

HOUSE BILL NO. 6446

October 11, 2022, Introduced by Reps. Rogers, Roth, Mekoski, Brabec, Neeley, Cambensy and Hood and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 18301 (MCL 333.18301), as amended by 2008 PA 523, and by adding sections 16188, 18303a, and 18303b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 16188. (1) The occupational therapy licensure compact is**
2 **enacted into law and entered into by this state as a party with all**
3 **jurisdictions that legally join in the compact, in the form**

1 substantially as follows:

2 OCCUPATIONAL THERAPY LICENSURE COMPACT

3 SECTION 1. PURPOSE

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

11 This Compact is designed to achieve the following objectives:

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

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

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

19 D. Support spouses of relocating military members;

20 E. Enhance the exchange of licensure, investigative, and
21 disciplinary information between Member States;

22 F. Allow a Remote State to hold a provider of services with a
23 Compact Privilege in that State accountable to that State's
24 practice standards; and

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

27 SECTION 2. DEFINITIONS

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

1 A. "Active Duty Military" means full-time duty status in the
2 active uniformed service of the United States, including members of
3 the National Guard and Reserve on active duty orders pursuant to 10
4 USC Chapter 1209 and 10 USC Chapter 1211.

5 B. "Adverse Action" means any administrative, civil,
6 equitable, or criminal action permitted by a State's laws which is
7 imposed by a Licensing Board or other authority against an
8 Occupational Therapist or Occupational Therapy Assistant, including
9 actions against an individual's license or Compact Privilege such
10 as censure, revocation, suspension, probation, monitoring of the
11 Licensee, or restriction on the Licensee's practice.

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

14 D. "Compact Privilege" means the authorization, which is
15 equivalent to a license, granted by a Remote State to allow a
16 Licensee from another Member State to practice as an Occupational
17 Therapist or practice as an Occupational Therapy Assistant in the
18 Remote State under its laws and rules. The Practice of Occupational
19 Therapy occurs in the Member State where the patient/client is
20 located at the time of the patient/client encounter.

21 E. "Continuing Competence/Education" means a requirement, as a
22 condition of license renewal, to provide evidence of participation
23 in, and/or completion of, educational and professional activities
24 relevant to practice or area of work.

25 F. "Current Significant Investigative Information" means
26 Investigative Information that a Licensing Board, after an inquiry
27 or investigation that includes notification and an opportunity for
28 the Occupational Therapist or Occupational Therapy Assistant to
29 respond, if required by State law, has reason to believe is not

1 groundless and, if proved true, would indicate more than a minor
2 infraction.

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

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

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

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

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

18 L. "Investigative Information" means information, records,
19 and/or documents received or generated by an Occupational Therapy
20 Licensing Board pursuant to an investigation.

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

24 N. "Licensee" means an individual who currently holds an
25 authorization from the State to practice as an Occupational
26 Therapist or as an Occupational Therapy Assistant.

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

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

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

4 R. "Occupational Therapy," "Occupational Therapy Practice,"
5 and the "Practice of Occupational Therapy" mean the care and
6 services provided by an Occupational Therapist or an Occupational
7 Therapy Assistant as set forth in the Member State's statutes and
8 regulations.

9 S. "Occupational Therapy Compact Commission" or "Commission"
10 means the national administrative body whose membership consists of
11 all States that have enacted the Compact.

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

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

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

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

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

1 Practice of Occupational Therapy.

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

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

9 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

11 1. License Occupational Therapists and Occupational Therapy
12 Assistants;

13 2. Participate fully in the Commission's Data System,
14 including but not limited to using the Commission's unique
15 identifier as defined in Rules of the Commission;

16 3. Have a mechanism in place for receiving and investigating
17 complaints about Licensees;

18 4. Notify the Commission, in compliance with the terms of the
19 Compact and Rules, of any Adverse Action or the availability of
20 Investigative Information regarding a Licensee;

21 5. Implement or utilize procedures for considering the
22 criminal history records of applicants for an initial Compact
23 Privilege. These procedures shall include the submission of
24 fingerprints or other biometric-based information by applicants for
25 the purpose of obtaining an applicant's criminal history record
26 information from the Federal Bureau of Investigation and the agency
27 responsible for retaining that State's criminal records;

28 a. A Member State shall, within a time frame established by
29 the Commission, require a criminal background check for a Licensee

1 seeking/applying for a Compact Privilege whose Primary State of
2 Residence is that Member State, by receiving the results of the
3 Federal Bureau of Investigation criminal record search, and shall
4 use the results in making licensure decisions.

