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Sub. S. B. No. 7

Senator Roegner

Cosponsors: Senators Huffman, S., Antonio, Blessing, Brenner, Cirino, Craig, Dolan, Gavarone, Hackett, Hoagland, Hottinger, Johnson, Lang, McColley, O'Brien, Peterson, Reineke, Sykes, Thomas, Wilson, Yuko Representative Gross

A BILL

To enact sections 4755.062, 4755.14, and 4755.141 1
of the Revised Code to enter into the 2
Occupational Therapy Licensure Compact. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4755.062, 4755.14, and 4755.141 4
of the Revised Code be enacted to read as follows: 5

Sec. 4755.062. The occupational therapy section of the 6
Ohio occupational therapy, physical therapy, and athletic 7
trainers board may contract with the Ohio occupational therapy 8
association, or its successor organization, for assistance in 9
performing any duties prescribed in rules adopted under division 10
(I) of section 4755.06 of the Revised Code. 11

Sec. 4755.14. The "Occupational Therapy Licensure Compact" 12
is hereby ratified, enacted into law, and entered into by the 13
state of Ohio as a party to the compact with any other state 14
that has legally joined in the compact as follows: 15

OCCUPATIONAL THERAPY LICENSURE COMPACT 16

SECTION 1. PURPOSE

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

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This Compact is designed to achieve the following
objectives:

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

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

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

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D. Support spouses of relocating military members;

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

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

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

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SECTION 2. DEFINITIONS

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As used in this Compact, and except as otherwise provided, 44
the following definitions shall apply: 45

A. "Active Duty Military" means full-time duty status in 46
the active uniformed service of the United States, including 47
members of the National Guard and Reserve on active duty orders 48
pursuant to 10 U.S.C. Chapter 1209 and Section 1211. 49

B. "Adverse Action" means any administrative, civil, 50
equitable, or criminal action permitted by a State's laws which 51
is imposed by a Licensing Board or other authority against an 52
Occupational Therapist or Occupational Therapy Assistant, 53
including actions against an individual's license or Compact 54
Privilege such as censure, revocation, suspension, probation, 55
monitoring of the Licensee, or restriction on the Licensee's 56
practice. 57

C. "Alternative Program" means a non-disciplinary 58
monitoring process approved by an Occupational Therapy Licensing 59
Board. 60

D. "Compact Privilege" means the authorization, which is 61
equivalent to a license, granted by a Remote State to allow a 62
Licensee from another Member State to practice as an 63
Occupational Therapist or practice as an Occupational Therapy 64
Assistant in the Remote State under its laws and rules. The 65
Practice of Occupational Therapy occurs in the Member State 66
where the patient/client is located at the time of the 67
patient/client encounter. 68

E. "Continuing Competence/Education" means a requirement, 69
as a condition of license renewal, to provide evidence of 70
participation in, and/or completion of, educational and 71
professional activities relevant to practice or area of work. 72

F. "Current Significant Investigative Information" means 73
Investigative Information that a Licensing Board, after an 74
inquiry or investigation that includes notification and an 75
opportunity for the Occupational Therapist or Occupational 76
Therapy Assistant to respond, if required by State law, has 77
reason to believe is not groundless and, if proved true, would 78
indicate more than a minor infraction. 79

G. "Data System" means a repository of information about 80
Licensees, including but not limited to license status, 81
Investigative Information, Compact Privileges, and Adverse 82
Actions. 83

H. "Encumbered License" means a license in which an 84
Adverse Action restricts the Practice of Occupational Therapy by 85
the Licensee or said Adverse Action has been reported to the 86
National Practitioners Data Bank (NPDB). 87

I. "Executive Committee" means a group of directors 88
elected or appointed to act on behalf of, and within the powers 89
granted to them by, the Commission. 90

J. "Home State" means the Member State that is the 91
Licensee's Primary State of Residence. 92

K. "Impaired Practitioner" means individuals whose 93
professional practice is adversely affected by substance abuse, 94
addiction, or other health-related conditions. 95

L. "Investigative Information" means information, records, 96
and/or documents received or generated by an Occupational 97
Therapy Licensing Board pursuant to an investigation. 98

M. "Jurisprudence Requirement" means the assessment of an 99
individual's knowledge of the laws and rules governing the 100
Practice of Occupational Therapy in a State. 101

<u>N. "Licensee" means an individual who currently holds an</u>	102
<u>authorization from the State to practice as an Occupational</u>	103
<u>Therapist or as an Occupational Therapy Assistant.</u>	104
<u>O. "Member State" means a State that has enacted the</u>	105
<u>Compact.</u>	106
<u>P. "Occupational Therapist" means an individual who is</u>	107
<u>licensed by a State to practice Occupational Therapy.</u>	108
<u>Q. "Occupational Therapy Assistant" means an individual</u>	109
<u>who is licensed by a State to assist in the Practice of</u>	110
<u>Occupational Therapy.</u>	111
<u>R. "Occupational Therapy," "Occupational Therapy</u>	112
<u>Practice," and the "Practice of Occupational Therapy" mean the</u>	113
<u>care and services provided by an Occupational Therapist or an</u>	114
<u>Occupational Therapy Assistant as set forth in the Member</u>	115
<u>State's statutes and regulations.</u>	116
<u>S. "Occupational Therapy Compact Commission" or</u>	117
<u>"Commission" means the national administrative body whose</u>	118
<u>membership consists of all States that have enacted the Compact.</u>	119
<u>T. "Occupational Therapy Licensing Board" or "Licensing</u>	120
<u>Board" means the agency of a State that is authorized to license</u>	121
<u>and regulate Occupational Therapists and Occupational Therapy</u>	122
<u>Assistants.</u>	123
<u>U. "Primary State of Residence" means the state (also</u>	124
<u>known as the Home State) in which an Occupational Therapist or</u>	125
<u>Occupational Therapy Assistant who is not Active Duty Military</u>	126
<u>declares a primary residence for legal purposes as verified by:</u>	127
<u>driver's license, federal income tax return, lease, deed,</u>	128
<u>mortgage or voter registration or other verifying documentation</u>	129
<u>as further defined by Commission Rules.</u>	130

V. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Compact Privilege. 131
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W. "Rule" means a regulation promulgated by the Commission that has the force of law. 134
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X. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the Practice of Occupational Therapy. 136
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Y. "Single-State License" means an Occupational Therapist or Occupational Therapy Assistant license issued by a Member State that authorizes practice only within the issuing State and does not include a Compact Privilege in any other Member State. 139
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Z. "Telehealth" means the application of telecommunication technology to deliver Occupational Therapy services for assessment, intervention and/or consultation. 143
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SECTION 3. STATE PARTICIPATION IN THE COMPACT 146

A. To participate in the Compact, a Member State shall: 147

1. License Occupational Therapists and Occupational Therapy Assistants 148
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2. Participate fully in the Commission's Data System, including but not limited to using the Commission's unique identifier as defined in Rules of the Commission; 150
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3. Have a mechanism in place for receiving and investigating complaints about Licensees; 153
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4. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee; 155
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<u>5. Implement or utilize procedures for considering the</u>	158
<u>criminal history records of applicants for an initial Compact</u>	159
<u>Privilege. These procedures shall include the submission of</u>	160
<u>fingerprints or other biometric-based information by applicants</u>	161
<u>for the purpose of obtaining an applicant's criminal history</u>	162
<u>record information from the Federal Bureau of Investigation and</u>	163
<u>the agency responsible for retaining that State's criminal</u>	164
<u>records;</u>	165
<u>a. A Member State shall, within a time frame established</u>	166
<u>by the Commission, require a criminal background check for a</u>	167
<u>Licensee seeking/applying for a Compact Privilege whose Primary</u>	168
<u>State of Residence is that Member State, by receiving the</u>	169
<u>results of the Federal Bureau of Investigation criminal record</u>	170
<u>search, and shall use the results in making licensure decisions.</u>	171
<u>b. Communication between a Member State, the Commission</u>	172
<u>and among Member States regarding the verification of</u>	173
<u>eligibility for licensure through the Compact shall not include</u>	174
<u>any information received from the Federal Bureau of</u>	175
<u>Investigation relating to a federal criminal records check</u>	176
<u>performed by a Member State under Public Law 92-544.</u>	177
<u>6. Comply with the Rules of the Commission;</u>	178
<u>7. Utilize only a recognized national examination as a</u>	179
<u>requirement for licensure pursuant to the Rules of the</u>	180
<u>Commission; and</u>	181
<u>8. Have Continuing Competence/Education requirements as a</u>	182
<u>condition for license renewal.</u>	183
<u>B. A Member State shall grant the Compact Privilege to a</u>	184
<u>Licensee holding a valid unencumbered license in another Member</u>	185
<u>State in accordance with the terms of the Compact and Rules.</u>	186

<u>C. Member States may charge a fee for granting a Compact Privilege.</u>	187
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<u>D. A Member State shall provide for the State's delegate to attend all Occupational Therapy Compact Commission meetings.</u>	189
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<u>E. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single-State License as provided under the laws of each Member State. However, the Single-State License granted to these individuals shall not be recognized as granting the Compact Privilege in any other Member State.</u>	191
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<u>F. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.</u>	197
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<u>SECTION 4. COMPACT PRIVILEGE</u>	200
<u>A. To exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:</u>	201
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<u>1. Hold a license in the Home State;</u>	203
<u>2. Have a valid United States Social Security Number or National Practitioner Identification number;</u>	204
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<u>3. Have no encumbrance on any State license;</u>	206
<u>4. Be eligible for a Compact Privilege in any Member State in accordance with Section 4D, F, G, and H;</u>	207
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<u>5. Have paid all fines and completed all requirements resulting from any Adverse Action against any license or Compact Privilege, and two years have elapsed from the date of such completion;</u>	209
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<u>6. Notify the Commission that the Licensee is seeking the</u>	213

<u>Compact Privilege within a Remote State(s);</u>	214
<u>7. Pay any applicable fees, including any State fee, for</u>	215
<u>the Compact Privilege;</u>	216
<u>8. Complete a criminal background check in accordance with</u>	217
<u>Section 3A(5);</u>	218
<u>a. The Licensee shall be responsible for the payment of</u>	219
<u>any fee associated with the completion of a criminal background</u>	220
<u>check.</u>	221
<u>9. Meet any Jurisprudence Requirements established by the</u>	222
<u>Remote State(s) in which the Licensee is seeking a Compact</u>	223
<u>Privilege; and</u>	224
<u>10. Report to the Commission Adverse Action taken by any</u>	225
<u>non-Member State within 30 days from the date the Adverse Action</u>	226
<u>is taken.</u>	227
<u>B. The Compact Privilege is valid until the expiration</u>	228
<u>date of the Home State license. The Licensee must comply with</u>	229
<u>the requirements of Section 4A to maintain the Compact Privilege</u>	230
<u>in the Remote State.</u>	231
<u>C. A Licensee providing Occupational Therapy in a Remote</u>	232
<u>State under the Compact Privilege shall function within the laws</u>	233
<u>and regulations of the Remote State.</u>	234
<u>D. Occupational Therapy Assistants practicing in a Remote</u>	235
<u>State shall be supervised by an Occupational Therapist licensed</u>	236
<u>or holding a Compact Privilege in that Remote State.</u>	237
<u>E. A Licensee providing Occupational Therapy in a Remote</u>	238
<u>State is subject to that State's regulatory authority. A Remote</u>	239
<u>State may, in accordance with due process and that State's laws,</u>	240
<u>remove a Licensee's Compact Privilege in the Remote State for a</u>	241

specific period of time, impose fines, and/or take any other 242
necessary actions to protect the health and safety of its 243
citizens. The Licensee may be ineligible for a Compact Privilege 244
in any State until the specific time for removal has passed and 245
all fines are paid. 246

