

1 SB167
2 216405-4
3 By Senators Shelnuttt, Jones, Barfoot, Williams, Elliott,
4 Gudger, Sessions, Allen, Chesteen, Livingston, Stutts, Holley,
5 Butler, Reed, Melson, McClendon and Whatley
6 RFD: Veterans and Military Affairs
7 First Read: 02-FEB-22

1 SB167

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4 ENROLLED, An Act,

5 Relating to the practice of occupational therapy; to
6 provide and adopt the Occupational Therapy Licensure Compact
7 to allow occupational therapists to practice among compact
8 states in a limited manner; to provide eligibility
9 requirements for occupational therapists to practice pursuant
10 to the compact; to provide for a coordinated licensure
11 information system, joint investigations, and disciplinary
12 actions; to establish the Occupational Therapy Compact
13 Commission and to provide for membership, powers, and
14 rulemaking functions of the commission; and to provide for the
15 oversight of the compact, enforcement of the compact, default
16 procedures, dispute resolution, withdrawal of compact states,
17 and amendment of the compact.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. PURPOSE

20 (a) The purpose of this compact is to facilitate
21 interstate practice of occupational therapy with the goal of
22 improving public access to occupational therapy services. The
23 practice of occupational therapy occurs in the state where the
24 patient/client is located at the time of the patient/client
25 encounter. The compact preserves the regulatory authority of

1 states to protect public health and safety through the current
2 system of state licensure.

3 (b) This compact is designed to achieve the
4 following objectives:

5 (1) Increase public access to occupational therapy
6 services by providing for the mutual recognition of other
7 member state licenses.

8 (2) Enhance the states' ability to protect the
9 public's health and safety.

10 (3) Encourage the cooperation of member states in
11 regulating multi-state occupational therapy practice.

12 (4) Support spouses of relocating military members.

13 (5) Enhance the exchange of licensure,
14 investigative, and disciplinary information between member
15 states.

16 (6) Allow a remote state to hold a provider of
17 services with a compact privilege in that state accountable to
18 that state's practice standards.

19 (7) Facilitate the use of telehealth technology in
20 order to increase access to occupational therapy services.

21 Section 2. DEFINITIONS

22 As used in this compact, and except as otherwise
23 provided, the following definitions shall have the following
24 meanings:

1 (1) ACTIVE DUTY MILITARY. A full-time duty status in
2 the active uniformed service of the United States, including
3 members of the National Guard and Reserve on active duty
4 orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C.
5 Chapter 1211.

6 (2) ADVERSE ACTION. Any administrative, civil,
7 equitable, or criminal action permitted by a state's laws
8 which is imposed by a licensing board or other authority
9 against an occupational therapist or occupational therapy
10 assistant, including actions against an individual's license
11 or compact privilege such as censure, revocation, suspension,
12 probation, monitoring of the licensee, or restriction on the
13 licensee's practice.

14 (3) ALTERNATIVE PROGRAM. A non-disciplinary
15 monitoring process approved by an occupational therapy
16 licensing board.

17 (4) COMPACT PRIVILEGE. The authorization, which is
18 equivalent to a license, granted by a remote state to allow a
19 licensee from another member state to practice as an
20 occupational therapist or practice as an occupational therapy
21 assistant in the remote state under its laws and rules. The
22 practice of occupational therapy occurs in the member state
23 where the patient/client is located at the time of the
24 patient/client encounter.

1 (5) CONTINUING COMPETENCE/EDUCATION. A requirement,
2 as a condition of license renewal, to provide evidence of
3 participation in, and/or completion of, educational and
4 professional activities relevant to practice or area of work.

5 (6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.
6 Investigative information that a licensing board, after an
7 inquiry or investigation that includes notification and an
8 opportunity for the occupational therapist or occupational
9 therapy assistant to respond, if required by state law, has
10 reason to believe is not groundless and, if proved true, would
11 indicate more than a minor infraction.

12 (7) DATA SYSTEM. A repository of information about
13 licensees, including, but not limited to, license status,
14 investigative information, compact privileges, and adverse
15 actions.

16 (8) ENCUMBERED LICENSE. A license in which an
17 adverse action restricts the practice of occupational therapy
18 by the licensee or said adverse action has been reported to
19 the National Practitioners Data Bank (NPDB).

