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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- OCCUPATIONAL THERAPY  
LICENSURE COMPACT

Introduced By: Senators Miller, DiMario, Valverde, Cano, Lauria, and Ujifusa

Date Introduced: March 01, 2024

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 93

4 OCCUPATIONAL THERAPY LICENSURE COMPACT

5 **5-93-1. Short title.**

6 This chapter shall be known and may be cited as the "Occupational Therapy Licensure  
7 Compact"

8 **5-93-2. Legislative purpose.**

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

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

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

18 (3) Encourage the cooperation of member states in regulating multi-state occupational

1 therapy practice;

2 (4) Support spouses of relocating military members;

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

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

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

9 **5-93-3. Definitions.**

10 As used in this chapter, the following words and terms shall have the following meanings  
11 unless the context shall clearly indicate another or different meaning or intent:

12 (1) "Active duty military" means full-time duty status in the active uniformed service of  
13 the United States, including members of the National Guard and Reserve on active duty orders  
14 pursuant to 10 U.S.C. ch. 1209 and 1211.

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

20 (3) "Alternative program" means a non-disciplinary monitoring process approved by an  
21 occupational therapy licensing board.

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

27 (5) "Continuing competence" or "continuing education" means a requirement, as a  
28 condition of license renewal, to provide evidence of participation in, and completion of, educational  
29 and professional activities relevant to practice or area of work.

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

34 (7) "Data system" means a repository of information about licensees including, but not

1 limited to, license status, investigative information, compact privileges, and adverse actions.

2 (8) "Encumbered license" means a license in which an adverse action restricts the practice  
3 of occupational therapy by the licensee or said adverse action has been reported to the National  
4 Practitioner Data Bank (NPDB).

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

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

8 (11) "Impaired practitioner" means individuals whose professional practice is adversely  
9 affected by substance abuse, addiction, or other health-related conditions.

10 (12) "Investigative information" means information, records, or documents received or  
11 generated by an occupational therapy licensing board pursuant to an investigation.

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

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

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

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

19 (17) "Occupational therapy assistant" means an individual who is licensed by a state to  
20 assist in the practice of occupational therapy.

21 (18) "Occupational therapy," "occupational therapy practice," and the "practice of  
22 occupational therapy" mean the care and services provided by an occupational therapist or an  
23 occupational therapy assistant as set forth in the member state's statutes and regulations.

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

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

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

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

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

2 (24) "State" means any state, commonwealth, district, or territory of the United States of  
3 America that regulates the practice of occupational therapy.

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

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

9 **5-93-4. State participation in the compact.**

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

11 (1) License occupational therapists and occupational therapy assistants;

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

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

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

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

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

26 (ii) Communication between a member state, the commission and among member states  
27 regarding the verification of eligibility for licensure through the compact shall not include any  
28 information received from the Federal Bureau of Investigation relating to a federal criminal records  
29 check performed by a member state under federal Public Law 92-544;

30 (6) Comply with the rules of the commission;

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

33 (8) Have continuing competence or continuing education requirements as a condition for  
34 license renewal.

1           (b) A member state shall grant the compact privilege to a licensee holding a valid  
2 unencumbered license in another member state in accordance with the terms of the compact and  
3 rules.

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

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

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

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

13           **5-93-5. Compact privilege.**

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

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

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

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

20           (4) Be eligible for a compact privilege in any member state in accordance with subsections  
21 (d), (f), (g) and (h) of this section;

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

25           (6) Notify the commission that the licensee is seeking the compact privilege within a  
26 remote state(s);

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

28           (8) Complete a criminal background check in accordance with § 5-93-4(a)(5) and pay any  
29 fee associated with the completion of a criminal background check;

30           (9) Meet any jurisprudence requirements established by the remote state(s) in which the  
31 licensee is seeking a compact privilege; and

32           (10) Report to the commission adverse action taken by any non-member state within thirty  
33 (30) days from the date the adverse action is taken.

34           (b) The compact privilege is valid until the expiration date of the home state license. The

1 licensee shall comply with the requirements of subsection (a) of this section to maintain the  
2 compact privilege in the remote state.

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

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

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

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

15 (1) The home state license is no longer encumbered; and

16 (2) Two (2) years have elapsed from the date on which the home state license is no longer  
17 encumbered in accordance with subsection (f)(1) of this section.

18 (g) Once an encumbered license in the home state is restored to good standing, the licensee  
19 shall meet the requirements of subsection (a) of this section to obtain a compact privilege in any  
20 remote state.

