

CERTIFICATION OF ENROLLMENT

SENATE BILL 5518

67th Legislature
2022 Regular Session

Passed by the Senate February 2, 2022
Yeas 47 Nays 0

President of the Senate

Passed by the House March 2, 2022
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5518** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5518

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By Senators Muzzall, Keiser, Cleveland, Conway, Gildon, Hunt, and Randall

Prefiled 12/08/21. Read first time 01/10/22. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to the occupational therapy licensure compact;
2 and adding a new section to chapter 18.59 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.59
5 RCW to read as follows:

6 **OCCUPATIONAL THERAPY LICENSURE COMPACT**

7
8 **ARTICLE 1**

9 **PURPOSE**

10

11 The purpose of this compact is to facilitate interstate practice
12 of occupational therapy with the goal of improving public access to
13 occupational therapy services. The practice of occupational therapy
14 occurs in the state where the patient/client is located at the time
15 of the patient/client encounter. This compact preserves the
16 regulatory authority of states to protect public health and safety
17 through the current system of state licensure.

18 This compact is designed to achieve the following objectives:

19 (1) Increase public access to occupational therapy services by
20 providing for the mutual recognition of other member state licenses;

1 (2) Enhance the states' ability to protect the public's health
2 and safety;

3 (3) Encourage the cooperation of member states in regulating
4 multistate occupational therapy practice;

5 (4) Support spouses of relocating military members;

6 (5) Enhance the exchange of licensure, investigative, and
7 disciplinary information between member states;

8 (6) Allow a remote state to hold a provider of services with a
9 compact privilege in that state accountable to that state's practice
10 standards; and

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

13
14 **ARTICLE 2**
15 **DEFINITIONS**
16

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

19 (1) "Active duty military" means full-time duty status in the
20 active uniformed service of the United States, including members of
21 the national guard and reserve on active duty orders pursuant to 10
22 U.S.C. chapters 1209 and 1211.

23 (2) "Adverse action" means any administrative, civil, equitable,
24 or criminal action permitted by a state's laws which is imposed by a
25 licensing board or other authority against an occupational therapist
26 or occupational therapy assistant, including actions against an
27 individual's license or compact privilege such as censure,
28 revocation, suspension, probation, monitoring of the licensee, or
29 restriction on the licensee's practice.

30 (3) "Alternative program" means a nondisciplinary monitoring
31 process approved by an occupational therapy licensing board.

32 (4) "Compact privilege" means the authorization, which is
33 equivalent to a license, granted by a remote state to allow a
34 licensee from another member state to practice as an occupational
35 therapist or practice as an occupational therapy assistant in the
36 remote state under its laws and rules. The practice of occupational
37 therapy occurs in the member state where the patient/client is
38 located at the time of the patient/client encounter.

39 (5) "Continuing competence/education" means a requirement, as a
40 condition of license renewal, to provide evidence of participation

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

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

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

12 (8) "Encumbered license" means a license in which an adverse
13 action restricts the practice of occupational therapy by the licensee
14 or said adverse action has been reported to the national
15 practitioners data bank.

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

19 (10) "Home state" means the member state that is the licensee's
20 primary state of residence.

21 (11) "Impaired practitioner" means an individual whose
22 professional practice is adversely affected by substance abuse,
23 addiction, or other health-related conditions.

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

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

30 (14) "Licensee" means an individual who currently holds an
31 authorization from the state to practice as an occupational therapist
32 or as an occupational therapy assistant.

33 (15) "Member state" means a state that has enacted the compact.

34 (16) "Occupational therapist" means an individual who is licensed
35 by a state to practice occupational therapy.

36 (17) "Occupational therapy," "occupational therapy practice," and
37 "practice of occupational therapy" mean the care and services
38 provided by an occupational therapist or an occupational therapy
39 assistant as set forth in the member state's statutes and
40 regulations.

1 (18) "Occupational therapy assistant" means an individual who is
2 licensed by a state to assist in the practice of occupational
3 therapy.

4 (19) "Occupational therapy compact commission" or "commission"
5 means the national administrative body whose membership consists of
6 all states that have enacted the compact.

7 (20) "Occupational therapy licensing board" or "licensing board"
8 means the agency of a state that is authorized to license and
9 regulate occupational therapists and occupational therapy assistants.

