission adverse action taken by any  
2 nonmember state within thirty days from the date the adverse  
3 action is taken.

4 *b.* The compact privilege is valid until the expiration date  
5 of the home state license. The licensee must comply with the  
6 requirements of paragraph “a” to maintain the compact privilege  
7 in the remote state.

8 *c.* A licensee providing occupational therapy in a remote  
9 state under the compact privilege shall function within the

10 laws and regulations of the remote state.

11 *d.* Occupational therapy assistants practicing in a remote  
12 state shall be supervised by an occupational therapist licensed  
13 or holding a compact privilege in that remote state.

14 *e.* A licensee providing occupational therapy in a remote  
15 state is subject to that state’s regulatory authority. A  
16 remote state may, in accordance with due process and that  
17 state’s laws, remove a licensee’s compact privilege in the  
18 remote state for a specific period of time, impose fines, or  
19 take any other necessary actions to protect the health and  
20 safety of its citizens. The licensee may be ineligible for  
21 a compact privilege in any state until the specific time for  
22 removal has passed and all fines are paid.

23 *f.* If a home state license is encumbered, the licensee shall  
24 lose the compact privilege in any remote state until all of the  
25 following occur:

26 (1) The home state license is no longer encumbered.

27 (2) Two years have elapsed from the date on which the  
28 home state license is no longer encumbered in accordance with  
29 subparagraph (1).

30 *g.* Once an encumbered license in the home state is restored  
31 to good standing, the licensee must meet the requirements of  
32 paragraph “a” to obtain a compact privilege in any remote state.

33 *h.* If a licensee’s compact privilege in any remote state is  
34 removed, the individual may lose the compact privilege in any  
35 other remote state until all of the following occur:

1 (1) The specific period of time for which the compact  
2 privilege was removed has ended.

3 (2) All fines have been paid and all conditions have been  
4 met.

5 (3) Two years have elapsed from the date of completing the  
6 requirements of subparagraphs (1) and (2).

7 (4) The compact privilege is reinstated by the  
8 commission, and the compact data system is updated to reflect  
9 reinstatement.

10 *i.* If a licensee's compact privilege in any remote state  
11 is removed due to an erroneous charge, privileges shall be  
12 restored through the compact data system.

13 *j.* Once the requirements of paragraph "h" have been met, the  
14 licensee must meet the requirements of paragraph "a" to obtain a  
15 compact privilege in a remote state.

16 5. *Obtaining a new home state license by virtue of compact*  
17 *privilege.*

18 *a.* An occupational therapist or occupational therapy  
19 assistant may hold a home state license, which allows for  
20 compact privileges in member states, in only one member state  
21 at a time.

22 *b.* If an occupational therapist or occupational therapy  
23 assistant changes primary state of residence by moving between  
24 two member states:

25 (1) The occupational therapist or occupational therapy  
26 assistant shall file an application for obtaining a new  
27 home state license by virtue of a compact privilege, pay all  
28 applicable fees, and notify the current and new home state in  
29 accordance with applicable rules adopted by the commission.

30 (2) Upon receipt of an application for obtaining a new  
31 home state license by virtue of compact privilege, the new  
32 home state shall verify that the occupational therapist or  
33 occupational therapy assistant meets the pertinent criteria  
34 outlined in subsection 4 via the data system, without the  
35 need for primary source verification except for all of the

1 following:

2 (a) A federal bureau of investigation fingerprint-based  
3 criminal background check if not previously performed or  
4 updated pursuant to applicable rules adopted by the commission  
5 in accordance with Pub. L. No. 92-544.

6 (b) Any other criminal background check as required by the  
7 new home state.

8 (c) Submission of any requisite jurisprudence requirements  
9 of the new home state.

10 (3) The former home state shall convert the former home  
11 state license into a compact privilege once the new home state  
12 has activated the new home state license in accordance with  
13 applicable rules adopted by the commission.

14 (4) Notwithstanding any other provision of this compact, if  
15 the occupational therapist or occupational therapy assistant  
16 cannot meet the criteria in subsection 4, the new home state  
17 shall apply its requirements for issuing a new single-state  
18 license.

19 (5) The occupational therapist or the occupational therapy  
20 assistant shall pay all applicable fees to the new home state  
21 in order to be issued a new home state license.

22 c. If an occupational therapist or occupational therapy  
23 assistant changes primary state of residence by moving from a  
24 member state to a nonmember state, or from a nonmember state to  
25 a member state, the state criteria shall apply for issuance of  
26 a single-state license in the new state.

27 d. Nothing in this compact shall interfere with a licensee's  
28 ability to hold a single-state license in multiple states;  
29 however, for the purposes of this compact, a licensee shall  
30 have only one home state license.

31 e. Nothing in this compact shall affect the requirements  
32 established by a member state for the issuance of a  
33 single-state license.

34 6. *Active duty military personnel or their spouses.* Active  
35 duty military personnel, or their spouses, shall designate a

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1 home state where the individual has a current license in good  
2 standing. The individual may retain the home state designation  
3 during the period the service member is on active duty.  
4 Subsequent to designating a home state, the individual shall  
5 only change their home state through application for licensure  
6 in the new state or through the process described in subsection  
7 5.

8 7. *Adverse actions.*

9 a. A home state shall have exclusive power to impose adverse  
10 action against an occupational therapist's or occupational  
11 therapy assistant's license issued by the home state.

12 b. In addition to the other powers conferred by state law,  
13 a remote state shall have the authority, in accordance with  
14 existing state due process law, to do all of the following:

15 (1) Take adverse action against an occupational therapist's  
16 or occupational therapy assistant's compact privilege within  
17 that member state.

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

30 c. For purposes of taking adverse action, the home state  
31 shall give the same priority and effect to reported conduct  
32 received from a member state as it would if the conduct had  
33 occurred within the home state. In so doing, the home state  
34 shall apply its own state laws to determine appropriate action.

35 d. The home state shall complete any pending investigations

1 of an occupational therapist or occupational therapy assistant  
2 who changes primary state of residence during the course of the  
3 investigations. The home state where the investigations were  
4 initiated shall also have the authority to take appropriate  
5 action and shall promptly report the conclusions of the  
6 investigations to the occupational therapy compact commission  
7 data system. The occupational therapy compact commission data  
8 system administrator shall promptly notify the new home state  
9 of any adverse actions.

10 e. A member state, if otherwise permitted by state law,  
11 may recover from the affected occupational therapist or  
12 occupational therapy assistant the costs of investigations and  
13 disposition of cases resulting from any adverse action taken  
14 against that occupational therapist or occupational therapy  
15 assistant.

16 f. A member state may take adverse action based on the  
17 factual findings of the remote state, provided that the member  
18 state follows its own procedures for taking the adverse action.

19 g. *Joint investigations.*

20 (1) In addition to the authority granted to a member  
21 state by its respective state occupational therapy laws and  
22 regulations or other applicable state law, any member state may  
23 participate with other member states in joint investigations  
24 of licensees.

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

28 h. If an adverse action is taken by the home state against  
29 an occupational therapist's or occupational therapy assistant's  
30 license, the occupational therapist's or occupational therapy  
31 assistant's compact privilege in all other member states shall  
32 be deactivated until all encumbrances have been removed from  
33 the state license. All home state disciplinary orders that  
34 impose adverse action against an occupational therapist's  
35 or occupational therapy assistant's license shall include a

1 statement that the occupational therapist's or occupational  
2 therapy assistant's compact privilege is deactivated in all  
3 member states during the pendency of the order.

4 *i.* If a member state takes adverse action, it shall promptly  
5 notify the administrator of the data system. The administrator  
6 of the data system shall promptly notify the home state of any  
7 adverse actions by remote states.

8 *j.* Nothing in this compact shall override a member state's  
9 decision that participation in an alternative program may be

10 used in lieu of adverse action.

11 8. *Establishment of the occupational therapy compact*  
12 *commission.*

13 *a.* The compact member states hereby create and establish a  
14 joint public agency known as the occupational therapy compact  
15 commission.

16 (1) The commission is an instrumentality of the compact  
17 states.

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

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

26 *b. Membership, voting, and meetings.*

27 (1) Each member state shall have and be limited to one  
28 delegate selected by that member state's licensing board.

29 (2) The delegate shall be either of the following:

30 (a) A current member of the licensing board who is an  
31 occupational therapist, occupational therapy assistant, or  
32 public member.

33 (b) An administrator of the licensing board.

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

1 appointed.

2 (4) The member state board shall fill any vacancy occurring  
3 in the commission within ninety days of the vacancy.

4 (5) Each delegate shall be entitled to one vote with regard  
5 to the promulgation of rules and creation of bylaws and shall  
6 otherwise have an opportunity to participate in the business  
7 and affairs of the commission. A delegate shall vote in  
8 person or by such other means as provided in the bylaws. The  
9 bylaws may provide for delegates' participation in meetings by

10 telephone or other means of communication.

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

14 (7) The commission shall establish by rule a term of office  
15 for delegates.

16 c. The commission shall have the following powers and  
17 duties:

18 (1) Establish a code of ethics for the commission.

19 (2) Establish the fiscal year of the commission.

20 (3) Establish bylaws.

21 (4) Maintain its financial records in accordance with the  
22 bylaws.

23 (5) Meet and take such actions as are consistent with the  
24 provisions of this compact and the bylaws.

25 (6) Promulgate uniform rules to facilitate and coordinate  
26 implementation and administration of this compact. The rules  
27 shall have the force and effect of law and shall be binding in  
28 all member states.

29 (7) Bring and prosecute legal proceedings or actions in the  
30 name of the commission, provided that the standing of any state  
31 occupational therapy licensing board to sue or be sued under  
32 applicable law shall not be affected.

33 (8) Purchase and maintain insurance and bonds.

34 (9) Borrow, accept, or contract for services of personnel,  
35 including but not limited to employees of a member state.

1 (10) Hire employees, elect or appoint officers, fix  
2 compensation, define duties, grant such individuals appropriate  
3 authority to carry out the purposes of the compact, and  
4 establish the commission's personnel policies and programs  
5 relating to conflicts of interest, qualifications of personnel,  
6 and other related personnel matters.

7 (11) Accept any and all appropriate donations and grants  
8 of money, equipment, supplies, materials, and services, and  
9 receive, utilize, and dispose of the same; provided that at all

10 times the commission shall avoid any appearance of impropriety  
11 or conflict of interest.

12 (12) Lease, purchase, accept appropriate gifts or donations  
13 of, or otherwise own, hold, improve, or use, any property,  
14 whether real, personal, or mixed; provided that at all times  
15 the commission shall avoid any appearance of impropriety.

16 (13) Sell, convey, mortgage, pledge, lease, exchange,  
17 abandon, or otherwise dispose of any property real, personal,  
18 or mixed.

19 (14) Establish a budget and make expenditures.

20 (15) Borrow money.

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

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

28 (18) Establish and elect an executive committee.

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

33 *d. The executive committee.* The executive committee shall  
34 have the power to act on behalf of the commission according to  
35 the terms of this compact.



1 (1) The executive committee shall be composed of the  
2 following nine members:

3 (a) Seven voting members who are elected by the commission  
4 from the current membership of the commission.

5 (b) One ex officio, nonvoting member from a recognized  
6 national occupational therapy professional association.

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

9 (2) The ex officio members will be selected by their  
10 respective organizations.

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

13 (4) The executive committee shall meet at least annually.

14 (5) The executive committee shall have the following duties  
15 and responsibilities:

16 (a) Recommend to the entire commission changes to the rules  
17 or bylaws, changes to this compact, fees paid by compact member  
18 states such as annual dues, and any commission compact fee  
19 charged to licensees for the compact privilege.

20 (b) Ensure compact administration services are  
21 appropriately provided, contractual or otherwise.

22 (c) Prepare and recommend the budget.

23 (d) Maintain financial records on behalf of the commission.

24 (e) Monitor compact compliance of member states and provide  
25 compliance reports to the commission.

26 (f) Establish additional committees as necessary.

27 (g) Perform other duties as provided in rules or bylaws.

28 *e. Meetings of the commission.*

29 (1) All meetings shall be open to the public, and public  
30 notice of meetings shall be given in the same manner as  
31 required under the rulemaking provisions in subsection 10.

32 (2) The commission or the executive committee or other  
33 committees of the commission may convene in a closed, nonpublic  
34 meeting if the commission or executive committee or other  
35 committees of the commission must discuss any of the following:

1 (a) Noncompliance of a member state with its obligations  
2 under the compact.

3 (b) The employment, compensation, discipline, or other  
4 matters, practices, or procedures related to specific employees  
5 or other matters related to the commission's internal personnel  
6 practices and procedures.

7 (c) Current, threatened, or reasonably anticipated  
8 litigation.

9 (d) Negotiation of contracts for the purchase, lease, or  
10 sale of goods, services, or real estate.

11 (e) Accusing any person of a crime or formally censuring any  
12 person.

13 (f) Disclosure of trade secrets or commercial or financial  
14 information that is privileged or confidential.

15 (g) Disclosure of information of a personal nature where  
16 disclosure would constitute a clearly unwarranted invasion of  
17 personal privacy.

18 (h) Disclosure of investigative records compiled for law  
19 enforcement purposes.

20 (i) Disclosure of information related to any investigative  
21 reports prepared by, on behalf of, or for use of the commission  
22 or other committee charged with the responsibility of  
23 investigation or determination of compliance issues pursuant  
24 to the compact.

25 (j) Matters specifically exempted from disclosure by  
26 federal or member state statute.

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

31 (4) The commission shall keep minutes that fully and clearly  
32 describe all matters discussed in a meeting and shall provide  
33 a full and accurate summary of actions taken, and the reasons  
34 therefore, including a description of the views expressed.  
35 All documents considered in connection with an action shall

1 be identified in such minutes. All minutes and documents of  
2 a closed meeting shall remain under seal, subject to release  
3 by a majority vote of the commission or order of a court of  
4 competent jurisdiction.

5 *f. Financing of the commission.*

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

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

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

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

26 (5) The commission shall keep accurate accounts of all  
27 receipts and disbursements. The receipts and disbursements of  
28 the commission shall be subject to the audit and accounting  
29 procedures established under its bylaws. However, all receipts 30 and  
disbursements of funds handled by the commission shall be 31 audited yearly by  
a certified or licensed public accountant, 32 and the report of the audit shall be  
included in and become  
33 part of the annual report of the commission.

34 *g. Qualified immunity, defense, and indemnification.*

35 (1) The members, officers, executive director, employees,

1 and representatives of the commission shall be immune from  
2 suit and liability, either personally or in their official  
3 capacity, for any claim for damage to or loss of property or  
4 personal injury or other civil liability caused by or arising  
5 out of any actual or alleged act, error, or omission that  
6 occurred, or that the person against whom the claim is made had  
7 a reasonable basis for believing occurred within the scope of  
8 commission employment, duties, or responsibilities; provided  
9 that nothing in this paragraph shall be construed to protect

10 any such person from suit or liability for any damage, loss,  
11 injury, or liability caused by the intentional, willful, or  
12 wanton misconduct of that person.

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

26 (3) The commission shall indemnify and hold harmless  
27 any member, officer, executive director, employee, or  
28 representative of the commission for the amount of any  
29 settlement or judgment obtained against that person arising  
30 out of any actual or alleged act, error, or omission that  
31 occurred within the scope of commission employment, duties,  
32 or responsibilities, or that such person had a reasonable  
33 basis for believing occurred within the scope of commission  
34 employment, duties, or responsibilities; provided that the  
35 actual or alleged act, error, or omission did not result from

1 the intentional, willful, or wanton misconduct of that person.

2 9. *Data system.*

3 a. The commission shall provide for the development,  
4 maintenance, and utilization of a coordinated database and  
5 reporting system containing licensure, adverse action, and  
6 investigative information on all licensed individuals in member  
7 states.

8 b. A member state shall submit a uniform data set to  
9 the data system on all individuals to whom this compact is

10 applicable, utilizing a unique identifier, as required by the  
11 rules of the commission, including all of the following:

12 (1) Identifying information.

13 (2) Licensure data.

14 (3) Adverse actions against a license or compact privilege.

15 (4) Nonconfidential information related to alternative  
16 program participation.

17 (5) Any denial of application for licensure, and the reason  
18 for such denial.

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

22 (7) Current significant investigative information.

23 c. Current significant investigative information and other  
24 investigative information pertaining to a licensee in any  
25 member state will only be available to other member states.

26 d. The commission shall promptly notify all member states of

27 any adverse action taken against a licensee or an individual  
28 applying for a license. Adverse action information pertaining  
29 to a licensee in any member state will be available to any  
30 other member state.

31 e. Member states contributing information to the data  
32 system may designate information that may not be shared with  
33 the public without the express permission of the contributing  
34 state.

35 f. Any information submitted to the data system that is

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1 subsequently required to be expunged by the laws of the member  
2 state contributing the information shall be removed from the  
3 data system.

4 10. *Rulemaking.*

5 a. The commission shall exercise its rulemaking powers  
6 pursuant to the criteria set forth in this subsection and the  
7 rules adopted thereunder. Rules and amendments shall become  
8 binding as of the date specified in each rule or amendment.

9 b. The commission shall promulgate reasonable rules in

10 order to effectively and efficiently achieve the purposes of  
11 the compact. Notwithstanding the foregoing, in the event the  
12 commission exercises its rulemaking authority in a manner that  
13 is beyond the scope of the purposes of the compact, or the  
14 powers granted hereunder, then such an action by the commission  
15 shall be invalid and have no force and effect.

16 c. If a majority of the legislatures of the member states  
17 rejects a rule, by enactment of a statute or resolution in the  
18 same manner used to adopt the compact within four years of the  
19 date of adoption of the rule, then such rule shall have no  
20 further force and effect in any member state.

21 d. Rules or amendments to the rules shall be adopted at a  
22 regular or special meeting of the commission.

23 e. Prior to promulgation and adoption of a final rule or  
24 rules by the commission, and at least thirty days in advance  
25 of the meeting at which the rule will be considered and voted  
26 upon, the commission shall file a notice of proposed rulemaking  
27 in all of the following places:

28 (1) On the internet site of the commission or other publicly  
29 accessible platform.

30 (2) On the internet site of each member state occupational  
31 therapy licensing board or other publicly accessible platform  
32 or the publication in which each state would otherwise publish  
33 proposed rules.

34 f. The notice of proposed rulemaking shall include all of  
35 the following:

1 (1) The proposed time, date, and location of the meeting in  
2 which the rule will be considered and voted upon.

3 (2) The text of the proposed rule or amendment and the  
4 reason for the proposed rule.

5 (3) A request for comments on the proposed rule from any  
6 interested person.

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

10 g. Prior to adoption of a proposed rule, the commission  
11 shall allow persons to submit written data, facts, opinions,  
12 and arguments, which shall be made available to the public.

13 h. The commission shall grant an opportunity for a public  
14 hearing before it adopts a rule or amendment if a hearing is  
15 requested by any of the following:

16 (1) At least twenty-five persons.

17 (2) A state or federal governmental subdivision or agency.

18 (3) An association or organization having at least  
19 twenty-five members.