20 (9) EXECUTIVE COMMITTEE. A group of directors
21 elected or appointed to act on behalf of, and within the
22 powers granted to them by, the commission.

23 (10) HOME STATE. The member state that is the
24 licensee's primary state of residence.

1 (11) IMPAIRED PRACTITIONER. Individuals whose
2 professional practice is adversely affected by substance
3 abuse, addiction, or other health-related conditions.

4 (12) INVESTIGATIVE INFORMATION. Information,
5 records, and/or documents received or generated by an
6 occupational therapy licensing board pursuant to an
7 investigation.

8 (13) JURISPRUDENCE REQUIREMENT. The assessment of an
9 individual's knowledge of the laws and rules governing the
10 practice of occupational therapy in a state.

11 (14) LICENSEE. An individual who currently holds an
12 authorization from the state to practice as an occupational
13 therapist or as an occupational therapy assistant.

14 (15) MEMBER STATE. A state that has enacted the
15 compact.

16 (16) OCCUPATIONAL THERAPIST. An individual who is
17 licensed by a state to practice occupational therapy.

18 (17) OCCUPATIONAL THERAPY ASSISTANT. An individual
19 who is licensed by a state to assist in the practice of
20 occupational therapy.

21 (18) OCCUPATIONAL THERAPY COMPACT COMMISSION or
22 COMMISSION. The national administrative body whose membership
23 consists of all states that have enacted the compact.

24 (19) OCCUPATIONAL THERAPY LICENSING BOARD or
25 LICENSING BOARD. The agency of a state that is authorized to

1 license and regulate occupational therapists and occupational
2 therapy assistants.

3 (20) OCCUPATIONAL THERAPY, OCCUPATIONAL THERAPY
4 PRACTICE, and PRACTICE OF OCCUPATIONAL THERAPY. The care and
5 services provided by an occupational therapist or an
6 occupational therapy assistant as set forth in the member
7 state's statutes and regulations.

8 (21) PRIMARY STATE OF RESIDENCE. The state (also
9 known as the home state) in which an occupational therapist or
10 occupational therapy assistant who is not active duty military
11 declares a primary residence for legal purposes as verified
12 by: driver license, federal income tax return, lease, deed,
13 mortgage, or voter registration, or other verifying
14 documentation as further defined by commission rules.

15 (22) REMOTE STATE. A member state other than the
16 home state, where a licensee is exercising or seeking to
17 exercise the compact privilege.

18 (23) RULE. A regulation adopted by the commission
19 that has the force of law.

20 (24) SINGLE STATE LICENSE. An occupational therapist
21 or occupational therapy assistant license issued by a member
22 state that authorizes practice only within the issuing state
23 and does not include a compact privilege in any other member
24 state.

1 (25) STATE. Any state, commonwealth, district, or
2 territory of the United States that regulates the practice of
3 occupational therapy.

4 (26) TELEHEALTH. The application of
5 telecommunication technology to deliver occupational therapy
6 services for assessment, intervention, and/or consultation.

7 Section 3. STATE PARTICIPATION IN THE COMPACT

8 (a) To participate in the compact, a member state
9 shall:

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

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

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

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

21 (5) Implement or utilize procedures for considering
22 the criminal history records of applicants for an initial
23 compact privilege. These procedures shall include the
24 submission of fingerprints or other biometric-based
25 information by applicants for the purpose of obtaining an

1 applicant's criminal history record information from the
2 Federal Bureau of Investigation (FBI) and the agency
3 responsible for retaining that state's criminal records.

4 a. A member state shall, within a time frame
5 established by the commission, require a criminal background
6 check for a licensee seeking or applying for a compact
7 privilege whose primary state of residence is that member
8 state, by receiving the results of the FBI criminal record
9 search, and shall use the results in making licensure
10 decisions.

11 b. Communication between a member state, the
12 commission, and among member states regarding the verification
13 of eligibility for licensure through the compact shall not
14 include any information received from the FBI relating to a
15 federal criminal records check performed by a member state
16 under Public Law 92-544.

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

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

21 (8) Have continuing competence and education
22 requirements as a condition for license renewal.