10 (21) "Primary state of residence" means the state, also known as
11 the home state, in which an occupational therapist or occupational
12 therapy assistant who is not active duty military declares a primary
13 residence for legal purposes as verified by: Driver's license,
14 federal income tax return, lease, deed, mortgage, or voter
15 registration, or other verifying documentation as further defined by
16 commission rules.

17 (22) "Remote state" means a member state other than the home
18 state, where a licensee is exercising or seeking to exercise the
19 compact privilege.

20 (23) "Rule" means a regulation promulgated by the commission that
21 has the force of law.

22 (24) "Single-state license" means an occupational therapist or
23 occupational therapy assistant license issued by a member state that
24 authorizes practice only within the issuing state and does not
25 include a compact privilege in any other member state.

26 (25) "State" means any state, commonwealth, district, or
27 territory of the United States of America that regulates the practice
28 of occupational therapy.

29 (26) "Telehealth" means the application of telecommunication
30 technology to deliver occupational therapy services for assessment,
31 intervention, and/or consultation.

32 33 **ARTICLE 3**

34 **STATE PARTICIPATION IN THIS COMPACT**

35
36 (1) To participate in this compact, a member state shall:

37 (a) License occupational therapists and occupational therapy
38 assistants;

1 (b) Participate fully in the commission's data system including,
2 but not limited to, using the commission's unique identifier as
3 defined in rules of the commission;

4 (c) Have a mechanism in place for receiving and investigating
5 complaints about licensees;

6 (d) Notify the commission, in compliance with the terms of this
7 compact and rules, of any adverse action or the availability of
8 investigative information regarding a licensee;

9 (e) Implement or utilize procedures for considering the criminal
10 history records of applicants for an initial compact privilege. These
11 procedures shall include the submission of fingerprints or other
12 biometric-based information by applicants for the purpose of
13 obtaining an applicant's criminal history record information from the
14 federal bureau of investigation and the agency responsible for
15 retaining that state's criminal records.

16 (i) A member state shall, within a time frame established by the
17 commission, require a criminal background check for a licensee
18 seeking or applying for a compact privilege whose primary state of
19 residence is that member state, by receiving the results of the
20 federal bureau of investigation criminal record search, and shall use
21 the results in making licensure decisions.

22 (ii) Communication between a member state, the commission, and
23 among member states regarding the verification of eligibility for
24 licensure through this compact shall not include any information
25 received from the federal bureau of investigation relating to a
26 federal criminal records check performed by a member state under P.L.
27 92-544;

28 (f) Comply with the rules of the commission;

29 (g) Utilize only a recognized national examination as a
30 requirement for licensure pursuant to the rules of the commission;
31 and

32 (h) Have continuing competence/education requirements as a
33 condition for license renewal.

34 (2) A member state shall grant the compact privilege to a
35 licensee holding a valid unencumbered license in another member state
36 in accordance with the terms of this compact and rules.

37 (3) Member states may charge a fee for granting a compact
38 privilege.

39 (4) A member state shall provide for the state's delegate to
40 attend all occupational therapy compact commission meetings.

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

6 (6) Nothing in this compact shall affect the requirements
7 established by a member state for the issuance of a single-state
8 license.

9
10 **ARTICLE 4**
11 **COMPACT PRIVILEGE**
12

13 (1) To exercise the compact privilege under the terms and
14 provisions of this compact, the licensee shall:

15 (a) Hold a license in the home state;

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

18 (c) Have no encumbrance on any state license;

19 (d) Be eligible for a compact privilege in any member state in
20 accordance with subsections (4), (6), (7), and (8) of this Article;

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

24 (f) Notify the commission that the licensee is seeking the
25 compact privilege within a remote state or states;

26 (g) Pay any applicable fees, including any state fee, for the
27 compact privilege;

28 (h) Complete a criminal background check in accordance with
29 subsection (1)(e) of Article 3 of this compact. The licensee shall be
30 responsible for the payment of any fee associated with the completion
31 of a criminal background check;

32 (i) Meet any jurisprudence requirements established by the remote
33 state or states in which the licensee is seeking a compact privilege;
34 and

35 (j) Report to the commission adverse action taken by any
36 nonmember state within 30 days from the date the adverse action is
37 taken.

38 (2) The compact privilege is valid until the expiration date of
39 the home state license. The licensee must comply with the

1 requirements of subsection (1) of this Article to maintain the
2 compact privilege in the remote state.

3 (3) A licensee providing occupational therapy in a remote state
4 under the compact privilege shall function within the laws and
5 regulations of the remote state.

