

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

S. B. No. 389

Senator Roegner

A BILL

To enact sections 4755.14 and 4755.141 of the
Revised Code to enter into the Occupational
Therapy Licensure Compact.

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

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

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

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OCCUPATIONAL THERAPY LICENSURE COMPACT

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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

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system of State licensure. 19

This Compact is designed to achieve the following 20
objectives: 21

A. Increase public access to Occupational Therapy services 22
by providing for the mutual recognition of other Member State 23
licenses; 24

B. Enhance the States' ability to protect the public's 25
health and safety; 26

C. Encourage the cooperation of Member States in 27
regulating multi-State Occupational Therapy Practice; 28

D. Support spouses of relocating military members; 29

E. Enhance the exchange of licensure, investigative, and 30
disciplinary information between Member States; 31

F. Allow a Remote State to hold a provider of services 32
with a Compact Privilege in that State accountable to that 33
State's practice standards; and 34

G. Facilitate the use of Telehealth technology in order to 35
increase access to Occupational Therapy services. 36

SECTION 2. DEFINITIONS 37

As used in this Compact, and except as otherwise provided, 38
the following definitions shall apply: 39

A. "Active Duty Military" means full-time duty status in 40
the active uniformed service of the United States, including 41
members of the National Guard and Reserve on active duty orders 42
pursuant to 10 U.S.C. Chapter 1209 and Section 1211. 43

B. "Adverse Action" means any administrative, civil, 44
equitable, or criminal action permitted by a State's laws which 45

is imposed by a Licensing Board or other authority against an 46
Occupational Therapist or Occupational Therapy Assistant, 47
including actions against an individual's license or Compact 48
Privilege such as censure, revocation, suspension, probation, 49
monitoring of the Licensee, or restriction on the Licensee's 50
practice. 51

C. "Alternative Program" means a non-disciplinary 52
monitoring process approved by an Occupational Therapy Licensing 53
Board. 54

D. "Compact Privilege" means the authorization, which is 55
equivalent to a license, granted by a Remote State to allow a 56
Licensee from another Member State to practice as an 57
Occupational Therapist or practice as an Occupational Therapy 58
Assistant in the Remote State under its laws and rules. The 59
Practice of Occupational Therapy occurs in the Member State 60
where the patient/client is located at the time of the 61
patient/client encounter. 62

E. "Continuing Competence/Education" means a requirement, 63
as a condition of license renewal, to provide evidence of 64
participation in, and/or completion of, educational and 65
professional activities relevant to practice or area of work. 66

F. "Current Significant Investigative Information" means 67
Investigative Information that a Licensing Board, after an 68
inquiry or investigation that includes notification and an 69
opportunity for the Occupational Therapist or Occupational 70
Therapy Assistant to respond, if required by State law, has 71
reason to believe is not groundless and, if proved true, would 72
indicate more than a minor infraction. 73

G. "Data System" means a repository of information about 74

Licensees, including but not limited to license status, 75
Investigative Information, Compact Privileges, and Adverse 76
Actions. 77

H. "Encumbered License" means a license in which an 78
Adverse Action restricts the Practice of Occupational Therapy by 79
the Licensee or said Adverse Action has been reported to the 80
National Practitioners Data Bank (NPDB). 81

I. "Executive Committee" means a group of directors 82
elected or appointed to act on behalf of, and within the powers 83
granted to them by, the Commission. 84

J. "Home State" means the Member State that is the 85
Licensee's Primary State of Residence. 86

K. "Impaired Practitioner" means individuals whose 87
professional practice is adversely affected by substance abuse, 88
addiction, or other health-related conditions. 89

L. "Investigative Information" means information, records, 90
and/or documents received or generated by an Occupational 91
Therapy Licensing Board pursuant to an investigation. 92

M. "Jurisprudence Requirement" means the assessment of an 93
individual's knowledge of the laws and rules governing the 94
Practice of Occupational Therapy in a State. 95

N. "Licensee" means an individual who currently holds an 96
authorization from the State to practice as an Occupational 97
Therapist or as an Occupational Therapy Assistant. 98

O. "Member State" means a State that has enacted the 99
Compact. 100

P. "Occupational Therapist" means an individual who is 101
licensed by a State to practice Occupational Therapy. 102

Q. "Occupational Therapy Assistant" means an individual 103
who is licensed by a State to assist in the Practice of 104
Occupational Therapy. 105

R. "Occupational Therapy," "Occupational Therapy 106
Practice," and the "Practice of Occupational Therapy" mean the 107
care and services provided by an Occupational Therapist or an 108
Occupational Therapy Assistant as set forth in the Member 109
State's statutes and regulations. 110

S. "Occupational Therapy Compact Commission" or 111
"Commission" means the national administrative body whose 112
membership consists of all States that have enacted the Compact. 113

T. "Occupational Therapy Licensing Board" or "Licensing 114
Board" means the agency of a State that is authorized to license 115
and regulate Occupational Therapists and Occupational Therapy 116
Assistants. 117

U. "Primary State of Residence" means the state (also 118
known as the Home State) in which an Occupational Therapist or 119
Occupational Therapy Assistant who is not Active Duty Military 120
declares a primary residence for legal purposes as verified by: 121
driver's license, federal income tax return, lease, deed, 122
mortgage or voter registration or other verifying documentation 123
as further defined by Commission Rules. 124

V. "Remote State" means a Member State other than the Home 125
State, where a Licensee is exercising or seeking to exercise the 126
Compact Privilege. 127