23 (b) A member state shall grant the compact privilege
24 to a licensee holding a valid unencumbered license in another

1 member state in accordance with the terms of the compact and
2 rules.

3 (c) Member states may charge a fee for granting a
4 compact privilege.

5 (d) A member state shall provide for the state's
6 delegate to attend all occupational therapy compact commission
7 meetings.

8 (e) Individuals not residing in a member state shall
9 continue to be able to apply for a member state's single-state
10 license as provided under the laws of each member state.
11 However, the single state license granted to these individuals
12 shall not be recognized as granting the compact privilege in
13 any other member state.

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

17 Section 4. COMPACT PRIVILEGE

18 (a) To exercise the compact privilege under the
19 terms and provisions of the compact, the licensee shall:

20 (1) Hold a license in the home state;

21 (2) Have a valid United States Social Security
22 number or National Practitioner Identification number;

23 (3) Have no encumbrance on any state license;

24 (4) Be eligible for a compact privilege in any
25 member state in accordance with Sections 4D, F, G, and H;

1 (5) Have paid all fines and completed all
2 requirements resulting from any adverse action against any
3 license or compact privilege, and two years have elapsed from
4 the date of such completion;

5 (6) Notify the commission that the licensee is
6 seeking the compact privilege within a remote state or states;

7 (7) Pay any applicable fees, including any state
8 fee, for the compact privilege;

9 (8) Complete a criminal background check in
10 accordance with Section 3(a)(5). The licensee shall be
11 responsible for the payment of any fee associated with the
12 completion of a criminal background check;

13 (9) Meet any jurisprudence requirements established
14 by the remote state or states in which the licensee is seeking
15 a compact privilege; and

16 (10) Report to the commission adverse action taken
17 by any non-member state within 30 days from the date the
18 adverse action is taken.

19 (b) The compact privilege is valid until the
20 expiration date of the home state license. The licensee must
21 comply with the requirements of Section 4(a) to maintain the
22 compact privilege in the remote state.

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

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

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

13 (f) If a home state license is encumbered, the
14 licensee shall lose the compact privilege in any remote state
15 until the following occur:

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

17 (2) Two years have elapsed from the date on which
18 the home state license is no longer encumbered in accordance
19 with Section 4(f)(1).

20 (g) Once an encumbered license in the home state is
21 restored to good standing, the licensee must meet the
22 requirements of Section 4(a) to obtain a compact privilege in
23 any remote state.

1 (h) If a licensee's compact privilege in any remote
2 state is removed, the individual may lose the compact
3 privilege in any other remote state until the following occur:

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

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

8 (3) Two years have elapsed from the date of
9 completing requirements for Section 4(h)(1) and (2).

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

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

16 (j) Once the requirements of Section 4(h) have been
17 met, the licensee must meet the requirements in Section 4(a)
18 to obtain a compact privilege in a remote state.

19 Section 5. OBTAINING A NEW HOME STATE LICENSE BY
20 VIRTUE OF COMPACT PRIVILEGE

21 (a) An occupational therapist or occupational
22 therapy assistant may hold a home state license, which allows
23 for compact privileges in member states, in only one member
24 state at a time.

1 (b) If an occupational therapist or occupational
2 therapy assistant changes primary state of residence by moving
3 between two member states:

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

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

15 a. An FBI fingerprint based criminal background
16 check if not previously performed or updated pursuant to
17 applicable rules adopted by the commission in accordance with
18 Public Law 92-544;

19 b. Other criminal background check as required by
20 the new home state; and

21 c. Submission of any requisite jurisprudence
22 requirements of the new home state.

23 (3) The former home state shall convert the former
24 home state license into a compact privilege once the new home

1 state has activated the new home state license in accordance
2 with applicable rules adopted by the commission.

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

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

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

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

20 (e) Nothing in this compact shall affect the
21 requirements established by a member state for the issuance of
22 a single-state license.

23 Section 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
24 SPOUSES

1 Active duty military personnel, or their spouses,
2 shall designate a home state where the individual has a
3 current license in good standing. The individual may retain
4 the home state designation during the period the service
5 member is on active duty. Subsequent to designating a home
6 state, the individual shall only change his or her home state
7 through application for licensure in the new state, or through
8 the process outlined in Section 5.