20 i. If a hearing is held on the proposed rule or amendment,  
21 the commission shall publish the place, time, and date of  
22 the scheduled public hearing. If the hearing is held via  
23 electronic means, the commission shall publish the mechanism  
24 for access to the electronic hearing.

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

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

33 (3) All hearings will be recorded. A copy of the recording  
34 will be made available on request.

35 (4) Nothing in this subsection shall be construed as

1 requiring a separate hearing on each rule. Rules may be  
2 grouped for the convenience of the commission at hearings  
3 required by this subsection.

4 *j.* Following the scheduled hearing date, or by the close  
5 of business on the scheduled hearing date if the hearing was  
6 not held, the commission shall consider all written and oral  
7 comments received.

8 *k.* If no written notice of intent to attend the public  
9 hearing by interested parties is received, the commission may  
10 proceed with promulgation of the proposed rule without a public  
11 hearing.

12 *l.* The commission shall, by majority vote of all members,  
13 take final action on the proposed rule and shall determine the  
14 effective date of the rule, if any, based on the rulemaking  
15 record and the full text of the rule.

16 *m.* Upon determination that an emergency exists, the  
17 commission may consider and adopt an emergency rule without  
18 prior notice, opportunity for comment, or hearing, provided  
19 that the usual rulemaking procedures provided in the compact  
20 and in this section shall be retroactively applied to the rule  
21 as soon as reasonably possible, in no event later than ninety  
22 days after the effective date of the rule. For the purposes of  
23 this provision, an emergency rule is one that must be adopted  
24 immediately in order to do any of the following:

25 (1) Meet an imminent threat to public health, safety, or  
26 welfare.

27 (2) Prevent a loss of commission or member state funds.

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

30 (4) Protect public health and safety.

31 *n.* The commission or an authorized committee of the  
32 commission may direct revisions to a previously adopted rule  
33 or amendment for purposes of correcting typographical errors,  
34 errors in format, errors in consistency, or grammatical  
35 errors. Public notice of any revisions shall be posted on



1 the internet site of the commission. The revision shall be  
2 subject to challenge by any person for a period of thirty days  
3 after posting. The revision may be challenged only on grounds  
4 that the revision results in a material change to a rule. A  
5 challenge shall be made in writing and delivered to the chair  
6 of the commission prior to the end of the notice period. If  
7 no challenge is made, the revision will take effect without  
8 further action. If the revision is challenged, the revision  
9 may not take effect without the approval of the commission.

10 11. *Oversight, dispute resolution, and enforcement.*

11 a. *Oversight.*

12 (1) The executive, legislative, and judicial branches  
13 of state government in each member state shall enforce this  
14 compact and take all actions necessary and appropriate to  
15 effectuate the compact's purposes and intent. The provisions  
16 of this compact and the rules promulgated hereunder shall have  
17 standing as statutory law.

18 (2) All courts shall take judicial notice of the compact  
19 and the rules in any judicial or administrative proceeding in a  
20 member state pertaining to the subject matter of this compact  
21 which may affect the powers, responsibilities, or actions of  
22 the commission.

23 (3) The commission shall be entitled to receive service  
24 of process in any such proceeding, and shall have standing to  
25 intervene in such a proceeding for all purposes. Failure to  
26 provide service of process to the commission shall render a  
27 judgment or order void as to the commission, this compact, or  
28 promulgated rules.

29 b. *Default, technical assistance, and termination.*

30 (1) If the commission determines that a member state  
31 has defaulted in the performance of its obligations or  
32 responsibilities under this compact or the promulgated rules,  
33 the commission shall do all of the following:

34 (a) Provide written notice to the defaulting state and other  
35 member states of the nature of the default, the proposed means

1 of curing the default, or any other action to be taken by the  
2 commission.

3 (b) Provide remedial training and specific technical  
4 assistance regarding the default.

5 (2) If a state in default fails to cure the default, the  
6 defaulting state may be terminated from the compact upon an  
7 affirmative vote of a majority of the member states, and all  
8 rights, privileges, and benefits conferred by this compact may  
9 be terminated on the effective date of termination. A cure of

10 the default does not relieve the offending state of obligations  
11 or liabilities incurred during the period of default.

12 (3) Termination of membership in the compact shall be  
13 imposed only after all other means of securing compliance have  
14 been exhausted. Notice of intent to suspend or terminate shall  
15 be given by the commission to the governor, the majority and  
16 minority leaders of the defaulting state's legislature, and  
17 each of the member states.

18 (4) A state that has been terminated is responsible for  
19 all assessments, obligations, and liabilities incurred through  
20 the effective date of termination, including obligations that  
21 extend beyond the effective date of termination.

22 (5) The commission shall not bear any costs related  
23 to a state that is found to be in default or that has been  
24 terminated from the compact unless agreed upon in writing  
25 between the commission and the defaulting state.

26 (6) The defaulting state may appeal the action of the  
27 commission by petitioning the United States district court  
28 for the District of Columbia or the federal district where  
29 the commission has its principal offices. The prevailing  
30 member shall be awarded all costs of such litigation, including  
31 reasonable attorney fees.

32 c. *Dispute resolution.*

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

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

4 *d. Enforcement.*

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

8 (2) By majority vote, the commission may initiate legal  
9 action in the United States district court for the District

10 of Columbia or the federal district where the commission has  
11 its principal offices against a member state in default to  
12 enforce compliance with the provisions of the compact and its  
13 promulgated rules and bylaws. The relief sought may include  
14 both injunctive relief and damages. In the event judicial  
15 enforcement is necessary, the prevailing member shall be  
16 awarded all costs of such litigation, including reasonable  
17 attorney fees.

18 (3) The remedies herein shall not be the exclusive remedies  
19 of the commission. The commission may pursue any other  
20 remedies available under federal or state law.

21 12. *Date of implementation of the interstate commission for*  
22 *occupational therapy practice and associated rules, withdrawal,*  
23 *and amendment.*

24 a. The compact shall come into effect on the date on  
25 which the compact statute is enacted into law in the tenth  
26 member state. The provisions, which become effective at  
27 that time, shall be limited to the powers granted to the  
28 commission relating to assembly and the promulgation of rules.  
29 Thereafter, the commission shall meet and exercise rulemaking  
30 powers necessary to the implementation and administration of  
31 the compact.

32 b. Any state that joins the compact subsequent to the  
33 commission's initial adoption of the rules shall be subject  
34 to the rules as they exist on the date on which the compact  
35 becomes law in that state. Any rule that has been previously

1 adopted by the commission shall have the full force and effect  
2 of law on the date the compact becomes law in that state.

3 c. Any member state may withdraw from this compact by  
4 enacting a statute repealing the same.

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

7 (2) Withdrawal shall not affect the continuing requirement  
8 of the withdrawing state's occupational therapy licensing board  
9 to comply with the investigative and adverse action reporting

10 requirements of this compact prior to the effective date of  
11 withdrawal.

12 d. Nothing contained in this compact shall be construed  
13 to invalidate or prevent any occupational therapy licensure  
14 agreement or other cooperative arrangement between a member  
15 state and a nonmember state that does not conflict with the  
16 provisions of this compact.

17 e. This compact may be amended by the member states. No  
18 amendment to this compact shall become effective and binding  
19 upon any member state until it is enacted into the laws of all  
20 member states.

21 13. *Construction and severability.* This compact shall be  
22 liberally construed so as to effectuate the purposes thereof.  
23 The provisions of this compact shall be severable and if any  
24 phrase, clause, sentence, or provision of this compact is  
25 declared to be contrary to the constitution of any member  
26 state or of the United States or the applicability thereof  
27 to any government, agency, person, or circumstance is held  
28 invalid, the validity of the remainder of this compact and the  
29 applicability thereof to any government, agency, person, or  
30 circumstance shall not be affected thereby. If this compact  
31 shall be held contrary to the constitution of any member state,  
32 the compact shall remain in full force and effect as to the  
33 remaining member states and in full force and effect as to the  
34 member state affected as to all severable matters.

35 14. *Binding effect of compact and other laws.*

1 a. A licensee providing occupational therapy in a remote  
2 state under the compact privilege shall function within the  
3 laws and regulations of the remote state.

4 b. Nothing herein prevents the enforcement of any other law  
5 of a member state that is not inconsistent with the compact. 6 c. Any  
7 laws in a member state in conflict with the compact 7 are superseded to the  
8 extent of the conflict.

9 d. Any lawful actions of the commission, including all rules  
10 and bylaws promulgated by the commission, are binding upon the  
11 member states.

12 e. All agreements between the commission and the member  
13 states are binding in accordance with their terms.

14 f. In the event any provision of the compact exceeds the  
15 constitutional limits imposed on the legislature of any member  
16 state, the provision shall be ineffective to the extent of the  
17 conflict with the constitutional provision in question in that  
18 member state.

#### EXPLANATION

19 **The inclusion of this explanation does not constitute agreement with the**  
20 **explanation's substance by the members of the general assembly.**

21 This bill adopts the interstate occupational therapy  
22 licensure compact.

23 The compact establishes a system whereby occupational  
24 therapists and occupational therapy assistants licensed to  
25 practice in one member state may practice in another member  
26 state under a compact privilege without applying for a  
27 license in that state. The compact imposes certain minimum  
28 requirements on the licensure of occupational therapists and  
29 occupational therapy assistants in member states. The compact  
30 comes into effect upon adoption by 10 states.

31 The compact creates a commission to administer the operation  
32 of the compact. The commission is an instrumentality of the  
33 party states. The compact includes provisions relating to  
34 the establishment and membership of the commission; powers  
35 of the commission; meetings and voting requirements of the

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- 1 commission; commission bylaws and rules; commission committees;
- 2 commission finances; records of the commission; compacting
- 3 state compliance; venue for judicial proceedings; qualified
- 4 immunity, defense, and indemnification; effective dates and
- 5 amendments to the compact; withdrawal, default, and expulsion;
- 6 severability and construction; and the binding effect of the
- 7 compact and other laws.

**AGENDA ITEM 7**

***MISSOURI***

## HB 542 -- OCCUPATIONAL THERAPY LICENSURE (Shields)

COMMITTEE OF ORIGIN: Standing Committee on Professional Registration and Licensing

This bill adopts the "Occupational Therapy Licensure Compact". The Compact allows an occupational therapist who meets the eligibility requirements to receive an expedited license.

To participate in the Compact, a member state must license both occupational therapists and occupational therapist assistances, participate in a data system, have a mechanism in place regarding complaints, consider criminal history records for applicants, utilize only recognized national examination as a requirement for licensure, and have continuing education requirements.

In order to utilize the provisions of the Compact to be licensed, an applicant must have no encumbrance on his or her license.

A person with an occupational therapist license from a state that has entered in to the Compact can practice in another state that has also entered in to the Compact, as long as the occupational therapist complies with any laws in the second state.

The Compact outlines how to update a home state designation and how adverse actions can be taken against a licensee.

The Compact outlines the establishment of an Occupational Therapy Compact Commission for the purpose of enforcing the Compact.

The Compact outlines the establishment of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in all member states.

The Compact will come in to effect once 10 states have entered into the Compact.



**AGENDA ITEM 7**  
***N. CAROLINA***

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

FILED SENATE  
Mar 2, 2021  
S.B. 173  
PRINCIPAL CLERK

S

D

SENATE BILL DRS35067-NBf-44A\*

Short Title: Occupational Therapy Interstate Compact. (Public)

Sponsors: Senators Krawiec, Burgin, and Perry (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH AND ENTER INTO AN INTERSTATE COMPACT FOR THE  
3 PRACTICE OF OCCUPATIONAL THERAPY. The General Assembly of North Carolina  
4 enacts:

5 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article  
6 to read:

7 "Article 18I.

8 "Occupational Therapy Licensure Compact.

9 **"§ 90-270.180. Purpose.**

10 The purpose of this Compact is to facilitate interstate practice of occupational therapy with  
11 the goal of improving public access to occupational therapy services. The practice  
12 of occupational therapy occurs in the state where the patient or client is located at the time of  
13 the patient or client encounter. The Compact preserves the regulatory authority of states to  
14 protect public health and safety through the current system of state licensure. This Compact is  
15 designed to achieve the following objectives:

- 16 (1) Increase public access to occupational therapy services by providing  
17 for the mutual recognition of other member state licenses.  
18 (2) Enhance the states' ability to protect the public's health and safety.  
19 (3) Encourage the cooperation of member states in regulating  
20 multistate occupational therapy practice.  
21 (4) Support spouses of relocating military members.  
22 (5) Enhance the exchange of licensure, investigative, and disciplinary  
23 information between member states.  
24 (6) Allow a remote state to hold a provider of services with a compact  
25 privilege in that state accountable to that state's practice standards.  
26 (7) Facilitate the use of telehealth technology in order to increase  
27 access to occupational therapy services.

28 **"§ 90-270.181. Definitions.**

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

- 31 (1) Active duty military. – Full-time duty status in the active uniformed  
32 service of the United States, including members of the National  
33 Guard and Reserve on active duty orders pursuant to 10 U.S.C.  
34 Chapter 1209 and 10 U.S.C. Chapter 1211.  
35 (2) Adverse action. – Any administrative, civil, equitable, or criminal  
36 action permitted by a state's laws which is imposed by a licensing  
board or other



- 1 authority against an occupational therapist or occupational therapy assistant,  
2 including actions against an individual's license or Compact privilege, such as censure,  
3 revocation, suspension, probation, monitoring of the licensee, or restriction on the  
4 licensee's practice.
- 5 (3) Alternative program. – A nondisciplinary monitoring process approved by an  
6 occupational therapy licensing board.
- 7 (4) Compact privilege. – The authorization which is the equivalent to a license, granted  
8 by a remote state to allow a licensee from another member state to practice as an  
9 occupational therapist or practice as an occupational therapy assistant in the  
10 remote state under its laws and rules. The practice of occupational therapy  
11 occurs in the member state where the patient or client is located at the time of the  
12 patient-client encounter.
- 13 (5) Continuing competence/education. – A requirement, as a condition of license renewal,  
14 to provide evidence of participation in, or completion of, educational and professional  
15 activities relevant to practice or area of work.
- 16 (6) Current significant investigative information. – Investigative information that a licensing  
17 board, after an inquiry or investigation that includes notification and an opportunity  
18 for the occupational therapist or occupational therapy assistant to respond, if  
19 required by state law, has reason to believe is not groundless and, if proved true,  
20 would indicate more than a minor infraction.
- 21 (7) Data system. – A repository of information about licensees, including, but not limited to,  
22 license status, investigative information, Compact privileges, and adverse actions.
- 23 (8) Encumbered license. – A license in which an adverse action restricts the practice  
24 of occupational therapy by the licensee or said adverse action has been reported to  
25 the National Practitioners Data Bank (NPDB).
- 26 (9) Executive Committee. – A group of directors elected or appointed to act on behalf of,  
27 and within the powers granted to them by, the Commission.
- 28 (10) Home state. – The member state that is the licensee's primary state of  
29 residence.
- 30 (11) Impaired practitioner. – Individuals whose professional practice is adversely affected  
31 by substance abuse, addiction, or other health-related conditions.
- 32 (12) Investigative information. – Information, records, or documents received or generated  
33 by an occupational therapy licensing board pursuant to an investigation.
- 34 (13) Jurisprudence requirement. – The assessment of an individual's knowledge of the laws  
35 and rules governing the practice of occupational therapy in a state.
- 36 (14) Licensee. – An individual who currently holds an authorization from the state to  
37 practice as an occupational therapist or as an occupational therapy assistant.
- 38 (15) Member state. – A state that has enacted the Compact.
- 39 (16) Occupational therapist. – An individual who is licensed by a state to practice  
40 occupational therapy.
- 41 (17) Occupational therapy assistant. – An individual who is licensed by a state to assist in  
42 the practice of occupational therapy.
- 43 (18) Occupational therapy; occupational therapy practice; practice of occupational therapy.  
44 – The care and services provided by an occupational therapist or an occupational  
45 therapy assistant as set forth in the member state's statutes and regulations.
- 46 (19) Occupational Therapy Compact Commission or Commission. – The national  
47 administrative body whose membership consists of all states that have enacted the  
48 Compact.
- 49  
50  
51

- 1 (20) Occupational therapy licensing board or licensing board. – The agency of a  
2 state that is authorized to license and regulate occupational therapists and  
3 occupational therapy assistants.
- 4 (21) Primary state of residence. – The state, also known as the home state, in which an  
5 occupational therapist or occupational therapy assistant who is not active duty  
6 military, declares a primary residence for legal purposes as verified by any of  
7 the following:
- 8 a. Drivers license.  
9 b. Federal income tax return.  
10 c. Lease.  
11 d. Deed.  
12 e. Mortgage.  
13 f. Voter registration.  
14 g. Other verifying documentation as defined by Commission rules.
- 15 (22) Remote state. – A member state other than the home state where a licensee is  
16 exercising or seeking to exercise the Compact privilege.
- 17 (23) Rule. – A regulation promulgated by the Commission that has the force of law.
- 18 (24) State. – Any state, commonwealth, district, or territory of the United States of  
19 America that regulates the practice of occupational therapy.
- 20 (25) Single-state license. – An occupational therapist or occupational therapy  
21 assistant license issued by a member state that authorizes practice only within the  
22 issuing state and does not include a Compact privilege in any other member  
23 state.
- 24 (26) Telehealth. – The application of telecommunication technology to deliver  
25 occupational therapy services for assessment, intervention, or consultation.

26  
27 **§ 90-270.182. State participation in the Compact.**

- 28 (a) To participate in the Compact, a member state shall do all of the following:
- 29 (1) License occupational therapists and occupational therapy assistants.  
30 (2) Participate fully in the Commission's data system, including, but not  
31 limited to, using the Commission's unique identifier as defined by  
32 rules of the Commission.
- 33 (3) Have a mechanism in place for receiving and investigating complaints  
34 about licensees.
- 35 (4) Notify the Commission, in compliance with the terms of the Compact  
36 and rules, of any adverse action or the availability of investigative  
37 information regarding a licensee.
- 38 (5) Implement or utilize procedures for considering the criminal history  
39 records of applicants for an initial Compact privilege. These procedures  
40 shall include the submission of fingerprints or other biometric-based  
41 information by applicants for the purpose of obtaining an applicant's  
42 criminal history record information from the Federal Bureau of  
43 Investigation and the agency responsible for retaining the state's  
44 criminal records. The procedures must comply with the following:
- 45 a. The member state shall, within a time frame established by  
46 the Commission, require a criminal background check for a  
47 licensee seeking or applying for a Compact privilege whose  
48 primary state of residence is that member state, by receiving the  
49 results of the Federal Bureau of Investigation criminal record  
50 search, and shall use the results in making licensure decisions.

b. All communication between a member state, the Commission, and among member states regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under P.L. 92-544.

(6) Comply with the rules of the Commission.

(7) Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the Commission.

(8) Having continuing competence/education requirements as a condition for license renewal.

(b) A member state shall grant the Compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

(c) Member states may charge a fee for granting a Compact privilege.