W. "Rule" means a regulation promulgated by the Commission 128
that has the force of law. 129

X. "State" means any state, commonwealth, district, or 130
territory of the United States of America that regulates the 131

Practice of Occupational Therapy. 132

Y. "Single-State License" means an Occupational Therapist 133
or Occupational Therapy Assistant license issued by a Member 134
State that authorizes practice only within the issuing State and 135
does not include a Compact Privilege in any other Member State. 136

Z. "Telehealth" means the application of telecommunication 137
technology to deliver Occupational Therapy services for 138
assessment, intervention and/or consultation. 139

SECTION 3. STATE PARTICIPATION IN THE COMPACT 140

A. To participate in the Compact, a Member State shall: 141

1. License Occupational Therapists and Occupational 142
Therapy Assistants 143

2. Participate fully in the Commission's Data System, 144
including but not limited to using the Commission's unique 145
identifier as defined in Rules of the Commission; 146

3. Have a mechanism in place for receiving and 147
investigating complaints about Licensees; 148

4. Notify the Commission, in compliance with the terms of 149
the Compact and Rules, of any Adverse Action or the availability 150
of Investigative Information regarding a Licensee; 151

5. Implement or utilize procedures for considering the 152
criminal history records of applicants for an initial Compact 153
Privilege. These procedures shall include the submission of 154
fingerprints or other biometric-based information by applicants 155
for the purpose of obtaining an applicant's criminal history 156
record information from the Federal Bureau of Investigation and 157
the agency responsible for retaining that State's criminal 158
records; 159

a. A Member State shall, within a time frame established 160
by the Commission, require a criminal background check for a 161
Licensee seeking/applying for a Compact Privilege whose Primary 162
State of Residence is that Member State, by receiving the 163
results of the Federal Bureau of Investigation criminal record 164
search, and shall use the results in making licensure decisions. 165

b. Communication between a Member State, the Commission 166
and among Member States regarding the verification of 167
eligibility for licensure through the Compact shall not include 168
any information received from the Federal Bureau of 169
Investigation relating to a federal criminal records check 170
performed by a Member State under Public Law 92-544. 171

6. Comply with the Rules of the Commission; 172

7. Utilize only a recognized national examination as a 173
requirement for licensure pursuant to the Rules of the 174
Commission; and 175

8. Have Continuing Competence/Education requirements as a 176
condition for license renewal. 177

B. A Member State shall grant the Compact Privilege to a 178
Licensee holding a valid unencumbered license in another Member 179
State in accordance with the terms of the Compact and Rules. 180

C. Member States may charge a fee for granting a Compact 181
Privilege. 182

D. A Member State shall provide for the State's delegate 183
to attend all Occupational Therapy Compact Commission meetings. 184

E. Individuals not residing in a Member State shall 185
continue to be able to apply for a Member State's Single-State 186
License as provided under the laws of each Member State. 187

However, the Single-State License granted to these individuals 188
shall not be recognized as granting the Compact Privilege in any 189
other Member State. 190

F. Nothing in this Compact shall affect the requirements 191
established by a Member State for the issuance of a Single-State 192
License. 193

SECTION 4. COMPACT PRIVILEGE 194

A. To exercise the Compact Privilege under the terms and 195
provisions of the Compact, the Licensee shall: 196

1. Hold a license in the Home State; 197

2. Have a valid United States Social Security Number or 198
National Practitioner Identification number; 199

3. Have no encumbrance on any State license; 200

4. Be eligible for a Compact Privilege in any Member State 201
in accordance with Section 4D, F, G, and H; 202

5. Have paid all fines and completed all requirements 203
resulting from any Adverse Action against any license or Compact 204
Privilege, and two years have elapsed from the date of such 205
completion; 206

6. Notify the Commission that the Licensee is seeking the 207
Compact Privilege within a Remote State(s); 208

7. Pay any applicable fees, including any State fee, for 209
the Compact Privilege; 210

8. Complete a criminal background check in accordance with 211
Section 3A(5); 212

a. The Licensee shall be responsible for the payment of 213
any fee associated with the completion of a criminal background 214

<u>check.</u>	215
<u>9. Meet any Jurisprudence Requirements established by the</u>	216
<u>Remote State(s) in which the Licensee is seeking a Compact</u>	217
<u>Privilege; and</u>	218
<u>10. Report to the Commission Adverse Action taken by any</u>	219
<u>non-Member State within 30 days from the date the Adverse Action</u>	220
<u>is taken.</u>	221
<u>B. The Compact Privilege is valid until the expiration</u>	222
<u>date of the Home State license. The Licensee must comply with</u>	223
<u>the requirements of Section 4A to maintain the Compact Privilege</u>	224
<u>in the Remote State.</u>	225
<u>C. A Licensee providing Occupational Therapy in a Remote</u>	226
<u>State under the Compact Privilege shall function within the laws</u>	227
<u>and regulations of the Remote State.</u>	228
<u>D. Occupational Therapy Assistants practicing in a Remote</u>	229
<u>State shall be supervised by an Occupational Therapist licensed</u>	230
<u>or holding a Compact Privilege in that Remote State.</u>	231
<u>E. A Licensee providing Occupational Therapy in a Remote</u>	232
<u>State is subject to that State's regulatory authority. A Remote</u>	233
<u>State may, in accordance with due process and that State's laws,</u>	234
<u>remove a Licensee's Compact Privilege in the Remote State for a</u>	235
<u>specific period of time, impose fines, and/or take any other</u>	236
<u>necessary actions to protect the health and safety of its</u>	237
<u>citizens. The Licensee may be ineligible for a Compact Privilege</u>	238
<u>in any State until the specific time for removal has passed and</u>	239
<u>all fines are paid.</u>	240
<u>F. If a Home State license is encumbered, the Licensee</u>	241
<u>shall lose the Compact Privilege in any Remote State until the</u>	242
<u>following occur:</u>	243