F. If a Home State license is encumbered, the Licensee 247
shall lose the Compact Privilege in any Remote State until the 248
following occur: 249

1. The Home State license is no longer encumbered; and 250

2. Two years have elapsed from the date on which the Home 251
State license is no longer encumbered in accordance with Section 252
4(F)(1). 253

G. Once an Encumbered License in the Home State is 254
restored to good standing, the Licensee must meet the 255
requirements of Section 4A to obtain a Compact Privilege in any 256
Remote State. 257

H. If a Licensee's Compact Privilege in any Remote State 258
is removed, the individual may lose the Compact Privilege in any 259
other Remote State until the following occur: 260

1. The specific period of time for which the Compact 261
Privilege was removed has ended; 262

2. All fines have been paid and all conditions have been 263
met; 264

3. Two years have elapsed from the date of completing 265
requirements for 4(H)(1) and (2); and 266

4. The Compact Privileges are reinstated by the 267
Commission, and the compact Data System is updated to reflect 268
reinstatement. 269

I. If a Licensee's Compact Privilege in any Remote State 270
is removed due to an erroneous charge, privileges shall be 271
restored through the compact Data System. 272

J. Once the requirements of Section 4H have been met, the 273
license must meet the requirements in Section 4A to obtain a 274
Compact Privilege in a Remote State. 275

SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF 276
COMPACT PRIVILEGE 277

A. An Occupational Therapist or Occupational Therapy 278
Assistant may hold a Home State license, which allows for 279
Compact Privileges in Member States, in only one Member State at 280
a time. 281

B. If an Occupational Therapist or Occupational Therapy 282
Assistant changes Primary State of Residence by moving between 283
two Member States: 284

1. The Occupational Therapist or Occupational Therapy 285
Assistant shall file an application for obtaining a new Home 286
State license by virtue of a Compact Privilege, pay all 287
applicable fees, and notify the current and new Home State in 288
accordance with applicable Rules adopted by the Commission. 289

2. Upon receipt of an application for obtaining a new Home 290
State license by virtue of compact privilege, the new Home State 291
shall verify that the Occupational Therapist or Occupational 292
Therapy Assistant meets the pertinent criteria outlined in 293
Section 4 via the Data System, without need for primary source 294
verification except for: 295

a. an FBI fingerprint based criminal background check if 296
not previously performed or updated pursuant to applicable Rules 297
adopted by the Commission in accordance with Public Law 92-544; 298

<u>b. other criminal background check as required by the new</u>	299
<u>Home State; and</u>	300
<u>c. submission of any requisite Jurisprudence Requirements</u>	301
<u>of the new Home State.</u>	302
<u>3. The former Home State shall convert the former Home</u>	303
<u>State license into a Compact Privilege once the new Home State</u>	304
<u>has activated the new Home State license in accordance with</u>	305
<u>applicable Rules adopted by the Commission.</u>	306
<u>4. Notwithstanding any other provision of this Compact, if</u>	307
<u>the Occupational Therapist or Occupational Therapy Assistant</u>	308
<u>cannot meet the criteria in Section 4, the new Home State shall</u>	309
<u>apply its requirements for issuing a new Single-State License.</u>	310
<u>5. The Occupational Therapist or the Occupational Therapy</u>	311
<u>Assistant shall pay all applicable fees to the new Home State in</u>	312
<u>order to be issued a new Home State license.</u>	313
<u>C. If an Occupational Therapist or Occupational Therapy</u>	314
<u>Assistant changes Primary State of Residence by moving from a</u>	315
<u>Member State to a non-Member State, or from a non-Member State</u>	316
<u>to a Member State, the State criteria shall apply for issuance</u>	317
<u>of a Single-State License in the new State.</u>	318
<u>D. Nothing in this compact shall interfere with a</u>	319
<u>Licensee's ability to hold a Single-State License in multiple</u>	320
<u>States; however, for the purposes of this compact, a Licensee</u>	321
<u>shall have only one Home State license.</u>	322
<u>E. Nothing in this Compact shall affect the requirements</u>	323
<u>established by a Member State for the issuance of a Single-State</u>	324
<u>License.</u>	325
<u>SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES</u>	326

A. Active Duty Military personnel, or their spouses, shall 327
designate a Home State where the individual has a current 328
license in good standing. The individual may retain the Home 329
State designation during the period the service member is on 330
active duty. Subsequent to designating a Home State, the 331
individual shall only change their Home State through 332
application for licensure in the new State or through the 333
process described in Section 5. 334

SECTION 7. ADVERSE ACTIONS 335

A. A Home State shall have exclusive power to impose 336
Adverse Action against an Occupational Therapist's or 337
Occupational Therapy Assistant's license issued by the Home 338
State. 339

B. In addition to the other powers conferred by State law, 340
a Remote State shall have the authority, in accordance with 341
existing State due process law, to: 342

1. Take Adverse Action against an Occupational Therapist's 343
or Occupational Therapy Assistant's Compact Privilege within 344
that Member State. 345

