

FIRST REGULAR SESSION

[PERFECTED]

SENATE BILL NO. 330

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

1247S.01P

ADRIANE D. CROUSE, Secretary

AN ACT

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

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

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

324.087. SECTION 1. PURPOSE

2 The purpose of this Compact is to facilitate interstate
3 practice of Occupational Therapy with the goal of improving
4 public access to Occupational Therapy services. The
5 Practice of Occupational Therapy occurs in the State where
6 the patient/client is located at the time of the
7 patient/client encounter. The Compact preserves the
8 regulatory authority of States to protect public health and
9 safety through the current system of State licensure. This
10 Compact is designed to achieve the following objectives:

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

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

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

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

26 SECTION 2. DEFINITIONS

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

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

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

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

45 D. "Compact Privilege" means the authorization, which
46 is equivalent to a license, granted by a Remote State to
47 allow a Licensee from another Member State to practice as an
48 Occupational Therapist or practice as an Occupational
49 Therapy Assistant in the Remote State under its laws and

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

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

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

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

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

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

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

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

81 L. "Investigative Information" means information,
82 records, and/or documents received or generated by an
83 Occupational Therapy Licensing Board pursuant to an
84 investigation.

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

88 N. "Licensee" means an individual who currently holds
89 an authorization from the State to practice as an
90 Occupational Therapist or as an Occupational Therapy
91 Assistant.

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

94 P. "Occupational Therapist" means an individual who is
95 licensed by a State to practice 63 Occupational Therapy.

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

99 R. "Occupational Therapy," "Occupational Therapy
100 Practice," and the "Practice of Occupational Therapy" mean
101 the care and services provided by an Occupational Therapist
102 or an Occupational Therapy Assistant as set forth in the
103 Member State's statutes and regulations.

104 S. "Occupational Therapy Compact Commission" or
105 "Commission" means the national administrative body whose
106 membership consists of all States that have enacted the
107 Compact.

108 T. "Occupational Therapy Licensing Board" or
109 "Licensing Board" means the agency of a State that is
110 authorized to license and regulate Occupational Therapists
111 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;

143 3. Have a mechanism in place for receiving and
144 investigating complaints about Licensees;

145 4. Notify the Commission, in compliance with the terms
146 of the Compact and Rules, of any Adverse Action or the
147 availability of Investigative Information regarding a
148 Licensee;

149 5. Implement or utilize procedures for considering the
150 criminal history records of applicants for an initial
151 Compact Privilege. These procedures shall include the
152 submission of fingerprints or other biometric-based
153 information by applicants for the purpose of obtaining an
154 applicant's criminal history record information from the
155 Federal Bureau of Investigation and the agency responsible
156 for retaining that State's criminal records;

157 a. A Member State shall, within a time frame
158 established by the Commission, require a criminal background
159 check for a Licensee seeking/applying for a Compact
160 Privilege whose Primary State of Residence is that Member
161 State, by receiving the results of the Federal Bureau of
162 Investigation criminal record search, and shall use the
163 results in making licensure decisions.

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

171 6. Comply with the Rules of the Commission;

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

175 8. Have Continuing Competence/Education requirements
176 as a condition for license renewal.

177 B. A Member State shall grant the Compact Privilege to
178 a Licensee holding a valid unencumbered license in another
179 Member State in accordance with the terms of the Compact and
180 Rules.

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

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

186 E. Individuals not residing in a Member State shall
187 continue to be able to apply for a Member State's Single-
188 State License as provided under the laws of each Member
189 State. However, the Single-State License granted to these
190 individuals shall not be recognized as granting the Compact
191 Privilege in any other Member State.

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

195 SECTION 4. COMPACT PRIVILEGE

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

- 198 1. Hold a license in the Home State;
- 199 2. Have a valid United States Social Security Number
200 or National Practitioner Identification number;
- 201 3. Have no encumbrance on any State license;
- 202 4. Be eligible for a Compact Privilege in any Member
203 State in accordance with Section 4D, F, G, and H;
- 204 5. Have paid all fines and completed all requirements
205 resulting from any Adverse Action against any license or

206 Compact Privilege, and two years have elapsed from the date
207 of such completion;

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

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

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

214 a. The Licensee shall be responsible for the payment
215 of any fee associated with the completion of a criminal
216 background check.