<u>1. The Home State license is no longer encumbered; and</u>	244
<u>2. Two years have elapsed from the date on which the Home</u>	245
<u>State license is no longer encumbered in accordance with Section</u>	246
<u>4(F)(1).</u>	247
<u>G. Once an Encumbered License in the Home State is</u>	248
<u>restored to good standing, the Licensee must meet the</u>	249
<u>requirements of Section 4A to obtain a Compact Privilege in any</u>	250
<u>Remote State.</u>	251
<u>H. If a Licensee's Compact Privilege in any Remote State</u>	252
<u>is removed, the individual may lose the Compact Privilege in any</u>	253
<u>other Remote State until the following occur:</u>	254
<u>1. The specific period of time for which the Compact</u>	255
<u>Privilege was removed has ended;</u>	256
<u>2. All fines have been paid and all conditions have been</u>	257
<u>met;</u>	258
<u>3. Two years have elapsed from the date of completing</u>	259
<u>requirements for 4(H)(1) and (2); and</u>	260
<u>4. The Compact Privileges are reinstated by the</u>	261
<u>Commission, and the compact Data System is updated to reflect</u>	262
<u>reinstatement.</u>	263
<u>I. If a Licensee's Compact Privilege in any Remote State</u>	264
<u>is removed due to an erroneous charge, privileges shall be</u>	265
<u>restored through the compact Data System.</u>	266
<u>J. Once the requirements of Section 4H have been met, the</u>	267
<u>license must meet the requirements in Section 4A to obtain a</u>	268
<u>Compact Privilege in a Remote State.</u>	269
<u>SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF</u>	270

<u>COMPACT PRIVILEGE</u>	271
<u>A. An Occupational Therapist or Occupational Therapy</u>	272
<u>Assistant may hold a Home State license, which allows for</u>	273
<u>Compact Privileges in Member States, in only one Member State at</u>	274
<u>a time.</u>	275
<u>B. If an Occupational Therapist or Occupational Therapy</u>	276
<u>Assistant changes Primary State of Residence by moving between</u>	277
<u>two Member States:</u>	278
<u>1. The Occupational Therapist or Occupational Therapy</u>	279
<u>Assistant shall file an application for obtaining a new Home</u>	280
<u>State license by virtue of a Compact Privilege, pay all</u>	281
<u>applicable fees, and notify the current and new Home State in</u>	282
<u>accordance with applicable Rules adopted by the Commission.</u>	283
<u>2. Upon receipt of an application for obtaining a new Home</u>	284
<u>State license by virtue of compact privilege, the new Home State</u>	285
<u>shall verify that the Occupational Therapist or Occupational</u>	286
<u>Therapy Assistant meets the pertinent criteria outlined in</u>	287
<u>Section 4 via the Data System, without need for primary source</u>	288
<u>verification except for:</u>	289
<u>a. an FBI fingerprint based criminal background check if</u>	290
<u>not previously performed or updated pursuant to applicable Rules</u>	291
<u>adopted by the Commission in accordance with Public Law 92-544;</u>	292
<u>b. other criminal background check as required by the new</u>	293
<u>Home State; and</u>	294
<u>c. submission of any requisite Jurisprudence Requirements</u>	295
<u>of the new Home State.</u>	296
<u>3. The former Home State shall convert the former Home</u>	297
<u>State license into a Compact Privilege once the new Home State</u>	298

has activated the new Home State license in accordance with 299
applicable Rules adopted by the Commission. 300

4. Notwithstanding any other provision of this Compact, if 301
the Occupational Therapist or Occupational Therapy Assistant 302
cannot meet the criteria in Section 4, the new Home State shall 303
apply its requirements for issuing a new Single-State License. 304

5. The Occupational Therapist or the Occupational Therapy 305
Assistant shall pay all applicable fees to the new Home State in 306
order to be issued a new Home State license. 307

C. If an Occupational Therapist or Occupational Therapy 308
Assistant changes Primary State of Residence by moving from a 309
Member State to a non-Member State, or from a non-Member State 310
to a Member State, the State criteria shall apply for issuance 311
of a Single-State License in the new State. 312

D. Nothing in this compact shall interfere with a 313
Licensee's ability to hold a Single-State License in multiple 314
States; however, for the purposes of this compact, a Licensee 315
shall have only one Home State license. 316

E. Nothing in this Compact shall affect the requirements 317
established by a Member State for the issuance of a Single-State 318
License. 319

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES 320

A. Active Duty Military personnel, or their spouses, shall 321
designate a Home State where the individual has a current 322
license in good standing. The individual may retain the Home 323
State designation during the period the service member is on 324
active duty. Subsequent to designating a Home State, the 325
individual shall only change their Home State through 326
application for licensure in the new State or through the 327

process described in Section 5. 328

SECTION 7. ADVERSE ACTIONS 329

A. A Home State shall have exclusive power to impose 330
Adverse Action against an Occupational Therapist's or 331
Occupational Therapy Assistant's license issued by the Home 332
State. 333