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

23 (1) The specific period of time for which the compact privilege was removed has ended;

24 (2) All fines have been paid and all conditions have been met;

25 (3) Two (2) years have elapsed from the date of completing requirements for subsections  
26 (h)(1) and (h)(2) of this section; and

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

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

31 (j) Once the requirements of subsection (h) of this section have been met, the licensee shall  
32 meet the requirements in subsection (a) of this section to obtain a compact privilege in a remote  
33 state.

34 **5-93-6. Obtaining a new home state license by virtue of compact privilege.**

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

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

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

9 (2) Upon receipt of an application for obtaining a new home state license by virtue of  
10 compact privilege, the new home state shall verify that the occupational therapist or occupational  
11 therapy assistant meets the pertinent criteria outlined in § 5-93-5 via the data system, without need  
12 for primary source verification except for:

13 (i) An FBI fingerprint based criminal background check if not previously performed or  
14 updated pursuant to applicable rules adopted by the commission in accordance with federal Public  
15 Law 92-544;

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

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

18 (3) The former home state shall convert the former home state license into a compact  
19 privilege once the new home state has activated the new home state license in accordance with  
20 applicable rules adopted by the commission.

21 (4) Notwithstanding any other provision of this compact, if the occupational therapist or  
22 occupational therapy assistant cannot meet the criteria in § 5-93-5, the new home state shall apply  
23 its requirements for issuing a new single-state license.

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

26 (c) If an occupational therapist or occupational therapy assistant changes primary state of  
27 residence by moving from a 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 single-state license in the new state.

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

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

34 **5-93-7. Active duty military personnel or their spouses.**

1 Active duty military personnel, or their spouses, shall designate a home state where the  
2 individual has a current license in good standing, the individual may retain the home state  
3 designation during the period the service member is on active duty, subsequent to designating a  
4 home state, the individual shall only change their home state through application for licensure in  
5 the new state or through the process described in § 5-93-6.

6 **5-93-8. Adverse actions.**

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

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

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

13 (2) Issue subpoenas for both hearings and investigations that require the attendance and  
14 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board  
15 in a member state for the attendance and testimony of witnesses or the production of evidence from  
16 another member state shall be enforced in the latter state by any court of competent jurisdiction,  
17 according to the practice and procedure of that court applicable to subpoenas issued in proceedings  
18 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and  
19 other fees required by the service statutes of the state in which the witnesses or evidence are located.

20 (c) For purposes of taking adverse action, the home state shall give the same priority and  
21 effect to reported conduct received from a member state as it would if the conduct had occurred  
22 within the home state, in so doing, the home state shall apply its own state laws to determine  
23 appropriate action.

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

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



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

3           (g) Joint investigations.

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

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

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

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

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

21           **5-93-9. Establishment of the occupational therapy compact commission.**

22           (a) The compact member states hereby create and establish a joint public agency known as  
23 the occupational therapy compact commission:

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

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

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

30           (b) Membership, voting, and meetings.

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

33           (2) The delegate shall be either:

34           (i) A current member of the licensing board, who is an occupational therapist, occupational

1 therapy assistant, or public member; or

2 (ii) An administrator of the licensing board.

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

5 (4) The member state board shall fill any vacancy occurring in the commission within  
6 ninety (90) days.

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

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

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

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

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

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

18 (3) Establish bylaws;

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

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

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

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

28 (8) Purchase and maintain insurance and bonds;

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

31 (10) Hire employees, elect or appoint officers, fix compensation, define duties, grant such  
32 individuals appropriate authority to carry out the purposes of the compact, and establish the  
33 commission's personnel policies and programs relating to conflicts of interest, qualifications of  
34 personnel, and other related personnel matters;

1           (11) Accept any and all appropriate donations and grants of money, equipment, supplies,  
2 materials and services, and receive, utilize and dispose of the same; provided that, at all times the  
3 commission shall avoid any appearance of impropriety or conflict of interest;

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

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

9           (14) Establish a budget and make expenditures;

10          (15) Borrow money;

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

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

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

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

19          (d) The executive committee. The executive committee shall have the power to act on  
20 behalf of the commission according to the terms of this compact.

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

22           (i) Seven (7) voting members who are elected by the commission from the current  
23 membership of the commission;

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

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

28          (2) The ex officio members will be selected by their respective organizations.

