

2023 Regular Session

SENATE BILL NO. 186

BY SENATOR PEACOCK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH SERVICES. Provides relative to the Occupational Therapy Licensure Compact.
(1/1/24)

1 AN ACT
2 To amend and reenact R.S. 37:3001 and to enact Part II of Chapter 39 of Title 37 of the
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:3021, relative to the
4 practice of occupational therapy; to provide for certain qualifications of applicants
5 who wish to practice occupational therapy; to provide for authority to enter into the
6 Occupational Therapy Licensure Compact; to provide for enactment of the model
7 language required to participate in the compact; to provide for definitions; to provide
8 for eligibility, application, and renewal process; to provide for a coordinated
9 information system; to provide for investigations and disciplinary actions; to provide
10 for membership, powers, and duties of the Occupational Therapy Compact
11 Commission; to provide for oversight, dispute resolution, and enforcement of the
12 compact; to provide for a coordinated database; to provide for withdrawal from the
13 compact; to provide for construction and severability; to designate Chapter 39 of
14 Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:3001
15 through 3015, "PART I. OCCUPATIONAL THERAPISTS"; to provide for an
16 effective date; and to provide for related matters.
17 Be it enacted by the Legislature of Louisiana:

1 Section 1. The provisions of Chapter 39 of Title 37 of the Louisiana Revised Statutes
2 of 1950, comprised of R.S. 37:3001 through 3015, are hereby designated "PART I.
3 OCCUPATIONAL THERAPISTS".

4 Section 2. R.S. 37:3001 is hereby amended and reenacted and Part II of Chapter 39
5 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:3021, is hereby
6 enacted to read as follows:

7 §3001. Short title

8 This Chapter shall be known and may be cited as the Louisiana Occupational
9 Therapy Practice Act ~~of 1979~~.

10 * * *

11 **PART II. OCCUPATIONAL THERAPY LICENSURE COMPACT**

12 **§3021. Occupational Therapy Licensure Compact; adoption**

13 **The Occupational Therapy Licensure Compact is hereby recognized and**
14 **enacted into law and entered into by this state with all states legally joining**
15 **therein in the form substantially as follows:**

16 **SECTION 1. PURPOSE**

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

23 **This compact is designed to achieve the following objectives:**

24 **A. Increase public access to occupational therapy services by providing**
25 **for the mutual recognition of other member state licenses.**

26 **B. Enhance the states' ability to protect the public's health and safety.**

27 **C. Encourage the cooperation of member states in regulating multi-state**
28 **occupational therapy practice.**

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

1 completion of, educational and professional activities relevant to practice or
2 area of work.

3 F. "Current significant investigative information" means investigative
4 information that a licensing board, after an inquiry or investigation that
5 includes notification and an opportunity for the occupational therapist or
6 occupational therapy assistant to respond, if required by state law, has reason
7 to believe is not groundless and, if proved true, would indicate more than a
8 minor infraction.

9 G. "Data system" means a repository of information about licensees,
10 including but not limited to license status, investigative information, compact
11 privileges, and adverse actions.

12 H. "Encumbered license" means a license in which an adverse action
13 restricts the practice of occupational therapy by the licensee or said adverse
14 action has been reported to the National Practitioners Data Bank (NPDB).

15 I. "Executive committee" means a group of directors elected or
16 appointed to act on behalf of, and within the powers granted to them by, the
17 commission.

18 J. "Home state" means the member state that is the licensee's primary
19 state of residence.

20 K. "Impaired practitioner" means individuals whose professional
21 practice is adversely affected by substance abuse, addiction, or other
22 health-related conditions.

23 L. "Investigative information" means information, records, and/or
24 documents received or generated by an occupational therapy licensing board
25 pursuant to an investigation.

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

29 N. "Licensee" means an individual who currently holds an authorization

1 from the state to practice as an occupational therapist or as an occupational
2 therapy assistant.

3 O. "Member state" means a state that has enacted the compact.

4 P. "Occupational therapist" means an individual who is licensed by a
5 state to practice occupational therapy.

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

8 R. "Occupational therapy", "occupational therapy practice", and the
9 "practice of occupational therapy" mean the care and services provided by an
10 occupational therapist or an occupational therapy assistant as set forth in the
11 member state's statutes and regulations.