6 (4) Occupational therapy assistants practicing in a remote state
7 shall be supervised by an occupational therapist licensed or holding
8 a compact privilege in that remote state.

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

17 (6) If a home state license is encumbered, the licensee shall
18 lose the compact privilege in any remote state until the following
19 occur:

20 (a) The home state license is no longer encumbered; and

21 (b) Two years have elapsed from the date on which the home state
22 license is no longer encumbered in accordance with (a) of this
23 subsection.

24 (7) Once an encumbered license in the home state is restored to
25 good standing, the licensee must meet the requirements of subsection
26 (1) of this Article to obtain a compact privilege in any remote
27 state.

28 (8) If a licensee's compact privilege in any remote state is
29 removed, the individual may lose the compact privilege in any other
30 remote state until the following occur:

31 (a) The specific period of time for which the compact privilege
32 was removed has ended;

33 (b) All fines have been paid and all conditions have been met;

34 (c) Two years have elapsed from the date of completing
35 requirements for (a) and (b) of this subsection; and

36 (d) The compact privileges are reinstated by the commission, and
37 the compact data system is updated to reflect reinstatement.

38 (9) If a licensee's compact privilege in any remote state is
39 removed due to an erroneous charge, privileges shall be restored
40 through the compact data system.

1 (10) Once the requirements of subsection (8) of this Article have
2 been met, the licensee must meet the requirements in subsection (1)
3 of this Article to obtain a compact privilege in a remote state.
4

5 **ARTICLE 5**

6 **OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE**
7

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

11 (2) If an occupational therapist or occupational therapy
12 assistant changes primary state of residence by moving between two
13 member states:

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

19 (b) Upon receipt of an application for obtaining a new home state
20 license by virtue of compact privilege, the new home state shall
21 verify that the occupational therapist or occupational therapy
22 assistant meets the pertinent criteria outlined in Article 4 of this
23 compact via the data system, without need for primary source
24 verification except for:

25 (i) A federal bureau of investigation fingerprint-based criminal
26 background check if not previously performed or updated pursuant to
27 applicable rules adopted by the commission in accordance with P.L.
28 92-544;

29 (ii) Other criminal background check as required by the new home
30 state; and

31 (iii) Submission of any requisite jurisprudence requirements of
32 the new home state.

33 (c) The former home state shall convert the former home state
34 license into a compact privilege once the new home state has
35 activated the new home state license in accordance with applicable
36 rules adopted by the commission.

37 (d) Notwithstanding any other provision of this compact, if the
38 occupational therapist or occupational therapy assistant cannot meet
39 the criteria in Article 4 of this compact, the new home state shall
40 apply its requirements for issuing a new single-state license.

1 (e) The occupational therapist or the occupational therapy
2 assistant shall pay all applicable fees to the new home state in
3 order to be issued a new home state license.

4 (3) If an occupational therapist or occupational therapy
5 assistant changes primary state of residence by moving from a member
6 state to a nonmember state, or from a nonmember state to a member
7 state, the state criteria shall apply for issuance of a single-state
8 license in the new state.

9 (4) Nothing in this compact shall interfere with a licensee's
10 ability to hold a single-state license in multiple states; however,
11 for the purposes of this compact, a licensee shall have only one home
12 state license.

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

16
17 **ARTICLE 6**

18 **ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

19
20 Active duty military personnel, or their spouses, shall designate
21 a home state where the individual has a current license in good
22 standing. The individual may retain the home state designation during
23 the period the service member is on active duty. Subsequent to
24 designating a home state, the individual shall only change his or her
25 home state through application for licensure in the new state or
26 through the process described in Article 5 of this compact.

27
28 **ARTICLE 7**

29 **ADVERSE ACTIONS**

30
31 (1) Home state shall have exclusive power to impose adverse
32 action against an occupational therapist's or occupational therapy
33 assistant's license issued by the home state.

34 (2) In addition to the other powers conferred by state law, a
35 remote state shall have the authority, in accordance with existing
36 state due process law, to:

37 (a) Take adverse action against an occupational therapist's or
38 occupational therapy assistant's compact privilege within that member
39 state; and

1 (b) Issue subpoenas for both hearings and investigations that
2 require the attendance and testimony of witnesses, as well as the
3 production of evidence. Subpoenas issued by a licensing board in a
4 member state for the attendance and testimony of witnesses or the
5 production of evidence from another member state shall be enforced in
6 the latter state by any court of competent jurisdiction, according to
7 the practice and procedure of that court applicable to subpoenas
8 issued in proceedings pending before it. The issuing authority shall
9 pay any witness fees, travel expenses, mileage, and other fees
10 required by the service statutes of the state in which the witnesses
11 or evidence are located.