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

220 10. Report to the Commission Adverse Action taken by
221 any non-Member State within 30 days from the date the
222 Adverse Action is taken.

223 B. The Compact Privilege is valid until the expiration
224 date of the Home State license. The Licensee must comply
225 with the requirements of Section 4A to maintain the Compact
226 Privilege in the Remote State.

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

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

234 E. A Licensee providing Occupational Therapy in a
235 Remote State is subject to that State's regulatory
236 authority. A Remote State may, in accordance with due
237 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

330 A. Active Duty Military personnel, or their spouses,
331 shall designate a Home State where the individual has a
332 current license in good standing. The individual may retain
333 the Home State designation during the period the service
334 member is on active duty. Subsequent to designating a Home
335 State, the individual shall only change their Home State
336 through application for licensure in the new State or
337 through the process described in Section 5.

338 SECTION 7. ADVERSE ACTIONS

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

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

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

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

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

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

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

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

388 G. Joint Investigations

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

394 2. Member States shall share any investigative,
395 litigation, or compliance materials in furtherance of any
396 joint or individual investigation initiated under the
397 Compact.

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

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

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

417 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY
418 COMPACT COMMISSION.

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

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

424 2. Venue is proper and judicial proceedings by or
425 against the Commission shall be brought solely and

426 exclusively in a court of competent jurisdiction where the
427 principal office of the Commission is located. The
428 Commission may waive venue and jurisdictional defenses to
429 the extent it adopts or consents to participate in
430 alternative dispute resolution proceedings.

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

433 B. Membership, Voting, and Meetings

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

436 2. The delegate shall be either:

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

440 b. An administrator of the Licensing Board.

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

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

446 5. Each delegate shall be entitled to one (1) vote
447 with regard to the promulgation of Rules and creation of
448 bylaws and shall otherwise have an opportunity to
449 participate in the business and affairs of the Commission.
450 A delegate shall vote in person or by such other means as
451 provided in the bylaws. The bylaws may provide for
452 delegates' participation in meetings by telephone or other
453 means of communication.

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

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

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

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

462 2. Establish the fiscal year of the Commission;

463 3. Establish bylaws;

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

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

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

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

476 8. Purchase and maintain insurance and bonds;

477 9. Borrow, accept, or contract for services of
478 personnel, including, but not limited to, employees of a
479 Member State;

480 10. Hire employees, elect or appoint officers, fix
481 compensation, define duties, grant such individuals
482 appropriate authority to carry out the purposes of the
483 Compact, and establish the Commission's personnel policies
484 and programs relating to conflicts of interest,
485 qualifications of personnel, and other related personnel
486 matters;

487 11. Accept any and all appropriate donations and
488 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:

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

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

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

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

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

530 4. The Executive Committee shall meet at least
531 annually.

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

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

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

541 c. Prepare and recommend the budget;

542 d. Maintain financial records on behalf of the
543 Commission;

544 e. Monitor Compact compliance of Member States and
545 provide compliance reports to the Commission;

546 f. Establish additional committees as necessary; and

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

548 E. Meetings of the Commission

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

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

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

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

562 c. Current, threatened, or reasonably anticipated
563 litigation;

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

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

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

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

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

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

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

582 3. If a meeting, or portion of a meeting, is closed
583 pursuant to this provision, the Commission's legal counsel

584 or designee shall certify that the meeting may be closed and
585 shall reference each relevant exempting provision.

586 4. The Commission shall keep minutes that fully and
587 clearly describe all matters discussed in a meeting and
588 shall provide a full and accurate summary of actions taken,
589 and the reasons therefore, including a description of the
590 views expressed. All documents considered in connection
591 with an action shall be identified in such minutes. All
592 minutes and documents of a closed meeting shall remain under
593 seal, subject to release by a majority vote of the
594 Commission or order of a court of competent jurisdiction.