2. Issue subpoenas for both hearings and investigations 346
that require the attendance and testimony of witnesses as well 347
as the production of evidence. Subpoenas issued by a Licensing 348
Board in a Member State for the attendance and testimony of 349
witnesses or the production of evidence from another Member 350
State shall be enforced in the latter State by any court of 351
competent jurisdiction, according to the practice and procedure 352
of that court applicable to subpoenas issued in proceedings 353
pending before it. The issuing authority shall pay any witness 354
fees, travel expenses, mileage and other fees required by the 355

service statutes of the State in which the witnesses or evidence 356
are located. 357

C. For purposes of taking Adverse Action, the Home State 358
shall give the same priority and effect to reported conduct 359
received from a Member State as it would if the conduct had 360
occurred within the Home State. In so doing, the Home State 361
shall apply its own State laws to determine appropriate action. 362

D. The Home State shall complete any pending 363
investigations of an Occupational Therapist or Occupational 364
Therapy Assistant who changes Primary State of Residence during 365
the course of the investigations. The Home State, where the 366
investigations were initiated, shall also have the authority to 367
take appropriate action(s) and shall promptly report the 368
conclusions of the investigations to the OT Compact Commission 369
Data System. The Occupational Therapy Compact Commission Data 370
System administrator shall promptly notify the new Home State of 371
any Adverse Actions. 372

E. A Member State, if otherwise permitted by State law, 373
may recover from the affected Occupational Therapist or 374
Occupational Therapy Assistant the costs of investigations and 375
disposition of cases resulting from any Adverse Action taken 376
against that Occupational Therapist or Occupational Therapy 377
Assistant. 378

F. A Member State may take Adverse Action based on the 379
factual findings of the Remote State, provided that the Member 380
State follows its own procedures for taking the Adverse Action. 381

G. Joint Investigations 382

1. In addition to the authority granted to a Member State 383
by its respective State Occupational Therapy laws and 384

regulations or other applicable State law, any Member State may 385
participate with other Member States in joint investigations of 386
Licensees. 387

2. Member States shall share any investigative, 388
litigation, or compliance materials in furtherance of any joint 389
or individual investigation initiated under the Compact. 390

H. If an Adverse Action is taken by the Home State against 391
an Occupational Therapist's or Occupational Therapy Assistant's 392
license, the Occupational Therapist's or Occupational Therapy 393
Assistant's Compact Privilege in all other Member States shall 394
be deactivated until all encumbrances have been removed from the 395
State license. All Home State disciplinary orders that impose 396
Adverse Action against an Occupational Therapist's or 397
Occupational Therapy Assistant's license shall include a 398
Statement that the Occupational Therapist's or Occupational 399
Therapy Assistant's Compact Privilege is deactivated in all 400
Member States during the pendency of the order. 401

I. If a Member State takes Adverse Action, it shall 402
promptly notify the administrator of the Data System. The 403
administrator of the Data System shall promptly notify the Home 404
State of any Adverse Actions by Remote States. 405

J. Nothing in this Compact shall override a Member State's 406
decision that participation in an Alternative Program may be 407
used in lieu of Adverse Action. 408

SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY 409
COMPACT COMMISSION. 410

A. The Compact Member States hereby create and establish a 411
joint public agency known as the Occupational Therapy Compact 412
Commission: 413

<u>1. The Commission is an instrumentality of the Compact</u>	414
<u>States.</u>	415
<u>2. Venue is proper and judicial proceedings by or against</u>	416
<u>the Commission shall be brought solely and exclusively in a</u>	417
<u>court of competent jurisdiction where the principal office of</u>	418
<u>the Commission is located. The Commission may waive venue and</u>	419
<u>jurisdictional defenses to the extent it adopts or consents to</u>	420
<u>participate in alternative dispute resolution proceedings.</u>	421
<u>3. Nothing in this Compact shall be construed to be a</u>	422
<u>waiver of sovereign immunity.</u>	423
<u>B. Membership, Voting, and Meetings</u>	424
<u>1. Each Member State shall have and be limited to one (1)</u>	425
<u>delegate selected by that Member State's Licensing Board.</u>	426
<u>2. The delegate shall be either:</u>	427
<u>a. A current member of the Licensing Board, who is an</u>	428
<u>Occupational Therapist, Occupational Therapy Assistant, or</u>	429
<u>public member; or</u>	430
<u>b. An administrator of the Licensing Board.</u>	431
<u>3. Any delegate may be removed or suspended from office as</u>	432
<u>provided by the law of the State from which the delegate is</u>	433
<u>appointed.</u>	434
<u>4. The Member State board shall fill any vacancy occurring</u>	435
<u>in the Commission within 90 days.</u>	436
<u>5. Each delegate shall be entitled to one (1) vote with</u>	437
<u>regard to the promulgation of Rules and creation of bylaws and</u>	438
<u>shall otherwise have an opportunity to participate in the</u>	439
<u>business and affairs of the Commission. A delegate shall vote in</u>	440

person or by such other means as provided in the bylaws. The 441
bylaws may provide for delegates' participation in meetings by 442
telephone or other means of communication. 443

6. The Commission shall meet at least once during each 444
calendar year. Additional meetings shall be held as set forth in 445
the bylaws. 446

7. The Commission shall establish by Rule a term of office 447
for delegates. 448

C. The Commission shall have the following powers and 449
duties: 450

1. Establish a Code of Ethics for the Commission; 451

2. Establish the fiscal year of the Commission; 452

3. Establish bylaws; 453

4. Maintain its financial records in accordance with the 454
bylaws; 455

5. Meet and take such actions as are consistent with the 456
provisions of this Compact and the bylaws; 457

6. Promulgate uniform Rules to facilitate and coordinate 458
implementation and administration of this Compact. The Rules 459
shall have the force and effect of law and shall be binding in 460
all Member States; 461

7. Bring and prosecute legal proceedings or actions in the 462
name of the Commission, provided that the standing of any State 463
Occupational Therapy Licensing Board to sue or be sued under 464
applicable law shall not be affected; 465