(d) A member state shall provide for the state's delegate to attend all Occupational Therapy Compact 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 the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the Compact privilege in any other member state.

(f) Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

**"§ 90-270.183. Compact privilege.**

(a) To exercise the Compact privilege under the terms and provisions of the Compact, the licensee shall meet all of the following requirements:

(1) Hold a license in the home state.

(2) Have a valid United States social security number or National Practitioner Identification number.

(3) Have no encumbrance on any state license.

(4) Be eligible for a Compact privilege in any member state in accordance with subsections (d) through (h) of this section.

(5) Have paid all fines and completed all requirements resulting from any adverse action against any license or Compact privilege, and two years have elapsed from the date of such completion.

(6) Notify the Commission that the licensee is seeking the Compact privilege within a remote state.

(7) Pay any applicable, including any state, fee for the Compact privilege.

(8) Complete a criminal background check in accordance with G.S. 90-270.182(a)(5), and pay any fee associated with the completion of the criminal background check.

(9) Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a Compact privilege.

(10) Report to the Commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

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

(c) A licensee providing occupational therapy in a remote state under the Compact privilege shall function within the laws and regulations of the remote state.

1 (d) Occupational therapy assistants practicing in a remote state shall be supervised by an  
2 occupational therapist licensed or holding a Compact privilege in that remote state.

3 (e) A licensee providing occupational therapy in a remote state is subject to that state's  
4 regulatory authority. A remote state may, in accordance with due process and that state's  
5 laws, remove a licensee's Compact privilege in the remote state for a specific period of time,  
6 impose fines, and take any other necessary actions to protect the health and safety of its  
7 citizens. The licensee may be ineligible for a Compact privilege in any state until the specific  
8 time for removal has passed and all fines are paid.

9 (f) If a home state license is encumbered, the licensee shall lose the Compact  
10 privilege in any remote state until all of the following occur:

11 (1) The home state license is no longer encumbered.

12 (2) Two years have elapsed from the date on which the home state license is no longer  
13 encumbered in accordance with subdivision (1) of this subsection.

14 (g) Once an encumbered license in the home state is restored in good standing,  
15 the licensee must meet the requirements of subsection (a) of this section to obtain a  
16 Compact privilege in any remote state.

17 (h) If a licensee's Compact privilege in any remote state is removed, the individual  
18 may lose the Compact privilege in any other remote state until all of the following occur:

19 (1) The specific period of time for which the Compact privilege was removed has ended.

20 (2) All fines have been paid, and all conditions have been met.

21 (3) Two years have elapsed from the date of completing requirements for  
22 subdivisions (1) and (2) of this subsection.

23 (4) The Compact privileges are reinstated by the Commission, and the compact data  
24 system is updated to reflect reinstatement.

25 (i) If a licensee's Compact privilege in any remote state is removed due to an  
26 erroneous charge, privileges shall be restored through the Compact data system.

27 (j) Once the requirements of subsection (h) of this section have been met, the  
28 licensee must meet the requirements in subsection (a) of this section to obtain a Compact  
29 privilege in a remote state.

30 **"§ 90-270.184. Obtaining a new home state license by virtue of Compact privilege.**

31 (a) An occupational therapist or occupational therapy assistant may hold a home  
32 state license, which allows for Compact privileges in member states, in only one member  
33 state at a time.

34 (b) If an occupational therapist or occupational therapy assistant changes primary  
35 state of residence by moving between two member states, the occupational therapist or  
36 occupational therapy assistant shall do all of the following:  
37

38 (1) File an application for obtaining a new home state license by virtue of a Compact  
39 privilege.

40 (2) Pay all applicable fees.

41 (3) Notify the current and new home state in accordance with applicable rules adopted  
42 by the Commission.

43 (c) Upon receipt of an application for obtaining a new home state license by virtue of  
44 Compact privilege, the new home state shall verify that the occupational therapist or  
45 occupational therapy assistant meets the pertinent criteria outlined in G.S. 90-270.183 via  
46 the data system, without need for primary source verification, except for the following:

47 (1) A Federal Bureau of Investigation fingerprint-based criminal background check, if not  
48 previously performed or updated, pursuant to applicable rules adopted by the  
49 Commission in accordance with P.L. 92-544.

50 (2) Other criminal background checks, as required by the new home state.

1 (3) Submission of any requisite jurisprudence requirements of the new home  
2 state.

3 (d) The former home state shall convert the former home state license into a Compact  
4 privilege once the new home state has activated the new home state license in accordance with  
5 applicable rules adopted by the Commission.

6 (e) Notwithstanding any other provision of this Compact, if the occupational therapist or  
7 occupational therapy assistant cannot meet the criteria in G.S. 90-270.183, the new home  
8 state shall apply its requirements for issuing a new single-state license.

9 (f) The occupational therapist or the occupational therapy assistant shall pay all  
10 applicable fees to the new home state in order to be issued a new home state license.

11 (g) If an occupational therapist or occupational therapy assistant changes primary state  
12 of residence by moving from a member state to a nonmember state, or from a nonmember state  
13 to a member state, the state criteria shall apply for issuance of a single-state license in the new  
14 state.

15 (h) Nothing in this Compact shall interfere with a licensee's ability to hold a single-state  
16 license in multiple states; however, for the purposes of this Compact, a licensee shall have only  
17 one home state license.

18 (i) Nothing in this Compact shall affect the requirements established by a member state  
19 for the issuance of a single-state license.

20 **"§ 90-270.185. Active duty military personnel or their spouses.**

21 Active duty military personnel, or their spouses, shall designate a home state where the  
22 individual has a current license in good standing. The individual may retain the home state  
23 designation during the period the service member is on active duty. Subsequent to designating  
24 a home state, the individual shall only change his or her home state through application  
25 for licensure in the new state or through the process described in G.S. 90-270.184.

26 **"§ 90-270.186. Adverse actions.**

27 (a) A home state shall have exclusive power to impose adverse action against an  
28 occupational therapist's or occupational therapy assistant's license issued by the home state.

29 (b) In addition to the other powers conferred by state law, a remote state shall have the  
30 authority, in accordance with existing state due process law, to do the following:

31 (1) Take adverse action against an occupational therapist's or occupational therapy  
32 assistant's Compact privilege within that member state.

33 (2) Issue subpoenas for both hearings and investigations that require the attendance  
34 and testimony of witnesses as well as the production of evidence. Subpoenas issued by  
35 a licensing board in a member state for the attendance and testimony of witnesses or  
36 the production of evidence from another member state shall be enforced in the latter  
37 state by any court of competent jurisdiction, according to the practice and procedure of  
38 that court applicable to subpoenas issued in proceedings pending before it. The issuing  
39 authority shall pay any witness fees, travel expenses, mileage, and other fees required  
40 by the service statutes of the state in which the witnesses or evidence are located.

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

45 (d) The home state shall complete any pending investigations of an occupational  
46 therapist or occupational therapy assistant who changes primary state of residence during the  
47 course of the investigations. The home state, where the investigations were initiated, shall  
48 also have the authority to take appropriate action and shall promptly report the  
49 conclusions of the  
50

1 investigations to the data system. The data system administrator shall promptly notify the new  
2 home state of any adverse actions.

3 (e) A member state, if otherwise permitted by state law, may recover from the affected  
4 occupational therapist or occupational therapy assistant the costs of investigations and disposition  
5 of cases resulting from any adverse action taken against that occupational therapist or  
6 occupational therapy assistant.

7 (f) A member state may take adverse action based on the factual findings of the remote  
8 state, provided that the member state follows its own procedures for taking the adverse action.

9 (g) In addition to the authority granted to a member state by its respective state  
10 occupational therapy laws and regulations or other applicable state law, any member state may  
11 participate with other member states in joint investigations of licensees. Member states shall  
12 share any investigative, litigation, or compliance materials in furtherance of any joint or  
13 individual investigation initiated under the Compact.

14 (h) If an adverse action is taken by the home state against an occupational therapist's or  
15 occupational therapy assistant's license, the occupational therapist's or occupational therapy  
16 assistant's Compact privilege in all other member states shall be deactivated until all  
17 encumbrances have been removed from the state license. All home state disciplinary orders that  
18 impose adverse action against an occupational therapist's or occupational therapy assistant's  
19 license shall include a statement that the occupational therapist's or occupational therapy  
20 assistant's Compact privilege is deactivated in all member states during the pendency of the order.

21 (i) If a member state takes adverse action, it shall promptly notify the administrator of  
22 the data system. The administrator of the data system shall promptly notify the home state of  
23 any adverse actions by remote states.

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

26 **"§ 90-270.187. Establishment of the Occupational Therapy Compact Commission.**

27 (a) Establishment. – The Compact member states hereby create and establish a joint  
28 public agency known as the Occupational Therapy Compact Commission.

29 (1) The Commission is an instrumentality of the Compact states.

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

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

36  
37 (b) Membership; Voting; Meetings. – Each member state shall have and be limited to one  
38 delegate selected by that member state's licensing board. The delegate shall be either (i) a  
39 current member of the licensing board, who is an occupational therapist, occupational therapy  
40 assistant, or public member or (ii) an administrator of the licensing board. Any delegate may be  
41 removed or suspended from office as provided by the law of the state from which the delegate is  
42 appointed. The member state board shall fill any vacancy occurring in the Commission within 90  
43 days. Each delegate shall be entitled to one vote with regard to the promulgation of rules and  
44 creation of bylaws and shall otherwise have an opportunity to participate in the business and  
45 affairs of the Commission. A delegate shall vote in person or by such other means as provided  
46 in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or  
47 other means of communication. The Commission shall meet at least once during each calendar  
48 year. Additional meetings shall be held as set forth in the bylaws. The Commission shall  
49 establish by rule a term of office for delegates.

50 (c) Powers; Duties. – The Commission shall have the following powers and duties:

51 (1) Establish a code of ethics for the Commission.



- 1 (2) Establish the fiscal year of the Commission.
- 2 (3) Establish bylaws.
- 3 (4) Maintain its financial records in accordance with the bylaws.
- 4 (5) Meet and take such actions as are consistent with the provisions of this Compact
- 5 and the bylaws.
- 6 (6) Promulgate uniform rules to facilitate and coordinate implementation and
- 7 administration of this Compact. The rules shall have the force and effect of law and
- 8 shall be binding in all member states.
- 9 (7) Bring and prosecute legal proceedings or actions in the name of the
- 10 Commission, provided that the standing of any state occupational therapy licensing
- 11 board to sue or be sued under applicable law shall not be affected.
- 12 (8) Purchase and maintain insurance and bonds.
- 13 (9) Borrow, accept, or contract for services of personnel, including, but not limited to,
- 14 employees of a member state.
- 15 (10) Hire employees, elect or appoint officers, fix compensation, define duties, grant such
- 16 individuals appropriate authority to carry out the purposes of the Compact, and
- 17 establish the Commission's personnel policies and programs relating to conflicts of
- 18 interest, qualifications of personnel, and other related personnel matters.
- 19 (11) Accept any and all appropriate donations and grants of money, equipment, supplies,
- 20 materials and services, and receive, utilize, and dispose of the same, provided that at
- 21 all times the Commission shall avoid any appearance of impropriety and conflict of
- 22 interest.
- 23 (12) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,
- 24 improve, or use, any property, real, personal, or mixed, provided that at all times the
- 25 Commission shall avoid any appearance of impropriety.
- 26 (13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
- 27 of any property, real, personal, or mixed.
- 28
- 29 (14) Establish a budget and make expenditures.
- 30 (15) Borrow money.
- 31 (16) Appoint committees, including standing committees composed of members, state
- 32 regulators, state legislators or their representatives, and consumer
- 33 representatives, and such other interested persons as may be designated in this
- 34 Compact and the bylaws.
- 35 (17) Provide and receive information from, and cooperate with, law enforcement agencies.
- 36 (18) Establish and elect an Executive Committee.
- 37 (19) Perform such other functions as may be necessary or appropriate to achieve the
- 38 purposes of this Compact consistent with the state regulation of occupational
- 39 therapy licensure and practice.
- 40
- 41 (d) Executive Committee. – The Executive Committee shall have the power to act on
- 42 behalf of the Commission according to the terms of this Compact.
- 43 (1) The Executive Committee shall be composed of nine members, as follows:
- 44 a. Seven voting members who are elected by the Commission from the current
- 45 membership of the Commission.
- 46 b. One ex officio, nonvoting member from a recognized national
- 47 occupational therapy professional association.
- 48 c. One ex officio, nonvoting member from a recognized national
- 49 occupational therapy certification organization.
- 50 (2) The ex officio members will be selected by their respective organizations.

- 1 (3) The Commission may remove any member of the Executive Committee as  
2 provided in bylaws.
- 3 (4) The Executive Committee shall meet at least annually.
- 4 (5) The Executive Committee shall have the following duties and responsibilities:
- 5 a. Recommend to the entire Commission changes to the rules or bylaws,  
6 changes to this Compact legislation, fees paid by Compact member  
7 states such as annual dues, and any Commission Compact fee charged to  
8 licensees for the 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.
- 16 g. Perform other duties as provided in rules or bylaws.
- 17 (e) Meetings of the Commission. – All meetings shall be open to the public, and public  
18 notice of meetings shall be given in the same manner as required under the rulemaking provisions  
19 in G.S. 90-270.189. The Commission or the Executive Committee or other committees of the  
20 Commission may convene in a closed, nonpublic meeting if the Commission or Executive  
21 Committee or other committees of the Commission must discuss any of the following:
- 22 (1) Noncompliance of a member state with its obligations under the Compact.
- 23 (2) The employment, compensation, discipline or other matters, practices or procedures  
24 related to specific employees or other matters related to the Commission's internal  
25 personnel practices and procedures.
- 26 (3) Current, threatened, or reasonably anticipated litigation.
- 27 (4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real  
28 estate.
- 29 (5) Accusation of any person of a crime or formally censuring any person.
- 30 (6) Disclosure of trade secrets or commercial or financial information that is  
31 privileged or confidential.
- 32 (7) Disclosure of information of a personal nature where disclosure would  
33 constitute a clearly unwarranted invasion of personal privacy.
- 34 (8) Disclosure of investigative records compiled for law enforcement purposes.
- 35 (9) Disclosure of information related to any investigative reports prepared by or on  
36 behalf of or for use of the Commission or other committee charged with  
37 responsibility of investigation or determination of compliance issues pursuant to the  
38 Compact.
- 39 (10) Matters specifically exempted from disclosure by federal or member state statute.
- 40 If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
41 Commission's legal counsel or designee shall certify that the meeting may be closed and  
42 shall reference each relevant exempting provision. The Commission shall keep minutes  
43 that fully and clearly describe all matters discussed in a meeting and shall provide a full  
44 and accurate summary of actions taken, and the reasons therefor, including a  
45 description of the views expressed. All documents considered in connection with an  
46 action shall be identified in such minutes. All minutes and documents of a closed  
47 meeting shall remain under seal, subject to release by a majority vote of the Commission  
48 or order of a court of competent jurisdiction.
- 49 (f) Financing of the Commission. – The Commission shall pay, or provide for the  
50 payment of, the reasonable expenses of its establishment, organization, and ongoing  
activities.

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

3 The Commission may levy on and collect an annual assessment from each member state or  
4 impose fees on other parties to cover the cost of the operations and activities of the  
5 Commission and its staff, which must be in a total amount sufficient to cover its annual budget  
6 as approved by the Commission each year for which revenue is not provided by other sources.  
7 The aggregate annual assessment amount shall be allocated based upon a formula to be  
8 determined by the Commission, which shall promulgate a rule binding upon all member  
9 states. The Commission shall not incur obligations of any kind prior to securing the funds  
10 adequate to meet the same; nor shall the Commission pledge the credit of any of the  
11 member states, except by and with the authority of the member state.

12 The Commission shall keep accurate accounts of all receipts and disbursements. The  
13 receipts and disbursements of the Commission shall be subject to the audit and accounting  
14 procedures established under its bylaws. However, all receipts and disbursements of funds  
15 handled by the Commission shall be audited yearly by a certified or licensed public accountant,  
16 and the report of the audit shall be included in and become part of the annual report of the  
17 Commission.

18 (g) Qualified Immunity; Defense; Indemnification. – The members, officers, executive  
19 director, employees, and representatives of the Commission shall be immune from suit and  
20 liability, either personally or in their official capacity, for any claim for damage to or loss of  
21 property or personal injury or other civil liability caused by or arising out of any actual or alleged  
22 act, error, or omission that occurred, or that the person against whom the claim is made had  
23 a reasonable basis for believing occurred within the scope of Commission employment, duties,  
24 or responsibilities, provided that nothing in this paragraph shall be construed to protect any  
25 such person from suit or liability for any damage, loss, injury, or liability caused by the  
26 intentional or willful or wanton misconduct of that person.

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

35 The Commission shall indemnify and hold harmless any member, officer, executive director,  
36 employee, or representative of the Commission for the amount of any settlement or judgment  
37 obtained against that person arising out of any actual or alleged act, error, or omission that  
38 occurred within the scope of Commission employment, duties, or responsibilities, or that such  
39 person had a reasonable basis for believing occurred within the scope of Commission  
40 employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission  
41 did not result from the intentional or willful or wanton misconduct of that person.

42 **"§ 90-270.188. Data system.**

43 (a) The Commission shall provide for the development, maintenance, and utilization of a  
44 coordinated database and reporting system containing licensure, adverse action, and  
45 investigative information on all licensed individuals in member states.

46 (b) A member state shall submit a uniform data set to the data system on all individuals  
47 to whom this Compact is applicable, utilizing a unique identifier, as required by the rules of the  
48 Commission, including all of the following:

49 (1) Identifying information.

50 (2) Licensure data.

51 (3) Adverse actions against a license or Compact privilege.

(4) Nonconfidential information related to alternative program participation.

1 (5) Any denial of application for licensure and the reasons for such denial.  
2 (6) Other information that may facilitate the administration of this Compact, as determined  
3 by the rules of the Commission.

4 (7) Current significant investigative information.

5 (c) Current significant investigative information and other investigative information  
6 pertaining to a licensee in any member state will only be available to other member states.

7 (d) The Commission shall promptly notify all member states of any adverse action taken  
8 against a licensee or an individual applying for a license. Adverse action information pertaining  
9 to a licensee in any member state will be available to any other member state.

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

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

15 **"§ 90-270.189. Rulemaking.**

16 (a) The Commission shall exercise its rulemaking powers pursuant to the criteria set  
17 forth in this section and the rules adopted herein. Rules and amendments shall become  
18 binding as of the date specified in each rule or amendment.

19 (b) The Commission shall promulgate reasonable rules in order to effectively and  
20 efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event  
21 the Commission exercises its rulemaking authority in a manner that is beyond the scope  
22 of the purposes of the Compact, or the powers granted thereunder, then such an  
23 action by the Commission shall be invalid and have no force and effect.

24 (c) If a majority of the legislatures of the member states rejects a rule, by enactment of a  
25 statute or resolution in the same manner used to adopt the Compact within four years of the date  
26 of adoption of the rule, then such rule shall have no further force and effect in any member state.