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

11 6. Comply with the Rules of the Commission;

12 7. Utilize only a recognized national examination as a
13 requirement for licensure pursuant to the Rules of the Commission;
14 and

15 8. Have Continuing Competence/Education requirements as a
16 condition for license renewal.

17 B. A Member State shall grant the Compact Privilege to a
18 Licensee holding a valid unencumbered license in another Member
19 State in accordance with the terms of the Compact and Rules.

20 C. Member States may charge a fee for granting a Compact
21 Privilege.

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

24 E. Individuals not residing in a Member State shall continue
25 to be able to apply for a Member State's Single-State License as
26 provided under the laws of each Member State. However, the Single-
27 State License granted to these individuals shall not be recognized
28 as granting the Compact Privilege in any other Member State.

29 F. Nothing in this Compact shall affect the requirements

1 established by a Member State for the issuance of a Single-State
2 License.

3 SECTION 4. COMPACT PRIVILEGE

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

6 1. Hold a license in the Home State;

7 2. Have a valid United States Social Security Number or
8 National Practitioner Identification number;

9 3. Have no encumbrance on any State license;

10 4. Be eligible for a Compact Privilege in any Member State in
11 accordance with Section 4D, F, G, and H;

12 5. Have paid all fines and completed all requirements
13 resulting from any Adverse Action against any license or Compact
14 Privilege, and two years have elapsed from the date of such
15 completion;

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

18 7. Pay any applicable fees, including any State fee, for the
19 Compact Privilege;

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

22 a. The Licensee shall be responsible for the payment of any
23 fee associated with the completion of a criminal background check.

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

27 10. Report to the Commission Adverse Action taken by any non-
28 Member State within 30 days from the date the Adverse Action is
29 taken.

1 B. The Compact Privilege is valid until the expiration date of
2 the Home State license. The Licensee must comply with the
3 requirements of Section 4A to maintain the Compact Privilege in the
4 Remote State.

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

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

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

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

- 23 1. The Home State license is no longer encumbered; and
24 2. Two years have elapsed from the date on which the Home
25 State license is no longer encumbered in accordance with Section
26 4F(1).

27 G. Once an Encumbered License in the Home State is restored to
28 good standing, the Licensee must meet the requirements of Section
29 4A to obtain a Compact Privilege in any Remote State.

1 H. If a Licensee's Compact Privilege in any Remote State is
2 removed, the individual may lose the Compact Privilege in any other
3 Remote State until the following occur:

4 1. The specific period of time for which the Compact Privilege
5 was removed has ended;

6 2. All fines have been paid and all conditions have been met;

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

9 4. The Compact Privileges are reinstated by the Commission,
10 and the compact Data System is updated to reflect reinstatement.

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

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

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

19 A. An Occupational Therapist or Occupational Therapy Assistant
20 may hold a Home State license, which allows for Compact Privileges
21 in Member States, in only one Member State at a time.

22 B. If an Occupational Therapist or Occupational Therapy
23 Assistant changes Primary State of Residence by moving between two
24 Member States:

25 1. The Occupational Therapist or Occupational Therapy
26 Assistant shall file an application for obtaining a new Home State
27 license by virtue of a Compact Privilege, pay all applicable fees,
28 and notify the current and new Home State in accordance with
29 applicable Rules adopted by the Commission.

1 2. Upon receipt of an application for obtaining a new Home
2 State license by virtue of compact privilege, the new Home State
3 shall verify that the Occupational Therapist or Occupational
4 Therapy Assistant meets the pertinent criteria outlined in Section
5 4 via the Data System, without need for primary source verification
6 except for:

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

10 b. Other criminal background check as required by the new Home
11 State; and

12 c. Submission of any requisite Jurisprudence Requirements of
13 the new Home State.

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

18 4. Notwithstanding any other provision of this Compact, if the
19 Occupational Therapist or Occupational Therapy Assistant cannot
20 meet the criteria in Section 4, the new Home State shall apply its
21 requirements for issuing a new Single-State License.

22 5. The Occupational Therapist or the Occupational Therapy
23 Assistant shall pay all applicable fees to the new Home State in
24 order to be issued a new Home State license.