9 Section 7. ADVERSE ACTIONS

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

14 (b) In addition to the other powers conferred by
15 state law, a remote state shall have the authority, in
16 accordance with existing state due process law, to:

17 (1) Take adverse action against a licensed
18 occupational therapist's or occupational therapy assistant's
19 compact privilege within that member state.

20 (2) Issue subpoenas for both hearings and
21 investigations that require the attendance and testimony of
22 witnesses, as well as the production of evidence. Subpoenas
23 issued by a licensing board in a member state for the
24 attendance and testimony of witnesses or the production of
25 evidence from another member state shall be enforced in the

1 latter state by any court of competent jurisdiction, according
2 to the practice and procedure of that court applicable to
3 subpoenas issued in proceedings pending before it. The issuing
4 authority shall pay any witness fees, travel expenses,
5 mileage, and other fees required by the service statutes of
6 the state in which the witnesses or evidence are located.

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

13 (d) The home state shall complete any pending
14 investigations of an occupational therapist or occupational
15 therapy assistant who changes primary state of residence
16 during the course of the investigations. The home state, where
17 the investigations were initiated, shall also have the
18 authority to take appropriate action or actions and shall
19 promptly report the conclusions of the investigations to the
20 Occupational Therapist Compact Commission data system. The
21 Occupational Therapy Compact Commission data system
22 administrator shall promptly notify the new home state of any
23 adverse actions.

24 (e) A member state, if otherwise permitted by state
25 law, may recover from the affected occupational therapist or

1 occupational therapy assistant the costs of investigations and
2 disposition of cases resulting from any adverse action taken
3 against that occupational therapist or occupational therapy
4 assistant.

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

9 (g) Joint Investigations:

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

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

18 (h) If an adverse action is taken by the home state
19 against an occupational therapist's or occupational therapy
20 assistant's license, the occupational therapist's or
21 occupational therapy assistant's compact privilege in all
22 other member states shall be deactivated until all
23 encumbrances have been removed from the state license. All
24 home state disciplinary orders that impose adverse action
25 against an occupational therapist's or occupational therapy

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

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

9 (j) Nothing in this compact shall override a member
10 state's decision that participation in an alternative program
11 may be used in lieu of adverse action.

12 Section 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY
13 COMPACT COMMISSION

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

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

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

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

3 (b) Membership, voting, and meetings.

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

6 (2) The delegate shall be either:

7 a. A current member of the licensing board, who is
8 an occupational therapist, occupational therapy assistant, or
9 public member; or

10 b. An administrator of the licensing board.

11 (3) Any delegate may be removed or suspended from
12 office as provided by the law of the state from which the
13 delegate is appointed.

14 (4) The member state licensing board shall fill any
15 vacancy occurring on the commission within 90 days.

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

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

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

3 (c) The commission shall have the following powers
4 and duties:

5 (1) Establish a code of ethics for the commission;

6 (2) Establish the fiscal year of the commission;

7 (3) Establish bylaws;

8 (4) Maintain its financial records in accordance
9 with the bylaws;

10 (5) Meet and take such actions as are consistent
11 with the provisions of this compact and the bylaws;

12 (6) Adopt uniform rules to facilitate and coordinate
13 implementation and administration of this compact. The rules
14 shall have the force and effect of law and shall be binding in
15 all member states;

16 (7) Bring and prosecute legal proceedings or actions
17 in the name of the commission, provided that the standing of
18 any state occupational therapy licensing board to sue or be
19 sued under applicable law shall not be affected;

20 (8) Purchase and maintain insurance and bonds;

21 (9) Borrow, accept, or contract for services of
22 personnel, including, but not limited to, employees of a
23 member state;

24 (10) Hire employees, elect or appoint officers, fix
25 compensation, define duties, grant such individuals

1 appropriate authority to carry out the purposes of the
2 compact, and establish the commission's personnel policies and
3 programs relating to conflicts of interest, qualifications of
4 personnel, and other related personnel matters;

5 (11) Accept any and all appropriate donations and
6 grants of money, equipment, supplies, materials, and services,
7 and receive, utilize, and dispose of the same; provided, that
8 at all times the commission shall avoid any appearance of
9 impropriety and/or conflict of interest;

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

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

18 (14) Establish a budget and make expenditures;

19 (15) Borrow money;

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

1 (17) Provide and receive information from, and
2 cooperate with, law enforcement agencies;

3 (18) Establish and elect an executive committee; and

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

8 (d) The executive committee.