12 (3) For purposes of taking adverse action, the home state shall
13 give the same priority and effect to reported conduct received from a
14 member state as it would if the conduct had occurred within the home
15 state. In so doing, the home state shall apply its own state laws to
16 determine appropriate action.

17 (4) The home state shall complete any pending investigations of
18 an occupational therapist or occupational therapy assistant who
19 changes primary state of residence during the course of the
20 investigations. The home state, where the investigations were
21 initiated, shall also have the authority to take appropriate action
22 or actions and shall promptly report the conclusions of the
23 investigations to the occupational therapy compact commission data
24 system. The occupational therapy compact commission data system
25 administrator shall promptly notify the new home state of any adverse
26 actions.

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

32 (6) A member state may take adverse action based on the factual
33 findings of the remote state, provided that the member state follows
34 its own procedures for taking the adverse action.

35 (7) Joint investigations.

36 (a) In addition to the authority granted to a member state by its
37 respective state occupational therapy laws and regulations or other
38 applicable state law, any member state may participate with other
39 member states in joint investigations of licensees.

1 (b) Member states shall share any investigative, litigation, or
2 compliance materials in furtherance of any joint or individual
3 investigation initiated under this compact.

4 (8) If an adverse action is taken by the home state against an
5 occupational therapist's or occupational therapy assistant's license,
6 the occupational therapist's or occupational therapy assistant's
7 compact privilege in all other member states shall be deactivated
8 until all encumbrances have been removed from the state license. All
9 home state disciplinary orders that impose adverse action against an
10 occupational therapist's or occupational therapy assistant's license
11 shall include a statement that the occupational therapist's or
12 occupational therapy assistant's compact privilege is deactivated in
13 all member states during the pendency of the order.

14 (9) If a member state takes adverse action, it shall promptly
15 notify the administrator of the data system. The administrator of the
16 data system shall promptly notify the home state of any adverse
17 actions by remote states.

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

21 22 **ARTICLE 8**

23 **ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION**

24

25 (1) The compact member states hereby create and establish a joint
26 public agency known as the occupational therapy compact commission.

27 (a) The commission is an instrumentality of the compact states.

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

34 (c) Nothing in this compact shall be construed to be a waiver of
35 sovereign immunity.

36 (2) Membership, voting, and meetings.

37 (a) Each member state shall have and be limited to one delegate
38 selected by that member state's licensing board.

39 (b) The delegate shall be either:

1 (i) A current member of the licensing board, who is an
2 occupational therapist, occupational therapy assistant, or public
3 member; or

4 (ii) An administrator of the licensing board.

5 (c) Any delegate may be removed or suspended from office as
6 provided by the law of the state from which the delegate is
7 appointed.

8 (d) The member state board shall fill any vacancy occurring in
9 the commission within 90 days.

10 (e) Each delegate shall be entitled to one vote with regard to
11 the promulgation of rules and creation of bylaws and shall otherwise
12 have an opportunity to participate in the business and affairs of the
13 commission. A delegate shall vote in person or by such other means as
14 provided in the bylaws. The bylaws may provide for delegates'
15 participation in meetings by telephone or other means of
16 communication.

17 (f) The commission shall meet at least once during each calendar
18 year. Additional meetings shall be held as set forth in the bylaws.

19 (g) The commission shall establish by rule a term of office for
20 delegates.

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

22 (a) Establish a code of ethics for the commission;

23 (b) Establish the fiscal year of the commission;

24 (c) Establish bylaws;

25 (d) Maintain its financial records in accordance with the bylaws;

26 (e) Meet and take such actions as are consistent with the
27 provisions of this compact and the bylaws;

28 (f) Promulgate uniform rules to facilitate and coordinate
29 implementation and administration of this compact. The rules shall
30 have the force and effect of law and shall be binding in all member
31 states;

32 (g) Bring and prosecute legal proceedings or actions in the name
33 of the commission, provided that the standing of any state
34 occupational therapy licensing board to sue or be sued under
35 applicable law shall not be affected;

36 (h) Purchase and maintain insurance and bonds;

37 (i) Borrow, accept, or contract for services of personnel
38 including, but not limited to, employees of a member state;

39 (j) Hire employees, elect or appoint officers, fix compensation,
40 define duties, grant such individuals appropriate authority to carry

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

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

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

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

15 (n) Establish a budget and make expenditures;

16 (o) Borrow money;

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

22 (q) Provide and receive information from, and cooperate with, law
23 enforcement agencies;

24 (r) Establish and elect an executive committee; and

25 (s) Perform such other functions as may be necessary or
26 appropriate to achieve the purposes of this compact consistent with
27 the state regulation of occupational therapy licensure and practice.