25 C. If an Occupational Therapist or Occupational Therapy
26 Assistant changes Primary State of Residence by moving from a
27 Member State to a non-Member State, or from a non-Member State to a
28 Member State, the State criteria shall apply for issuance of a
29 Single-State License in the new State.

1 D. Nothing in this Compact shall interfere with a Licensee's
2 ability to hold a Single-State License in multiple States; however,
3 for the purposes of this Compact, a Licensee shall have only one
4 Home State license.

5 E. Nothing in this Compact shall affect the requirements
6 established by a Member State for the issuance of a Single-State
7 License.

8 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

9 A. Active Duty Military personnel, or their spouses, shall
10 designate a Home State where the individual has a current license
11 in good standing. The individual may retain the Home State
12 designation during the period the service member is on active duty.
13 Subsequent to designating a Home State, the individual shall only
14 change their Home State through application for licensure in the
15 new State or through the process described in Section 5.

16 SECTION 7. ADVERSE ACTIONS

17 A. A Home State shall have exclusive power to impose Adverse
18 Action against an Occupational Therapist's or Occupational Therapy
19 Assistant's license issued by the Home State.

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

23 1. Take Adverse Action against an Occupational Therapist's or
24 Occupational Therapy Assistant's Compact Privilege within that
25 Member State.

26 2. Issue subpoenas for both hearings and investigations that
27 require the attendance and testimony of witnesses as well as the
28 production of evidence. Subpoenas issued by a Licensing Board in a
29 Member State for the attendance and testimony of witnesses or the

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

8 C. For purposes of taking Adverse Action, the Home State shall
9 give the same priority and effect to reported conduct received from
10 a Member State as it would if the conduct had occurred within the
11 Home State. In so doing, the Home State shall apply its own State
12 laws to determine appropriate action.

13 D. The Home State shall complete any pending investigations of
14 an Occupational Therapist or Occupational Therapy Assistant who
15 changes Primary State of Residence during the course of the
16 investigations. The Home State, where the investigations were
17 initiated, shall also have the authority to take appropriate
18 action(s) and shall promptly report the conclusions of the
19 investigations to the OT Compact Commission Data System. The
20 Occupational Therapy Compact Commission Data System administrator
21 shall promptly notify the new Home State of any Adverse Actions.

22 E. A Member State, if otherwise permitted by State law, may
23 recover from the affected Occupational Therapist or Occupational
24 Therapy Assistant the costs of investigations and disposition of
25 cases resulting from any Adverse Action taken against that
26 Occupational Therapist or Occupational Therapy Assistant.

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

1 G. Joint Investigations

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

6 2. Member States shall share any investigative, litigation, or
7 compliance materials in furtherance of any joint or individual
8 investigation initiated under the Compact.

9 H. If an Adverse Action is taken by the Home State against an
10 Occupational Therapist's or Occupational Therapy Assistant's
11 license, the Occupational Therapist's or Occupational Therapy
12 Assistant's Compact Privilege in all other Member States shall be
13 deactivated until all encumbrances have been removed from the State
14 license. All Home State disciplinary orders that impose Adverse
15 Action against an Occupational Therapist's or Occupational Therapy
16 Assistant's license shall include a Statement that the Occupational
17 Therapist's or Occupational Therapy Assistant's Compact Privilege
18 is deactivated in all Member States during the pendency of the
19 order.

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

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

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

29 A. The Compact Member States hereby create and establish a

1 joint public agency known as the Occupational Therapy Compact
2 Commission:

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

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

10 3. Nothing in this Compact shall be construed to be a waiver
11 of sovereign immunity.

12 B. Membership, Voting, and Meetings

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

15 2. The delegate shall be either:

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

19 b. An administrator of the Licensing Board.

20 3. Any delegate may be removed or suspended from office as
21 provided by the law of the State from which the delegate is
22 appointed.

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

25 5. Each delegate shall be entitled to one (1) vote with regard
26 to the promulgation of Rules and creation of bylaws and shall
27 otherwise have an opportunity to participate in the business and
28 affairs of the Commission. A delegate shall vote in person or by
29 such other means as provided in the bylaws. The bylaws may provide

1 for delegates' participation in meetings by telephone or other
2 means of communication.

3 6. The Commission shall meet at least once during each
4 calendar year. Additional meetings shall be held as set forth in
5 the bylaws.