12 S. "Occupational Therapy Compact Commission" or "commission"
13 means the national administrative body whose membership consists of all states
14 that have enacted the compact.

15 T. "Occupational therapy licensing board" or "licensing board" means
16 the agency of a state that is authorized to license and regulate occupational
17 therapists and occupational therapy assistants.

18 U. "Primary state of residence" means the state (also known as the
19 home state) in which an occupational therapist or occupational therapy
20 assistant who is not active duty military declares a primary residence for legal
21 purposes as verified by: driver's license, federal income tax return, lease, deed,
22 mortgage or voter registration or other verifying documentation as further
23 defined by commission rules.

24 V. "Remote state" means a member state other than the home state,
25 where a licensee is exercising or seeking to exercise the compact privilege.

26 W. "Rule" means a regulation promulgated by the commission that has
27 the force of law.

28 X. "State" means any state, commonwealth, district, or territory of the
29 United States of America that regulates the practice of occupational therapy.

1 Y. "Single-state license" means an occupational therapist or
2 occupational therapy assistant license issued by a member state that authorizes
3 practice only within the issuing state and does not include a compact privilege
4 in any other member state.

5 Z. "Telehealth" means the application of telecommunication technology
6 to deliver occupational therapy services for assessment, intervention and/or
7 consultation.

8 SECTION 3. STATE PARTICIPATION IN THE COMPACT

9 A. To participate in the compact, a member state shall:

10 (1) License occupational therapists and occupational therapy assistants.

11 (2) Participate fully in the commission's data system, including but not
12 limited to using the commission's unique identifier as defined in rules of the
13 commission.

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

16 (4) Notify the commission, in compliance with the terms of the compact
17 and rules, of any adverse action or the availability of investigative information
18 regarding a licensee.

19 (5) Implement or utilize procedures for considering the criminal history
20 records of applicants for an initial compact privilege. These procedures shall
21 include the submission of fingerprints or other biometric-based information by
22 applicants for the purpose of obtaining an applicant's criminal history record
23 information from the Federal Bureau of Investigation and the agency
24 responsible for retaining that state's criminal records.

25 (a) A member state shall, within a time frame established by the
26 commission, require a criminal background check for a licensee
27 seeking/applying for a compact privilege whose primary state of residence is
28 that member state, by receiving the results of the Federal Bureau of
29 Investigation criminal record search, and shall use the results in making

1 licensure decisions.

2 (b) Communication between a member state, the commission, and
3 among member states regarding the verification of eligibility for licensure
4 through the compact shall not include any information received from the
5 Federal Bureau of Investigation relating to a federal criminal records check
6 performed by a member state under Public Law 92-544.

7 (c)(i) The Louisiana State Board of Medical Examiners shall be entitled
8 to the criminal history record and identification files of the Louisiana Bureau
9 of Criminal Identification and Information, located within the Department of
10 Public Safety and Corrections, of any person who is required to be licensed as
11 an occupational therapist in Louisiana or as part of the Occupation Therapy
12 Licensure Compact. Fingerprints, biometrics, and other identifying
13 information of the applicant shall be submitted to the Louisiana Bureau of
14 Criminal Identification. The Louisiana Bureau of Criminal Identification and
15 Information shall, upon request of the Louisiana State Board of Medical
16 Examiners and after receipt of a fingerprint card and other identifying
17 information from the applicant, make available to the board all arrest and
18 conviction information contained in the Louisiana Bureau of Criminal
19 Identification and Information's criminal history record and identification files
20 which pertain to the applicant for licensure. In addition, the fingerprints shall
21 be forwarded by the Louisiana Bureau of Criminal Identification and
22 Information to the Federal Bureau of Investigation for a national criminal
23 history record check.

24 (ii) In accordance with the authority provided for in this Chapter, the
25 costs of providing the information required in accordance with this Section shall
26 be charged by the Louisiana Bureau of Criminal Identification and
27 Information, as specified in R.S. 15:587(B), to the Louisiana State Board of
28 Medical Examiners for furnishing information contained in the Louisiana
29 Bureau of Criminal Identification and Information's criminal history records

1 and identification files, including any additional cost of providing the national
2 criminal history records check, which pertains to the applicant. The board may
3 impose any or all such fees or costs on the applicant.