28 (4) The executive committee shall have the power to act on behalf
29 of the commission according to the terms of this compact.

30 (a) The executive committee shall be composed of nine members:

31 (i) Seven voting members who are elected by the commission from
32 the current membership of the commission;

33 (ii) One ex officio, nonvoting member from a recognized national
34 occupational therapy professional association; and

35 (iii) One ex officio, nonvoting member from a recognized national
36 occupational therapy certification organization.

37 (b) The ex officio members will be selected by their respective
38 organizations.

39 (c) The commission may remove any member of the executive
40 committee as provided in the bylaws.

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

2 (e) The executive committee shall have the following duties and
3 responsibilities:

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

8 (ii) Ensure compact administration services are appropriately
9 provided, contractual or otherwise;

10 (iii) Prepare and recommend the budget;

11 (iv) Maintain financial records on behalf of the commission;

12 (v) Monitor compact compliance of member states and provide
13 compliance reports to the commission;

14 (vi) Establish additional committees as necessary; and

15 (vii) Perform other duties as provided in the rules or bylaws.

16 (5) Meetings of the commission.

17 (a) All meetings shall be open to the public, and public notice
18 of meetings shall be given in the same manner as required under the
19 rule-making provisions in Article 10 of this compact.

20 (b) The commission or the executive committee or other committees
21 of the commission may convene in a closed, nonpublic meeting if the
22 commission or executive committee or other committees of the
23 commission must discuss:

24 (i) Noncompliance of a member state with its obligations under
25 this compact;

26 (ii) The employment, compensation, discipline, or other matters,
27 practices, or procedures related to specific employees or other
28 matters related to the commission's internal personnel practices and
29 procedures;

30 (iii) Current, threatened, or reasonably anticipated litigation;

31 (iv) Negotiation of contracts for the purchase, lease, or sale of
32 goods, services, or real estate;

33 (v) Accusing any person of a crime or formally censuring any
34 person;

35 (vi) Disclosure of trade secrets or commercial or financial
36 information that is privileged or confidential;

37 (vii) Disclosure of information of a personal nature where
38 disclosure would constitute a clearly unwarranted invasion of
39 personal privacy;

1 (viii) Disclosure of investigative records compiled for law
2 enforcement purposes;

3 (ix) Disclosure of information related to any investigative
4 reports prepared by or on behalf of or for use of the commission or
5 other committee charged with responsibility of investigation or
6 determination of compliance issues pursuant to this compact; or

7 (x) Matters specifically exempted from disclosure by federal or
8 member state statute.

9 (c) If a meeting, or portion of a meeting, is closed pursuant to
10 this provision, the commission's legal counsel or designee shall
11 certify that the meeting may be closed and shall reference each
12 relevant exempting provision.

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

21 (6) Financing of the commission.

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

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

28 (c) The commission may levy on and collect an annual assessment
29 from each member state or impose fees on other parties to cover the
30 cost of the operations and activities of the commission and its
31 staff, which must be in a total amount sufficient to cover its annual
32 budget as approved by the commission each year for which revenue is
33 not provided by other sources. The aggregate annual assessment amount
34 shall be allocated based upon a formula to be determined by the
35 commission, which shall promulgate a rule binding upon all member
36 states.

37 (d) The commission shall not incur obligations of any kind prior
38 to securing the funds adequate to meet the same; nor shall the
39 commission pledge the credit of any of the member states, except by
40 and with the authority of the member state.

1 (e) The commission shall keep accurate accounts of all receipts
2 and disbursements. The receipts and disbursements of the commission
3 shall be subject to the audit and accounting procedures established
4 under its bylaws. However, all receipts and disbursements of funds
5 handled by the commission shall be audited yearly by a certified or
6 licensed public accountant, and the report of the audit shall be
7 included in, and become part of, the annual report of the commission.