9 (1) The executive committee shall have the power to
10 act on behalf of the commission according to the terms of this
11 compact.

12 (2) The executive committee shall be composed of up
13 to nine members:

14 a. Seven voting members who are elected by the
15 commission from the current membership of the commission;

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

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

22 d. The ex-officio members will be selected by their
23 respective organizations.

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

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

3 (5) The executive committee shall have the following
4 duties and responsibilities:

5 a. Recommend to the entire commission changes to the
6 rules or bylaws, changes to this compact legislation, fees
7 paid by compact member states such as annual dues, and any
8 commission compact fees charged to licensees for the privilege
9 to practice within the compact;

10 b. Ensure compact administration services are
11 appropriately provided, contractual or otherwise;

12 c. Prepare and recommend the budget;

13 d. Maintain financial records on behalf of the
14 commission;

15 e. Monitor compact compliance of member states and
16 provide compliance reports to the commission;

17 f. Establish additional committees as necessary; and

18 g. Perform other duties as provided in rules or
19 bylaws.

20 (e) Meetings of the commission.

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

24 (2) The commission or the executive committee or
25 other committees of the commission may convene in a closed,

1 non-public meeting if the commission or executive committee or
2 other committees of the commission must discuss:

3 a. Non-compliance of a member state with its
4 obligations under the compact;

5 b. The employment, compensation, discipline or other
6 matters, practices, or procedures related to specific
7 employees, or other matters related to the commission's
8 internal personnel practices and procedures;

9 c. Current, threatened, or reasonably anticipated
10 litigation;

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

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

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

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

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

22 i. Disclosure of information related to any
23 investigative reports prepared by or on behalf of or for use
24 of the commission or other committee charged with

1 responsibility of investigation or determination of compliance
2 issues pursuant to the compact; or

3 j. Matters specifically exempted from disclosure by
4 federal or member state statute.

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

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

18 (f) Financing of the commission.

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

22 (2) The commission may accept any and all
23 appropriate revenue sources, donations, and grants of money,
24 equipment, supplies, materials, and services.

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

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

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

23 (g) Qualified immunity, defense, and
24 indemnification.

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

15 (2) The commission shall defend any member, officer,
16 executive director, employee, or representative of the
17 commission in any civil action seeking to impose liability
18 arising out of any actual or alleged act, error, or omission
19 that occurred within the scope of commission employment,
20 duties, or responsibilities, or that the person against whom
21 the claim is made had a reasonable basis for believing
22 occurred within the scope of commission employment, duties, or
23 responsibilities; provided that nothing herein shall be
24 construed to prohibit that person from retaining his or her
25 own counsel; and provided further, that the actual or alleged

1 act, error, or omission did not result from that person's
2 intentional or willful or wanton misconduct.

3 (3) The commission shall indemnify and hold harmless
4 any member, officer, executive director, employee, or
5 representative of the commission for the amount of any
6 settlement or judgment obtained against that person arising
7 out of any actual or alleged act, error, or omission that
8 occurred within the scope of commission employment, duties, or
9 responsibilities, or that the person had a reasonable basis
10 for believing occurred within the scope of commission
11 employment, duties, or responsibilities, provided that the
12 actual or alleged act, error, or omission did not result from
13 the intentional or willful or wanton misconduct of that
14 person.

15 Section 9. DATA SYSTEM

16 (a) The commission shall provide for the
17 development, maintenance, operation, and utilization of a
18 coordinated database and reporting system containing
19 licensure, adverse action, and investigative information on
20 all licensed individuals in member states.