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

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

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

10 2. Establish the fiscal year of the Commission;

11 3. Establish bylaws;

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

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

16 6. Promulgate uniform Rules to facilitate and coordinate
17 implementation and administration of this Compact. The Rules shall
18 have the force and effect of law and shall be binding in all Member
19 States;

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

24 8. Purchase and maintain insurance and bonds;

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

27 10. Hire employees, elect or appoint officers, fix
28 compensation, define duties, grant such individuals appropriate
29 authority to carry out the purposes of the Compact, and establish

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

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

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

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

15 14. Establish a budget and make expenditures;

16 15. Borrow money;

17 16. Appoint committees, including standing committees composed
18 of 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 17. Provide and receive information from, and cooperate with,
23 law enforcement agencies;

24 18. Establish and elect an Executive Committee; and

25 19. 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
28 practice.

29 D. The Executive Committee

1 The Executive Committee shall have the power to act on behalf
2 of the Commission according to the terms of this Compact.

3 1. The Executive Committee shall be composed of nine members:

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

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

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

10 2. The ex-officio members will be selected by their respective
11 organizations.

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

14 4. The Executive Committee shall meet at least annually.

15 5. The Executive Committee shall have the following Duties and
16 responsibilities:

17 a. Recommend to the entire Commission changes to the Rules or
18 bylaws, changes to this Compact legislation, fees paid by Compact
19 Member States such as annual dues, and any Commission Compact fee
20 charged to Licensees for the Compact Privilege;

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

23 c. Prepare and recommend the budget;

24 d. Maintain financial records on behalf of the Commission;

25 e. Monitor Compact compliance of Member States and provide
26 compliance reports to the Commission;

27 f. Establish additional committees as necessary; and

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

29 E. Meetings of the Commission

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

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

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

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

14 c. Current, threatened, or reasonably anticipated litigation;

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

17 e. Accusing any person of a crime or formally censuring any
18 person;

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

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

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

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

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

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

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

16 F. Financing of the Commission

17 1. The Commission shall pay, or provide for the payment of,
18 the reasonable expenses of its establishment, organization, and
19 ongoing activities.

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

23 3. The Commission may levy on and collect an annual assessment
24 from each Member State or impose fees on other parties to cover the
25 cost of the operations and activities of the Commission and its
26 staff, which must be in a total amount sufficient to cover its
27 annual budget as approved by the Commission each year for which
28 revenue is not provided by other sources. The aggregate annual
29 assessment amount shall be allocated based upon a formula to be

1 determined by the Commission, which shall promulgate a Rule binding
2 upon all Member States.

3 4. The Commission shall not incur obligations of any kind
4 prior to securing the funds adequate to meet the same; nor shall
5 the Commission pledge the credit of any of the Member States,
6 except by and with the authority of the Member State.

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

14 G. Qualified Immunity, Defense, and Indemnification

15 1. The members, officers, executive director, employees and
16 representatives of the Commission shall be immune from suit and
17 liability, either personally or in their official capacity, for any
18 claim for damage to or loss of property or personal injury or other
19 civil liability caused by or arising out of any actual or alleged
20 act, error or omission that occurred, or that the person against
21 whom 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 in this paragraph shall be
24 construed to protect any such person from suit and/or liability for
25 any damage, loss, injury, or liability caused by the intentional or
26 willful or wanton misconduct of that person.

27 2. The Commission shall defend any member, officer, executive
28 director, employee, or representative of the Commission in any
29 civil action seeking to impose liability arising out of any actual

1 or alleged act, error, or omission that occurred within the scope
2 of Commission employment, duties, or responsibilities, or that the
3 person against whom the claim is made had a reasonable basis for
4 believing occurred within the scope of Commission employment,
5 duties, or responsibilities; provided that nothing herein shall be
6 construed to prohibit that person from retaining his or her own
7 counsel; and provided further, that the actual or alleged act,
8 error, or omission did not result from that person's intentional or
9 willful or wanton misconduct.

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

20 SECTION 9. DATA SYSTEM

21 A. The Commission shall provide for the development,
22 maintenance, and utilization of a coordinated database and
23 reporting system containing licensure, Adverse Action, and
24 Investigative Information on all licensed individuals in Member
25 States.

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

- 1 1. Identifying information;
- 2 2. Licensure data;
- 3 3. Adverse Actions against a license or Compact Privilege;
- 4 4. Non-confidential information related to Alternative Program
- 5 participation;
- 6 5. Any denial of application for licensure, and the reason(s)
- 7 for such denial;
- 8 6. Other information that may facilitate the administration of
- 9 this Compact, as determined by the Rules of the Commission; and
- 10 7. Current Significant Investigative Information.