8 (7) Qualified immunity, defense, and indemnification.

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

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

33 (c) The commission shall indemnify and hold harmless any member,
34 officer, executive director, employee, or representative of the
35 commission for the amount of any settlement or judgment obtained
36 against that person arising out of any actual or alleged act, error,
37 or omission that occurred within the scope of commission employment,
38 duties, or responsibilities, or that such person had a reasonable
39 basis for believing occurred within the scope of commission
40 employment, duties, or responsibilities; provided that the actual or

1 alleged act, error, or omission did not result from the intentional
2 or willful or wanton misconduct of that person.

3
4 **ARTICLE 9**
5 **DATA SYSTEM**

6
7 (1) The commission shall provide for the development,
8 maintenance, and utilization of a coordinated database and reporting
9 system containing licensure, adverse action, and investigative
10 information on all licensed individuals in member states.

11 (2) A member state shall submit a uniform data set to the data
12 system on all individuals to whom this compact is applicable,
13 utilizing a unique identifier, as required by the rules of the
14 commission, including:

15 (a) Identifying information;

16 (b) Licensure data;

17 (c) Adverse actions against a license or compact privilege;

18 (d) Nonconfidential information related to alternative program
19 participation;

20 (e) Any denial of application for licensure, and the reason or
21 reasons for such denial;

22 (f) Other information that may facilitate the administration of
23 this compact, as determined by the rules of the commission; and

24 (g) Current significant investigative information.

25 (3) Current significant investigative information and other
26 investigative information pertaining to a licensee in any member
27 state will only be available to other member states.

28 (4) The commission shall promptly notify all member states of any
29 adverse action taken against a licensee or an individual applying for
30 a license. Adverse action information pertaining to a licensee in any
31 member state will be available to any other member state.

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

35 (6) Any information submitted to the data system that is
36 subsequently required to be expunged by the laws of the member state
37 contributing the information shall be removed from the data system.

38
39 **ARTICLE 10**
40 **RULE MAKING**

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(1) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(2) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.

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

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

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

(a) On the website of the commission or other publicly accessible platform; and

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

(6) The notice of proposed rule making shall include:

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

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

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

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

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

4 (8) The commission shall grant an opportunity for a public
5 hearing before it adopts a rule or amendment if a hearing is
6 requested by:

7 (a) At least 25 persons;

8 (b) A state or federal governmental subdivision or agency; or

9 (c) An association or organization having at least 25 members.

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

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

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

23 (c) All hearings will be recorded. A copy of the recording will
24 be made available on request.

25 (d) Nothing in this section shall be construed as requiring a
26 separate hearing on each rule. Rules may be grouped for the
27 convenience of the commission at hearings required by this Article.

28 (10) Following the scheduled hearing date, or by the close of
29 business on the scheduled hearing date if the hearing was not held,
30 the commission shall consider all written and oral comments received.

31 (11) If no written notice of intent to attend the public hearing
32 by interested parties is received, the commission may proceed with
33 promulgation of the proposed rule without a public hearing.

34 (12) The commission shall, by majority vote of all members, take
35 final action on the proposed rule and shall determine the effective
36 date of the rule, if any, based on the rule-making record and the
37 full text of the rule.

38 (13) Upon determination that an emergency exists, the commission
39 may consider and adopt an emergency rule without prior notice,
40 opportunity for comment, or hearing, provided that the usual rule-

1 making procedures provided in this compact and in this Article shall
2 be retroactively applied to the rule as soon as reasonably possible,
3 in no event later than 90 days after the effective date of the rule.
4 For the purposes of this subsection, an emergency rule is one that
5 must be adopted immediately in order to:

6 (a) Meet an imminent threat to public health, safety, or welfare;

7 (b) Prevent a loss of commission or member state funds;

8 (c) Meet a deadline for the promulgation of an administrative
9 rule that is established by federal law or rule; or

10 (d) Protect public health and safety.

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

24 25 **ARTICLE 11**

26 **OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

27
28 (1) Oversight.

29 (a) The executive, legislative, and judicial branches of state
30 government in each member state shall enforce this compact and take
31 all actions necessary and appropriate to effectuate this compact's
32 purposes and intent. The provisions of this compact and the rules
33 promulgated hereunder shall have standing as statutory law.