595 F. Financing of the Commission

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

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

602 3. The Commission may levy on and collect an annual
603 assessment from each Member State or impose fees on other
604 parties to cover the cost of the operations and activities
605 of the Commission and its staff, which must be in a total
606 amount sufficient to cover its annual budget as approved by
607 the Commission each year for which revenue is not provided
608 by other sources. The aggregate annual assessment amount
609 shall be allocated based upon a formula to be determined by
610 the Commission, which shall promulgate a Rule binding upon
611 all Member States.

612 4. The Commission shall not incur obligations of any
613 kind prior to securing the funds adequate to meet the same;
614 nor shall the Commission pledge the credit of any of the

615 Member States, except by and with the authority of the
616 Member State.

617 5. The Commission shall keep accurate accounts of all
618 receipts and disbursements. The receipts and disbursements
619 of the Commission shall be subject to the audit and
620 accounting procedures established under its bylaws.
621 However, all receipts and disbursements of funds handled by
622 the Commission shall be audited yearly by a certified or
623 licensed public accountant, and the report of the audit
624 shall be included in and become part of the annual report of
625 the Commission.

626 G. Qualified Immunity, Defense, and Indemnification

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

641 2. The Commission shall defend any member, officer,
642 executive director, employee, or representative of the
643 Commission in any civil action seeking to impose liability
644 arising out of any actual or alleged act, error, or omission
645 that occurred within the scope of Commission employment,
646 duties, or responsibilities, or that the person against whom

647 the claim is made had a reasonable basis for believing
648 occurred within the scope of Commission employment, duties,
649 or responsibilities; provided that nothing herein shall be
650 construed to prohibit that person from retaining his or her
651 own counsel; and provided further, that the actual or
652 alleged act, error, or omission did not result from that
653 person's intentional or willful or wanton misconduct.

654 3. The Commission shall indemnify and hold harmless
655 any member, officer, executive director, employee, or
656 representative of the Commission for the amount of any
657 settlement or judgment obtained against that person arising
658 out of any actual or alleged act, error, or omission that
659 occurred within the scope of Commission employment, duties,
660 or responsibilities, or that such person had a reasonable
661 basis for believing occurred within the scope of Commission
662 employment, duties, or responsibilities, provided that the
663 actual or alleged act, error, or omission did not result
664 from the intentional or willful or wanton misconduct of that
665 person.

666 SECTION 9. DATA SYSTEM

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

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

- 676 1. Identifying information;
- 677 2. Licensure data;

678 3. Adverse Actions against a license or Compact
679 Privilege;

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

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

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

687 7. Current Significant Investigative Information.

688 C. Current Significant Investigative Information and
689 other Investigative Information pertaining to a Licensee in
690 any Member State will only be available to other Member
691 States.

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

697 E. Member States contributing information to the Data
698 System may designate information that may not be shared with
699 the public without the express permission of the
700 contributing State.

701 F. Any information submitted to the Data System that
702 is subsequently required to be expunged by the laws of the
703 Member State contributing the information shall be removed
704 from the Data System.

705 SECTION 10. RULEMAKING

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

710 B. The Commission shall promulgate reasonable rules in
711 order to effectively and efficiently achieve the purposes of
712 the Compact. Notwithstanding the foregoing, in the event
713 the Commission exercises its rulemaking authority in a
714 manner that is beyond the scope of the purposes of the
715 Compact, or the powers granted hereunder, then such an
716 action by the Commission shall be invalid and have no force
717 and effect.

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

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

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

731 1. On the website of the Commission or other publicly
732 accessible platform; and

733 2. On the website of each Member State Occupational
734 Therapy Licensing Board or other publicly accessible
735 platform or the publication in which each State would
736 otherwise publish proposed Rules.