21 (b) A member state shall submit a uniform data set
22 to the data system on all individuals to whom this compact is
23 applicable (utilizing a unique identifier) as required by the
24 rules of the commission, including:

25 (1) Identifying information;

- 1 (2) Licensure data;
- 2 (3) Adverse actions against a license or privilege
3 within the compact to practice ;
- 4 (4) Non-confidential information related to
5 alternative program participation;
- 6 (5) Any denial of application for licensure, and the
7 reason or reasons for the denial;
- 8 (6) Other information that may facilitate the
9 administration of this compact, as determined by the rules of
10 the commission; and
- 11 (7) Current significant investigative information.
- 12 (c) Current significant investigative information
13 and other investigative information pertaining to a licensee
14 in any member state will only be available to other member
15 states.
- 16 (d) The commission shall promptly notify all member
17 states of any adverse action taken against a licensee or an
18 individual applying for a license. Adverse action information
19 pertaining to a licensee in any member state will be available
20 to any other member state.
- 21 (e) Member states contributing information to the
22 data system may designate information that may not be shared
23 with the public without the express permission of the
24 contributing state.

1 (f) Any information submitted to the data system
2 that is subsequently required to be expunged by the laws of
3 the member state contributing the information shall be removed
4 from the data system.

5 Section 10. RULEMAKING

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

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

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

23 (d) Rules or amendments to the rules shall be
24 adopted at a regular or special meeting of the commission.

1 (e) Prior to promulgation and adoption of a final
2 rule or rules by the commission, and at least 30 days in
3 advance of the meeting at which the rule will be considered
4 and voted upon, the commission shall file a notice of proposed
5 rulemaking as follows:

6 (1) On the website of the commission or other
7 publicly accessible platform.

8 (2) On the website of each member state occupational
9 therapy counseling licensing board or other publicly
10 accessible platform or the publication in which each state
11 would otherwise publish proposed rules.

12 (f) The notice of proposed rulemaking shall include:

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

15 (2) The text of the proposed rule or amendment and
16 the reason for the proposed rule;

17 (3) A request for comments on the proposed rule from
18 any interested person; and

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

22 (g) Prior to adoption of a proposed rule, the
23 commission shall allow persons to submit written data, facts,
24 opinions, and arguments, which shall be made available to the
25 public.

1 (h) The commission shall grant an opportunity for a
2 public hearing before it adopts a rule or amendment if a
3 hearing is requested by:

4 (1) At least 25 persons;

5 (2) A state or federal governmental subdivision or
6 agency; or

7 (3) An association having at least 25 members.

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

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

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

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

23 (4) Nothing in this section shall be construed as
24 requiring a separate hearing on each rule. Rules may be

1 grouped for the convenience of the commission at hearings
2 required by this section.

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

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

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

15 (m) Upon determination that an emergency exists, the
16 commission may consider and adopt an emergency rule without
17 prior notice, opportunity for comment, or hearing, provided
18 that the usual rulemaking procedures provided in the compact
19 and in this section shall be retroactively applied to the rule
20 as soon as reasonably possible, in no event later than 90 days
21 after the effective date of the rule. For the purposes of this
22 provision, an emergency rule is one that must be adopted
23 immediately in order to:

24 (1) Meet an imminent threat to public health,
25 safety, or welfare;

1 (2) Prevent a loss of commission or member state
2 funds;

3 (3) Meet a deadline for the adoption of an
4 administrative rule that is established by federal law or
5 rule; or

6 (4) Protect public health and safety.

7 (n) The commission or an authorized committee of the
8 commission may direct revisions to a previously adopted rule
9 or amendment for purposes of correcting typographical errors,
10 errors in format, errors in consistency, or grammatical
11 errors. Public notice of any revision shall be posted on the
12 website of the commission. The revision shall be subject to
13 challenge by any person for a period of 30 days after posting.
14 The revision may be challenged only on grounds that the
15 revision results in a material change to a rule. A challenge
16 shall be made in writing and delivered to the chair of the
17 commission prior to the end of the notice period. If no
18 challenge is made, the revision will take effect without
19 further action. If the revision is challenged, the revision
20 may not take effect without the approval of the commission.

21 Section 11. OVERSIGHT, DISPUTE RESOLUTION, AND
22 ENFORCEMENT

23 (a) Oversight.

24 (1) The executive, legislative, and judicial
25 branches of state government in each member state shall

1 enforce this compact and take all actions necessary and
2 appropriate to effectuate the compact's purposes and intent.
3 The provisions of this compact and the rules adopted hereunder
4 shall have standing as statutory law.