4 (iii) For the purposes of Section 3(A)(5)(c), "criminal history record
5 information" means all state records of arrest, prosecution, and conviction,
6 including those which have been expunged or dismissed pursuant to Code of
7 Criminal Procedure Article 893 or 894, and national records which shall include
8 fingerprints of the applicant, biometrics, and other identifying information, if
9 so requested by the licensing board.

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

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

13 (8) Have continuing competence/education requirements as a condition
14 for license renewal.

15 B. A member state shall grant the compact privilege to a licensee
16 holding a valid unencumbered license in another member state in accordance
17 with the terms of the compact and rules.

18 C. Member states may charge a fee for granting a compact privilege.

19 D. A member state shall provide for the state's delegate to attend all
20 occupational therapy compact commission meetings.

21 E. Individuals not residing in a member state shall continue to be able
22 to apply for a member state's single-state license as provided under the laws of
23 each member state. However, the single-state license granted to these
24 individuals shall not be recognized as granting the compact privilege in any
25 other member state.

26 F. Nothing in this compact shall affect the requirements established by
27 a member state for the issuance of a single-state license.

28 SECTION 4. COMPACT PRIVILEGE

29 A. To exercise the compact privilege under the terms and provisions of

1 the compact, the licensee shall:

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

3 (2) Have a valid United States Social Security number or National
4 Practitioner Identification number.

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

6 (4) Be eligible for a compact privilege in any member state in
7 accordance with Section 4(D), (F), (G), and (H).

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

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

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

15 (8) Complete a criminal background check in accordance with Section
16 3(A)(5).

17 (a) The licensee shall be responsible for the payment of any fee
18 associated with the completion of a criminal background check.

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

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

23 B. The compact privilege is valid until the expiration date of the home
24 state license. The licensee must comply with the requirements of Section 4(A)
25 to maintain the compact privilege in the remote state.

26 C. A licensee providing occupational therapy in a remote state under the
27 compact privilege shall function within the laws and regulations of the remote
28 state.

29 D. Occupational therapy assistants practicing in a remote state shall be

1 supervised by an occupational therapist licensed or holding a compact privilege
2 in that remote state.

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

10 F. If a home state license is encumbered, the licensee shall lose the
11 compact privilege in any remote state until the following occur:

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

13 (2) Two years have elapsed from the date on which the home state
14 license is no longer encumbered in accordance with Section 4(F)(1).

15 G. Once an encumbered license in the home state is restored to good
16 standing, the licensee must meet the requirements of Section 4(A) to obtain a
17 compact privilege in any remote state.

18 H. If a licensee's compact privilege in any remote state is removed, the
19 individual may lose the compact privilege in any other remote state until the
20 following occur:

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

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

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

26 (4) The compact privileges are reinstated by the commission, and the
27 compact data system is updated to reflect reinstatement.

28 I. If a licensee's compact privilege in any remote state is removed due
29 to an erroneous charge, privileges shall be restored through the compact data

1 system.

2 J. Once the requirements of Section 4(H) have been met, the licensee
3 must meet the requirements in Section 4(A) to obtain a compact privilege in a
4 remote state.

5 SECTION 5: OBTAINING A NEW HOME STATE LICENSE

6 BY VIRTUE OF COMPACT PRIVILEGE

7 A. An occupational therapist or occupational therapy assistant may hold
8 a home state license, which allows for compact privileges in member states, in
9 only one member state at a time.

10 B. If an occupational therapist or occupational therapy assistant changes
11 primary state of residence by moving between two member states:

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

16 (2) Upon receipt of an application for obtaining a new home state license
17 by virtue of compact privilege, the new home state shall verify that the
18 occupational therapist or occupational therapy assistant meets the pertinent
19 criteria outlined in Section 4 via the data system, without need for primary
20 source verification except for:

21 (a) An FBI fingerprint-based criminal background check if not
22 previously performed or updated pursuant to applicable Rules adopted by the
23 commission in accordance with Public Law 92-544.

24 (b) Other criminal background check as required by the new home
25 state.

26 (c) Submission of any requisite jurisprudence requirements of the new
27 home state.

28 (3) The former home state shall convert the former home state license
29 into a compact privilege once the new home state has activated the new home

1 state license in accordance with applicable rules adopted by the commission.