27 (d) Rules or amendments to the rules shall be adopted at a regular or special meeting of  
28 the Commission.

29 (e) Prior to promulgation and adoption of a final rule by the Commission, and at least 30  
30 days in advance of the meeting at which the rule will be considered and voted upon, the  
31 Commission shall file a notice of proposed rulemaking on the website of the Commission or  
32 other publicly accessible platform and on the website of each member state occupational  
33 therapy licensing board or other publicly accessible platform or the publication in which each  
34 state would otherwise publish proposed rules.

35 (f) The notice of proposed rulemaking shall include all of the following:

36 (1) The proposed time, date, and location of the meeting in which the rule will be  
37 considered and voted upon.

38 (2) The text of the proposed rule or amendment and the reason for the proposed  
39 rule.

40 (3) A request for comments on the proposed rule from any interested person.

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

43 (g) Prior to adoption of a proposed rule, the Commission shall allow persons to submit  
44 written data, facts, opinions, and arguments, which shall be made available to the public.

45 (h) The Commission shall grant an opportunity for a public hearing before it  
46 adopts a rule or amendment if a hearing is requested by any of the following:

47 (1) At least 25 persons.

48 (2) A state or federal government subdivision or agency.

49 (3) An association or organization having at least 25 members.

50 (i) If a hearing is held on the proposed rule or amendment, the Commission shall publish the  
51 place, time, and date of the scheduled public hearing. If the hearing is held via electronic

1 means, the Commission shall publish the mechanism for access to the electronic hearing.

2 Hearings shall be conducted as follows:

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

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

9 (3) All hearings will be recorded. A copy of the recording shall be made available on  
10 request.

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

14 (j) Following the scheduled hearing date, or by the close of business on the scheduled  
15 hearing date if the hearing was not held, the Commission shall consider all written and oral  
16 comments received.

17 (k) If no written notice of intent to attend the public hearing by interested parties is  
18 received, the Commission may proceed with promulgation of the proposed rule without a public  
19 hearing.

20 (l) The Commission shall, by majority vote of all members, take final action on the  
21 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking  
22 record and the full text of the rule.

23 (m) Upon determination that an emergency exists, the Commission may consider and  
24 adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided  
25 that the usual rulemaking procedures provided in the Compact and in this section shall  
26 be retroactively applied to the rule as soon as reasonably possible, in no event later than 90  
27 days after the effective date of the rule. For the purposes of this provision, an emergency rule is  
28 one that must be adopted immediately in order to (i) meet an imminent threat to public health,  
29 safety, or welfare, (ii) prevent a loss of Commission or member state funds, (iii) meet a deadline  
30 for the promulgation of an administrative rule that is established by federal law or rule, or (iv)  
31 protect public health and safety.

32 (n) The Commission or an authorized committee of the Commission may direct revisions  
33 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors  
34 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be  
35 posted on the website of the Commission. The revision shall be subject to challenge by any  
36 person for a period of 30 days after posting. The revision may be challenged only on grounds  
37 that the revision results in a material change to a rule. A challenge shall be made in writing and  
38 delivered to the chair of the Commission prior to the end of the notice period. If no challenge is  
39 made, the revision will take effect without further action. If the revision is challenged, the  
40 revision may not take effect without the approval of the Commission.

41 **"§ 90-270.190. Oversight; dispute resolution; enforcement.**

42 (a) Oversight. – The executive, legislative, and judicial branches of state government in  
43 each member state shall enforce this Compact and take all actions necessary and appropriate  
44 to effectuate the Compact's purposes and intent. The provisions of this Compact and the  
45 rules promulgated hereunder shall have standing as statutory law.

46 All courts shall take judicial notice of the Compact and the rules in any judicial or  
47 administrative proceeding in a member state pertaining to the subject matter of this Compact  
48 which may affect the powers, responsibilities, or actions of the Commission.

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

1 of process to the Commission shall render a judgment order void as to the Commission, this  
2 Compact, or promulgated rules.

3 (b) Default; Technical Assistance; Termination. – If the Commission determines that  
4 a member state has defaulted in the performance of its obligations or responsibilities under  
5 this Compact or the promulgated rules, the Commission shall do all of the following:

6 (1) Provide written notice to the defaulting state and other member states of the nature of  
7 default, the proposed means of curing the default, and any other action to be taken  
8 by the Commission.

9 (2) Provide remedial training and specific technical assistance regarding the default.

10 If a state in default fails to cure the default, the defaulting state may be terminated from the  
11 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges,  
12 and benefits conferred by this Compact may be terminated on the effective date of termination.  
13 A cure of the default does not relieve the offending state of obligations or liabilities incurred  
14 during the period of default.

15 Termination of membership in the Compact shall be imposed only after all other means of  
16 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be  
17 given by the Commission to the governor, the majority and minority leaders of the defaulting  
18 state's legislature, and each of the member states.

19 A state that has been terminated is responsible for all assessments, obligations, and  
20 liabilities incurred through the effective date of termination, including obligations that extend  
21 beyond the effective date of termination.

22 The Commission shall not bear any costs related to a state that is found to be in default  
23 or that has been terminated from the Compact, unless agreed upon in writing between  
24 the Commission and the defaulting state.

25 The defaulting state may appeal the action of the Commission by petitioning the U.S.  
26 District Court for the District of Columbia or the federal district where the Commission has its  
27 principal offices. The prevailing member shall be awarded all costs of such litigation, including  
28 reasonable attorneys' fees.

29 (c) Dispute Resolution. – Upon request by a member state, the Commission shall  
30 attempt to resolve disputes related to the Compact that arise among member states and  
31 between member and nonmember states. The Commission shall promulgate a rule providing  
32 for both mediation and binding dispute resolution for disputes as appropriate.

33 (d) Enforcement. – The Commission, in the reasonable exercise of its discretion, shall  
34 enforce the provisions and rules of this Compact. By majority vote, the Commission may initiate  
35 legal action in the U.S. District Court for the District of Columbia or the federal district where  
36 the Commission has its principal offices against a member state in default to enforce  
37 compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief  
38 sought may include both injunctive relief and damages. In the event judicial enforcement is  
39 necessary, the prevailing member shall be awarded all costs of such litigation, including  
40 reasonable attorneys' fees. The remedies herein shall not be the exclusive remedies of  
41 the Commission. The Commission may pursue any other remedies available under federal or  
42 state law.

43 **§ 90-270.191. Date of implementation of the Interstate Commission for occupational**  
44 **therapy practice and associated rules; withdrawal; amendment.**

45 (a) The Compact shall come into effect on the date on which the Compact statute is  
46 enacted into law in the tenth member state. The provisions, which become effective at that  
47 time, shall be limited to the powers granted to the Commission relating to assembly  
48 and the promulgation of rules. Thereafter, the Commission shall meet and exercise  
49 rulemaking powers necessary to the implementation and administration of the Compact.

50 (b) Any state that joins the Compact subsequent to the Commission's initial adoption of the  
51 rules shall be subject to the rules as they exist on the date on which the Compact becomes

1 law in that state. Any rule that has been previously adopted by the Commission shall have the  
2 full force and effect of law on the day the Compact becomes law in that state.

3 (c) Any member state may withdraw from this Compact by enacting a statute repealing  
4 the same. A member state's withdrawal shall not take effect until six months after enactment of  
5 the repealing statute. Withdrawal shall not affect the continuing requirement of the withdrawing  
6 state's occupational therapy licensing board to comply with the investigative and adverse action  
7 reporting requirements of this act prior to the effective date of withdrawal.

8 (d) Nothing contained in this Compact shall be construed to invalidate or prevent any  
9 occupational therapy licensure agreement or other cooperative arrangement between a  
10 member state and a nonmember state that does not conflict with the provisions of this  
11 Compact.

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

15 **"§ 90-270.192. Construction and severability.**

16 This Compact shall be liberally construed so as to effectuate the purposes thereof.  
17 The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or  
18 provision of this Compact is declared to be contrary to the constitution of any member state or of  
19 the United States or the applicability thereof to any government, agency, person, or  
20 circumstance is held invalid, the validity of the remainder of this Compact and the  
21 applicability thereof to any government, agency, person, or circumstance shall not be affected  
22 thereby. If this Compact shall be held contrary to the constitution of any member state, the  
23 Compact shall remain in full force and effect as to the remaining member states and in full  
24 force and effect as to the member state affected as to all severable matters.

25 **"§ 90-270.193. Binding effect of Compact and other laws.**

26 (a) A licensee providing occupational therapy in a remote state under the Compact  
27 privilege shall function within the laws and regulations of the remote state.

28 (b) Nothing herein prevents the enforcement of any other law of a member state that is  
29 not inconsistent with the Compact.

30 (c) Any laws in a member state in conflict with the Compact are superseded to the extent  
31 of the conflict.

32 (d) Any lawful actions of the Commission, including all rules and bylaws promulgated  
33 by the Commission, are binding upon the member states.

34 (e) All agreements between the Commission and the member states are binding in  
35 accordance with their terms.

36 (f) In the event any provision of the Compact exceeds the constitutional limits imposed  
37 on the legislature of any member state, the provision shall be ineffective to the extent of the  
38 conflict with the constitutional provision in question in that member state."

39 **SECTION 2.** Section 1 of this act becomes effective when at least 10 states have  
40 enacted the Occupational Therapy Licensure Compact set forth in Section 1 of this act. The  
41 North Carolina Board of Occupational Therapy shall report to the Revisor of Statutes  
42 when the Occupational Therapy Licensure Compact set forth in Section 1 of this act has been  
enacted by the 10 member states. The remainder of this act is effective when it becomes law.

**AGENDA ITEM 7**  
***MARYLAND - ENACTED***



# SENATE BILL 139

J2

(PRE-FILED)

11r1182 CF  
HB 540

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By: **Senators Carozza and Beidle**

Requested: October 28, 2020

Introduced and read first time: January 13, 2021 Assigned to:  
Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 24, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Interstate Occupational Therapy Licensure Compact**

3 FOR the purpose of entering into the Interstate Occupational Therapy Licensure Compact;  
4 stating the purpose of the Compact; requiring a state to meet certain requirements  
5 to participate in the Compact; establishing certain duties of member states;  
6 authorizing a certain state to charge a certain fee for granting a certain compact  
7 privilege; requiring certain occupational therapists or occupational therapy  
8 assistants to meet certain eligibility requirements to receive certain licensure and  
9 exercise a certain privilege; establishing certain authorizations and requirements  
10 **regarding the practice of occupational therapists and occupational therapy**  
11 assistants under a compact privilege; requiring a licensee who is active duty military  
12 or the spouse of an individual who is active duty military to designate certain  
13 locations as the home state under certain circumstances; establishing certain  
14 authority of home states and remote states with regard to certain adverse actions;  
15 establishing the Occupational Therapy Compact Commission and its duties;  
16 providing for the election of an Executive Board of the Commission and establishing  
17 its duties; providing for the financing of the Commission; requiring the Commission  
18 to provide for the development, maintenance, and utilization of a coordinated  
19 database and reporting system; requiring member states to submit certain  
20 information to the data system; authorizing the Commission to adopt certain rules  
21 and amendments in a certain manner; providing for certain oversight, dispute  
22 resolution, and enforcement of the Compact; establishing certain requirements for  
23 withdrawal by member states from the Compact; providing for the dissolution of the  
24 Compact under certain circumstances; providing for the application of the Compact;

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EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the  
law by amendment



1 providing for the binding effect of the Compact; establishing procedures for  
2 amending the Compact; making the provisions of the Compact severable; making  
3 this Act subject to a certain contingency; defining certain terms; and generally  
4 relating to the Interstate Occupational Therapy Licensure Compact.

5 BY adding to

6 Article – Health Occupations

7 Section 10–3A–01 to be under the new subtitle “Subtitle 3A. Interstate Occupational  
8 Therapy Licensure Compact”

9 Annotated Code of Maryland

10 (2014 Replacement Volume and 2020 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
12 That the Laws of Maryland read as follows:

13 **Article – Health Occupations**

14 **SUBTITLE 3A. INTERSTATE OCCUPATIONAL THERAPY LICENSURE COMPACT.**

15 **10–3A–01.**

16 **THE INTERSTATE OCCUPATIONAL THERAPY LICENSURE COMPACT IS**  
17 **ENACTED INTO LAW AND ENTERED INTO WITH ALL OTHER STATES LEGALLY JOINING**  
18 **IN IT IN THE FORM SUBSTANTIALLY AS IT APPEARS IN THIS SECTION AS FOLLOWS:**

19 **SECTION 1. PURPOSE.**

20 **THE PURPOSE OF THIS COMPACT IS TO FACILITATE INTERSTATE PRACTICE**  
21 **OF OCCUPATIONAL THERAPY WITH THE GOAL OF IMPROVING PUBLIC ACCESS TO**  
22 **OCCUPATIONAL THERAPY SERVICES. THE PRACTICE OF OCCUPATIONAL THERAPY**  
23 **OCCURS IN THE STATE WHERE THE PATIENT/CLIENT IS LOCATED AT THE TIME OF**  
24 **THE PATIENT/CLIENT ENCOUNTER. THE COMPACT PRESERVES THE REGULATORY**  
25 **AUTHORITY OF STATES TO PROTECT PUBLIC HEALTH AND SAFETY THROUGH THE**  
26 **CURRENT SYSTEM OF STATE LICENSURE. THE COMPACT IS DESIGNED TO ACHIEVE**  
27 **THE FOLLOWING OBJECTIVES:**

28 **(1) INCREASE PUBLIC ACCESS TO OCCUPATIONAL THERAPY**  
29 **SERVICES BY PROVIDING FOR THE MUTUAL RECOGNITION OF OTHER MEMBER**  
30 **STATE LICENSES;**

31 **(2) ENHANCE THE STATES’ ABILITY TO PROTECT THE PUBLIC’S**  
32 **HEALTH AND SAFETY;**

33 **(3) ENCOURAGE THE COOPERATION OF MEMBER STATES IN**  
34 **REGULATING MULTI–STATE OCCUPATIONAL THERAPY PRACTICE;**

1 (4) SUPPORT SPOUSES OF RELOCATING MILITARY MEMBERS;

2 (5) ENHANCE THE EXCHANGE OF LICENSURE, INVESTIGATIVE, AND  
3 DISCIPLINARY INFORMATION BETWEEN MEMBER STATES;

4 (6) ALLOW A REMOTE STATE TO HOLD A PROVIDER OF SERVICES  
5 WITH A COMPACT PRIVILEGE IN THAT STATE ACCOUNTABLE TO THAT STATE'S  
6 PRACTICE STANDARDS; AND

7 (7) FACILITATE THE USE OF TELEHEALTH TECHNOLOGY IN ORDER TO  
8 INCREASE ACCESS TO OCCUPATIONAL THERAPY SERVICES.

9 SECTION 2. DEFINITIONS.

10 AS USED IN THE COMPACT, AND EXCEPT AS OTHERWISE PROVIDED, THE  
11 FOLLOWING DEFINITIONS SHALL APPLY:

12 (1) "ACTIVE DUTY MILITARY" MEANS FULL-TIME DUTY STATUS IN  
13 THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING MEMBERS  
14 OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO  
15 10 U.S.C. CHAPTER 1209 AND SECTION 1211.

16 (2) "ADVERSE ACTION" MEANS ANY ADMINISTRATIVE, CIVIL,  
17 EQUITABLE, OR CRIMINAL ACTION PERMITTED BY A STATE'S LAWS THAT IS IMPOSED  
18 BY A LICENSING BOARD OR OTHER AUTHORITY AGAINST AN OCCUPATIONAL  
19 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT, INCLUDING ACTIONS AGAINST  
20 AN INDIVIDUAL'S LICENSE OR COMPACT PRIVILEGE SUCH AS CENSURE,  
21 REVOCATION, SUSPENSION, PROBATION, MONITORING OF THE LICENSEE, OR  
22 RESTRICTION ON THE LICENSEE'S PRACTICE.

23 (3) "ALTERNATIVE PROGRAM" MEANS A NON-DISCIPLINARY  
24 MONITORING PROCESS APPROVED BY AN OCCUPATIONAL THERAPY LICENSING  
25 BOARD.

26 (4) "COMPACT PRIVILEGE" MEANS THE AUTHORIZATION, THAT IS  
27 EQUIVALENT TO A LICENSE, GRANTED BY A REMOTE STATE TO ALLOW A LICENSEE  
28 FROM ANOTHER MEMBER STATE TO PRACTICE AS AN OCCUPATIONAL THERAPIST OR  
29 PRACTICE AS AN OCCUPATIONAL THERAPY ASSISTANT IN THE REMOTE STATE  
30 UNDER ITS LAWS AND RULES. THE PRACTICE OF OCCUPATIONAL THERAPY OCCURS  
31 IN THE MEMBER STATE WHERE THE PATIENT/CLIENT IS LOCATED AT THE TIME OF  
32 THE PATIENT/CLIENT ENCOUNTER.

1 (5) "CONTINUING COMPETENCE/EDUCATION" MEANS A  
2 REQUIREMENT, AS A CONDITION OF LICENSE RENEWAL, TO PROVIDE EVIDENCE OF  
3 PARTICIPATION IN, AND/OR COMPLETION OF, EDUCATIONAL AND PROFESSIONAL  
4 ACTIVITIES RELEVANT TO PRACTICE OR AREA OF WORK.

5 (6) "CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION" MEANS  
6 INVESTIGATIVE INFORMATION THAT A LICENSING BOARD, AFTER AN INQUIRY OR  
7 INVESTIGATION THAT INCLUDES NOTIFICATION AND AN OPPORTUNITY FOR THE  
8 OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT TO RESPOND,  
9 IF REQUIRED BY STATE LAW, HAS REASON TO BELIEVE IS NOT GROUNDLESS AND, IF  
10 PROVED TRUE, WOULD INDICATE MORE THAN A MINOR INFRACTION.

11 (7) "DATA SYSTEM" MEANS A REPOSITORY OF INFORMATION ABOUT  
12 LICENSEES ~~ESTABLISHED IN ACCORDANCE WITH SECTION 9~~ THAT INCLUDES, BUT IS  
13 NOT LIMITED TO, LICENSE STATUS, INVESTIGATIVE INFORMATION, COMPACT  
14 PRIVILEGES, AND ADVERSE ACTIONS.

15 (8) "ENCUMBERED LICENSE" MEANS A LICENSE WITH RESPECT TO  
16 WHICH AN ADVERSE ACTION RESTRICTS THE PRACTICE OF OCCUPATIONAL  
17 THERAPY BY THE LICENSEE OR SAID ADVERSE ACTION HAS BEEN REPORTED TO THE  
18 NATIONAL PRACTITIONERS DATA BANK.

19 (9) "EXECUTIVE COMMITTEE" MEANS A GROUP OF DIRECTORS  
20 ELECTED OR APPOINTED TO ACT ON BEHALF OF, AND WITHIN THE POWERS  
21 GRANTED TO THEM BY, THE COMMISSION.

22 (10) "HOME STATE" MEANS THE MEMBER STATE THAT IS THE  
23 LICENSEE'S PRIMARY STATE OF RESIDENCE.