B. In addition to the other powers conferred by State law, 334
a Remote State shall have the authority, in accordance with 335
existing State due process law, to: 336

1. Take Adverse Action against an Occupational Therapist's 337
or Occupational Therapy Assistant's Compact Privilege within 338
that Member State. 339

2. Issue subpoenas for both hearings and investigations 340
that require the attendance and testimony of witnesses as well 341
as the production of evidence. Subpoenas issued by a Licensing 342
Board in a Member State for the attendance and testimony of 343
witnesses or the production of evidence from another Member 344
State shall be enforced in the latter State by any court of 345
competent jurisdiction, according to the practice and procedure 346
of that court applicable to subpoenas issued in proceedings 347
pending before it. The issuing authority shall pay any witness 348
fees, travel expenses, mileage and other fees required by the 349
service statutes of the State in which the witnesses or evidence 350
are located. 351

C. For purposes of taking Adverse Action, the Home State 352
shall give the same priority and effect to reported conduct 353
received from a Member State as it would if the conduct had 354
occurred within the Home State. In so doing, the Home State 355
shall apply its own State laws to determine appropriate action. 356

D. The Home State shall complete any pending 357
investigations of an Occupational Therapist or Occupational 358
Therapy Assistant who changes Primary State of Residence during 359
the course of the investigations. The Home State, where the 360
investigations were initiated, shall also have the authority to 361
take appropriate action(s) and shall promptly report the 362
conclusions of the investigations to the OT Compact Commission 363
Data System. The Occupational Therapy Compact Commission Data 364
System administrator shall promptly notify the new Home State of 365
any Adverse Actions. 366

E. A Member State, if otherwise permitted by State law, 367
may recover from the affected Occupational Therapist or 368
Occupational Therapy Assistant the costs of investigations and 369
disposition of cases resulting from any Adverse Action taken 370
against that Occupational Therapist or Occupational Therapy 371
Assistant. 372

F. A Member State may take Adverse Action based on the 373
factual findings of the Remote State, provided that the Member 374
State follows its own procedures for taking the Adverse Action. 375

G. Joint Investigations 376

1. In addition to the authority granted to a Member State 377
by its respective State Occupational Therapy laws and 378
regulations or other applicable State law, any Member State may 379
participate with other Member States in joint investigations of 380
Licensees. 381

2. Member States shall share any investigative, 382
litigation, or compliance materials in furtherance of any joint 383
or individual investigation initiated under the Compact. 384

H. If an Adverse Action is taken by the Home State against 385

an Occupational Therapist's or Occupational Therapy Assistant's 386
license, the Occupational Therapist's or Occupational Therapy 387
Assistant's Compact Privilege in all other Member States shall 388
be deactivated until all encumbrances have been removed from the 389
State license. All Home State disciplinary orders that impose 390
Adverse Action against an Occupational Therapist's or 391
Occupational Therapy Assistant's license shall include a 392
Statement that the Occupational Therapist's or Occupational 393
Therapy Assistant's Compact Privilege is deactivated in all 394
Member States during the pendency of the order. 395

I. If a Member State takes Adverse Action, it shall 396
promptly notify the administrator of the Data System. The 397
administrator of the Data System shall promptly notify the Home 398
State of any Adverse Actions by Remote States. 399

J. Nothing in this Compact shall override a Member State's 400
decision that participation in an Alternative Program may be 401
used in lieu of Adverse Action. 402

SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY 403
COMPACT COMMISSION. 404

A. The Compact Member States hereby create and establish a 405
joint public agency known as the Occupational Therapy Compact 406
Commission: 407

1. The Commission is an instrumentality of the Compact 408
States. 409

2. Venue is proper and judicial proceedings by or against 410
the Commission shall be brought solely and exclusively in a 411
court of competent jurisdiction where the principal office of 412
the Commission is located. The Commission may waive venue and 413
jurisdictional defenses to the extent it adopts or consents to 414

participate in alternative dispute resolution proceedings. 415

3. Nothing in this Compact shall be construed to be a 416
waiver of sovereign immunity. 417

B. Membership, Voting, and Meetings 418

1. Each Member State shall have and be limited to one (1) 419
delegate selected by that Member State's Licensing Board. 420

2. The delegate shall be either: 421

a. A current member of the Licensing Board, who is an 422
Occupational Therapist, Occupational Therapy Assistant, or 423
public member; or 424

b. An administrator of the Licensing Board. 425

3. Any delegate may be removed or suspended from office as 426
provided by the law of the State from which the delegate is 427
appointed. 428

4. The Member State board shall fill any vacancy occurring 429
in the Commission within 90 days. 430

5. Each delegate shall be entitled to one (1) vote with 431
regard to the promulgation of Rules and creation of bylaws and 432
shall otherwise have an opportunity to participate in the 433
business and affairs of the Commission. A delegate shall vote in 434
person or by such other means as provided in the bylaws. The 435
bylaws may provide for delegates' participation in meetings by 436
telephone or other means of communication. 437

6. The Commission shall meet at least once during each 438
calendar year. Additional meetings shall be held as set forth in 439
the bylaws. 440

7. The Commission shall establish by Rule a term of office 441

for delegates. 442

C. The Commission shall have the following powers and 443
duties: 444

1. Establish a Code of Ethics for the Commission; 445

2. Establish the fiscal year of the Commission; 446

3. Establish bylaws; 447

4. Maintain its financial records in accordance with the 448
bylaws; 449

5. Meet and take such actions as are consistent with the 450
provisions of this Compact and the bylaws; 451

6. Promulgate uniform Rules to facilitate and coordinate 452
implementation and administration of this Compact. The Rules 453
shall have the force and effect of law and shall be binding in 454
all Member States; 455