8. Purchase and maintain insurance and bonds; 466

9. Borrow, accept, or contract for services of personnel, 467

<u>including, but not limited to, employees of a Member State;</u>	468
<u>10. Hire employees, elect or appoint officers, fix</u>	469
<u>compensation, define duties, grant such individuals appropriate</u>	470
<u>authority to carry out the purposes of the Compact, and</u>	471
<u>establish the Commission's personnel policies and programs</u>	472
<u>relating to conflicts of interest, qualifications of personnel,</u>	473
<u>and other related personnel matters;</u>	474
<u>11. Accept any and all appropriate donations and grants of</u>	475
<u>money, equipment, supplies, materials and services, and receive,</u>	476
<u>utilize and dispose of the same; provided that at all times the</u>	477
<u>Commission shall avoid any appearance of impropriety and/or</u>	478
<u>conflict of interest;</u>	479
<u>12. Lease, purchase, accept appropriate gifts or donations</u>	480
<u>of, or otherwise own, hold, improve or use, any property, real,</u>	481
<u>personal or mixed; provided that at all times the Commission</u>	482
<u>shall avoid any appearance of impropriety;</u>	483
<u>13. Sell, convey, mortgage, pledge, lease, exchange,</u>	484
<u>abandon, or otherwise dispose of any property real, personal, or</u>	485
<u>mixed;</u>	486
<u>14. Establish a budget and make expenditures;</u>	487
<u>15. Borrow money;</u>	488
<u>16. Appoint committees, including standing committees</u>	489
<u>composed of members, State regulators, State legislators or</u>	490
<u>their representatives, and consumer representatives, and such</u>	491
<u>other interested persons as may be designated in this Compact</u>	492
<u>and the bylaws;</u>	493
<u>17. Provide and receive information from, and cooperate</u>	494
<u>with, law enforcement agencies;</u>	495

<u>18. Establish and elect an Executive Committee; and</u>	496
<u>19. Perform such other functions as may be necessary or</u>	497
<u>appropriate to achieve the purposes of this Compact consistent</u>	498
<u>with the State regulation of Occupational Therapy licensure and</u>	499
<u>practice.</u>	500
<u>D. The Executive Committee</u>	501
<u>The Executive Committee shall have the power to act on</u>	502
<u>behalf of the Commission according to the terms of this Compact.</u>	503
<u>1. The Executive Committee shall be composed of nine</u>	504
<u>members:</u>	505
<u>a. Seven voting members who are elected by the Commission</u>	506
<u>from the current membership of the Commission;</u>	507
<u>b. One ex-officio, nonvoting member from a recognized</u>	508
<u>national Occupational Therapy professional association; and</u>	509
<u>c. One ex-officio, nonvoting member from a recognized</u>	510
<u>national Occupational Therapy certification organization.</u>	511
<u>2. The ex-officio members will be selected by their</u>	512
<u>respective organizations.</u>	513
<u>3. The Commission may remove any member of the Executive</u>	514
<u>Committee as provided in bylaws.</u>	515
<u>4. The Executive Committee shall meet at least annually.</u>	516
<u>5. The Executive Committee shall have the following Duties</u>	517
<u>and responsibilities:</u>	518
<u>a. Recommend to the entire Commission changes to the Rules</u>	519
<u>or bylaws, changes to this Compact legislation, fees paid by</u>	520
<u>Compact Member States such as annual dues, and any Commission</u>	521
<u>Compact fee charged to Licensees for the Compact Privilege;</u>	522

<u>b. Ensure Compact administration services are</u>	523
<u>appropriately provided, contractual or otherwise;</u>	524
<u>c. Prepare and recommend the budget;</u>	525
<u>d. Maintain financial records on behalf of the Commission;</u>	526
<u>e. Monitor Compact compliance of Member States and provide</u>	527
<u>compliance reports to the Commission;</u>	528
<u>f. Establish additional committees as necessary; and</u>	529
<u>g. Perform other duties as provided in Rules or bylaws.</u>	530
<u>E. Meetings of the Commission</u>	531
<u>1. All meetings shall be open to the public, and public</u>	532
<u>notice of meetings shall be given in the same manner as required</u>	533
<u>under the Rulemaking provisions in Section 10.</u>	534
<u>2. The Commission or the Executive Committee or other</u>	535
<u>committees of the Commission may convene in a closed, non-public</u>	536
<u>meeting if the Commission or Executive Committee or other</u>	537
<u>committees of the Commission must discuss:</u>	538
<u>a. Non-compliance of a Member State with its obligations</u>	539
<u>under the Compact;</u>	540
<u>b. The employment, compensation, discipline or other</u>	541
<u>matters, practices or procedures related to specific employees</u>	542
<u>or other matters related to the Commission's internal personnel</u>	543
<u>practices and procedures;</u>	544
<u>c. Current, threatened, or reasonably anticipated</u>	545
<u>litigation;</u>	546
<u>d. Negotiation of contracts for the purchase, lease, or</u>	547
<u>sale of goods, services, or real estate;</u>	548