2 (4) Notwithstanding any other provision of this compact, if the
3 occupational therapist or occupational therapy assistant cannot meet the
4 criteria in Section 4, the new home state shall apply its requirements for issuing
5 a new single-state license.

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

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

13 D. Nothing in this compact shall interfere with a licensee's ability to hold
14 a single-state license in multiple states; however, for the purposes of this
15 compact, a licensee shall have only one home state license.

16 E. Nothing in this compact shall affect the requirements established by
17 a member state for the issuance of a single-state license.

18 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL

19 OR THEIR SPOUSES

20 A. Active duty military personnel, or their spouses, shall designate a
21 home state where the individual has a current license in good standing. The
22 individual may retain the home state designation during the period the service
23 member is on active duty. Subsequent to designating a home state, the
24 individual shall only change their home state through application for licensure
25 in the new state or through the process described in Section 5.

26 SECTION 7. ADVERSE ACTIONS

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

1 **B. In addition to the other powers conferred by state law, a remote state**
2 **shall have the authority, in accordance with existing state due process law, to:**

3 **(1) Take adverse action against an occupational therapist's or**
4 **occupational therapy assistant's compact privilege within that member state.**

5 **(2) Issue subpoenas for both hearings and investigations that require the**
6 **attendance and testimony of witnesses as well as the production of evidence.**

7 **Subpoenas issued by a licensing board in a member state for the attendance and**
8 **testimony of witnesses or the production of evidence from another member state**

9 **shall be enforced in the latter state by any court of competent jurisdiction,**

10 **according to the practice and procedure of that court applicable to subpoenas**

11 **issued in proceedings pending before it. The issuing authority shall pay any**

12 **witness fees, travel expenses, mileage, and other fees required by the service**

13 **statutes of the state in which the witnesses or evidence are located.**

14 **C. For purposes of taking adverse action, the home state shall give the**
15 **same priority and effect to reported conduct received from a member state as**

16 **it would if the conduct had occurred within the home state. In so doing, the**

17 **home state shall apply its own state laws to determine appropriate action.**

18 **D. The home state shall complete any pending investigations of an**
19 **occupational therapist or occupational therapy assistant who changes primary**

20 **state of residence during the course of the investigations. The home state, where**

21 **the investigations were initiated, shall also have the authority to take**

22 **appropriate action and shall promptly report the conclusions of the**

23 **investigations to the Occupational Therapy Compact Commission data system.**

24 **The Occupational Therapy Compact Commission data system administrator**

25 **shall promptly notify the new home state of any adverse actions.**

26 **E. A member state, if otherwise permitted by state law, may recover**
27 **from the affected occupational therapist or occupational therapy assistant the**

28 **costs of investigations and disposition of cases resulting from any adverse action**

29 **taken against that occupational therapist or occupational therapy assistant.**

1 F. A member state may take adverse action based on the factual findings
2 of the remote state, provided that the member state follows its own procedures
3 for taking the adverse action.

4 G. Joint investigations

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

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

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

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

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

26 SECTION 8. ESTABLISHMENT OF THE
27 OCCUPATIONAL THERAPY COMPACT COMMISSION

28 A. The compact member states hereby create and establish a joint public
29 agency known as the Occupational Therapy Compact Commission:

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

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

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

9 **B. Membership, voting, and meetings**

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

12 **(2) The delegate shall be either:**

13 **(a) A current member of the licensing board, who is an occupational**
14 **therapist, occupational therapy assistant, or public member.**

15 **(b) An administrator of the licensing board.**

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

18 **(4) The member state board shall fill any vacancy occurring in the**
19 **commission within ninety days.**

20 **(5) Each delegate shall be entitled to one vote with regard to the**
21 **promulgation of rules and creation of bylaws and shall otherwise have an**
22 **opportunity to participate in the business and affairs of the commission. A**
23 **delegate shall vote in person or by such other means as provided in the bylaws.**
24 **The bylaws may provide for delegates' participation in meetings by telephone**
25 **or other means of communication.**

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

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

29 **C. The commission shall have the following powers and duties:**

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

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

3 (3) Establish bylaws.

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

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

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

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

13 (8) Purchase and maintain insurance and bonds.

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

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

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

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

29 (13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or

1 otherwise dispose of any property real, personal, or mixed.

2 (14) Establish a budget and make expenditures.

3 (15) Borrow money.