11 C. Current Significant Investigative Information and other
12 Investigative Information pertaining to a Licensee in any Member
13 State will only be available to other Member States.

14 D. The Commission shall promptly notify all Member States of
15 any Adverse Action taken against a Licensee or an individual
16 applying for a license. Adverse Action information pertaining to a
17 Licensee in any Member State will be available to any other Member
18 State.

19 E. Member States contributing information to the Data System
20 may designate information that may not be shared with the public
21 without the express permission of the contributing State.

22 F. Any information submitted to the Data System that is
23 subsequently required to be expunged by the laws of the Member
24 State contributing the information shall be removed from the Data
25 System.

26 SECTION 10. RULEMAKING

27 A. The Commission shall exercise its Rulemaking powers
28 pursuant to the criteria set forth in this Section and the Rules
29 adopted thereunder. Rules and amendments shall become binding as of

1 the date specified in each Rule or amendment.

2 B. The Commission shall promulgate reasonable rules in order
3 to effectively and efficiently achieve the purposes of the Compact.
4 Notwithstanding the foregoing, in the event the Commission
5 exercises its rulemaking authority in a manner that is beyond the
6 scope of the purposes of the Compact, or the powers granted
7 hereunder, then such an action by the Commission shall be invalid
8 and have no force and effect.

9 C. If a majority of the legislatures of the Member States
10 rejects a Rule, by enactment of a statute or resolution in the same
11 manner used to adopt the Compact within 4 years of the date of
12 adoption of the Rule, then such Rule shall have no further force
13 and effect in any Member State.

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

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

20 1. On the website of the Commission or other publicly
21 accessible platform; and

22 2. On the website of each Member State Occupational Therapy
23 Licensing Board or other publicly accessible platform or the
24 publication in which each State would otherwise publish proposed
25 Rules.

26 F. The Notice of Proposed Rulemaking shall include:

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

29 2. The text of the proposed Rule or amendment and the reason

1 for the proposed Rule;

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

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

7 G. Prior to adoption of a proposed Rule, the Commission shall
8 allow persons to submit written data, facts, opinions, and
9 arguments, which shall be made available to the public.

10 H. The Commission shall grant an opportunity for a public
11 hearing before it adopts a Rule or amendment if a hearing is
12 requested by:

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

14 2. A State or federal governmental subdivision or agency; or

15 3. An association or organization having at least twenty five
16 (25) members.

17 I. If a hearing is held on the proposed Rule or amendment, the
18 Commission shall publish the place, time, and date of the scheduled
19 public hearing. If the hearing is held via electronic means, the
20 Commission shall publish the mechanism for access to the electronic
21 hearing.

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

27 2. Hearings shall be conducted in a manner providing each
28 person who wishes to comment a fair and reasonable opportunity to
29 comment orally or in writing.

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

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

6 J. Following the scheduled hearing date, or by the close of
7 business on the scheduled hearing date if the hearing was not held,
8 the Commission shall consider all written and oral comments
9 received.

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

13 L. The Commission shall, by majority vote of all members, take
14 final action on the proposed Rule and shall determine the effective
15 date of the Rule, if any, based on the Rulemaking record and the
16 full text of the Rule.

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

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

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

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

1 4. Protect public health and safety.

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

15 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

16 A. Oversight

17 1. The executive, legislative, and judicial branches of State
18 government in each Member State shall enforce this Compact and take
19 all actions necessary and appropriate to effectuate the Compact's
20 purposes and intent. The provisions of this Compact and the Rules
21 promulgated hereunder shall have standing as statutory law.

22 2. All courts shall take judicial notice of the Compact and
23 the Rules in any judicial or administrative proceeding in a Member
24 State pertaining to the subject matter of this Compact which may
25 affect the powers, responsibilities, or actions of the Commission.

26 3. The Commission shall be entitled to receive service of
27 process in any such proceeding, and shall have standing to
28 intervene in such a proceeding for all purposes. Failure to provide
29 service of process to the Commission shall render a judgment or

1 order void as to the Commission, this Compact, or promulgated
2 Rules.

3 B. Default, Technical Assistance, and Termination

4 1. 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 a. 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 b. Provide remedial training and specific technical assistance
12 regarding the default.