<u>e. Accusing any person of a crime or formally censuring</u>	549
<u>any person;</u>	550
<u>f. Disclosure of trade secrets or commercial or financial</u>	551
<u>information that is privileged or confidential;</u>	552
<u>g. Disclosure of information of a personal nature where</u>	553
<u>disclosure would constitute a clearly unwarranted invasion of</u>	554
<u>personal privacy;</u>	555
<u>h. Disclosure of investigative records compiled for law</u>	556
<u>enforcement purposes;</u>	557
<u>i. Disclosure of information related to any investigative</u>	558
<u>reports prepared by or on behalf of or for use of the Commission</u>	559
<u>or other committee charged with responsibility of investigation</u>	560
<u>or determination of compliance issues pursuant to the Compact;</u>	561
<u>or</u>	562
<u>j. Matters specifically exempted from disclosure by</u>	563
<u>federal or Member State statute.</u>	564
<u>3. If a meeting, or portion of a meeting, is closed</u>	565
<u>pursuant to this provision, the Commission's legal counsel or</u>	566
<u>designee shall certify that the meeting may be closed and shall</u>	567
<u>reference each relevant exempting provision.</u>	568
<u>4. The Commission shall keep minutes that fully and</u>	569
<u>clearly describe all matters discussed in a meeting and shall</u>	570
<u>provide a full and accurate summary of actions taken, and the</u>	571
<u>reasons therefore, including a description of the views</u>	572
<u>expressed. All documents considered in connection with an action</u>	573
<u>shall be identified in such minutes. All minutes and documents</u>	574
<u>of a closed meeting shall remain under seal, subject to release</u>	575
<u>by a majority vote of the Commission or order of a court of</u>	576
<u>competent jurisdiction.</u>	577

<u>F. Financing of the Commission</u>	578
<u>1. The Commission shall pay, or provide for the payment</u>	579
<u>of, the reasonable expenses of its establishment, organization,</u>	580
<u>and ongoing activities.</u>	581
<u>2. The Commission may accept any and all appropriate</u>	582
<u>revenue sources, donations, and grants of money, equipment,</u>	583
<u>supplies, materials, and services.</u>	584
<u>3. The Commission may levy on and collect an annual</u>	585
<u>assessment from each Member State or impose fees on other</u>	586
<u>parties to cover the cost of the operations and activities of</u>	587
<u>the Commission and its staff, which must be in a total amount</u>	588
<u>sufficient to cover its annual budget as approved by the</u>	589
<u>Commission each year for which revenue is not provided by other</u>	590
<u>sources. The aggregate annual assessment amount shall be</u>	591
<u>allocated based upon a formula to be determined by the</u>	592
<u>Commission, which shall promulgate a Rule binding upon all</u>	593
<u>Member States.</u>	594
<u>4. The Commission shall not incur obligations of any kind</u>	595
<u>prior to securing the funds adequate to meet the same; nor shall</u>	596
<u>the Commission pledge the credit of any of the Member States,</u>	597
<u>except by and with the authority of the Member State.</u>	598
<u>5. The Commission shall keep accurate accounts of all</u>	599
<u>receipts and disbursements. The receipts and disbursements of</u>	600
<u>the Commission shall be subject to the audit and accounting</u>	601
<u>procedures established under its bylaws. However, all receipts</u>	602
<u>and disbursements of funds handled by the Commission shall be</u>	603
<u>audited yearly by a certified or licensed public accountant, and</u>	604
<u>the report of the audit shall be included in and become part of</u>	605
<u>the annual report of the Commission.</u>	606

G. Qualified Immunity, Defense, and Indemnification 607

1. The members, officers, executive director, employees 608
and representatives of the Commission shall be immune from suit 609
and liability, either personally or in their official capacity, 610
for any claim for damage to or loss of property or personal 611
injury or other civil liability caused by or arising out of any 612
actual or alleged act, error or omission that occurred, or that 613
the person against whom the claim is made had a reasonable basis 614
for believing occurred within the scope of Commission 615
employment, duties or responsibilities; provided that nothing in 616
this paragraph shall be construed to protect any such person 617
from suit and/or liability for any damage, loss, injury, or 618
liability caused by the intentional or willful or wanton 619
misconduct of that person. 620

2. The Commission shall defend any member, officer, 621
executive director, employee, or representative of the 622
Commission in any civil action seeking to impose liability 623
arising out of any actual or alleged act, error, or omission 624
that occurred within the scope of Commission employment, duties, 625
or responsibilities, or that the person against whom the claim 626
is made had a reasonable basis for believing occurred within the 627
scope of Commission employment, duties, or responsibilities; 628
provided that nothing herein shall be construed to prohibit that 629
person from retaining his or her own counsel; and provided 630
further, that the actual or alleged act, error, or omission did 631
not result from that person's intentional or willful or wanton 632
misconduct. 633

3. The Commission shall indemnify and hold harmless any 634
member, officer, executive director, employee, or representative 635
of the Commission for the amount of any settlement or judgment 636

obtained against that person arising out of any actual or 637
alleged act, error or omission that occurred within the scope of 638
Commission employment, duties, or responsibilities, or that such 639
person had a reasonable basis for believing occurred within the 640
scope of Commission employment, duties, or responsibilities, 641
provided that the actual or alleged act, error, or omission did 642
not result from the intentional or willful or wanton misconduct 643
of that person. 644

SECTION 9. DATA SYSTEM 645

A. The Commission shall provide for the development, 646
maintenance, and utilization of a coordinated database and 647
reporting system containing licensure, Adverse Action, and 648
Investigative Information on all licensed individuals in Member 649
States. 650

B. A Member State shall submit a uniform data set to the 651
Data System on all individuals to whom this Compact is 652
applicable (utilizing a unique identifier) as required by the 653
Rules of the Commission, including: 654

1. Identifying information; 655

2. Licensure data; 656

3. Adverse Actions against a license or Compact Privilege; 657

4. Non-confidential information related to Alternative 658
Program participation; 659

5. Any denial of application for licensure, and the 660
reason(s) for such denial; 661

6. Other information that may facilitate the 662
administration of this Compact, as determined by the Rules of 663
the Commission; and 664