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

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

16 (b) Default, technical assistance, and termination.

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

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

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

3 (2) If a state in default fails to cure the default,
4 the defaulting state may be terminated from the compact upon
5 an affirmative vote of a majority of the member states, and
6 all rights, privileges, and benefits conferred by this compact
7 may be terminated on the effective date of termination. A cure
8 of the default does not relieve the offending state of
9 obligations or liabilities incurred during the period of
10 default.

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

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

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

1 (6) The defaulting state may appeal the action of
2 the commission by petitioning the U.S. District Court for the
3 District of Columbia or the federal district where the
4 commission has its principal offices. The prevailing member
5 shall be awarded all costs of such litigation, including
6 reasonable attorney fees.

7 (c) Dispute Resolution.

8 (1) Upon request by a member state, the commission
9 shall attempt to resolve disputes related to the compact that
10 arise among member states and between member and non-member
11 states.

12 (2) The commission shall adopt a rule providing for
13 both mediation and binding dispute resolution for disputes as
14 appropriate.

15 (d) Enforcement.

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

19 (2) By majority vote, the commission may initiate
20 legal action in the U.S. District Court for the District of
21 Columbia or the federal district where the commission has its
22 principal offices against a member state in default to enforce
23 compliance with the provisions of the compact and its adopted
24 rules and bylaws. The relief sought may include both
25 injunctive relief and damages. In the event judicial

1 enforcement is necessary, the prevailing member shall be
2 awarded all costs of litigation, including reasonable attorney
3 fees.

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

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

10 (a) The compact shall come into effect on the date
11 on which the compact statute is enacted into law in the 10th
12 member state. The provisions which become effective at that
13 time shall be limited to the powers granted to the commission
14 relating to assembly and the adoption of rules. Thereafter,
15 the commission shall meet and exercise rulemaking powers
16 necessary to the implementation and administration of the
17 compact.

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

1 (c) Any member state may withdraw from this compact
2 by enacting a statute repealing the same.

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

6 (2) Withdrawal shall not affect the continuing
7 requirement of the withdrawing state's occupational therapy
8 licensing board to comply with the investigative and adverse
9 action reporting requirements of this act prior to the
10 effective date of withdrawal.

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

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

20 Section 13. CONSTRUCTION AND SEVERABILITY

21 This compact shall be liberally construed so as to
22 effectuate the purposes thereof. The provisions of this
23 compact shall be severable, and if any phrase, clause,
24 sentence, or provision of this compact is declared to be
25 contrary to the constitution of any member state or of the

1 United States or the applicability thereof to any government,
2 agency, person, or circumstance is held invalid, the validity
3 of the remainder of this compact and the applicability thereof
4 to any government, agency, person, or circumstance shall not
5 be affected thereby. If this compact shall be held contrary to
6 the constitution of any member state, the compact shall remain
7 in full force and effect as to the remaining member states and
8 in full force and effect as to the member state affected as to
9 all severable matters.

10 Section 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

11 (a) A licensee providing occupational therapy
12 services in a remote state under the compact privilege shall
13 function within the laws and regulations of the remote state.

14 (b) Nothing herein prevents the enforcement of any
15 other law of a member state that is not inconsistent with the
16 compact.

17 (c) Any laws in a member state in conflict with the
18 compact are superseded to the extent of the conflict.

19 (d) Any lawful actions of the commission, including
20 all rules and bylaws properly adopted by the commission, are
21 binding upon the member states.

22 (e) All agreements between the commission and the
23 member states are binding in accordance with their terms.

24 (f) In the event any provision of the compact
25 exceeds the constitutional limits imposed on the Legislature

1 of any member state, the provision shall be ineffective to the
2 extent of the conflict with the constitutional provision in
3 question in that member state.

4 Section 15. Except as to judicial proceedings for
5 the enforcement of this compact among member states,
6 individuals may pursue judicial proceedings related to this
7 compact in any Alabama state or federal court that would
8 otherwise have competent jurisdiction.

9 Section 16. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB167

Senate 15-FEB-22

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 24-FEB-22

By: Senator Shelnutt