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

20 3. Termination of membership in the 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
23 by the Commission to the governor, the majority and minority
24 leaders of the defaulting State's legislature, and each of the
25 Member States.

26 4. A State that has been terminated is responsible for all
27 assessments, obligations, and liabilities incurred through the
28 effective date of termination, including obligations that extend
29 beyond the effective date of termination.

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

5 6. The defaulting State may appeal the action of the
6 Commission by petitioning the United States District Court for the
7 District of Columbia or the federal district where the Commission
8 has its principal offices. The prevailing member shall be awarded
9 all costs of such litigation, including reasonable attorney's fees.

10 C. Dispute Resolution

11 1. Upon request by a Member State, the Commission shall
12 attempt to resolve disputes related to the Compact that arise among
13 Member States and between member and non-Member States.

14 2. The Commission shall promulgate a Rule providing for both
15 mediation and binding dispute resolution for disputes as
16 appropriate.

17 D. Enforcement

18 1. The Commission, in the reasonable exercise of its
19 discretion, shall enforce the provisions and Rules of this Compact.

20 2. By majority vote, the Commission may initiate legal action
21 in the United States District Court for the District of Columbia or
22 the federal district where the Commission has its principal offices
23 against a Member State in default to enforce compliance with the
24 provisions of the Compact and its promulgated Rules and bylaws. The
25 relief sought may include both injunctive relief and damages. In
26 the event judicial enforcement is necessary, the prevailing member
27 shall be awarded all costs of such litigation, including reasonable
28 attorney's fees.

29 3. The remedies herein shall not be the exclusive remedies of

1 the Commission. The Commission may pursue any other remedies
2 available under federal or State law.

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

6 A. The Compact shall come into effect on the date on which the
7 Compact statute is enacted into law in the tenth Member State. The
8 provisions, which become effective at that time, shall be limited
9 to the powers granted to the Commission relating to assembly and
10 the promulgation of Rules. Thereafter, the Commission shall meet
11 and exercise Rulemaking powers necessary to the implementation and
12 administration of the Compact.

13 B. Any State that joins the Compact subsequent to the
14 Commission's initial adoption of the Rules shall be subject to the
15 Rules as they exist on the date on which the Compact becomes law in
16 that State. Any Rule that has been previously adopted by the
17 Commission shall have the full force and effect of law on the day
18 the Compact becomes law in that State.

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

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

23 2. Withdrawal shall not affect the continuing requirement of
24 the withdrawing State's Occupational Therapy Licensing Board to
25 comply with the investigative and Adverse Action reporting
26 requirements of this act prior to the effective date of withdrawal.

27 D. Nothing contained in this Compact shall be construed to
28 invalidate or prevent any Occupational Therapy licensure agreement
29 or other cooperative arrangement between a Member State and a non-

1 Member State that does not conflict with the provisions of this
2 Compact.

3 E. This Compact may be amended by the Member States. No
4 amendment to this Compact shall become effective and binding upon
5 any Member State until it is enacted into the laws of all Member
6 States.

7 SECTION 13. CONSTRUCTION AND SEVERABILITY

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

21 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

29 D. Any lawful actions of the Commission, including all Rules

1 and bylaws promulgated by the Commission, are binding upon the
2 Member States.

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

5 F. In the event any provision of the Compact exceeds the
6 constitutional limits imposed on the legislature of any Member
7 State, the provision shall be ineffective to the extent of the
8 conflict with the constitutional provision in question in that
9 Member State.

10 (2) As used in this article, subsection (1) may be cited as
11 the "occupational therapy licensure compact".

12 Sec. 18301. (1) As used in this part:

13 (a) "Occupational therapy assistant" means an individual **who**
14 **is** licensed under this article, **or authorized under section 18303b,**
15 to engage in practice as an occupational therapy assistant.

16 (b) "Occupational therapist" means an individual **who is**
17 licensed under this article, **or authorized under section 18303a,** to
18 engage in the practice of occupational therapy.

19 (c) "Occupational therapy services" means those services
20 provided to promote health and wellness, prevent disability,
21 preserve functional capabilities, prevent barriers, and enable or
22 improve performance in everyday activities, including, but not
23 limited to, the following:

24 (i) Establishment, remediation, or restoration of a skill or
25 ability that is impaired or not yet developed.

26 (ii) Compensation, modification, or adaptation of a person,
27 activity, or environment.