7. Bring and prosecute legal proceedings or actions in the 456
name of the Commission, provided that the standing of any State 457
Occupational Therapy Licensing Board to sue or be sued under 458
applicable law shall not be affected; 459

8. Purchase and maintain insurance and bonds; 460

9. Borrow, accept, or contract for services of personnel, 461
including, but not limited to, employees of a Member State; 462

10. Hire employees, elect or appoint officers, fix 463
compensation, define duties, grant such individuals appropriate 464
authority to carry out the purposes of the Compact, and 465
establish the Commission's personnel policies and programs 466
relating to conflicts of interest, qualifications of personnel, 467
and other related personnel matters; 468

11. Accept any and all appropriate donations and grants of 469
money, equipment, supplies, materials and services, and receive, 470
utilize and dispose of the same; provided that at all times the 471
Commission shall avoid any appearance of impropriety and/or 472
conflict of interest; 473

12. Lease, purchase, accept appropriate gifts or donations 474
of, or otherwise own, hold, improve or use, any property, real, 475
personal or mixed; provided that at all times the Commission 476
shall avoid any appearance of impropriety; 477

13. Sell, convey, mortgage, pledge, lease, exchange, 478
abandon, or otherwise dispose of any property real, personal, or 479
mixed; 480

14. Establish a budget and make expenditures; 481

15. Borrow money; 482

16. Appoint committees, including standing committees 483
composed of members, State regulators, State legislators or 484
their representatives, and consumer representatives, and such 485
other interested persons as may be designated in this Compact 486
and the bylaws; 487

17. Provide and receive information from, and cooperate 488
with, law enforcement agencies; 489

18. Establish and elect an Executive Committee; and 490

19. Perform such other functions as may be necessary or 491
appropriate to achieve the purposes of this Compact consistent 492
with the State regulation of Occupational Therapy licensure and 493
practice. 494

D. The Executive Committee 495

<u>The Executive Committee shall have the power to act on</u>	496
<u>behalf of the Commission according to the terms of this Compact.</u>	497
<u>1. The Executive Committee shall be composed of nine</u>	498
<u>members:</u>	499
<u>a. Seven voting members who are elected by the Commission</u>	500
<u>from the current membership of the Commission;</u>	501
<u>b. One ex-officio, nonvoting member from a recognized</u>	502
<u>national Occupational Therapy professional association; and</u>	503
<u>c. One ex-officio, nonvoting member from a recognized</u>	504
<u>national Occupational Therapy certification organization.</u>	505
<u>2. The ex-officio members will be selected by their</u>	506
<u>respective organizations.</u>	507
<u>3. The Commission may remove any member of the Executive</u>	508
<u>Committee as provided in bylaws.</u>	509
<u>4. The Executive Committee shall meet at least annually.</u>	510
<u>5. The Executive Committee shall have the following Duties</u>	511
<u>and responsibilities:</u>	512
<u>a. Recommend to the entire Commission changes to the Rules</u>	513
<u>or bylaws, changes to this Compact legislation, fees paid by</u>	514
<u>Compact Member States such as annual dues, and any Commission</u>	515
<u>Compact fee charged to Licensees for the Compact Privilege;</u>	516
<u>b. Ensure Compact administration services are</u>	517
<u>appropriately provided, contractual or otherwise;</u>	518
<u>c. Prepare and recommend the budget;</u>	519
<u>d. Maintain financial records on behalf of the Commission;</u>	520
<u>e. Monitor Compact compliance of Member States and provide</u>	521

<u>compliance reports to the Commission;</u>	522
<u>f. Establish additional committees as necessary; and</u>	523
<u>g. Perform other duties as provided in Rules or bylaws.</u>	524
<u>E. Meetings of the Commission</u>	525
<u>1. All meetings shall be open to the public, and public</u>	526
<u>notice of meetings shall be given in the same manner as required</u>	527
<u>under the Rulemaking provisions in Section 10.</u>	528
<u>2. The Commission or the Executive Committee or other</u>	529
<u>committees of the Commission may convene in a closed, non-public</u>	530
<u>meeting if the Commission or Executive Committee or other</u>	531
<u>committees of the Commission must discuss:</u>	532
<u>a. Non-compliance of a Member State with its obligations</u>	533
<u>under the Compact;</u>	534
<u>b. The employment, compensation, discipline or other</u>	535
<u>matters, practices or procedures related to specific employees</u>	536
<u>or other matters related to the Commission's internal personnel</u>	537
<u>practices and procedures;</u>	538
<u>c. Current, threatened, or reasonably anticipated</u>	539
<u>litigation;</u>	540
<u>d. Negotiation of contracts for the purchase, lease, or</u>	541
<u>sale of goods, services, or real estate;</u>	542
<u>e. Accusing any person of a crime or formally censuring</u>	543
<u>any person;</u>	544
<u>f. Disclosure of trade secrets or commercial or financial</u>	545
<u>information that is privileged or confidential;</u>	546
<u>g. Disclosure of information of a personal nature where</u>	547
<u>disclosure would constitute a clearly unwarranted invasion of</u>	548