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

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

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

33           (i) Recommend to the entire commission changes to the rules or bylaws, changes to this  
34 compact legislation, fees paid by compact member states such as annual dues, and any commission

1 compact fee charged to licensees for the compact privilege;  
2 (ii) Ensure compact administration services are appropriately provided, contractual or  
3 otherwise;  
4 (iii) Prepare and recommend the budget;  
5 (iv) Maintain financial records on behalf of the commission;  
6 (v) Monitor compact compliance of member states and provide compliance reports to the  
7 commission;  
8 (vi) Establish additional committees as necessary; and  
9 (vii) Perform other duties as provided in rules or bylaws.  
10 (e) Meetings of the commission.  
11 (1) All meetings shall be open to the public, and public notice of meetings shall be given  
12 in the same manner as required under the rulemaking provisions in § 5-93-11.  
13 (2) The commission or the executive committee or other committees of the commission  
14 may convene in a closed, non-public meeting if the commission or executive committee or other  
15 committees of the commission must discuss:  
16 (i) Non-compliance of a member state with its obligations under the compact;  
17 (ii) The employment, compensation, discipline or other matters, practices or procedures  
18 related to specific employees or other matters related to the commission's internal personnel  
19 practices and procedures;  
20 (iii) Current, threatened, or reasonably anticipated litigation;  
21 (iv) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real  
22 estate;  
23 (v) Accusing any person of a crime or formally censuring any person;  
24 (vi) Disclosure of trade secrets or commercial or financial information that is privileged or  
25 confidential;  
26 (vii) Disclosure of information of a personal nature where disclosure would constitute a  
27 clearly unwarranted invasion of personal privacy;  
28 (viii) Disclosure of investigative records compiled for law enforcement purposes;  
29 (ix) Disclosure of information related to any investigative reports prepared by or on behalf  
30 of or for use of the commission or other committee charged with responsibility of investigation or  
31 determination of compliance issues pursuant to the compact; or  
32 (x) Matters specifically exempted from disclosure by federal or member state statute.  
33 (3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
34 commission's legal counsel, or designee shall certify that the meeting may be closed and shall

1 reference each relevant exempting provision.

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

8 (f) Financing of the commission.

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

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

13 (3) The commission may levy on and collect an annual assessment from each member state  
14 or impose fees on other parties to cover the cost of the operations and activities of the commission  
15 and its staff, which must be in a total amount sufficient to cover its annual budget as approved by  
16 the commission each year for which revenue is not provided by other sources. The aggregate annual  
17 assessment amount shall be allocated based upon a formula to be determined by the commission,  
18 which shall promulgate a rule binding upon all member states.

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

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

27 (g) Qualified immunity, defense, and indemnification.

28 (1) The members, officers, executive director, employees and representatives of the  
29 commission shall be immune from suit and liability, either personally or in their official capacity,  
30 for any claim for damage to or loss of property or personal injury or other civil liability caused by  
31 or arising out of any actual or alleged act, error or omission that occurred, or that the person against  
32 whom the claim is made had a reasonable basis for believing occurred within the scope of  
33 commission employment, duties or responsibilities; provided that, nothing in this subsection shall  
34 be construed to protect any such person from suit and/or liability for any damage, loss, injury, or

1 liability caused by the intentional or willful or wanton misconduct of that person.

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

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

17 **5-93-10. Data system.**

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

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

24 (1) Identifying information;

25 (2) Licensure data;

26 (3) Adverse actions against a license or compact privilege;

27 (4) Non-confidential information related to alternative program participation;

28 (5) Any denial of application for licensure, and the reason for such denial;

29 (6) Other information that may facilitate the administration of this compact, as determined  
30 by the rules of the commission; and

31 (7) Current significant investigative information.

32 (c) Current significant investigative information and other investigative information  
33 pertaining to a licensee in any member state will only be available to other member states.

34 (d) The commission shall promptly notify all member states of any adverse action taken

1 against a licensee or an individual applying for a license. Adverse action information pertaining to  
2 a licensee in any member state will be available to any other member state.

3 (e) Member states contributing information to the data system may designate information  
4 that may not be shared with the public without the express permission of the contributing state.

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

8 **5-93-11. Rulemaking.**

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

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

17 (c) If a majority of the legislatures of the member states rejects a rule, by enactment of a  
18 statute or resolution in the same manner used to adopt the compact within four (4) years of the date  
19 of adoption of the rule, then such rule shall have no further force and effect in any member state.

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

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

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

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

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

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

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

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

34 (4) The manner in which interested persons may submit notice to the commission of their

1 intention to attend the public hearing and any written comments.

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

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

6 (1) At least twenty-five (25) persons;  
7 (2) A state or federal governmental subdivision or agency; or  
8 (3) An association or organization having at least twenty-five (25) members.