34 (b) All courts shall take judicial notice of this compact and the
35 rules in any judicial or administrative proceeding in a member state
36 pertaining to the subject matter of this compact which may affect the
37 powers, responsibilities, or actions of the commission.

38 (c) The commission shall be entitled to receive service of
39 process in any such proceeding, and shall have standing to intervene
40 in such a proceeding for all purposes. Failure to provide service of

1 process to the commission shall render a judgment or order void as to
2 the commission, this compact, or promulgated rules.

3 (2) Default, technical assistance, and termination.

4 (a) If the commission determines that a member state has
5 defaulted in the performance of its obligations or responsibilities
6 under this compact or the promulgated rules, the commission shall:

7 (i) Provide written notice to the defaulting state and other
8 member states of the nature of the default, the proposed means of
9 curing the default, and/or any other action to be taken by the
10 commission; and

11 (ii) Provide remedial training and specific technical assistance
12 regarding the default.

13 (b) If a state in default fails to cure the default, the
14 defaulting state may be terminated from this compact upon an
15 affirmative vote of a majority of the member states, and all rights,
16 privileges, and benefits conferred by this compact may be terminated
17 on the effective date of termination. A cure of the default does not
18 relieve the offending state of obligations or liabilities incurred
19 during the period of default.

20 (c) Termination of membership in this compact shall be imposed
21 only after all other means of securing compliance have been
22 exhausted. Notice of intent to suspend or terminate shall be given by
23 the commission to the governor, the majority and minority leaders of
24 the defaulting state's legislature, and each of the member states.

25 (d) A state that has been terminated is responsible for all
26 assessments, obligations, and liabilities incurred through the
27 effective date of termination, including obligations that extend
28 beyond the effective date of termination.

29 (e) The commission shall not bear any costs related to a state
30 that is found to be in default or that has been terminated from this
31 compact, unless agreed upon in writing between the commission and the
32 defaulting state.

33 (f) The defaulting state may appeal the action of the commission
34 by petitioning the United States district court for the District of
35 Columbia or the federal district where the commission has its
36 principal offices. The prevailing member shall be awarded all costs
37 of such litigation, including reasonable attorneys' fees.

38 (3) Dispute resolution.

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

4 (b) The commission shall promulgate a rule providing for both
5 mediation and binding dispute resolution for disputes as appropriate.

6 (4) Enforcement.

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

9 (b) By majority vote, the commission may initiate legal action in
10 the United States district court for the District of Columbia or the
11 federal district where the commission has its principal offices
12 against a member state in default to enforce compliance with the
13 provisions of this compact and its promulgated rules and bylaws. The
14 relief sought may include both injunctive relief and damages. In the
15 event judicial enforcement is necessary, the prevailing member shall
16 be awarded all costs of such litigation, including reasonable
17 attorneys' fees.

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

21
22 **ARTICLE 12**

23 **DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL**
24 **THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT**

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

33 (2) Any state that joins this compact subsequent to the
34 commission's initial adoption of the rules shall be subject to the
35 rules as they exist on the date on which this compact becomes law in
36 that state. Any rule that has been previously adopted by the
37 commission shall have the full force and effect of law on the day
38 this compact becomes law in that state.

39 (3) Any member state may withdraw from this compact by enacting a
40 statute repealing the same.

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

3 (b) Withdrawal shall not affect the continuing requirement of the
4 withdrawing state's occupational therapy licensing board to comply
5 with the investigative and adverse action reporting requirements of
6 this compact prior to the effective date of withdrawal.

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

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

15 **ARTICLE 13**

16 **CONSTRUCTION AND SEVERABILITY**

17

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

31 **ARTICLE 14**

32 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

33

34 (1) A licensee providing occupational therapy in a remote state
35 under the compact privilege shall function within the laws and
36 regulations of the remote state.

37 (2) Nothing herein prevents the enforcement of any other law of a
38 member state that is not inconsistent with this compact.

39 (3) Any laws in a member state in conflict with this compact are
40 superseded to the extent of the conflict.

1 (4) Any lawful actions of the commission, including all rules and
2 bylaws promulgated by the commission, are binding upon the member
3 states.

4 (5) All agreements between the commission and the member states
5 are binding in accordance with their terms.

6 (6) In the event any provision of this compact exceeds the
7 constitutional limits imposed on the legislature of any member state,
8 the provision shall be ineffective to the extent of the conflict with
9 the constitutional provision in question in that member state.

--- **END** ---