<u>personal privacy;</u>	549
<u>h. Disclosure of investigative records compiled for law</u>	550
<u>enforcement purposes;</u>	551
<u>i. Disclosure of information related to any investigative</u>	552
<u>reports prepared by or on behalf of or for use of the Commission</u>	553
<u>or other committee charged with responsibility of investigation</u>	554
<u>or determination of compliance issues pursuant to the Compact;</u>	555
<u>or</u>	556
<u>j. Matters specifically exempted from disclosure by</u>	557
<u>federal or Member State statute.</u>	558
<u>3. If a meeting, or portion of a meeting, is closed</u>	559
<u>pursuant to this provision, the Commission's legal counsel or</u>	560
<u>designee shall certify that the meeting may be closed and shall</u>	561
<u>reference each relevant exempting provision.</u>	562
<u>4. The Commission shall keep minutes that fully and</u>	563
<u>clearly describe all matters discussed in a meeting and shall</u>	564
<u>provide a full and accurate summary of actions taken, and the</u>	565
<u>reasons therefore, including a description of the views</u>	566
<u>expressed. All documents considered in connection with an action</u>	567
<u>shall be identified in such minutes. All minutes and documents</u>	568
<u>of a closed meeting shall remain under seal, subject to release</u>	569
<u>by a majority vote of the Commission or order of a court of</u>	570
<u>competent jurisdiction.</u>	571
<u>F. Financing of the Commission</u>	572
<u>1. The Commission shall pay, or provide for the payment</u>	573
<u>of, the reasonable expenses of its establishment, organization,</u>	574
<u>and ongoing activities.</u>	575
<u>2. The Commission may accept any and all appropriate</u>	576

revenue sources, donations, and grants of money, equipment, 577
supplies, materials, and services. 578

3. The Commission may levy on and collect an annual 579
assessment from each Member State or impose fees on other 580
parties to cover the cost of the operations and activities of 581
the Commission and its staff, which must be in a total amount 582
sufficient to cover its annual budget as approved by the 583
Commission each year for which revenue is not provided by other 584
sources. The aggregate annual assessment amount shall be 585
allocated based upon a formula to be determined by the 586
Commission, which shall promulgate a Rule binding upon all 587
Member States. 588

4. The Commission shall not incur obligations of any kind 589
prior to securing the funds adequate to meet the same; nor shall 590
the Commission pledge the credit of any of the Member States, 591
except by and with the authority of the Member State. 592

5. The Commission shall keep accurate accounts of all 593
receipts and disbursements. The receipts and disbursements of 594
the Commission shall be subject to the audit and accounting 595
procedures established under its bylaws. However, all receipts 596
and disbursements of funds handled by the Commission shall be 597
audited yearly by a certified or licensed public accountant, and 598
the report of the audit shall be included in and become part of 599
the annual report of the Commission. 600

G. Qualified Immunity, Defense, and Indemnification 601

1. The members, officers, executive director, employees 602
and representatives of the Commission shall be immune from suit 603
and liability, either personally or in their official capacity, 604
for any claim for damage to or loss of property or personal 605

injury or other civil liability caused by or arising out of any 606
actual or alleged act, error or omission that occurred, or that 607
the person against whom the claim is made had a reasonable basis 608
for believing occurred within the scope of Commission 609
employment, duties or responsibilities; provided that nothing in 610
this paragraph shall be construed to protect any such person 611
from suit and/or liability for any damage, loss, injury, or 612
liability caused by the intentional or willful or wanton 613
misconduct of that person. 614

2. The Commission shall defend any member, officer, 615
executive director, employee, or representative of the 616
Commission in any civil action seeking to impose liability 617
arising out of any actual or alleged act, error, or omission 618
that occurred within the scope of Commission employment, duties, 619
or responsibilities, or that the person against whom the claim 620
is made had a reasonable basis for believing occurred within the 621
scope of Commission employment, duties, or responsibilities; 622
provided that nothing herein shall be construed to prohibit that 623
person from retaining his or her own counsel; and provided 624
further, that the actual or alleged act, error, or omission did 625
not result from that person's intentional or willful or wanton 626
misconduct. 627

3. The Commission shall indemnify and hold harmless any 628
member, officer, executive director, employee, or representative 629
of the Commission for the amount of any settlement or judgment 630
obtained against that person arising out of any actual or 631
alleged act, error or omission that occurred within the scope of 632
Commission employment, duties, or responsibilities, or that such 633
person had a reasonable basis for believing occurred within the 634
scope of Commission employment, duties, or responsibilities, 635
provided that the actual or alleged act, error, or omission did 636

not result from the intentional or willful or wanton misconduct
of that person.

SECTION 9. DATA SYSTEM

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

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

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license or Compact Privilege;

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

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

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

7. Current Significant Investigative Information.

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

D. The Commission shall promptly notify all Member States

of any Adverse Action taken against a Licensee or an individual 664
applying for a license. Adverse Action information pertaining to 665
a Licensee in any Member State will be available to any other 666
Member State. 667

E. Member States contributing information to the Data 668
System may designate information that may not be shared with the 669
public without the express permission of the contributing State. 670

F. Any information submitted to the Data System that is 671
subsequently required to be expunged by the laws of the Member 672
State contributing the information shall be removed from the 673
Data System. 674

SECTION 10. RULEMAKING 675

A. The Commission shall exercise its Rulemaking powers 676
pursuant to the criteria set forth in this Section and the Rules 677
adopted thereunder. Rules and amendments shall become binding as 678
of the date specified in each Rule or amendment. 679