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

12 (1) All persons wishing to be heard at the hearing shall notify the executive director of the  
13 commission or other designated member in writing of their desire to appear and testify at the  
14 hearing not less than five (5) business days before the scheduled date of the hearing.

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

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

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

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

24 (k) If no written notice of intent to attend the public hearing by interested parties is  
25 received, the commission may proceed with promulgation of the proposed rule without a public  
26 hearing.

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

30 (m) Upon determination that an emergency exists, the commission may consider and adopt  
31 an emergency rule without prior notice, opportunity for comment, or hearing; provided that, the  
32 usual rulemaking procedures provided in the compact and in this section shall be retroactively  
33 applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the  
34 effective date of the rule. For the purposes of this provision, an emergency rule is one that must be



1 adopted immediately in order to:

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

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

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

6 (4) Protect public health and safety.

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

16 **5-93-12. Oversight, dispute resolution, and enforcement.**

17 (a) Oversight.

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

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

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

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

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

33 (i) Provide written notice to the defaulting state and other member states of the nature of  
34 the default, the proposed means of curing the default and/or any other action to be taken by the

1 commission; and

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

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

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

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

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

18 (6) The defaulting state may appeal the action of the commission by petitioning the U.S.  
19 District Court for the District of Columbia or the federal district where the commission has its  
20 principal offices. The prevailing member shall be awarded all costs of such litigation, including  
21 reasonable attorneys' fees.

22 (c) Dispute resolution.

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

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

28 (d) Enforcement.

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

31 (2) By majority vote, the commission may initiate legal action in the United States District  
32 Court for the District of Columbia or the federal district where the commission has its principal  
33 offices against a member state in default to enforce compliance with the provisions of the compact  
34 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and

1 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded  
2 all costs of such litigation, including reasonable attorneys' fees.

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

5 **5-93-13. Date of implementation of the interstate commission for occupational**  
6 **therapy practice and associated rules, withdrawal, and amendment.**

7 (a) The compact shall come into effect on the date on which the compact statute is enacted  
8 into law in the tenth member state. The provisions, which become effective at that time, shall be  
9 limited to the powers granted to the commission relating to assembly and the promulgation of rules.  
10 Thereafter, the commission shall meet and exercise rulemaking powers necessary to the  
11 implementation and administration of the compact.

12 (b) Any state that joins the compact subsequent to the commission's initial adoption of the  
13 rules shall be subject to the rules as they exist on the date on which the compact becomes law in  
14 that state. Any rule that has been previously adopted by the commission shall have the full force  
15 and effect of law on the day the compact becomes law in that state.

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

18 (1) A member state's withdrawal shall not take effect until six (6) months after enactment  
19 of the repealing statute.

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

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

26 (e) This compact may be amended by the member states, no amendment to this compact  
27 shall become effective and binding upon any member state until it is enacted into the laws of all  
28 member states.

29 **5-93-14. Construction and severability.**

30 This compact shall be liberally construed so as to effectuate the purposes thereof. The  
31 provisions of this compact shall be severable and if any phrase, clause, sentence or provision of  
32 this compact is declared to be contrary to the constitution of any member state or of the United  
33 States or the applicability thereof to any government, agency, person, or circumstance is held  
34 invalid, the validity of the remainder of this compact and the applicability thereof to any

1 government, agency, person, or circumstance shall not be affected thereby. If this compact shall be  
2 held contrary to the constitution of any member state, the compact shall remain in full force and  
3 effect as to the remaining member states and in full force and effect as to the member state affected  
4 as to all severable matters.

5 **5-93-15. Binding effect of compact and other laws.**

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

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

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

12 (d) Any lawful actions of the commission, including all rules and bylaws promulgated by  
13 the commission, are binding upon the member states.

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

16 (f) In the event any provision of the compact exceeds the constitutional limits imposed on  
17 the legislature of any member state, the provision shall be ineffective to the extent of the conflict  
18 with the constitutional provision in question in that member state.

19 SECTION 2. This act shall take effect upon passage.

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LC005063/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- OCCUPATIONAL THERAPY  
LICENSURE COMPACT

\*\*\*

1           This act would create the occupational therapy licensure compact, that would allow  
2 licensed occupational therapists and occupational therapy assistants to practice in all states that join  
3 the compact. This act would also remove the need for practitioners to get an individual license in  
4 each state where they want to practice.

5           This act would take effect upon passage.

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LC005063/SUB A  
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