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**SENATE BILL 5518**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

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

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

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

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

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

6 **OCCUPATIONAL THERAPY LICENSURE COMPACT**

7  
8 **ARTICLE 1**

9 **PURPOSE**

10

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

18 This compact is designed to achieve the following objectives:

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

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

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

5 (4) Support spouses of relocating military members;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 32 33 **ARTICLE 3**

#### 34 **STATE PARTICIPATION IN THIS COMPACT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **ARTICLE 5**

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

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

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

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

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

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

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

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

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

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



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

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

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

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

16  
17 **ARTICLE 6**

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

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

27  
28 **ARTICLE 7**

29 **ADVERSE ACTIONS**

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

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

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

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

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

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

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

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

35 (7) Joint investigations.

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

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

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

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

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

## 21 22 **ARTICLE 8**

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

24

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

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

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

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

36 (2) Membership, voting, and meetings.

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

39 (b) The delegate shall be either:

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

4 (ii) An administrator of the licensing board.

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

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

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

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

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

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

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

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

24 (c) Establish bylaws;

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

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

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

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

36 (h) Purchase and maintain insurance and bonds;

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

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

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

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

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

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

15 (n) Establish a budget and make expenditures;

16 (o) Borrow money;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (iii) Prepare and recommend the budget;

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

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

14 (vi) Establish additional committees as necessary; and

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

16 (5) Meetings of the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (6) Financing of the commission.

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

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

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

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

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

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

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

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

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



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

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

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

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

15 (a) Identifying information;

16 (b) Licensure data;

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

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

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

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

24 (g) Current significant investigative information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (a) At least 25 persons;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (d) Protect public health and safety.

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

## 24 25 **ARTICLE 11**

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

27  
28 (1) Oversight.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (3) Dispute resolution.

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

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

6 (4) Enforcement.

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

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

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

21  
22 **ARTICLE 12**

23 **DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL**  
24 **THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT**  
25

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

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

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

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

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

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

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

### 15 **ARTICLE 13**

#### 16 **CONSTRUCTION AND SEVERABILITY**

17

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

### 31 **ARTICLE 14**

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

33

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

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

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

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

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

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

--- **END** ---