24 (11) "IMPAIRED PRACTITIONER" MEANS AN INDIVIDUAL WHOSE  
25 PROFESSIONAL PRACTICE IS ADVERSELY AFFECTED BY SUBSTANCE ABUSE,  
26 ADDICTION, OR OTHER HEALTH-RELATED CONDITIONS.

27 (12) "INVESTIGATIVE INFORMATION" MEANS INFORMATION,  
28 RECORDS, AND/OR DOCUMENTS RECEIVED OR GENERATED BY AN OCCUPATIONAL  
29 THERAPY LICENSING BOARD PURSUANT TO AN INVESTIGATION.

30 (13) "JURISPRUDENCE REQUIREMENT" MEANS THE ASSESSMENT OF  
31 AN INDIVIDUAL'S KNOWLEDGE OF THE LAWS AND RULES GOVERNING THE PRACTICE  
32 OF OCCUPATIONAL THERAPY IN A STATE.

33 (14) "LICENSEE" MEANS AN INDIVIDUAL WHO CURRENTLY HOLDS AN  
34 AUTHORIZATION FROM A STATE TO PRACTICE AS AN OCCUPATIONAL THERAPIST OR  
35 AS AN OCCUPATIONAL THERAPY ASSISTANT.

1           (15) "MEMBER STATE" MEANS A STATE THAT HAS ENACTED THE  
2 COMPACT.

3           (16) "OCCUPATIONAL THERAPIST" MEANS AN INDIVIDUAL WHO IS  
4 LICENSED BY A STATE TO PRACTICE OCCUPATIONAL THERAPY.

5           (17) "OCCUPATIONAL THERAPY," "OCCUPATIONAL THERAPY  
6 PRACTICE," AND THE "PRACTICE OF OCCUPATIONAL THERAPY" MEAN THE CARE  
7 AND SERVICES PROVIDED BY AN OCCUPATIONAL THERAPIST OR AN OCCUPATIONAL  
8 THERAPY ASSISTANT AS SET FORTH IN THE MEMBER STATE'S STATUTES AND  
9 REGULATIONS.

10           (18) "OCCUPATIONAL THERAPY ASSISTANT" MEANS AN INDIVIDUAL  
11 WHO IS LICENSED BY A STATE TO ASSIST IN THE PRACTICE OF OCCUPATIONAL  
12 THERAPY.

13           (19) "OCCUPATIONAL THERAPY COMPACT COMMISSION" OR  
14 "COMMISSION" MEANS THE NATIONAL ADMINISTRATIVE BODY WHOSE MEMBERSHIP  
15 CONSISTS OF ALL STATES THAT HAVE ENACTED THE COMPACT.

16           (20) "OCCUPATIONAL THERAPY LICENSING BOARD" OR "LICENSING  
17 BOARD" MEANS THE AGENCY OF A STATE THAT IS AUTHORIZED TO LICENSE AND  
18 REGULATE OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY  
19 ASSISTANTS.

20           (21) "PRIMARY STATE OF RESIDENCE" MEANS THE HOME STATE IN  
21 WHICH AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT  
22 WHO IS NOT ACTIVE DUTY MILITARY DECLARES A PRIMARY RESIDENCE FOR LEGAL  
23 PURPOSES AS VERIFIED BY:

- 24           (I) A DRIVER'S LICENSE;
- 25           (II) A FEDERAL INCOME TAX RETURN;
- 26           (III) A LEASE;
- 27           (IV) A DEED;
- 28           (V) A MORTGAGE;
- 29           (VI) A VOTER REGISTRATION; OR

1 (VII) OTHER VERIFYING DOCUMENTATION AS DEFINED BY  
2 COMMISSION RULES.

3 (22) "REMOTE STATE" MEANS A MEMBER STATE OTHER THAN THE  
4 HOME STATE, WHERE A LICENSEE IS EXERCISING OR SEEKING TO EXERCISE THE  
5 COMPACT PRIVILEGE.

6 (23) "RULE" MEANS A REGULATION PROMULGATED BY THE  
7 COMMISSION THAT HAS THE FORCE OF LAW.

8 (24) "SINGLE-STATE LICENSE" MEANS AN OCCUPATIONAL THERAPIST  
9 OR OCCUPATIONAL THERAPY ASSISTANT LICENSE ISSUED BY A MEMBER STATE  
10 THAT AUTHORIZES PRACTICE ONLY WITHIN THE ISSUING STATE AND DOES NOT  
11 INCLUDE A COMPACT PRIVILEGE IN ANY OTHER MEMBER STATE.

12 (25) "STATE" MEANS ANY STATE, COMMONWEALTH, DISTRICT, OR  
13 TERRITORY OF THE UNITED STATES OF AMERICA THAT REGULATES THE PRACTICE  
14 OF OCCUPATIONAL THERAPY.

15 (26) "TELEHEALTH" MEANS THE APPLICATION OF  
16 TELECOMMUNICATION TECHNOLOGY TO DELIVER OCCUPATIONAL THERAPY  
17 SERVICES FOR ASSESSMENT, INTERVENTION AND/OR CONSULTATION.

18 SECTION 3. STATE PARTICIPATION IN THE COMPACT.

19 (A) TO PARTICIPATE IN THE COMPACT, A MEMBER STATE MUST:

20 (1) LICENSE OCCUPATIONAL THERAPISTS AND OCCUPATIONAL  
21 THERAPY ASSISTANTS;

22 (2) PARTICIPATE FULLY IN THE COMMISSION'S DATA SYSTEM,  
23 INCLUDING, BUT NOT LIMITED TO, THE USE OF THE COMMISSION'S UNIQUE  
24 IDENTIFIER AS DEFINED IN RULES OF THE COMMISSION;

25 (3) HAVE A MECHANISM IN PLACE FOR RECEIVING AND  
26 INVESTIGATING COMPLAINTS ABOUT LICENSEES;

27 (4) NOTIFY THE COMMISSION, IN COMPLIANCE WITH THE TERMS OF  
28 THE COMPACT AND RULES, OF ANY ADVERSE ACTION OR THE AVAILABILITY OF  
29 INVESTIGATIVE INFORMATION REGARDING A LICENSEE;

30 (5) IMPLEMENT ~~A PROCESS~~ OR UTILIZE PROCEDURES FOR  
31 CONSIDERING THE CRIMINAL HISTORY RECORDS OF APPLICANTS FOR AN INITIAL  
32 COMPACT PRIVILEGE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION;

1 (6) COMPLY WITH THE RULES OF THE COMMISSION;

2 (7) UTILIZE ONLY A RECOGNIZED NATIONAL EXAMINATION AS A  
3 REQUIREMENT FOR LICENSURE PURSUANT TO THE RULES OF THE COMMISSION;  
4 AND

5 (8) HAVE CONTINUING ~~COMPETENCY~~ ~~EDUCATION~~  
6 COMPETENCE/EDUCATION REQUIREMENTS AS A CONDITION FOR LICENSE  
7 RENEWAL.

8 (B) (1) A MEMBER STATE SHALL, WITHIN A TIME FRAME ESTABLISHED BY  
9 THE COMMISSION, ESTABLISH A PROCESS FOR REQUIRING A CRIMINAL  
10 BACKGROUND CHECK FOR A LICENSEE APPLYING FOR A COMPACT  
11 WHOSE PRIMARY STATE OF RESIDENCE IS THAT MEMBER STATE, THAT INCLUDES:

12 (I) SUBMISSION OF FINGERPRINTS OR OTHER  
13 BIOMETRIC-BASED INFORMATION BY APPLICANTS FOR THE PURPOSE OF  
14 OBTAINING AN APPLICANT'S CRIMINAL HISTORY INFORMATION FROM THE FEDERAL  
15 BUREAU OF INVESTIGATION AND THE AGENCY RESPONSIBLE FOR RETAINING THAT  
16 STATE'S CRIMINAL RECORDS; AND

17 (II) RECEIVING THE RESULTS OF THE FEDERAL BUREAU OF  
18 INVESTIGATION ~~AND THE STATE AGENCY~~ CRIMINAL RECORD SEARCH AND USING  
19 THE RESULTS IN MAKING LICENSURE DECISIONS.

20 (2) COMMUNICATION BETWEEN A MEMBER STATE AND THE  
21 COMMISSION OR AMONG MEMBER STATES REGARDING THE VERIFICATION OF  
22 ELIGIBILITY FOR LICENSURE THROUGH THE COMPACT MAY NOT INCLUDE ANY  
23 INFORMATION RECEIVED FROM THE FEDERAL BUREAU OF INVESTIGATION  
24 RELATING TO A FEDERAL CRIMINAL RECORDS CHECK PERFORMED BY A MEMBER  
25 STATE UNDER PUBLIC LAW 92-544.

26 (C) A MEMBER STATE SHALL GRANT THE COMPACT PRIVILEGE TO A  
27 LICENSEE HOLDING A VALID UNENCUMBERED LICENSE IN ANOTHER MEMBER STATE  
28 IN ACCORDANCE WITH THE TERMS OF THE COMPACT AND RULES.

29 (D) MEMBER STATES MAY CHARGE A FEE FOR GRANTING A COMPACT  
30 PRIVILEGE.

31 (E) A MEMBER STATE SHALL PROVIDE FOR THE STATE'S DELEGATE TO  
32 ATTEND ALL OCCUPATIONAL THERAPY COMPACT COMMISSION MEETINGS.

1 (F) INDIVIDUALS NOT RESIDING IN A MEMBER STATE SHALL CONTINUE TO  
2 BE ABLE TO APPLY FOR A MEMBER STATE'S SINGLE-STATE LICENSE AS PROVIDED  
3 UNDER THE LAWS OF EACH MEMBER STATE. HOWEVER, THE SINGLE-STATE LICENSE  
4 GRANTED TO THESE INDIVIDUALS MAY NOT BE RECOGNIZED AS GRANTING THE  
5 COMPACT PRIVILEGE IN ANY OTHER MEMBER STATE.

6 (G) NOTHING IN THE COMPACT MAY AFFECT THE REQUIREMENTS  
7 ESTABLISHED BY A MEMBER STATE FOR THE ISSUANCE OF A SINGLE-STATE  
8 LICENSE.

9 SECTION 4. COMPACT PRIVILEGE.

10 (A) TO EXERCISE THE COMPACT PRIVILEGE UNDER THE TERMS AND  
11 PROVISIONS OF THE COMPACT, A LICENSEE MUST:

12 (1) HOLD A LICENSE IN THE HOME STATE;

13 (2) HAVE A VALID UNITED STATES SOCIAL SECURITY NUMBER OR  
14 NATIONAL PRACTITIONER IDENTIFICATION NUMBER;

15 (3) HAVE NO ENCUMBRANCE ON ANY STATE LICENSE;

16 (4) BE ELIGIBLE FOR A COMPACT PRIVILEGE IN ANY MEMBER STATE  
17 IN ACCORDANCE WITH SUBSECTIONS ~~(E) THROUGH (J)~~ (D), (F), (G), AND (H) OF THIS  
18 SECTION;

19 (5) HAVE PAID ALL FINES AND COMPLETED ALL REQUIREMENTS  
20 RESULTING FROM ANY ADVERSE ACTION AGAINST ANY LICENSE OR COMPACT  
21 PRIVILEGE, AND TWO YEARS HAVE ELAPSED FROM THE DATE OF SUCH COMPLETION;

22 (6) NOTIFY THE COMMISSION THAT THE LICENSEE IS SEEKING THE  
23 COMPACT PRIVILEGE WITHIN A REMOTE STATE(S);

24 (7) PAY ANY APPLICABLE FEES, INCLUDING ANY STATE FEE, FOR THE  
25 COMPACT PRIVILEGE;

26 (8) COMPLETE A CRIMINAL BACKGROUND CHECK IN ACCORDANCE  
27 WITH SUBSECTION (B) OF SECTION 3 AND PAY ANY FEE ASSOCIATED WITH THE  
28 COMPLETION OF THE CRIMINAL BACKGROUND CHECK;

29 (9) MEET ANY JURISPRUDENCE REQUIREMENTS ESTABLISHED BY  
30 THE REMOTE STATE(S) IN WHICH THE LICENSEE IS SEEKING A COMPACT PRIVILEGE;  
31 AND



1           (10) REPORT TO THE COMMISSION ADVERSE ACTION TAKEN BY ANY  
2 NON-MEMBER STATE WITHIN 30 DAYS FROM THE DATE THE ADVERSE ACTION IS  
3 TAKEN.

4           (B) THE COMPACT PRIVILEGE IS VALID UNTIL THE EXPIRATION DATE OF  
5 THE HOME STATE LICENSE. THE LICENSEE MUST COMPLY WITH THE  
6 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION TO MAINTAIN THE COMPACT  
7 PRIVILEGE IN THE REMOTE STATE.

8           (C) A LICENSEE PROVIDING OCCUPATIONAL THERAPY IN A REMOTE STATE  
9 UNDER THE COMPACT PRIVILEGE SHALL FUNCTION WITHIN THE LAWS AND  
10 REGULATIONS OF THE REMOTE STATE.

11           (D) OCCUPATIONAL THERAPY ASSISTANTS PRACTICING IN A REMOTE STATE  
12 SHALL BE SUPERVISED BY AN OCCUPATIONAL THERAPIST LICENSED OR HOLDING A  
13 COMPACT PRIVILEGE IN THAT REMOTE STATE.

14           (E) A LICENSEE PROVIDING OCCUPATIONAL THERAPY IN A REMOTE STATE  
15 IS SUBJECT TO THAT STATE'S REGULATORY AUTHORITY. A REMOTE STATE MAY, IN  
16 ACCORDANCE WITH DUE PROCESS AND THAT STATE'S LAWS, REMOVE A LICENSEE'S  
17 COMPACT PRIVILEGE IN THE REMOTE STATE FOR A SPECIFIC PERIOD OF TIME,  
18 IMPOSE FINES, AND/OR TAKE ANY OTHER NECESSARY ACTIONS TO PROTECT THE  
19 HEALTH AND SAFETY OF ITS CITIZENS. THE LICENSEE MAY BE INELIGIBLE FOR A  
20 COMPACT PRIVILEGE IN ANY STATE UNTIL THE SPECIFIC TIME FOR REMOVAL HAS  
21 PASSED AND ALL FINES ARE PAID.

22           (F) IF A HOME STATE LICENSE IS ENCUMBERED, THE LICENSEE SHALL LOSE  
23 THE COMPACT PRIVILEGE IN ANY REMOTE STATE UNTIL THE FOLLOWING OCCUR:

24               (1) THE HOME STATE LICENSE IS NO LONGER ENCUMBERED; AND

25               (2) TWO YEARS HAVE ELAPSED FROM THE DATE ON WHICH THE  
26 STATE LICENSE IS NO LONGER ENCUMBERED IN ACCORDANCE WITH SECTION  
27 4(F)(1).

28           (G) ONCE AN ENCUMBERED LICENSE IN THE HOME STATE IS RESTORED TO  
29 GOOD STANDING, THE LICENSEE MUST MEET THE REQUIREMENTS OF SUBSECTION  
30 (A) OF THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN ANY REMOTE STATE.

31           (H) IF A LICENSEE'S COMPACT PRIVILEGE IN ANY REMOTE STATE IS  
32 REMOVED, THE INDIVIDUAL MAY LOSE THE COMPACT PRIVILEGE IN ANY OTHER  
33 REMOTE STATE UNTIL THE FOLLOWING OCCUR:

1 (1) THE SPECIFIC PERIOD OF TIME FOR WHICH THE COMPACT  
2 PRIVILEGE WAS REMOVED HAS ENDED;

3 (2) ALL FINES HAVE BEEN PAID AND ALL CONDITIONS HAVE BEEN  
4 MET;

5 (3) TWO YEARS HAVE ELAPSED FROM THE DATE OF COMPLETING  
6 REQUIREMENTS IN ITEMS (1) AND (2) OF THIS SUBSECTION; AND

7 (4) THE COMPACT PRIVILEGES ARE REINSTATED BY THE  
8 COMMISSION, AND THE COMPACT DATA SYSTEM IS UPDATED TO REFLECT  
9 REINSTATEMENT.

10 (I) IF A LICENSEE'S COMPACT PRIVILEGE IN ANY REMOTE STATE IS  
11 REMOVED DUE TO AN ERRONEOUS CHARGE, PRIVILEGES SHALL BE RESTORED  
12 THROUGH THE COMPACT DATA SYSTEM.

13 (J) ONCE THE REQUIREMENTS OF SUBSECTION (H) OF THIS SECTION HAVE  
14 BEEN MET, THE LICENSEE MUST MEET THE REQUIREMENTS IN SUBSECTION (A) OF  
15 THIS SECTION TO OBTAIN A COMPACT PRIVILEGE IN A REMOTE STATE.

16 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF  
17 COMPACT PRIVILEGE.

18 (A) AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
19 ASSISTANT MAY HOLD A HOME STATE LICENSE, WHICH ALLOWS FOR COMPACT  
20 PRIVILEGES IN MEMBER STATES, IN ONLY ONE MEMBER STATE AT A TIME.

21 (B) IF AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
22 ASSISTANT CHANGES PRIMARY STATE OF RESIDENCE BY MOVING BETWEEN TWO  
23 MEMBER STATES:

24 (1) THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
25 ASSISTANT SHALL FILE AN APPLICATION FOR OBTAINING A NEW HOME STATE  
26 LICENSE BY VIRTUE OF A COMPACT PRIVILEGE, PAY ALL APPLICABLE FEES, AND  
27 NOTIFY THE CURRENT AND NEW HOME STATE IN ACCORDANCE WITH APPLICABLE  
28 RULES ADOPTED BY THE COMMISSION;

29 (2) UPON RECEIPT OF AN APPLICATION FOR OBTAINING A NEW HOME  
30 STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE, THE NEW HOME STATE SHALL  
31 VERIFY THAT THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
32 ASSISTANT MEETS THE PERTINENT CRITERIA OUTLINED IN SECTION 4 VIA THE DATA  
33 SYSTEM, WITHOUT NEED FOR PRIMARY SOURCE VERIFICATION EXCEPT FOR:

1 (I) AN FBI FINGERPRINT BASED CRIMINAL BACKGROUND  
2 CHECK IF NOT PREVIOUSLY PERFORMED OR UPDATED PURSUANT TO APPLICABLE  
3 RULES ADOPTED BY THE COMMISSION IN ACCORDANCE WITH PUBLIC LAW 92-544;

4 (II) OTHER CRIMINAL BACKGROUND CHECKS AS REQUIRED BY  
5 THE NEW HOME STATE; AND

6 (III) SUBMISSION OF ANY REQUISITE JURISPRUDENCE  
7 REQUIREMENTS OF THE NEW HOME STATE;

8 (3) THE FORMER HOME STATE SHALL CONVERT THE FORMER HOME  
9 STATE LICENSE INTO A COMPACT PRIVILEGE ONCE THE NEW HOME STATE HAS  
10 ACTIVATED THE NEW HOME STATE LICENSE IN ACCORDANCE WITH APPLICABLE  
11 RULES ADOPTED BY THE COMMISSION;

12 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THE COMPACT, IF  
13 THE OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT CANNOT  
14 MEET THE CRITERIA IN SUBSECTION (A) OF SECTION 4, THE NEW HOME STATE  
15 SHALL APPLY ITS REQUIREMENTS FOR ISSUING A NEW SINGLE-STATE LICENSE; AND

16 (5) THE OCCUPATIONAL THERAPIST OR THE OCCUPATIONAL  
17 THERAPY ASSISTANT SHALL PAY ALL APPLICABLE FEES TO THE NEW HOME STATE  
18 IN ORDER TO BE ISSUED A NEW HOME STATE LICENSE.