4 (16) Appoint committees, including standing committees composed of
5 members, state regulators, state legislators or their representatives, and
6 consumer representatives, and such other interested persons as may be
7 designated in this compact and the bylaws.

8 (17) Provide and receive information from, and cooperate with, law
9 enforcement agencies.

10 (18) Establish and elect an executive committee.

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

14 D. The executive committee

15 The executive committee shall have the power to act on behalf of the
16 commission according to the terms of this compact.

17 (1) The executive committee shall be composed of nine members:

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

20 (b) One ex-officio, nonvoting member from a recognized national
21 occupational therapy professional association.

22 (c) One ex-officio, nonvoting member from a recognized national
23 occupational therapy certification organization.

24 (2) The ex-officio members will be selected by their respective
25 organizations.

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

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

29 (5) The executive committee shall have the following duties and

1 responsibilities:

2 (a) Recommend to the entire commission changes to the rules or bylaws,
3 changes to this compact legislation, fees paid by compact member states such
4 as annual dues, and any commission compact fee charged to licensees for the
5 compact privilege.

6 (b) Ensure compact administration services are appropriately provided,
7 contractual or otherwise.

8 (c) Prepare and recommend the budget.

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

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

12 (f) Establish additional committees as necessary.

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

14 E. Meetings of the commission

15 (1) All meetings shall be open to the public, and public notice of
16 meetings shall be given in the same manner as required under the rulemaking
17 provisions in Section 10.

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

21 (a) Noncompliance of a member state with its obligations under the
22 compact.

23 (b) The employment, compensation, discipline, or other matters,
24 practices, or procedures related to specific employees or other matters related
25 to the commission's internal personnel practices and procedures.

26 (c) Current, threatened, or reasonably anticipated litigation.

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

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

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

3 (g) Disclosure of information of a personal nature where disclosure
4 would constitute a clearly unwarranted invasion of personal privacy.

5 (h) Disclosure of investigative records compiled for law enforcement
6 purposes.

7 (i) Disclosure of information related to any investigative reports
8 prepared by or on behalf of or for use of the commission or other committee
9 charged with responsibility of investigation or determination of compliance
10 issues pursuant to the compact.

11 (j) Matters specifically exempted from disclosure by federal or member
12 state statute.

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

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

23 F. Financing of the commission

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

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

29 (3) The commission may levy on and collect an annual assessment from

1 each member state or impose fees on other parties to cover the cost of the
2 operations and activities of the commission and its staff, which must be in a
3 total amount sufficient to cover its annual budget as approved by the
4 commission each year for which revenue is not provided by other sources. The
5 aggregate annual assessment amount shall be allocated based upon a formula
6 to be determined by the commission, which shall promulgate a rule binding
7 upon all member states.

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

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

19 G. Qualified immunity, defense, and indemnification

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

1 person.

2 (2) The commission shall defend any member, officer, executive
3 director, employee, or representative of the commission in any civil action
4 seeking to impose liability arising out of any actual or alleged act, error, or
5 omission that occurred within the scope of commission employment, duties, or
6 responsibilities, or that the person against whom the claim is made had a
7 reasonable basis for believing occurred within the scope of commission
8 employment, duties, or responsibilities; provided that nothing herein shall be
9 construed to prohibit that person from retaining his or her own counsel; and
10 provided further, that the actual or alleged act, error, or omission did not result
11 from that person's gross negligence or intentional or willful or wanton
12 misconduct.

13 (3) The commission shall indemnify and hold harmless any member,
14 officer, executive director, employee, or representative of the commission for
15 the amount of any settlement or judgment obtained against that person arising
16 out of any actual or alleged act, error, or omission that occurred within the
17 scope of commission employment, duties, or responsibilities, or that such person
18 had a reasonable basis for believing occurred within the scope of commission
19 employment, duties, or responsibilities, provided that the actual or alleged act,
20 error, or omission did not result from the gross negligence or intentional or
21 willful or wanton misconduct of that person.

22 SECTION 9. DATA SYSTEM

23 A. The commission shall provide for the development, maintenance, and
24 utilization of a coordinated database and reporting system containing licensure,
25 adverse action, and investigative information on all licensed individuals in
26 member states.