737 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

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

755 2. A State or federal governmental subdivision or
756 agency; or

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

759 I. If a hearing is held on the proposed Rule or
760 amendment, the Commission shall publish the place, time, and
761 date of the scheduled public hearing. If the hearing is
762 held via electronic means, the Commission shall publish the
763 mechanism for access to the electronic hearing.

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

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

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

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

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

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

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

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

799 1. Meet an imminent threat to public health, safety,
800 or welfare;

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

802 3. Meet a deadline for the promulgation of an
803 administrative Rule that is established by federal law or
804 Rule; or

805 4. Protect public health and safety.

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

821 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND
822 ENFORCEMENT

823 A. Oversight

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

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

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

838 to provide service of process to the Commission shall render
839 a judgment or order void as to the Commission, this Compact,
840 or promulgated Rules.

841 B. Default, Technical Assistance, and Termination

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

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

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

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

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

866 4. A State that has been terminated is responsible for
867 all assessments, obligations, and liabilities incurred
868 through the effective date of termination, including

869 obligations that extend beyond the effective date of
870 termination.

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

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

881 C. Dispute Resolution

882 1. Upon request by a Member State, the Commission
883 shall attempt to resolve disputes related to the Compact
884 that arise among Member States and between member and non-
885 Member States.

886 2. The Commission shall promulgate a Rule providing
887 for both mediation and binding dispute resolution for
888 disputes as appropriate.

889 D. Enforcement

890 1. The Commission, in the reasonable exercise of its
891 discretion, shall enforce the provisions and Rules of this
892 Compact.

893 2. By majority vote, the Commission may initiate legal
894 action in the United States District Court for the District
895 of Columbia or the federal district where the Commission has
896 its principal offices against a Member State in default to
897 enforce compliance with the provisions of the Compact and
898 its promulgated Rules and bylaws. The relief sought may
899 include both injunctive relief and damages. In the event
900 judicial enforcement is necessary, the prevailing member

901 shall be awarded all costs of such litigation, including
902 reasonable attorney's fees.

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

906 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE
907 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED
908 RULES, WITHDRAWAL, AND AMENDMENT

909 A. The Compact shall come into effect on the date on
910 which the Compact statute is enacted into law in the tenth
911 Member State. The provisions, which become effective at
912 that time, shall be limited to the powers granted to the
913 Commission relating to assembly and the promulgation of
914 Rules. Thereafter, the Commission shall meet and exercise
915 Rulemaking powers necessary to the implementation and
916 administration of the Compact.

917 B. Any State that joins the Compact subsequent to the
918 Commission's initial adoption of the Rules shall be subject
919 to the Rules as they exist on the date on which the Compact
920 becomes law in that State. Any Rule that has been
921 previously adopted by the Commission shall have the full
922 force and effect of law on the day the Compact becomes law
923 in that State.

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

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

929 2. Withdrawal shall not affect the continuing
930 requirement of the withdrawing State's Occupational Therapy
931 Licensing Board to comply with the investigative and Adverse

932 Action reporting requirements of this act prior to the
933 effective date of withdrawal.

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

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

943 SECTION 13. CONSTRUCTION AND SEVERABILITY

944 This Compact shall be liberally construed so as to
945 effectuate the purposes thereof. The provisions of this
946 Compact shall be severable and if any phrase, clause,
947 sentence or provision of this Compact is declared to be
948 contrary to the constitution of any Member State or of the
949 United States or the applicability thereof to any
950 government, agency, person, or circumstance is held invalid,
951 the validity of the remainder of this Compact and the
952 applicability thereof to any government, agency, person, or
953 circumstance shall not be affected thereby. If this Compact
954 shall be held contrary to the constitution of any Member
955 State, the Compact shall remain in full force and effect as
956 to the remaining Member States and in full force and effect
957 as to the Member State affected as to all severable matters.

958 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

972 F. In the event any provision of the Compact exceeds
973 the constitutional limits imposed on the legislature of any
974 Member State, the provision shall be ineffective to the
975 extent of the conflict with the constitutional provision in
976 question in that Member State.

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