19 (C) IF AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY  
20 ASSISTANT CHANGES PRIMARY STATE OF RESIDENCE BY MOVING FROM A MEMBER  
21 STATE TO A NON-MEMBER STATE, OR FROM A NON-MEMBER STATE TO A MEMBER  
22 STATE, THE STATE CRITERIA SHALL APPLY FOR ISSUANCE OF A SINGLE-STATE  
23 LICENSE IN THE NEW STATE.

24 (D) NOTHING IN THE COMPACT SHALL INTERFERE WITH A LICENSEE'S  
25 ABILITY TO HOLD A SINGLE-STATE LICENSE IN MULTIPLE STATES. HOWEVER, FOR  
26 THE PURPOSES OF THIS COMPACT, A LICENSEE SHALL HAVE ONLY ONE HOME STATE  
27 LICENSE.

28 (E) NOTHING IN THE COMPACT SHALL AFFECT THE REQUIREMENTS  
29 ESTABLISHED BY A MEMBER STATE FOR THE ISSUANCE OF A SINGLE-STATE  
30 LICENSE.

31 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES.

32 (A) ACTIVE DUTY MILITARY PERSONNEL, OR THEIR SPOUSES, SHALL  
33 DESIGNATE A HOME STATE WHERE THE INDIVIDUAL HAS A CURRENT LICENSE IN  
34 GOOD STANDING.

1 (B) THE INDIVIDUAL MAY RETAIN THE HOME STATE DESIGNATION DURING  
2 THE PERIOD THE SERVICE MEMBER IS ON ACTIVE DUTY.

3 (C) SUBSEQUENT TO DESIGNATING A HOME STATE, THE INDIVIDUAL SHALL  
4 ONLY CHANGE THE INDIVIDUAL'S HOME STATE THROUGH APPLICATION FOR  
5 LICENSURE IN THE NEW STATE OR THROUGH THE PROCESS DESCRIBED IN SECTION  
6 5.

7 SECTION 7. ADVERSE ACTIONS.

8 (A) A HOME STATE SHALL HAVE EXCLUSIVE POWER TO IMPOSE ADVERSE  
9 ACTION AGAINST AN OCCUPATIONAL THERAPIST'S OR OCCUPATIONAL THERAPY  
10 ASSISTANT'S LICENSE ISSUED BY THE HOME STATE.

11 (B) IN ADDITION TO THE OTHER POWERS CONFERRED BY STATE LAW, A  
12 REMOTE STATE SHALL HAVE THE AUTHORITY, IN ACCORDANCE WITH EXISTING  
13 STATE DUE PROCESS LAW, TO:

14 (1) TAKE ADVERSE ACTION AGAINST AN OCCUPATIONAL  
15 THERAPIST'S OR OCCUPATIONAL THERAPY ASSISTANT'S COMPACT PRIVILEGE  
16 WITHIN THAT MEMBER STATE; AND

17 (2) ISSUE SUBPOENAS FOR BOTH HEARINGS AND INVESTIGATIONS  
18 THAT REQUIRE THE ATTENDANCE AND TESTIMONY OF WITNESSES AS WELL AS THE  
19 PRODUCTION OF EVIDENCE. SUBPOENAS ISSUED BY A LICENSING BOARD IN A  
20 MEMBER STATE FOR THE ATTENDANCE AND TESTIMONY OF WITNESSES OR THE  
21 PRODUCTION OF EVIDENCE FROM ANOTHER MEMBER STATE SHALL BE ENFORCED  
22 IN THE LATTER STATE BY ANY COURT OF COMPETENT JURISDICTION, ACCORDING  
23 TO THE PRACTICE AND PROCEDURE OF THAT COURT APPLICABLE TO SUBPOENAS  
24 ISSUED IN PROCEEDINGS PENDING BEFORE IT. THE ISSUING AUTHORITY SHALL PAY  
25 ANY WITNESS FEES, TRAVEL EXPENSES, MILEAGE AND OTHER FEES REQUIRED BY  
26 THE SERVICE STATUTES OF THE STATE IN WHICH THE WITNESSES OR EVIDENCE ARE  
27 LOCATED.

28 (C) FOR PURPOSES OF TAKING ADVERSE ACTION, THE HOME STATE SHALL  
29 GIVE THE SAME PRIORITY AND EFFECT TO REPORTED CONDUCT RECEIVED FROM A  
30 MEMBER STATE AS IT WOULD IF THE CONDUCT HAD OCCURRED WITHIN THE HOME  
31 STATE. IN SO DOING, THE HOME STATE SHALL APPLY ITS OWN STATE LAWS TO  
32 DETERMINE APPROPRIATE ACTION.

33 (D) THE HOME STATE SHALL COMPLETE ANY PENDING INVESTIGATIONS OF  
34 AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT WHO  
35 CHANGES PRIMARY STATE OF RESIDENCE DURING THE COURSE OF THE

1 INVESTIGATIONS. THE HOME STATE, WHERE THE INVESTIGATIONS WERE INITIATED,  
2 SHALL ALSO HAVE THE AUTHORITY TO TAKE APPROPRIATE ACTION(S) AND SHALL  
3 PROMPTLY REPORT THE CONCLUSIONS OF THE INVESTIGATIONS TO THE DATA  
4 SYSTEM. THE DATA SYSTEM ADMINISTRATOR SHALL PROMPTLY NOTIFY THE NEW  
5 HOME STATE OF ANY ADVERSE ACTIONS.

6 (E) A MEMBER STATE, IF OTHERWISE PERMITTED BY STATE LAW, MAY  
7 RECOVER FROM THE AFFECTED OCCUPATIONAL THERAPIST OR OCCUPATIONAL  
8 THERAPY ASSISTANT THE COSTS OF INVESTIGATIONS AND DISPOSITION OF CASES  
9 RESULTING FROM ANY ADVERSE ACTION TAKEN AGAINST THAT OCCUPATIONAL  
10 THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT.

11 (F) A MEMBER STATE MAY TAKE ADVERSE ACTION BASED ON THE FACTUAL  
12 FINDINGS OF THE REMOTE STATE, PROVIDED THAT THE MEMBER STATE FOLLOWS  
13 ITS OWN PROCEDURES FOR TAKING THE ADVERSE ACTION.

14 (G) (1) IN ADDITION TO THE AUTHORITY GRANTED TO A MEMBER STATE  
15 BY ITS RESPECTIVE STATE OCCUPATIONAL THERAPY LAWS AND REGULATIONS OR  
16 OTHER APPLICABLE STATE LAW, ANY MEMBER STATE MAY PARTICIPATE WITH  
17 OTHER MEMBER STATES IN JOINT INVESTIGATIONS OF LICENSEES.

18 (2) MEMBER STATES SHALL SHARE ANY INVESTIGATIVE, LITIGATION,  
19 OR COMPLIANCE MATERIALS IN FURTHERANCE OF ANY JOINT OR INDIVIDUAL  
20 INVESTIGATION INITIATED UNDER THE COMPACT.

21 (H) IF AN ADVERSE ACTION IS TAKEN BY THE HOME STATE AGAINST AN  
22 OCCUPATIONAL THERAPIST'S OR OCCUPATIONAL THERAPY ASSISTANT'S LICENSE,  
23 THE OCCUPATIONAL THERAPIST'S OR OCCUPATIONAL THERAPY ASSISTANT'S  
24 COMPACT PRIVILEGE IN ALL OTHER MEMBER STATES SHALL BE DEACTIVATED  
25 UNTIL ALL ENCUMBRANCES HAVE BEEN REMOVED FROM THE STATE LICENSE. ALL  
26 HOME STATE DISCIPLINARY ORDERS THAT IMPOSE ADVERSE ACTION AGAINST AN  
27 OCCUPATIONAL THERAPIST'S OR OCCUPATIONAL THERAPY ASSISTANT'S LICENSE  
28 SHALL INCLUDE A STATEMENT THAT THE OCCUPATIONAL THERAPIST'S OR  
29 OCCUPATIONAL THERAPY ASSISTANT'S COMPACT PRIVILEGE IS DEACTIVATED IN  
30 ALL MEMBER STATES DURING THE PENDENCY OF THE ORDER.

31 (I) IF A MEMBER STATE TAKES ADVERSE ACTION, IT SHALL PROMPTLY  
32 NOTIFY THE ADMINISTRATOR OF THE DATA SYSTEM. THE ADMINISTRATOR OF THE  
33 DATA SYSTEM SHALL PROMPTLY NOTIFY THE HOME STATE OF ANY ADVERSE  
34 ACTIONS BY REMOTE STATES.

35 (J) NOTHING IN THE COMPACT SHALL OVERRIDE A MEMBER STATE'S  
36 DECISION THAT PARTICIPATION IN AN ALTERNATIVE PROGRAM MAY BE USED IN  
37 LIEU OF ADVERSE ACTION.

1 **SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY**  
2 **COMPACT COMMISSION.**

3 (A) (1) THE MEMBER STATES HEREBY CREATE AND ESTABLISH A JOINT  
4 PUBLIC AGENCY KNOWN AS THE OCCUPATIONAL THERAPY COMPACT COMMISSION.

5 (2) THE COMMISSION IS AN INSTRUMENTALITY OF THE MEMBER  
6 STATES.

7 (3) VENUE IS PROPER AND JUDICIAL PROCEEDINGS BY OR  
8 THE COMMISSION SHALL BE BROUGHT SOLELY AND EXCLUSIVELY IN A COURT OF  
9 COMPETENT JURISDICTION WHERE THE PRINCIPAL OFFICE OF THE COMMISSION IS  
10 LOCATED. THE COMMISSION MAY WAIVE VENUE AND JURISDICTIONAL DEFENSES  
11 TO THE EXTENT IT ADOPTS OR CONSENTS TO PARTICIPATE IN ALTERNATIVE  
12 DISPUTE RESOLUTION PROCEEDINGS.

13 (4) NOTHING IN THE COMPACT ~~MAY~~ SHALL BE CONSTRUED TO BE A  
14 WAIVER OF SOVEREIGN IMMUNITY.

15 (B) (1) EACH MEMBER STATE SHALL HAVE AND BE LIMITED TO ONE  
16 DELEGATE SELECTED BY THAT MEMBER STATE'S LICENSING BOARD.

17 (2) THE DELEGATE SHALL BE:

18 (I) A CURRENT MEMBER OF THE LICENSING BOARD, WHO IS  
19 OCCUPATIONAL THERAPIST, OCCUPATIONAL THERAPY ASSISTANT, OR PUBLIC  
20 MEMBER; OR

21 (II) AN ADMINISTRATOR OF THE LICENSING BOARD.

22 (3) ANY DELEGATE MAY BE REMOVED OR SUSPENDED FROM OFFICE  
23 AS PROVIDED BY THE LAW OF THE STATE FROM WHICH THE DELEGATE IS  
24 APPOINTED.

25 (4) THE MEMBER STATE BOARD SHALL FILL ANY VACANCY  
26 OCCURRING IN THE COMMISSION WITHIN 90 DAYS.

27 (5) EACH DELEGATE SHALL BE ENTITLED TO ONE VOTE WITH  
28 REGARD TO THE PROMULGATION OF RULES AND CREATION OF BYLAWS AND SHALL  
29 OTHERWISE HAVE AN OPPORTUNITY TO PARTICIPATE IN THE BUSINESS AND  
30 AFFAIRS OF THE COMMISSION.

1           (6) A DELEGATE SHALL VOTE IN PERSON OR BY SUCH OTHER MEANS  
2 AS PROVIDED IN THE BYLAWS. THE BYLAWS MAY PROVIDE FOR DELEGATES'  
3 PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF  
4 COMMUNICATION.

5           (7) THE COMMISSION SHALL MEET AT LEAST ONCE DURING EACH  
6 CALENDAR YEAR. ADDITIONAL MEETINGS SHALL BE HELD AS SET FORTH IN THE  
7 BYLAWS.

8           (8) THE COMMISSION SHALL ESTABLISH BY RULE A TERM OF OFFICE  
9 FOR DELEGATES.

10          (c) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

11           (1) ESTABLISH A CODE OF ETHICS FOR THE COMMISSION;

12           (2) ESTABLISH THE FISCAL YEAR OF THE COMMISSION;

13           (3) ESTABLISH BYLAWS;

14           (4) MAINTAIN ITS FINANCIAL RECORDS IN ACCORDANCE WITH THE  
15 BYLAWS;

16           (5) MEET AND TAKE SUCH ACTIONS AS ARE CONSISTENT WITH THE  
17 PROVISIONS OF THE COMPACT AND THE BYLAWS;

18           (6) PROMULGATE UNIFORM RULES TO FACILITATE AND COORDINATE  
19 IMPLEMENTATION AND ADMINISTRATION OF THIS COMPACT. THE RULES SHALL  
20 HAVE THE FORCE AND EFFECT OF LAW AND SHALL BE BINDING IN ALL MEMBER  
21 STATES;

22           (7) BRING AND PROSECUTE LEGAL PROCEEDINGS OR ACTIONS IN  
23 THE NAME OF THE COMMISSION, PROVIDED THAT THE STANDING OF ANY STATE  
24 OCCUPATIONAL THERAPY LICENSING BOARD TO SUE OR BE SUED UNDER  
25 APPLICABLE LAW SHALL NOT BE AFFECTED;

26           (8) PURCHASE AND MAINTAIN INSURANCE AND BONDS;

27           (9) BORROW, ACCEPT, OR CONTRACT FOR SERVICES OF PERSONNEL,  
28 INCLUDING, BUT NOT LIMITED TO, EMPLOYEES OF A MEMBER STATE;

29           (10) HIRE EMPLOYEES, ELECT OR APPOINT OFFICERS, FIX  
30 COMPENSATION, DEFINE DUTIES, GRANT SUCH INDIVIDUALS APPROPRIATE  
31 AUTHORITY TO CARRY OUT THE PURPOSES OF THE COMPACT, AND ESTABLISH THE

1 COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF  
2 INTEREST, QUALIFICATIONS OF PERSONNEL, AND OTHER RELATED PERSONNEL  
3 MATTERS;

4 (11) ACCEPT ANY AND ALL APPROPRIATE DONATIONS AND GRANTS OF  
5 MONEY, EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES, AND RECEIVE, UTILIZE  
6 AND DISPOSE OF THE SAME; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL  
7 AVOID ANY APPEARANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST;

8 (12) LEASE, PURCHASE, ACCEPT APPROPRIATE GIFTS OR DONATIONS  
9 OF, OR OTHERWISE OWN, HOLD, IMPROVE OR USE, ANY PROPERTY, REAL, PERSONAL  
10 OR MIXED; PROVIDED THAT AT ALL TIMES THE COMMISSION SHALL AVOID ANY  
11 APPEARANCE OF IMPROPRIETY;

12 (13) SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE,  
13 ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY REAL, PERSONAL, OR MIXED;

14 (14) ESTABLISH A BUDGET AND MAKE EXPENDITURES;

15 (15) BORROW MONEY;

16 (16) APPOINT COMMITTEES, INCLUDING STANDING COMMITTEES  
17 COMPOSED OF MEMBERS, STATE REGULATORS, STATE LEGISLATORS OR THEIR  
18 REPRESENTATIVES, AND CONSUMER REPRESENTATIVES, AND SUCH OTHER  
19 INTERESTED PERSONS AS MAY BE DESIGNATED IN THE COMPACT AND THE BYLAWS;

20 (17) PROVIDE AND RECEIVE INFORMATION FROM, AND COOPERATE  
21 WITH, LAW ENFORCEMENT AGENCIES;

22 (18) ESTABLISH AND ELECT AN EXECUTIVE COMMITTEE; AND

23 (19) PERFORM SUCH OTHER FUNCTIONS AS MAY BE NECESSARY OR  
24 APPROPRIATE TO ACHIEVE THE PURPOSES OF THE COMPACT CONSISTENT WITH  
25 THE STATE REGULATION OF OCCUPATIONAL THERAPY LICENSURE AND PRACTICE.

26 (D) (1) THE EXECUTIVE COMMITTEE SHALL HAVE THE POWER TO ACT ON  
27 BEHALF OF THE COMMISSION ACCORDING TO THE TERMS OF THE COMPACT.

28 (2) THE EXECUTIVE COMMITTEE SHALL BE COMPOSED OF NINE  
29 MEMBERS:

30 (I) SEVEN VOTING MEMBERS WHO ARE ELECTED BY THE  
31 COMMISSION FROM THE CURRENT MEMBERSHIP OF THE COMMISSION;



1 (II) ONE EX-OFFICIO, NONVOTING MEMBER FROM A  
2 RECOGNIZED NATIONAL OCCUPATIONAL THERAPY PROFESSIONAL ASSOCIATION;  
3 AND

4 (III) ONE EX-OFFICIO, NONVOTING MEMBER FROM A  
5 RECOGNIZED NATIONAL OCCUPATIONAL THERAPY CERTIFICATION ORGANIZATION.

6 (3) THE EX-OFFICIO MEMBERS WILL BE SELECTED BY THEIR  
7 RESPECTIVE ORGANIZATIONS.

8 (4) THE COMMISSION MAY REMOVE ANY MEMBER OF THE EXECUTIVE  
9 COMMITTEE AS PROVIDED IN BYLAWS.

10 (5) THE EXECUTIVE COMMITTEE SHALL MEET AT LEAST ANNUALLY.

11 (6) THE EXECUTIVE COMMITTEE SHALL HAVE THE FOLLOWING  
12 DUTIES AND RESPONSIBILITIES:

13 (I) RECOMMEND TO THE ENTIRE COMMISSION CHANGES TO  
14 THE RULES OR BYLAWS, CHANGES TO THIS COMPACT LEGISLATION, FEES PAID BY  
15 MEMBER STATES SUCH AS ANNUAL DUES, AND ANY COMMISSION COMPACT FEE  
16 CHARGED TO LICENSEES FOR THE COMPACT PRIVILEGE;

17 (II) ENSURE COMPACT ADMINISTRATION SERVICES ARE  
18 APPROPRIATELY PROVIDED, CONTRACTUAL OR OTHERWISE;

19 (III) PREPARE AND RECOMMEND THE BUDGET;

20 (IV) MAINTAIN FINANCIAL RECORDS ON BEHALF OF THE  
21 COMMISSION;

22 (V) MONITOR COMPACT COMPLIANCE OF MEMBER STATES AND  
23 PROVIDE COMPLIANCE REPORTS TO THE COMMISSION;

24 (VI) ESTABLISH ADDITIONAL COMMITTEES AS NECESSARY; AND

25 (VII) PERFORM OTHER DUTIES AS PROVIDED IN RULES OR  
26 BYLAWS.

