



2021 SENATE BILL 412

June 10, 2021 - Introduced by Senators BALLWEG, COWLES, FELZKOWSKI, MARKLEIN, NASS and L. TAYLOR, cosponsored by Representatives VANDERMEER, MOSES, CABRAL-GUEVARA, BILLINGS, BRANDTJEN, DALLMAN, DOYLE, MURSAU, NOVAK, OLDENBURG, ROZAR, SPIROS, SUBECK, TAUCHEN, THIESFELDT and TUSLER. Referred to Committee on Insurance, Licensing and Forestry.

1 **AN ACT** *to amend* 49.45 (9r) (a) 7. c., 146.81 (1) (es), 146.997 (1) (d) 4., 146.997
2 (1) (d) 5., 155.01 (7), 252.14 (1) (ar) 4p., 440.03 (9) (a) (intro.), 440.03 (9) (a) 2.,
3 440.03 (13) (b) (intro.), 440.03 (13) (c), 440.15, 446.01 (1v) (h), 448.956 (1m),
4 448.96 (4) and (6), 448.961, 448.968 (2) (intro.), 450.10 (3) (a) 5. and 451.02 (1);
5 and **to create** 14.89, 440.03 (11m) (c) 2r., 448.96 (1n) and (1o) and subchapter
6 XI of chapter 448 [precedes 448.987] of the statutes; **relating to:** ratification
7 of the Occupational Therapy Licensure Compact, extending the time limit for
8 emergency rule procedures, providing an exemption from emergency rule
9 procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill ratifies and enters Wisconsin into the Occupational Therapy Licensure Compact (compact), which provides for the ability of an occupational therapist or occupational therapy assistant licensed in one member state (licensee) to obtain a “compact privilege” to practice in a remote state without obtaining a license in that remote state. Significant provisions of the compact include:

1. The creation of a Occupational Therapy Compact Commission (commission), which includes one member or representative of the licensure boards of each member

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state. The compact grants various powers and duties to the commission, including overseeing the administration of the compact, enforcing the compact, adopting bylaws, promulgating binding rules for the compact, establishing an executive committee, and employing officers and employees. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff.

2. A process whereby a licensee may obtain a compact privilege to practice in another member state. A licensee's primary state of residence is considered to be his or her home state, and any other member state in which the licensee seeks to practice is considered a remote state. A licensee providing occupational therapy in a remote state under a compact privilege is subject to that state's regulatory authority. A remote state may take action against a licensee's compact privilege in the remote state, and the licensee is then not eligible for a compact privilege in any state until certain criteria are met. If a licensee's compact privilege in any remote state is removed, the individual may lose his or her compact privilege in any remote state until certain criteria are met. However, a home state has the exclusive power to impose adverse action against a license issued by the home state. If a home state license is encumbered (i.e., suspended), the licensee's compact privilege in any remote state is deactivated until all encumbrances have been removed from the home state license. Member states may charge a fee for granting a compact privilege and may impose a jurisprudence requirement for granting a compact privilege that assesses an individual's knowledge of the laws and rules governing the practice of occupational therapy in a particular state.

3. The ability for member boards to conduct joint investigations of licensees and the ability of member states to issue subpoenas that are enforceable in other states.

4. The creation of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states. A member state must submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission.

5. Various provisions regarding resolutions of disputes between the commission and member states and between member and nonmember states, including a process for termination of a state's membership in the compact if the state defaults on its obligations under the compact.

The compact becomes effective in this state upon enactment of the bill or upon enactment of the compact in ten states, whichever occurs later. The compact provides that it may be amended upon enactment of an amendment by all member states. A state may withdraw from the compact by repealing the statute authorizing the compact, but the compact provides that a withdrawal does not take effect until six months after the effective date of that repeal.

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For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 14.89 of the statutes is created to read:

2 **14.89 Occupational therapy licensure compact.** There is created an
3 occupational therapy compact commission as specified in s. 448.987. The delegate
4 of the commission representing this state shall be an individual described in s.
5 448.987 (8) (b) 2. The commission has the powers and duties granted and imposed
6 under s. 448.987.