27 B. A member state shall submit a uniform data set to the data system on
28 all individuals to whom this compact is applicable (utilizing a unique identifier)
29 as required by the rules of the commission, including:

1 **(1) Identifying information.**

2 **(2) Licensure data.**

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

4 **(4) Nonconfidential information related to alternative program**
5 **participation.**

6 **(5) Any denial of application for licensure, and the reason for such**
7 **denial.**

8 **(6) Other information that may facilitate the administration of this**
9 **compact, as determined by the rules of the commission.**

10 **(7) Current significant investigative information.**

11 **C. Current significant investigative information and other investigative**
12 **information pertaining to a licensee in any member state will only be available**
13 **to other member states.**

14 **D. The commission shall promptly notify all member states of any**
15 **adverse action taken against a licensee or an individual applying for a license.**
16 **Adverse action information pertaining to a licensee in any member state will be**
17 **available to any other member state.**

18 **E. Member states contributing information to the data system may**
19 **designate information that may not be shared with the public without the**
20 **express permission of the contributing state.**

21 **F. Any information submitted to the data system that is subsequently**
22 **required to be expunged by the laws of the member state contributing the**
23 **information shall be removed from the data system.**

24 **SECTION 10. RULEMAKING**

25 **A. The commission shall exercise its rulemaking powers pursuant to the**
26 **criteria set forth in this Section and the rules adopted thereunder. Rules and**
27 **amendments shall become binding as of the date specified in each rule or**
28 **amendment.**

29 **B. The commission shall promulgate reasonable rules in order to**

1 effectively and efficiently achieve the purposes of the compact. Notwithstanding
2 the foregoing, in the event the commission exercises its rulemaking authority in
3 a manner that is beyond the scope of the purposes of the compact, or the powers
4 granted hereunder, then such an action by the commission shall be invalid and
5 have no force and effect.

6 C. If a majority of the legislatures of the member states rejects a rule,
7 by enactment of a statute or resolution in the same manner used to adopt the
8 compact within four years of the date of adoption of the rule, then such rule
9 shall have no further force and effect in any member state.

10 D. Rules or amendments to the rules shall be adopted at a regular or
11 special meeting of the commission.

12 E. Prior to promulgation and adoption of a final rule or rules by the
13 commission, and at least thirty days in advance of the meeting at which the rule
14 will be considered and voted upon, the commission shall file a notice of
15 proposed rulemaking:

16 (1) On the website of the commission or other publicly accessible
17 platform.

18 (2) On the website of each member state occupational therapy licensing
19 board or other publicly accessible platform or the publication in which each
20 state would otherwise publish proposed rules.

21 F. The notice of proposed rulemaking shall include:

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

24 (2) The text of the proposed rule or amendment and the reason for the
25 proposed rule.

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

28 (4) The manner in which interested persons may submit notice to the
29 commission of their intention to attend the public hearing and any written

1 comments.

2 G. Prior to adoption of a proposed rule, the commission shall allow
3 persons to submit written data, facts, opinions, and arguments, which shall be
4 made available to the public.

5 H. The commission shall grant an opportunity for a public hearing
6 before it adopts a rule or amendment if a hearing is requested by:

7 (1) At least twenty-five persons.

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

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

10 I. If a hearing is held on the proposed rule or amendment, the
11 commission shall publish the place, time, and date of the scheduled public
12 hearing. If the hearing is held via electronic means, the commission shall
13 publish the mechanism for access to the electronic hearing.

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

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

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

23 (4) Nothing in this Section shall be construed as requiring a separate
24 hearing on each rule. Rules may be grouped for the convenience of the
25 commission at hearings required by this Section.

26 J. Following the scheduled hearing date, or by the close of business on
27 the scheduled hearing date if the hearing was not held, the commission shall
28 consider all written and oral comments received.

29 K. If no written notice of intent to attend the public hearing by

1 interested parties is received, the commission may proceed with promulgation
2 of the proposed rule without a public hearing.

3 L. The commission shall, by majority vote of all members, take final
4 action on the proposed rule and shall determine the effective date of the rule,
5 if any, based on the rulemaking record and the full text of the rule.

6 M. Upon determination that an emergency exists, the commission may
7 consider and adopt an emergency rule without prior notice, opportunity for
8 comment, or hearing, provided that the usual rulemaking procedures provided
9 in the compact and in this Section shall be retroactively applied to the rule as
10 soon as reasonably possible, in no event later than ninety days after the effective
11 date of the rule. For the purposes of this provision, an emergency rule is one
12 that must be adopted immediately in order to:

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

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

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

17 (4) Protect public health and safety.