27 (E) (1) ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, AND PUBLIC  
28 NOTICE OF MEETINGS SHALL BE GIVEN IN THE SAME MANNER AS REQUIRED UNDER  
29 THE RULEMAKING PROVISIONS IN SECTION 10.

1           (2) THE COMMISSION OR THE EXECUTIVE COMMITTEE OR OTHER  
2 COMMITTEES OF THE COMMISSION MAY CONVENE IN A CLOSED, NON-PUBLIC  
3 MEETING IF THE COMMISSION OR EXECUTIVE COMMITTEE OR OTHER COMMITTEES  
4 OF THE COMMISSION MUST DISCUSS:

5           (I) NON-COMPLIANCE OF A MEMBER STATE WITH ITS  
6 OBLIGATIONS UNDER THE COMPACT;

7           (II) THE EMPLOYMENT, COMPENSATION, DISCIPLINE OR OTHER  
8 MATTERS, PRACTICES OR PROCEDURES RELATED TO SPECIFIC EMPLOYEES OR  
9 OTHER MATTERS RELATED TO THE COMMISSION'S INTERNAL PERSONNEL  
10 PRACTICES AND PROCEDURES;

11           (III) CURRENT, THREATENED, OR REASONABLY ANTICIPATED  
12 LITIGATION;

13           (IV) NEGOTIATION OF CONTRACTS FOR THE PURCHASE, LEASE,  
14 OR SALE OF GOODS, SERVICES, OR REAL ESTATE;

15           (V) ACCUSING ANY PERSON OF A CRIME OR FORMALLY  
16 CENSURING ANY PERSON;

17           (VI) DISCLOSURE OF TRADE SECRETS OR COMMERCIAL OR  
18 FINANCIAL INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL;

19           (VII) DISCLOSURE OF INFORMATION OF A PERSONAL NATURE  
20 WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF  
21 PERSONAL PRIVACY;

22           (VIII) DISCLOSURE OF INVESTIGATIVE RECORDS COMPILED FOR  
23 LAW ENFORCEMENT PURPOSES;

24           (IX) DISCLOSURE OF INFORMATION RELATED TO ANY  
25 INVESTIGATIVE REPORTS PREPARED BY OR ON BEHALF OF OR FOR USE OF THE  
26 COMMISSION OR OTHER COMMITTEE CHARGED WITH RESPONSIBILITY OF  
27 INVESTIGATION OR DETERMINATION OF COMPLIANCE ISSUES PURSUANT TO THE  
28 COMPACT; OR

29           (X) MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY  
30 FEDERAL OR MEMBER STATE STATUTE.

31           (3) IF A MEETING, OR PORTION OF A MEETING, IS CLOSED PURSUANT  
32 TO THIS PROVISION, THE COMMISSION'S LEGAL COUNSEL OR DESIGNEE SHALL

1 CERTIFY THAT THE MEETING MAY BE CLOSED AND SHALL REFERENCE EACH  
2 RELEVANT EXEMPTING PROVISION.

3 (4) THE COMMISSION SHALL KEEP MINUTES THAT FULLY AND  
4 CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL PROVIDE A  
5 FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, AND THE REASONS  
6 THEREFORE, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED. ALL  
7 DOCUMENTS CONSIDERED IN CONNECTION WITH AN ACTION SHALL BE IDENTIFIED  
8 IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF A CLOSED MEETING SHALL  
9 REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJORITY VOTE OF THE  
10 COMMISSION OR ORDER OF A COURT OF COMPETENT JURISDICTION.

11 (F) (1) THE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT  
12 OF, THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION, AND  
13 ONGOING ACTIVITIES.

14 (2) THE COMMISSION MAY ACCEPT ANY AND ALL APPROPRIATE  
15 REVENUE SOURCES, DONATIONS, AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES,  
16 MATERIALS, AND SERVICES.

17 (3) THE COMMISSION MAY LEVY ON AND COLLECT AN ANNUAL  
18 ASSESSMENT FROM EACH MEMBER STATE OR IMPOSE FEES ON OTHER PARTIES TO  
19 COVER THE COST OF THE OPERATIONS AND ACTIVITIES OF THE COMMISSION AND  
20 ITS STAFF, WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER ITS ANNUAL  
21 BUDGET AS APPROVED BY THE COMMISSION EACH YEAR FOR WHICH REVENUE IS  
22 NOT PROVIDED BY OTHER SOURCES. THE AGGREGATE ANNUAL ASSESSMENT  
23 AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY  
24 THE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER  
25 STATES.

26 (4) THE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND  
27 PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE  
28 COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES, EXCEPT BY AND  
29 WITH THE AUTHORITY OF THE MEMBER STATE.

30 (5) THE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL  
31 RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE  
32 COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES  
33 ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS  
34 OF FUNDS HANDLED BY THE COMMISSION SHALL BE AUDITED YEARLY BY A  
35 CERTIFIED OR LICENSED PUBLIC ACCOUNTANT, AND THE REPORT OF THE AUDIT  
36 SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE  
37 COMMISSION.

1 (G) (1) THE MEMBERS, OFFICERS, EXECUTIVE DIRECTOR, EMPLOYEES  
2 AND REPRESENTATIVES OF THE COMMISSION SHALL BE IMMUNE FROM SUIT AND  
3 LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM  
4 FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL  
5 LIABILITY CAUSED BY OR ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR  
6 OMISSION THAT OCCURRED, OR THAT THE PERSON AGAINST WHOM THE CLAIM IS  
7 MADE HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF  
8 COMMISSION EMPLOYMENT, DUTIES OR RESPONSIBILITIES; PROVIDED THAT  
9 NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROTECT ANY SUCH  
10 PERSON FROM SUIT AND/OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR  
11 LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL OR WANTON MISCONDUCT OF  
12 THAT PERSON.

13 (2) THE COMMISSION SHALL DEFEND ANY MEMBER, OFFICER,  
14 EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF THE COMMISSION IN  
15 ANY CIVIL ACTION SEEKING TO IMPOSE LIABILITY ARISING OUT OF ANY ACTUAL OR  
16 ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED WITHIN THE SCOPE OF  
17 COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES, OR THAT THE PERSON  
18 AGAINST WHOM THE CLAIM IS MADE HAD A REASONABLE BASIS FOR BELIEVING  
19 OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT, DUTIES, OR  
20 RESPONSIBILITIES; PROVIDED THAT NOTHING HEREIN SHALL BE CONSTRUED TO  
21 PROHIBIT THAT PERSON FROM RETAINING HIS OR HER OWN COUNSEL; AND  
22 PROVIDED FURTHER, THAT THE ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION  
23 DID NOT RESULT FROM THAT PERSON'S INTENTIONAL OR WILLFUL OR WANTON  
24 MISCONDUCT.

25 (3) THE COMMISSION SHALL INDEMNIFY AND HOLD HARMLESS ANY  
26 MEMBER, OFFICER, EXECUTIVE DIRECTOR, EMPLOYEE, OR REPRESENTATIVE OF  
27 THE COMMISSION FOR THE AMOUNT OF ANY SETTLEMENT OR JUDGMENT OBTAINED  
28 AGAINST THAT PERSON ARISING OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR OR  
29 OMISSION THAT OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT,  
30 DUTIES, OR RESPONSIBILITIES, OR THAT SUCH PERSON HAD A REASONABLE BASIS  
31 FOR BELIEVING OCCURRED WITHIN THE SCOPE OF COMMISSION EMPLOYMENT,  
32 DUTIES, OR RESPONSIBILITIES, PROVIDED THAT THE ACTUAL OR ALLEGED ACT,  
33 ERROR, OR OMISSION DID NOT RESULT FROM THE INTENTIONAL OR WILLFUL OR  
34 WANTON MISCONDUCT OF THAT PERSON.

35 SECTION 9. DATA SYSTEM.

36 (A) THE COMMISSION SHALL PROVIDE FOR THE DEVELOPMENT,  
37 MAINTENANCE, AND UTILIZATION OF A COORDINATED DATABASE AND REPORTING  
38 SYSTEM CONTAINING LICENSURE, ADVERSE ACTION, AND INVESTIGATIVE  
39 INFORMATION ON ALL LICENSED INDIVIDUALS IN MEMBER STATES.

1 (B) A MEMBER STATE SHALL SUBMIT A UNIFORM DATA SET TO THE DATA  
2 SYSTEM ON ALL INDIVIDUALS TO WHOM THE COMPACT IS APPLICABLE (UTILIZING A  
3 UNIQUE IDENTIFIER) AS REQUIRED BY THE RULES OF THE COMMISSION,  
4 INCLUDING:

5 (1) IDENTIFYING INFORMATION;

6 (2) LICENSURE DATA;

7 (3) ADVERSE ACTIONS AGAINST A LICENSE OR COMPACT PRIVILEGE;

8 (4) NON-CONFIDENTIAL INFORMATION RELATED TO ALTERNATIVE  
9 PROGRAM PARTICIPATION;

10 (5) ANY DENIAL OF APPLICATION FOR LICENSURE, AND THE  
11 REASON(S) FOR SUCH DENIAL;

12 (6) OTHER INFORMATION THAT MAY FACILITATE THE  
13 ADMINISTRATION OF THE COMPACT, AS DETERMINED BY THE RULES OF THE  
14 COMMISSION; AND

15 (7) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.

16 (C) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION AND OTHER  
17 INVESTIGATIVE INFORMATION PERTAINING TO A LICENSEE IN ANY MEMBER STATE  
18 WILL ONLY BE AVAILABLE TO OTHER MEMBER STATES.

19 (D) THE COMMISSION SHALL PROMPTLY NOTIFY ALL MEMBER STATES OF  
20 ANY ADVERSE ACTION TAKEN AGAINST A LICENSEE OR AN INDIVIDUAL APPLYING  
21 FOR A LICENSE. ADVERSE ACTION INFORMATION PERTAINING TO A LICENSEE IN  
22 ANY MEMBER STATE WILL BE AVAILABLE TO ANY OTHER MEMBER STATE.

23 (E) MEMBER STATES CONTRIBUTING INFORMATION TO THE DATA SYSTEM  
24 MAY DESIGNATE INFORMATION THAT MAY NOT BE SHARED WITH THE PUBLIC  
25 WITHOUT THE EXPRESS PERMISSION OF THE CONTRIBUTING STATE.

26 (F) ANY INFORMATION SUBMITTED TO THE DATA SYSTEM THAT IS  
27 SUBSEQUENTLY REQUIRED TO BE EXPUNGED BY THE LAWS OF THE MEMBER STATE  
28 CONTRIBUTING THE INFORMATION SHALL BE REMOVED FROM THE DATA SYSTEM.

29 SECTION 10. RULEMAKING.

30 (A) THE COMMISSION SHALL EXERCISE ITS RULEMAKING POWERS  
31 PURSUANT TO THE CRITERIA SET FORTH IN THIS SECTION AND THE RULES ADOPTED

1 THEREUNDER. RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE  
2 SPECIFIED IN EACH RULE OR AMENDMENT.

3 (B) THE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER  
4 TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THE COMPACT.  
5 NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE COMMISSION EXERCISES  
6 ITS RULEMAKING AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE  
7 PURPOSES OF THE COMPACT, OR THE POWERS GRANTED HEREUNDER, THEN SUCH  
8 AN ACTION BY THE COMMISSION SHALL BE INVALID AND HAVE NO FORCE AND  
9 EFFECT.

10 (C) IF A MAJORITY OF THE LEGISLATURES OF THE MEMBER STATES  
11 REJECTS A RULE, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME  
12 MANNER USED TO ADOPT THE COMPACT WITHIN FOUR YEARS OF THE DATE OF  
13 ADOPTION OF THE RULE, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND  
14 EFFECT IN ANY MEMBER STATE.

15 (D) RULES OR AMENDMENTS TO THE RULES SHALL BE ADOPTED AT A  
16 REGULAR OR SPECIAL MEETING OF THE COMMISSION.

17 (E) PRIOR TO PROMULGATION AND ADOPTION OF A FINAL RULE OR RULES  
18 BY THE COMMISSION, AND AT LEAST 30 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 WEBSITE OF THE COMMISSION OR OTHER PUBLICLY  
22 ACCESSIBLE PLATFORM; AND

23 (2) ON THE WEBSITE OF EACH MEMBER STATE OCCUPATIONAL  
24 THERAPY LICENSING BOARD OR OTHER PUBLICLY ACCESSIBLE PLATFORM OR THE  
25 PUBLICATION IN WHICH EACH STATE WOULD OTHERWISE PUBLISH PROPOSED  
26 RULES.

27 (F) THE NOTICE OF PROPOSED RULEMAKING SHALL INCLUDE:

28 (1) THE PROPOSED TIME, DATE, AND LOCATION OF THE MEETING IN  
29 WHICH THE RULE WILL BE CONSIDERED AND VOTED UPON;

30 (2) THE TEXT OF THE PROPOSED RULE OR AMENDMENT AND THE  
31 REASON FOR THE PROPOSED RULE;

32 (3) A REQUEST FOR COMMENTS ON THE PROPOSED RULE FROM ANY  
33 INTERESTED PERSON; AND

1           (4) THE MANNER IN WHICH INTERESTED PERSONS MAY SUBMIT  
2 NOTICE TO THE COMMISSION OF THEIR INTENTION TO ATTEND THE PUBLIC  
3 HEARING AND ANY WRITTEN COMMENTS.

4           (G) PRIOR TO ADOPTION OF A PROPOSED RULE, THE COMMISSION SHALL  
5 ALLOW PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS, AND ARGUMENTS,  
6 WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC.

7           (H) THE COMMISSION SHALL GRANT AN OPPORTUNITY FOR A PUBLIC  
8 HEARING BEFORE IT ADOPTS A RULE OR AMENDMENT IF A HEARING IS REQUESTED  
9 BY:

10           (1) AT LEAST 25 PERSONS;

11           (2) A STATE OR FEDERAL GOVERNMENTAL SUBDIVISION OR AGENCY;

12 OR

13           (3) AN ASSOCIATION OR ORGANIZATION HAVING AT LEAST 25  
14 MEMBERS.

15           (I) (1) IF A HEARING IS HELD ON THE PROPOSED RULE OR AMENDMENT,  
16 THE COMMISSION SHALL PUBLISH THE PLACE, TIME, AND DATE OF THE SCHEDULED  
17 PUBLIC HEARING. IF THE HEARING IS HELD VIA ELECTRONIC MEANS, THE  
18 COMMISSION SHALL PUBLISH THE MECHANISM FOR ACCESS TO THE ELECTRONIC  
19 HEARING.

20           (2) ALL PERSONS WISHING TO BE HEARD AT THE HEARING SHALL  
21 NOTIFY THE EXECUTIVE DIRECTOR OF THE COMMISSION OR OTHER DESIGNATED  
22 MEMBER IN WRITING OF THEIR DESIRE TO APPEAR AND TESTIFY AT THE HEARING  
23 NOT LESS THAN FIVE BUSINESS DAYS BEFORE THE SCHEDULED DATE OF THE  
24 HEARING.

25           (3) HEARINGS SHALL BE CONDUCTED IN A MANNER PROVIDING EACH  
26 PERSON WHO WISHES TO COMMENT A FAIR AND REASONABLE OPPORTUNITY TO  
27 COMMENT ORALLY OR IN WRITING.

28           (4) ALL HEARINGS WILL BE RECORDED. A COPY OF THE RECORDING  
29 WILL BE MADE AVAILABLE ON REQUEST.

30           (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS REQUIRING  
31 A SEPARATE HEARING ON EACH RULE. RULES MAY BE GROUPED FOR THE  
32 CONVENIENCE OF THE COMMISSION AT HEARINGS REQUIRED BY THIS SECTION.

1 (J) FOLLOWING THE SCHEDULED HEARING DATE, OR BY THE CLOSE OF  
2 BUSINESS ON THE SCHEDULED HEARING DATE IF THE HEARING WAS NOT HELD, THE  
3 COMMISSION SHALL CONSIDER ALL WRITTEN AND ORAL COMMENTS RECEIVED.

4 (K) 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.

7 (L) THE COMMISSION SHALL, BY MAJORITY VOTE OF ALL MEMBERS, TAKE  
8 FINAL ACTION ON THE PROPOSED RULE AND SHALL DETERMINE THE EFFECTIVE  
9 DATE OF THE RULE, IF ANY, BASED ON THE RULEMAKING RECORD AND THE FULL  
10 TEXT OF THE RULE.

11 (M) UPON DETERMINATION THAT AN EMERGENCY EXISTS, THE  
12 COMMISSION MAY CONSIDER AND ADOPT AN EMERGENCY RULE WITHOUT PRIOR  
13 NOTICE, OPPORTUNITY FOR COMMENT, OR HEARING, PROVIDED THAT THE USUAL  
14 RULEMAKING PROCEDURES PROVIDED IN THE COMPACT AND IN THIS SECTION  
15 SHALL BE RETROACTIVELY APPLIED TO THE RULE AS SOON AS REASONABLY  
16 POSSIBLE, IN NO EVENT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE  
17 RULE. FOR THE PURPOSES OF THIS PROVISION, AN EMERGENCY RULE IS ONE THAT  
18 MUST BE ADOPTED IMMEDIATELY IN ORDER TO:

19 (1) MEET AN IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, OR  
20 WELFARE;

21 (2) PREVENT A LOSS OF COMMISSION OR MEMBER STATE FUNDS;

22 (3) MEET A DEADLINE FOR THE PROMULGATION OF AN  
23 ADMINISTRATIVE RULE THAT IS ESTABLISHED BY FEDERAL LAW OR RULE; OR

24 (4) PROTECT PUBLIC HEALTH AND SAFETY.

25 (N) THE COMMISSION OR AN AUTHORIZED COMMITTEE OF THE  
26 COMMISSION MAY DIRECT REVISIONS TO A PREVIOUSLY ADOPTED RULE OR  
27 AMENDMENT FOR PURPOSES OF CORRECTING TYPOGRAPHICAL ERRORS, ERRORS IN  
28 FORMAT, ERRORS IN CONSISTENCY, OR GRAMMATICAL ERRORS. PUBLIC NOTICE OF  
29 ANY REVISIONS SHALL BE POSTED ON THE WEBSITE OF THE COMMISSION. THE  
30 REVISION SHALL BE SUBJECT TO CHALLENGE BY ANY PERSON FOR A PERIOD OF 30  
31 DAYS AFTER POSTING. THE REVISION MAY BE CHALLENGED ONLY ON GROUNDS  
32 THAT THE REVISION RESULTS IN A MATERIAL CHANGE TO A RULE. A CHALLENGE  
33 SHALL BE MADE IN WRITING AND DELIVERED TO THE CHAIR OF THE COMMISSION  
34 PRIOR TO THE END OF THE NOTICE PERIOD. IF NO CHALLENGE IS MADE, THE  
35 REVISION WILL TAKE EFFECT WITHOUT FURTHER ACTION. IF THE REVISION IS



1 CHALLENGED, THE REVISION MAY NOT TAKE EFFECT WITHOUT THE APPROVAL OF  
2 THE COMMISSION.

3 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND  
4 ENFORCEMENT.