<u>7. Current Significant Investigative Information.</u>	665
<u>C. Current Significant Investigative Information and other</u>	666
<u>Investigative Information pertaining to a Licensee in any Member</u>	667
<u>State will only be available to other Member States.</u>	668
<u>D. The Commission shall promptly notify all Member States</u>	669
<u>of any Adverse Action taken against a Licensee or an individual</u>	670
<u>applying for a license. Adverse Action information pertaining to</u>	671
<u>a Licensee in any Member State will be available to any other</u>	672
<u>Member State.</u>	673
<u>E. Member States contributing information to the Data</u>	674
<u>System may designate information that may not be shared with the</u>	675
<u>public without the express permission of the contributing State.</u>	676
<u>F. Any information submitted to the Data System that is</u>	677
<u>subsequently required to be expunged by the laws of the Member</u>	678
<u>State contributing the information shall be removed from the</u>	679
<u>Data System.</u>	680
<u>SECTION 10. RULEMAKING</u>	681
<u>A. The Commission shall exercise its Rulemaking powers</u>	682
<u>pursuant to the criteria set forth in this Section and the Rules</u>	683
<u>adopted thereunder. Rules and amendments shall become binding as</u>	684
<u>of the date specified in each Rule or amendment.</u>	685
<u>B. The Commission shall promulgate reasonable rules in</u>	686
<u>order to effectively and efficiently achieve the purposes of the</u>	687
<u>Compact. Notwithstanding the foregoing, in the event the</u>	688
<u>Commission exercises its rulemaking authority in a manner that</u>	689
<u>is beyond the scope of the purposes of the Compact, or the</u>	690
<u>powers granted hereunder, then such an action by the Commission</u>	691
<u>shall be invalid and have no force and effect.</u>	692

C. If a majority of the legislatures of the Member States 693
rejects a Rule, by enactment of a statute or resolution in the 694
same manner used to adopt the Compact within 4 years of the date 695
of adoption of the Rule, then such Rule shall have no further 696
force and effect in any Member State. 697

D. Rules or amendments to the Rules shall be adopted at a 698
regular or special meeting of the Commission. 699

E. Prior to promulgation and adoption of a final Rule or 700
Rules by the Commission, and at least thirty (30) days in 701
advance of the meeting at which the Rule will be considered and 702
voted upon, the Commission shall file a Notice of Proposed 703
Rulemaking: 704

1. On the website of the Commission or other publicly 705
accessible platform; and 706

2. On the website of each Member State Occupational 707
Therapy Licensing Board or other publicly accessible platform or 708
the publication in which each State would otherwise publish 709
proposed Rules. 710

F. The Notice of Proposed Rulemaking shall include: 711

1. The proposed time, date, and location of the meeting in 712
which the Rule will be considered and voted upon; 713

2. The text of the proposed Rule or amendment and the 714
reason for the proposed Rule; 715

3. A request for comments on the proposed Rule from any 716
interested person; and 717

4. The manner in which interested persons may submit 718
notice to the Commission of their intention to attend the public 719
hearing and any written comments. 720

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public. 721
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H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by: 724
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1. At least twenty five (25) persons; 727

2. A State or federal governmental subdivision or agency; 728
or 729

3. An association or organization having at least twenty five (25) members. 730
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I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing. 732
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1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing. 737
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2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. 742
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3. All hearings will be recorded. A copy of the recording will be made available on request. 745
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4. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the 747
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convenience of the Commission at hearings required by this 749
section. 750

J. Following the scheduled hearing date, or by the close 751
of business on the scheduled hearing date if the hearing was not 752
held, the Commission shall consider all written and oral 753
comments received. 754

K. If no written notice of intent to attend the public 755
hearing by interested parties is received, the Commission may 756
proceed with promulgation of the proposed Rule without a public 757
hearing. 758

L. The Commission shall, by majority vote of all members, 759
take final action on the proposed Rule and shall determine the 760
effective date of the Rule, if any, based on the Rulemaking 761
record and the full text of the Rule. 762

M. Upon determination that an emergency exists, the 763
Commission may consider and adopt an emergency Rule without 764
prior notice, opportunity for comment, or hearing, provided that 765
the usual Rulemaking procedures provided in the Compact and in 766
this section shall be retroactively applied to the Rule as soon 767
as reasonably possible, in no event later than ninety (90) days 768
after the effective date of the Rule. For the purposes of this 769
provision, an emergency Rule is one that must be adopted 770
immediately in order to: 771

1. Meet an imminent threat to public health, safety, or 772
welfare; 773

2. Prevent a loss of Commission or Member State funds; 774

3. Meet a deadline for the promulgation of an 775
administrative Rule that is established by federal law or Rule; 776
or 777

<u>4. Protect public health and safety.</u>	778
<u>N. The Commission or an authorized committee of the</u>	779
<u>Commission may direct revisions to a previously adopted Rule or</u>	780
<u>amendment for purposes of correcting typographical errors,</u>	781
<u>errors in format, errors in consistency, or grammatical errors.</u>	782
<u>Public notice of any revisions shall be posted on the website of</u>	783
<u>the Commission. The revision shall be subject to challenge by</u>	784
<u>any person for a period of thirty (30) days after posting. The</u>	785
<u>revision may be challenged only on grounds that the revision</u>	786
<u>results in a material change to a Rule. A challenge shall be</u>	787
<u>made in writing and delivered to the chair of the Commission</u>	788
<u>prior to the end of the notice period. If no challenge is made,</u>	789
<u>the revision will take effect without further action. If the</u>	790
<u>revision is challenged, the revision may not take effect without</u>	791
<u>the approval of the Commission.</u>	792
<u>SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT</u>	793
<u>A. Oversight</u>	794
<u>1. The executive, legislative, and judicial branches of</u>	795
<u>State government in each Member State shall enforce this Compact</u>	796
<u>and take all actions necessary and appropriate to effectuate the</u>	797
<u>Compact's purposes and intent. The provisions of this Compact</u>	798
<u>and the Rules promulgated hereunder shall have standing as</u>	799
<u>statutory law.</u>	800
<u>2. All courts shall take judicial notice of the Compact</u>	801
<u>and the Rules in any judicial or administrative proceeding in a</u>	802
<u>Member State pertaining to the subject matter of this Compact</u>	803
<u>which may affect the powers, responsibilities, or actions of the</u>	804
<u>Commission.</u>	805
<u>3. The Commission shall be entitled to receive service of</u>	806

process in any such proceeding, and shall have standing to 807
intervene in such a proceeding for all purposes. Failure to 808
provide service of process to the Commission shall render a 809
judgment or order void as to the Commission, this Compact, or 810
promulgated Rules. 811