B. The Commission shall promulgate reasonable rules in 680
order to effectively and efficiently achieve the purposes of the 681
Compact. Notwithstanding the foregoing, in the event the 682
Commission exercises its rulemaking authority in a manner that 683
is beyond the scope of the purposes of the Compact, or the 684
powers granted hereunder, then such an action by the Commission 685
shall be invalid and have no force and effect. 686

C. If a majority of the legislatures of the Member States 687
rejects a Rule, by enactment of a statute or resolution in the 688
same manner used to adopt the Compact within 4 years of the date 689
of adoption of the Rule, then such Rule shall have no further 690
force and effect in any Member State. 691

D. Rules or amendments to the Rules shall be adopted at a 692

regular or special meeting of the Commission. 693

E. Prior to promulgation and adoption of a final Rule or 694
Rules by the Commission, and at least thirty (30) days in 695
advance of the meeting at which the Rule will be considered and 696
voted upon, the Commission shall file a Notice of Proposed 697
Rulemaking: 698

1. On the website of the Commission or other publicly 699
accessible platform; and 700

2. On the website of each Member State Occupational 701
Therapy Licensing Board or other publicly accessible platform or 702
the publication in which each State would otherwise publish 703
proposed Rules. 704

F. The Notice of Proposed Rulemaking shall include: 705

1. The proposed time, date, and location of the meeting in 706
which the Rule will be considered and voted upon; 707

2. The text of the proposed Rule or amendment and the 708
reason for the proposed Rule; 709

3. A request for comments on the proposed Rule from any 710
interested person; and 711

4. The manner in which interested persons may submit 712
notice to the Commission of their intention to attend the public 713
hearing and any written comments. 714

G. Prior to adoption of a proposed Rule, the Commission 715
shall allow persons to submit written data, facts, opinions, and 716
arguments, which shall be made available to the public. 717

H. The Commission shall grant an opportunity for a public 718
hearing before it adopts a Rule or amendment if a hearing is 719

requested by: 720

1. At least twenty five (25) persons; 721

2. A State or federal governmental subdivision or agency; 722

or 723

3. An association or organization having at least twenty 724
five (25) members. 725

I. If a hearing is held on the proposed Rule or amendment, 726
the Commission shall publish the place, time, and date of the 727
scheduled public hearing. If the hearing is held via electronic 728
means, the Commission shall publish the mechanism for access to 729
the electronic hearing. 730

1. All persons wishing to be heard at the hearing shall 731
notify the executive director of the Commission or other 732
designated member in writing of their desire to appear and 733
testify at the hearing not less than five (5) business days 734
before the scheduled date of the hearing. 735

2. Hearings shall be conducted in a manner providing each 736
person who wishes to comment a fair and reasonable opportunity 737
to comment orally or in writing. 738

3. All hearings will be recorded. A copy of the recording 739
will be made available on request. 740

4. Nothing in this section shall be construed as requiring 741
a separate hearing on each Rule. Rules may be grouped for the 742
convenience of the Commission at hearings required by this 743
section. 744

J. Following the scheduled hearing date, or by the close 745
of business on the scheduled hearing date if the hearing was not 746
held, the Commission shall consider all written and oral 747

comments received. 748

K. If no written notice of intent to attend the public 749
hearing by interested parties is received, the Commission may 750
proceed with promulgation of the proposed Rule without a public 751
hearing. 752

L. The Commission shall, by majority vote of all members, 753
take final action on the proposed Rule and shall determine the 754
effective date of the Rule, if any, based on the Rulemaking 755
record and the full text of the Rule. 756

M. Upon determination that an emergency exists, the 757
Commission may consider and adopt an emergency Rule without 758
prior notice, opportunity for comment, or hearing, provided that 759
the usual Rulemaking procedures provided in the Compact and in 760
this section shall be retroactively applied to the Rule as soon 761
as reasonably possible, in no event later than ninety (90) days 762
after the effective date of the Rule. For the purposes of this 763
provision, an emergency Rule is one that must be adopted 764
immediately in order to: 765

1. Meet an imminent threat to public health, safety, or 766
welfare; 767

2. Prevent a loss of Commission or Member State funds; 768

3. Meet a deadline for the promulgation of an 769
administrative Rule that is established by federal law or Rule; 770
or 771

4. Protect public health and safety. 772

N. The Commission or an authorized committee of the 773
Commission may direct revisions to a previously adopted Rule or 774
amendment for purposes of correcting typographical errors, 775

errors in format, errors in consistency, or grammatical errors. 776
Public notice of any revisions shall be posted on the website of 777
the Commission. The revision shall be subject to challenge by 778
any person for a period of thirty (30) days after posting. The 779
revision may be challenged only on grounds that the revision 780
results in a material change to a Rule. A challenge shall be 781
made in writing and delivered to the chair of the Commission 782
prior to the end of the notice period. If no challenge is made, 783
the revision will take effect without further action. If the 784
revision is challenged, the revision may not take effect without 785
the approval of the Commission. 786

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT 787

A. Oversight 788

1. The executive, legislative, and judicial branches of 789
State government in each Member State shall enforce this Compact 790
and take all actions necessary and appropriate to effectuate the 791
Compact's purposes and intent. The provisions of this Compact 792
and the Rules promulgated hereunder shall have standing as 793
statutory law. 794

2. All courts shall take judicial notice of the Compact 795
and the Rules in any judicial or administrative proceeding in a 796
Member State pertaining to the subject matter of this Compact 797
which may affect the powers, responsibilities, or actions of the 798
Commission. 799