5 (A) (1) THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES OF  
6 STATE GOVERNMENT IN EACH MEMBER STATE SHALL ENFORCE THE COMPACT AND  
7 TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THE  
8 COMPACT'S PURPOSES AND INTENT. THE PROVISIONS OF THE COMPACT AND THE  
9 RULES PROMULGATED HEREUNDER SHALL HAVE STANDING AS STATUTORY LAW.

10 (2) ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THE COMPACT  
11 AND THE RULES IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A MEMBER  
12 STATE PERTAINING TO THE SUBJECT MATTER OF THE COMPACT WHICH MAY AFFECT  
13 THE POWERS, RESPONSIBILITIES, OR ACTIONS OF THE COMMISSION.

14 (3) THE COMMISSION SHALL BE ENTITLED TO RECEIVE SERVICE OF  
15 PROCESS IN ANY SUCH PROCEEDING, AND SHALL HAVE STANDING TO INTERVENE IN  
16 SUCH A PROCEEDING FOR ALL PURPOSES. FAILURE TO PROVIDE SERVICE OF  
17 PROCESS TO THE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID AS TO  
18 THE COMMISSION, THE COMPACT, OR PROMULGATED RULES.

19 (B) (1) IF THE COMMISSION DETERMINES THAT A MEMBER STATE HAS  
20 DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES  
21 UNDER THE COMPACT OR THE PROMULGATED RULES, THE COMMISSION SHALL:

22 (I) PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE  
23 AND OTHER MEMBER STATES OF THE NATURE OF THE DEFAULT, THE PROPOSED  
24 MEANS OF CURING THE DEFAULT AND/OR ANY OTHER ACTION TO BE TAKEN BY THE  
25 COMMISSION; AND

26 (II) PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL  
27 ASSISTANCE REGARDING THE DEFAULT.

28 (2) IF A STATE IN DEFAULT FAILS TO CURE THE DEFAULT, THE  
29 DEFAULTING STATE MAY BE TERMINATED FROM THE COMPACT UPON AN  
30 AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBER STATES, AND ALL RIGHTS,  
31 PRIVILEGES AND BENEFITS CONFERRED BY THE COMPACT MAY BE TERMINATED ON  
32 THE EFFECTIVE DATE OF TERMINATION. A CURE OF THE DEFAULT DOES NOT  
33 RELIEVE THE OFFENDING STATE OF OBLIGATIONS OR LIABILITIES INCURRED  
34 DURING THE PERIOD OF DEFAULT.

1           (3)    **TERMINATION OF MEMBERSHIP IN THE COMPACT SHALL BE**  
2 **IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN**  
3 **EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE GIVEN BY**  
4 **THE COMMISSION TO THE GOVERNOR, THE MAJORITY AND MINORITY LEADERS OF**  
5 **THE DEFAULTING STATE’S LEGISLATURE, AND EACH OF THE MEMBER STATES.**

6           (4)    **A STATE THAT HAS BEEN TERMINATED IS RESPONSIBLE FOR ALL**  
7 **ASSESSMENTS, OBLIGATIONS, AND LIABILITIES INCURRED THROUGH THE**  
8 **EFFECTIVE DATE OF TERMINATION, INCLUDING OBLIGATIONS THAT EXTEND**  
9 **BEYOND THE EFFECTIVE DATE OF TERMINATION.**

10          (5)    **THE COMMISSION MAY NOT BEAR ANY COSTS RELATED TO A**  
11 **STATE THAT IS FOUND TO BE IN DEFAULT OR THAT HAS BEEN TERMINATED FROM**  
12 **THE COMPACT, UNLESS AGREED UPON IN WRITING BETWEEN THE COMMISSION AND**  
13 **THE DEFAULTING STATE.**

14          (6)    **THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE**  
15 **COMMISSION BY PETITIONING THE U.S. DISTRICT COURT FOR THE DISTRICT OF**  
16 **COLUMBIA OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS**  
17 **PRINCIPAL OFFICES. THE PREVAILING MEMBER SHALL BE AWARDED ALL COSTS OF**  
18 **SUCH LITIGATION, INCLUDING REASONABLE ATTORNEY’S FEES.**

19          (C)    (1)    **UPON REQUEST BY A MEMBER STATE, THE COMMISSION SHALL**  
20 **ATTEMPT TO RESOLVE DISPUTES RELATED TO THE COMPACT THAT ARISE AMONG**  
21 **MEMBER STATES AND BETWEEN MEMBER AND NON-MEMBER STATES.**

22          (2)    **THE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR**  
23 **BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS**  
24 **APPROPRIATE.**

25          (D)    (1)    **THE COMMISSION, IN THE REASONABLE EXERCISE OF ITS**  
26 **DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THE COMPACT.**

27          (2)    **BY MAJORITY VOTE, THE COMMISSION MAY INITIATE LEGAL**  
28 **ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**  
29 **OR THE FEDERAL DISTRICT WHERE THE COMMISSION HAS ITS PRINCIPAL OFFICES**  
30 **AGAINST A MEMBER STATE IN DEFAULT TO ENFORCE COMPLIANCE WITH THE**  
31 **PROVISIONS OF THE COMPACT AND ITS PROMULGATED RULES AND BYLAWS. THE**  
32 **RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE**  
33 **EVENT JUDICIAL ENFORCEMENT IS NECESSARY, THE PREVAILING MEMBER SHALL**  
34 **BE AWARDED ALL COSTS OF SUCH LITIGATION, INCLUDING REASONABLE**  
35 **ATTORNEY’S FEES.**

1           (3) THE REMEDIES HEREIN ARE NOT THE EXCLUSIVE REMEDIES OF  
2 THE COMMISSION. THE COMMISSION MAY PURSUE ANY OTHER REMEDIES  
3 AVAILABLE UNDER FEDERAL OR STATE LAW.

4 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE  
5 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND  
6 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT.

7           (A) THE COMPACT SHALL COME INTO EFFECT ON THE DATE ON WHICH THE  
8 COMPACT STATUTE IS ENACTED INTO LAW IN THE TENTH MEMBER STATE. THE  
9 PROVISIONS, WHICH BECOME EFFECTIVE AT THAT TIME, SHALL BE LIMITED TO THE  
10 POWERS GRANTED TO THE COMMISSION RELATING TO ASSEMBLY AND THE  
11 PROMULGATION OF RULES. THEREAFTER, THE COMMISSION SHALL MEET AND  
12 EXERCISE RULEMAKING POWERS NECESSARY TO THE IMPLEMENTATION AND  
13 ADMINISTRATION OF THE COMPACT.

14           (B) ANY STATE THAT JOINS THE COMPACT SUBSEQUENT TO THE  
15 COMMISSION'S INITIAL ADOPTION OF THE RULES SHALL BE SUBJECT TO THE RULES  
16 AS THEY EXIST ON THE DATE ON WHICH THE COMPACT BECOMES LAW IN THAT  
17 STATE. ANY RULE THAT HAS BEEN PREVIOUSLY ADOPTED BY THE COMMISSION  
18 SHALL HAVE THE FULL FORCE AND EFFECT OF LAW ON THE DAY THE COMPACT  
19 BECOMES LAW IN THAT STATE.

20           (C) (1) ANY MEMBER STATE MAY WITHDRAW FROM THE COMPACT BY  
21 ENACTING A STATUTE REPEALING THE COMPACT.

22                   (2) A MEMBER STATE'S WITHDRAWAL SHALL NOT TAKE EFFECT  
23 UNTIL SIX MONTHS AFTER ENACTMENT OF THE REPEALING STATUTE.

24                   (3) WITHDRAWAL SHALL NOT AFFECT THE CONTINUING  
25 REQUIREMENT OF THE WITHDRAWING STATE'S LICENSING BOARD TO COMPLY WITH  
26 THE INVESTIGATIVE AND ADVERSE ACTION REPORTING REQUIREMENTS OF THIS  
27 ACT PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL.

28           (D) NOTHING CONTAINED IN THE COMPACT SHALL BE CONSTRUED TO  
29 INVALIDATE OR PREVENT ANY OCCUPATIONAL THERAPY LICENSURE AGREEMENT  
30 OR OTHER COOPERATIVE ARRANGEMENT BETWEEN A MEMBER STATE AND A  
31 NON-MEMBER STATE THAT DOES NOT CONFLICT WITH THE PROVISIONS OF THE  
32 COMPACT.

33           (E) THE COMPACT MAY BE AMENDED BY THE MEMBER STATES. NO  
34 AMENDMENT TO THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON ANY  
35 MEMBER STATE UNTIL IT IS ENACTED INTO THE LAWS OF ALL MEMBER STATES.

1 **SECTION 13. CONSTRUCTION AND SEVERABILITY.**

2 **THE COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE THE**  
3 **PURPOSES THEREOF. THE PROVISIONS OF THE COMPACT SHALL BE SEVERABLE**  
4 **AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS**  
5 **DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY MEMBER STATE OR OF**  
6 **THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT,**  
7 **AGENCY, PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE**  
8 **REMAINDER OF THE COMPACT AND THE APPLICABILITY THEREOF TO ANY**  
9 **GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE SHALL NOT BE AFFECTED**  
10 **THEREBY. IF THE COMPACT IS CONTRARY TO THE CONSTITUTION OF ANY MEMBER**  
11 **STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE**  
12 **REMAINING MEMBER STATES AND IN FULL FORCE AND EFFECT AS TO THE MEMBER**  
13 **STATE AFFECTED AS TO ALL SEVERABLE MATTERS.**

14 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS.**

15 **(A) A LICENSEE PROVIDING OCCUPATIONAL THERAPY IN A REMOTE STATE**  
16 **UNDER THE COMPACT PRIVILEGE SHALL FUNCTION WITHIN THE LAWS AND**  
17 **REGULATIONS OF THE REMOTE STATE.**

18 **(B) NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW**  
19 **OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THE COMPACT.**

20 **(C) ANY LAWS IN A MEMBER STATE IN CONFLICT WITH THE COMPACT ARE**  
21 **SUPERSEDED TO THE EXTENT OF THE CONFLICT.**

22 **(D) ANY LAWFUL ACTIONS OF THE COMMISSION, INCLUDING ALL RULES**  
23 **AND BYLAWS PROMULGATED BY THE COMMISSION, ARE BINDING UPON THE**  
24 **MEMBER STATES.**

25 **(E) ALL AGREEMENTS BETWEEN THE COMMISSION AND THE MEMBER**  
26 **STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.**

27 **(F) IN THE EVENT ANY PROVISION OF THE COMPACT EXCEEDS THE**  
28 **CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE,**  
29 **THE PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH**  
30 **THE CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.**

31 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act is contingent on the  
32 **enacting of substantially similar legislation in nine other states. The Maryland Department**  
33 **of Health shall notify the Department of Legislative Services within 10 days after nine**  
34 **states have enacted legislation that is substantially similar to this Act.**

1 SECTION 3. AND BE IT FURTHER ENACTED,  
2 Act, this Act shall take effect October 1, 2021.

That, subject to Section 2 of this

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.

**AGENDA ITEM 7**  
***OHIO - ENACTED***

# AN ACT

To enact sections 4755.062, 4755.14, and 4755.141 of the Revised Code to enter into the Occupational Therapy Licensure Compact.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 4755.062, 4755.14, and 4755.141 of the Revised Code be enacted to read as follows:

Sec. 4755.062. The occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may contract with the Ohio occupational therapy association, or its successor organization, for assistance in performing any duties prescribed in rules adopted under division (I) of section 4755.06 of the Revised Code.

Sec. 4755.14. The "Occupational Therapy Licensure Compact" is hereby ratified, enacted into law, and entered into by the state of Ohio as a party to the compact with any other state that has legally joined in the compact 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;

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;

F. 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

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

## **SECTION 2. DEFINITIONS**

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

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 Section 1211.

B. "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.

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

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/client is located at the time of the patient/client encounter.

E. "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.

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 State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

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

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

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 individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

L. "Investigative Information" means information, records, and/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.



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

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

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

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 Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

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

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

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

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

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

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

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

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

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

1. License Occupational Therapists and Occupational Therapy Assistants
2. Participate fully in the Commission's Data System, including but not limited to using the Commission's unique identifier as defined in Rules of the Commission;
3. Have a mechanism in place for receiving and investigating complaints about Licensees;
4. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;
5. Implement or utilize procedures for considering the criminal history records of applicants for an initial Compact Privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A Member State shall, within a time frame established by the Commission, require a criminal background check for a Licensee seeking/applying for a Compact

Privilege whose Primary State of Residence is that Member State, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions.

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

6. Comply with the Rules of the Commission;
  7. Utilize only a recognized national examination as a requirement for licensure pursuant to the Rules of the Commission; and
  8. Have Continuing Competence/Education requirements as a condition for license renewal.
- B. A Member State shall grant the Compact Privilege to a Licensee holding a valid unencumbered license in another Member State in accordance with the terms of the Compact and Rules.
- C. Member States may charge a fee for granting a Compact Privilege.
- D. A Member State shall provide for the State's delegate to attend all Occupational Therapy Compact 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 the laws of each Member State. However, the Single- State License granted to these individuals shall not be recognized as granting the Compact Privilege in any other Member State.
- F. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

#### **SECTION 4. COMPACT PRIVILEGE**

- A. To exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:
1. Hold a license in the Home State;
  2. Have a valid United States Social Security Number or National Practitioner Identification number;
  3. Have no encumbrance on any State license;
  4. Be eligible for a Compact Privilege in any Member State in accordance with Section 4D, F, G, and H;
  5. Have paid all fines and completed all requirements resulting from any Adverse Action against any license or Compact Privilege, and two years have elapsed from the date of such completion;
  6. Notify the Commission that the Licensee is seeking the Compact Privilege within a Remote State(s);
  7. Pay any applicable fees, including any State fee, for the Compact Privilege;
  8. Complete a criminal background check in accordance with Section 3A(5);
    - a. The Licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check.
  9. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Compact Privilege; and
  10. Report to the Commission Adverse Action taken by any non-Member State within 30 days from the date the Adverse Action is taken.
- B. The Compact Privilege is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Section 4A

to maintain the Compact Privilege in the Remote State.

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

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

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

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

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

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

H. If a Licensee's Compact Privilege in any Remote State is removed, the individual may 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 and all conditions have been met;
  3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and
  4. The Compact Privileges are reinstated by the Commission, and the compact Data System
- is updated to reflect reinstatement.

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

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

#### **SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE**

A. An Occupational Therapist or Occupational Therapy Assistant may hold a Home State license, which allows for Compact Privileges in Member States, 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 file an application for obtaining a new Home State license by virtue of a Compact Privilege, pay all applicable fees, and notify the current and new Home State in accordance with

applicable Rules adopted by the Commission.

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

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

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

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

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

4. Notwithstanding any other provision of this Compact, if the Occupational Therapist or Occupational Therapy Assistant cannot meet the criteria in Section 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 non-Member State, or from a non-Member 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 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.

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

A. Active Duty Military personnel, or their spouses, 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 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 or through the process described in Section 5.

#### **SECTION 7. ADVERSE ACTIONS**

A. A Home State shall have exclusive power to impose Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's 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 process law, to:

1. Take Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege within that Member 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 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 which the witnesses or evidence are located.



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(s) and shall promptly report the conclusions of the investigations to the OT Compact Commission Data System. The Occupational Therapy Compact Commission Data System administrator 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 Assistant the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Occupational Therapist or Occupational Therapy Assistant.

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

G. Joint Investigations

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

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the 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 encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's license shall include a Statement that the Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege is deactivated in all Member States during the pendency of the order.

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

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

**SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION.**

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

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

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

principal office of the Therapy Assistant meets the pertinent criteria outlined in Section  
Commission is located. The Commission may waive venue and jurisdictional defenses  
to the extent it adopts or consents to participate in alternative dispute resolution  
proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity. B. Membership, Voting, and Meetings

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

2. The delegate shall be either:

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

b. An administrator of the Licensing Board.

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 90 days.

5. Each delegate shall be entitled to one (1) 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. The Commission shall establish by Rule a term of office for delegates. 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;

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

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

bylaws;

6. Promulgate uniform Rules to facilitate and coordinate implementation and administration

of this Compact. The Rules shall have the force and effect of law and shall be binding in all Member States;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Occupational Therapy 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 the Compact,

and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

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

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

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

14. Establish a budget and make expenditures; 15. Borrow money;

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

17. Provide and receive information from, and cooperate with, law enforcement agencies; 18. Establish and elect an Executive Committee; and 19. Perform such other functions as may be necessary or appropriate 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:

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

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

bylaw

s. 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 legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;

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

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to

the Commision

f. Establish additional committees as necessary; and

g. Perform 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 meetings shall be given in the same manner as required under the Rulemaking provisions in Section 10.

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

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

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

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate; e. Accusing any person of a crime or formally censuring any person;

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

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

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

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

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

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

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

F. Financing of the Commission

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

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

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved 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 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 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 liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

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

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 misconduct of that person.

**SECTION 9. DATA SYSTEM**

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

B. A Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable (utilizing a unique identifier) as required



by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;

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

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

D. The Commission shall promptly notify all Member States of any 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 express permission of the contributing State.

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

#### **SECTION 10. RULEMAKING**

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

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

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

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

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

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

F. 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.

G. 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.

H. 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 (25) persons;
2. A State or federal governmental subdivision or agency; or
3. An association or organization having at least twenty five (25) members.

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

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 (5) business days before the scheduled date of the hearing.

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

3. All hearings will be recorded. A copy of the recording will be made available on request. 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.

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

J. 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.

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

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

M. 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 the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) 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.

N. 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 website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in 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.

## **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.

3. Termination of membership in the 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.

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 the Compact, unless agreed upon in writing between the Commission and the defaulting State.

6. The defaulting State may appeal the action of the Commission by petitioning the U.S.

District Court for the District of Columbia or the federal district where the Commission has its principal offices. 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 the Compact that arise among Member States and between member and non-Member 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.

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 the 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.

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.

**SECTION 12. DATE OF IMPLEMENTATION**

**OF THE INTERSTATE COMMISSION**

**FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED**

**RULES, WITHDRAWAL, AND AMENDMENT**

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

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

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

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

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 act prior to the effective date of withdrawal.

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

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



**SECTION 13. CONSTRUCTION AND SEVERABILITY**

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

**SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

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

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

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

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

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

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

Sec. 4755.141. Not later than ninety days after the "Occupational Therapy Licensure Compact" is entered into under section 4755.14 of the Revised Code, the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board shall select an individual to serve as a delegate to the occupational therapy compact commission created under the compact. The occupational therapy section shall fill a vacancy in this position not later than ninety days after the vacancy occurs.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_

Approved \_\_\_\_\_, 20\_\_

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*Governor.*

Sub. S. B. No. 7

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_