B. Default, Technical Assistance, and Termination 812

1. If the Commission determines that a Member State has 813
defaulted in the performance of its obligations or 814
responsibilities under this Compact or the promulgated Rules, 815
the Commission shall: 816

a. Provide written notice to the defaulting State and 817
other Member States of the nature of the default, the proposed 818
means of curing the default and/or any other action to be taken 819
by the Commission; and 820

b. Provide remedial training and specific technical 821
assistance regarding the default. 822

2. If a State in default fails to cure the default, the 823
defaulting State may be terminated from the Compact upon an 824
affirmative vote of a majority of the Member States, and all 825
rights, privileges and benefits conferred by this Compact may be 826
terminated on the effective date of termination. A cure of the 827
default does not relieve the offending State of obligations or 828
liabilities incurred during the period of default. 829

3. Termination of membership in the Compact shall be 830
imposed only after all other means of securing compliance have 831
been exhausted. Notice of intent to suspend or terminate shall 832
be given by the Commission to the governor, the majority and 833
minority leaders of the defaulting State's legislature, and each 834
of the Member States. 835

4. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination. 836
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5. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State. 840
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6. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees. 844
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C. Dispute Resolution 850

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States. 851
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2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate. 854
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D. Enforcement 857

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact. 858
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2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its 861
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principal offices against a Member State in default to enforce 864
compliance with the provisions of the Compact and its 865
promulgated Rules and bylaws. The relief sought may include both 866
injunctive relief and damages. In the event judicial enforcement 867
is necessary, the prevailing member shall be awarded all costs 868
of such litigation, including reasonable attorney's fees. 869

3. The remedies herein shall not be the exclusive remedies 870
of the Commission. The Commission may pursue any other remedies 871
available under federal or State law. 872

SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE 873
COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED 874
RULES, WITHDRAWAL, AND AMENDMENT 875

A. The Compact shall come into effect on the date on which 876
the Compact statute is enacted into law in the tenth Member 877
State. The provisions, which become effective at that time, 878
shall be limited to the powers granted to the Commission 879
relating to assembly and the promulgation of Rules. Thereafter, 880
the Commission shall meet and exercise Rulemaking powers 881
necessary to the implementation and administration of the 882
Compact. 883

B. Any State that joins the Compact subsequent to the 884
Commission's initial adoption of the Rules shall be subject to 885
the Rules as they exist on the date on which the Compact becomes 886
law in that State. Any Rule that has been previously adopted by 887
the Commission shall have the full force and effect of law on 888
the day the Compact becomes law in that State. 889

C. Any Member State may withdraw from this Compact by 890
enacting a statute repealing the same. 891

1. A Member State's withdrawal shall not take effect until 892

six (6) months after enactment of the repealing statute. 893

2. Withdrawal shall not affect the continuing requirement 894
of the withdrawing State's Occupational Therapy Licensing Board 895
to comply with the investigative and Adverse Action reporting 896
requirements of this act prior to the effective date of 897
withdrawal. 898

D. Nothing contained in this Compact shall be construed to 899
invalidate or prevent any Occupational Therapy licensure 900
agreement or other cooperative arrangement between a Member 901
State and a non-Member State that does not conflict with the 902
provisions of this Compact. 903

E. This Compact may be amended by the Member States. No 904
amendment to this Compact shall become effective and binding 905
upon any Member State until it is enacted into the laws of all 906
Member States. 907

SECTION 13. CONSTRUCTION AND SEVERABILITY 908

This Compact shall be liberally construed so as to 909
effectuate the purposes thereof. The provisions of this Compact 910
shall be severable and if any phrase, clause, sentence or 911
provision of this Compact is declared to be contrary to the 912
constitution of any Member State or of the United States or the 913
applicability thereof to any government, agency, person, or 914
circumstance is held invalid, the validity of the remainder of 915
this Compact and the applicability thereof to any government, 916
agency, person, or circumstance shall not be affected thereby. 917
If this Compact shall be held contrary to the constitution of 918
any Member State, the Compact shall remain in full force and 919
effect as to the remaining Member States and in full force and 920
effect as to the Member State affected as to all severable 921

<u>matters.</u>	922
<u>SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS</u>	923
<u>A. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.</u>	924 925 926
<u>B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.</u>	927 928
<u>C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.</u>	929 930
<u>D. Any lawful actions of the Commission, including all Rules and bylaws promulgated by the Commission, are binding upon the Member States.</u>	931 932 933
<u>E. All agreements between the Commission and the Member States are binding in accordance with their terms.</u>	934 935
<u>F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.</u>	936 937 938 939 940
<u>Sec. 4755.141.</u> <u>Not later than ninety days after the "Occupational Therapy Licensure Compact" is entered into under section 4755.14 of the Revised Code, the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board shall select an individual to serve as a delegate to the occupational therapy compact commission created under the compact. The occupational therapy section shall fill a vacancy in this position not later than ninety days after the vacancy occurs.</u>	941 942 943 944 945 946 947 948 949