18 N. The commission or an authorized committee of the commission may
19 direct revisions to a previously adopted rule or amendment for purposes of
20 correcting typographical errors, errors in format, errors in consistency, or
21 grammatical errors. Public notice of any revisions shall be posted on the
22 website of the commission. The revision shall be subject to challenge by any
23 person for a period of thirty days after posting. The revision may be challenged
24 only on grounds that the revision results in a material change to a rule. A
25 challenge shall be made in writing and delivered to the chair of the commission
26 prior to the end of the notice period. If no challenge is made, the revision will
27 take effect without further action. If the revision is challenged, the revision may
28 not take effect without the approval of the commission.

29 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

1 A. Oversight

2 (1) The executive, legislative, and judicial branches of state government
3 in each member state shall enforce this compact and take all actions necessary
4 and appropriate to effectuate the compact's purposes and intent. The
5 provisions of this compact and the rules promulgated hereunder shall have
6 standing as statutory law.

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

11 (3) The commission shall be entitled to receive service of process in any
12 such proceeding, and shall have standing to intervene in such a proceeding for
13 all purposes. Failure to provide service of process to the commission shall
14 render a judgment or order void as to the commission, this compact, or
15 promulgated rules.

16 B. Default, technical assistance, and termination

17 (1) If the commission determines that a member state has defaulted in
18 the performance of its obligations or responsibilities under this compact or the
19 promulgated rules, the commission shall:

20 (a) Provide written notice to the defaulting state and other member
21 states of the nature of the default, the proposed means of curing the default
22 and/or any other action to be taken by the commission.

23 (b) Provide remedial training and specific technical assistance regarding
24 the default.

25 (2) If a state in default fails to cure the default, the defaulting state may
26 be terminated from the compact upon an affirmative vote of a majority of the
27 member states, and all rights, privileges, and benefits conferred by this compact
28 may be terminated on the effective date of termination. A cure of the default
29 does not relieve the offending state of obligations or liabilities incurred during

1 the period of default.

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

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

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

13 (6) The defaulting state may appeal the action of the commission by
14 petitioning the United States District Court for the District of Columbia or the
15 federal district where the commission has its principal offices. The prevailing
16 member shall be awarded all costs of the litigation, including reasonable
17 attorney's fees.

18 C. Dispute resolution

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

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

24 D. Enforcement

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

27 (2) By majority vote, the commission may initiate legal action in the
28 United States District Court for the District of Columbia or the federal district
29 where the commission has its principal offices against a member state in default

1 to enforce compliance with the provisions of the compact and its promulgated
2 rules and bylaws. The relief sought may include both injunctive relief and
3 damages. In the event judicial enforcement is necessary, the prevailing member
4 shall be awarded all costs of the litigation, including reasonable attorney's fees.

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

8 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE
9 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND
10 ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

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

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

22 C. Any member state may withdraw from this compact by enacting a
23 statute repealing the same.

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

26 (2) Withdrawal shall not affect the continuing requirement of the
27 withdrawing state's occupational therapy licensing board to comply with the
28 investigative and adverse action reporting requirements of this Act prior to the
29 effective date of withdrawal.

1 **D. Nothing contained in this compact shall be construed to invalidate or**
2 **prevent any occupational therapy licensure agreement or other cooperative**
3 **arrangement between a member state and a nonmember state that does not**
4 **conflict with the provisions of this compact.**

5 **E. This compact may be amended by the member states. No amendment**
6 **to this compact shall become effective and binding upon any member state until**
7 **it is enacted into the laws of all member states.**

8 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

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

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

21 **A. A licensee providing occupational therapy in a remote state under the**
22 **compact privilege shall function within the laws and regulations of the remote**
23 **state.**

24 **B. Nothing herein prevents the enforcement of any other law of a**
25 **member state that is not inconsistent with the compact.**

26 **C. Any laws in a member state in conflict with the compact are**
27 **superseded to the extent of the conflict.**

28 **D. Any lawful actions of the commission, including all rules and bylaws**
29 **promulgated by the commission, are binding upon the member states.**