28 (iii) Evaluation of factors that affect activities of daily
29 living, instrumental activities of daily living, and other

1 activities relating to education, work, play, leisure, and social
2 participation. Those factors include, but are not limited to, body
3 functions, body structure, habits, routines, role performance,
4 behavior patterns, sensory motor skills, cognitive skills,
5 communication and interaction skills, and cultural, physical,
6 psychosocial, spiritual, developmental, environmental, and
7 socioeconomic contexts and activities that affect performance.

8 (iv) Interventions and procedures, including, but not limited
9 to, any of the following:

10 (A) Task analysis and therapeutic use of occupations,
11 exercises, and activities.

12 (B) Training in self-care, self-management, home management,
13 and community or work reintegration.

14 (C) Development remediation, or compensation of client factors
15 such as body functions and body structure.

16 (D) Education and training.

17 (E) Care coordination, case management, transition, and
18 consultative services.

19 (F) Modification of environments and adaptation processes such
20 as the application of ergonomic and safety principles.

21 (G) Assessment, design, fabrication, application, fitting, and
22 training in rehabilitative and assistive technology, adaptive
23 devices, and low temperature orthotic devices, and training in the
24 use of prosthetic devices. For the purposes of this sub-
25 subparagraph, the design and fabrication of low temperature
26 orthotic devices does not include permanent orthotics.

27 (H) Assessment, recommendation, and training in techniques to
28 enhance safety, functional mobility, and community mobility such as
29 wheelchair management and mobility.

1 (I) Management of feeding, eating, and swallowing.

2 (J) Application of physical agent modalities and use of a
3 range of specific therapeutic procedures, including, but not
4 limited to, techniques to enhance sensory-motor, perceptual, and
5 cognitive processing, manual therapy techniques, and adjunctive and
6 preparatory activities.

7 (K) Providing vision therapy services or low vision
8 rehabilitation services, if those services are provided pursuant to
9 a referral or prescription from, or under the supervision or
10 comanagement of, a physician licensed under part 170 or 175 or an
11 optometrist licensed under part 174.

12 (d) "Practice as an occupational therapy assistant" means the
13 practice of occupational therapy under the supervision of an
14 occupational therapist licensed under this article.

15 (e) "Practice of occupational therapy" means the therapeutic
16 use of everyday life occupations and occupational therapy services
17 to aid individuals or groups to participate in meaningful roles and
18 situations in the home, school, workplace, community, and other
19 settings, to promote health and wellness through research and
20 practice, and to serve those individuals or groups who have or are
21 at risk for developing an illness, injury, disease, disorder,
22 condition, impairment, disability, activity limitation, or
23 participation restriction. The practice of occupational therapy
24 addresses the physical, cognitive, psychosocial, sensory, and other
25 aspects of performance in a variety of contexts to support
26 engagement in everyday life activities that affect a person's
27 health, well-being, and quality of life throughout his or her life
28 span. The practice of occupational therapy does not include any of
29 the following:

1 (i) The practice of medicine or osteopathic medicine and
2 surgery or medical diagnosis or treatment.

3 (ii) The practice of physical therapy.

4 (iii) The practice of optometry.

5 (2) In addition to the definitions in this part, article 1
6 contains general definitions and principles of construction
7 applicable to all articles in this code and part 161 contains
8 definitions applicable to this part.

9 **Sec. 18303a. (1) An individual who holds a compact privilege**
10 **to practice occupational therapy as an occupational therapist under**
11 **the occupational therapy licensure compact is authorized to engage**
12 **in the practice of occupational therapy under this article.**

13 (2) For purposes of this article, including the obligations of
14 an individual who is licensed as an occupational therapist, an
15 individual who holds a compact privilege to practice occupational
16 therapy as an occupational therapist under the occupational therapy
17 licensure compact is considered an occupational therapist who is
18 licensed under this part.

19 **Sec. 18303b. (1) An individual who holds a compact privilege**
20 **to practice occupational therapy under the occupational therapy**
21 **licensure compact as an occupational therapy assistant is**
22 **authorized to engage in the practice as an occupational therapy**
23 **assistant under this article.**

24 (2) For purposes of this article, including the obligations of
25 an individual who is licensed as an occupational therapy assistant,
26 an individual who holds a compact privilege to practice
27 occupational therapy as an occupational therapy assistant under the
28 occupational therapy licensure compact is considered an
29 occupational therapy assistant who is licensed under this part.