3. The Commission shall be entitled to receive service of 800
process in any such proceeding, and shall have standing to 801
intervene in such a proceeding for all purposes. Failure to 802
provide service of process to the Commission shall render a 803
judgment or order void as to the Commission, this Compact, or 804

promulgated Rules. 805

B. Default, Technical Assistance, and Termination 806

1. If the Commission determines that a Member State has 807
defaulted in the performance of its obligations or 808
responsibilities under this Compact or the promulgated Rules, 809
the Commission shall: 810

a. Provide written notice to the defaulting State and 811
other Member States of the nature of the default, the proposed 812
means of curing the default and/or any other action to be taken 813
by the Commission; and 814

b. Provide remedial training and specific technical 815
assistance regarding the default. 816

2. If a State in default fails to cure the default, the 817
defaulting State may be terminated from the Compact upon an 818
affirmative vote of a majority of the Member States, and all 819
rights, privileges and benefits conferred by this Compact may be 820
terminated on the effective date of termination. A cure of the 821
default does not relieve the offending State of obligations or 822
liabilities incurred during the period of default. 823

3. Termination of membership in the Compact shall be 824
imposed only after all other means of securing compliance have 825
been exhausted. Notice of intent to suspend or terminate shall 826
be given by the Commission to the governor, the majority and 827
minority leaders of the defaulting State's legislature, and each 828
of the Member States. 829

4. A State that has been terminated is responsible for all 830
assessments, obligations, and liabilities incurred through the 831
effective date of termination, including obligations that extend 832
beyond the effective date of termination. 833

5. The Commission shall not bear any costs related to a 834
State that is found to be in default or that has been terminated 835
from the Compact, unless agreed upon in writing between the 836
Commission and the defaulting State. 837

6. The defaulting State may appeal the action of the 838
Commission by petitioning the U.S. District Court for the 839
District of Columbia or the federal district where the 840
Commission has its principal offices. The prevailing member 841
shall be awarded all costs of such litigation, including 842
reasonable attorney's fees. 843

C. Dispute Resolution 844

1. Upon request by a Member State, the Commission shall 845
attempt to resolve disputes related to the Compact that arise 846
among Member States and between member and non-Member States. 847

2. The Commission shall promulgate a Rule providing for 848
both mediation and binding dispute resolution for disputes as 849
appropriate. 850

D. Enforcement 851

1. The Commission, in the reasonable exercise of its 852
discretion, shall enforce the provisions and Rules of this 853
Compact. 854

2. By majority vote, the Commission may initiate legal 855
action in the United States District Court for the District of 856
Columbia or the federal district where the Commission has its 857
principal offices against a Member State in default to enforce 858
compliance with the provisions of the Compact and its 859
promulgated Rules and bylaws. The relief sought may include both 860
injunctive relief and damages. In the event judicial enforcement 861
is necessary, the prevailing member shall be awarded all costs 862

of such litigation, including reasonable attorney's fees. 863

3. The remedies herein shall not be the exclusive remedies 864
of the Commission. The Commission may pursue any other remedies 865
available under federal or State law. 866

SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE 867
COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED 868
RULES, WITHDRAWAL, AND AMENDMENT 869

A. The Compact shall come into effect on the date on which 870
the Compact statute is enacted into law in the tenth Member 871
State. The provisions, which become effective at that time, 872
shall be limited to the powers granted to the Commission 873
relating to assembly and the promulgation of Rules. Thereafter, 874
the Commission shall meet and exercise Rulemaking powers 875
necessary to the implementation and administration of the 876
Compact. 877

B. Any State that joins the Compact subsequent to the 878
Commission's initial adoption of the Rules shall be subject to 879
the Rules as they exist on the date on which the Compact becomes 880
law in that State. Any Rule that has been previously adopted by 881
the Commission shall have the full force and effect of law on 882
the day the Compact becomes law in that State. 883

C. Any Member State may withdraw from this Compact by 884
enacting a statute repealing the same. 885

1. A Member State's withdrawal shall not take effect until 886
six (6) months after enactment of the repealing statute. 887

2. Withdrawal shall not affect the continuing requirement 888
of the withdrawing State's Occupational Therapy Licensing Board 889
to comply with the investigative and Adverse Action reporting 890
requirements of this act prior to the effective date of 891

withdrawal.

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

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

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SECTION 13. CONSTRUCTION AND SEVERABILITY

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

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SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

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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.

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B. Nothing herein prevents the enforcement of any other 921
law of a Member State that is not inconsistent with the Compact. 922

C. Any laws in a Member State in conflict with the Compact 923
are superseded to the extent of the conflict. 924

D. Any lawful actions of the Commission, including all 925
Rules and bylaws promulgated by the Commission, are binding upon 926
the Member States. 927

E. All agreements between the Commission and the Member 928
States are binding in accordance with their terms. 929

F. In the event any provision of the Compact exceeds the 930
constitutional limits imposed on the legislature of any Member 931
State, the provision shall be ineffective to the extent of the 932
conflict with the constitutional provision in question in that 933
Member State. 934

Sec. 4755.141. Not later than thirty days after the 935
"Occupational Therapy Licensure Compact" is entered into under 936
section 4755.14 of the Revised Code, the occupational therapy 937
section of the Ohio occupational therapy, physical therapy, and 938
athletic trainers board shall select an individual to serve as a 939
delegate to the occupational therapy compact commission created 940
under the compact. The occupational therapy section shall fill a 941
vacancy in this position not later than thirty days after the 942
vacancy occurs. 943