7 **SECTION 2.** 49.45 (9r) (a) 7. c. of the statutes is amended to read:

8 49.45 **(9r)** (a) 7. c. An occupational therapist who is licensed under subch. VII
9 of ch. 448 or who holds a compact privilege under subch. XI of ch. 448.

10 **SECTION 3.** 146.81 (1) (es) of the statutes is amended to read:

11 146.81 **(1)** (es) An occupational therapist or occupational therapy assistant who
12 is licensed under subch. VII of ch. 448 or who holds a compact privilege under subch.
13 XI of ch. 448.

14 **SECTION 4.** 146.997 (1) (d) 4. of the statutes is amended to read:

15 146.997 **(1)** (d) 4. A physician, podiatrist, ~~or~~ perfusionist, physical therapist,
16 ~~or~~ physical therapist assistant, occupational therapist, or occupational therapy
17 assistant licensed under ch. 448 ~~or~~; a physical therapist or physical therapist
18 assistant who holds a compact privilege under subch. IX of ch. 448; or an occupational
19 therapist or occupational therapy assistant who holds a compact privilege under
20 subch. XI of ch. 448.

21 **SECTION 5.** 146.997 (1) (d) 5. of the statutes is amended to read:

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1 146.997 (1) (d) 5. ~~An occupational therapist, occupational therapy assistant,~~
2 ~~physician assistant or~~ A respiratory care practitioner certified under ch. 448.

3 **SECTION 6.** 155.01 (7) of the statutes is amended to read:

4 155.01 (7) "Health care provider" means a nurse licensed or permitted under
5 ch. 441, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447, a
6 physician, physician assistant, perfusionist, podiatrist, physical therapist, physical
7 therapist assistant, occupational therapist, or occupational therapy assistant
8 licensed under ch. 448, a person practicing Christian Science treatment, an
9 optometrist licensed under ch. 449, a psychologist licensed under ch. 455, a physical
10 therapist or physical therapist assistant who holds a compact privilege under subch.
11 IX of ch. 448, an occupational therapist or occupational therapy assistant who holds
12 a compact privilege under subch. XI of ch. 448, a partnership thereof, a corporation
13 or limited liability company thereof that provides health care services, a cooperative
14 health care association organized under s. 185.981 that directly provides services
15 through salaried employees in its own facility, or a home health agency, as defined
16 in s. 50.49 (1) (a).

17 **SECTION 7.** 252.14 (1) (ar) 4p. of the statutes is amended to read:

18 252.14 (1) (ar) 4p. An occupational therapist or occupational therapy assistant
19 who is licensed under subch. VII of ch. 448 or who holds a compact privilege under
20 subch. XI of ch. 448.

21 **SECTION 8.** 440.03 (9) (a) (intro.) of the statutes is amended to read:

22 440.03 (9) (a) (intro.) Subject to pars. (b) and (c) and s. 458.33 (2) (b) and (5),
23 the department shall, biennially, determine each fee for an initial credential for
24 which no examination is required, for a reciprocal credential, and for a credential

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1 renewal and any fee fees imposed under s. ss. 448.986 (2) and 448.9875 (2) by doing
2 all of the following:

3 **SECTION 9.** 440.03 (9) (a) 2. of the statutes is amended to read:

4 440.03 **(9)** (a) 2. Not later than January 31 of each odd-numbered year,
5 adjusting for the succeeding fiscal biennium each fee for an initial credential for
6 which an examination is not required, for a reciprocal credential, and, subject to s.
7 440.08 (2) (a), for a credential renewal, and any fee fees imposed under s. ss. 448.986
8 (2) and 448.9875 (2), if an adjustment is necessary to reflect the approximate
9 administrative and enforcement costs of the department that are attributable to the
10 regulation of the particular occupation or business during the period in which the
11 initial or reciprocal credential, credential renewal, or compact privilege is in effect
12 and, for purposes of each fee for a credential renewal, to reflect an estimate of any
13 additional moneys available for the department's general program operations as a
14 result of appropriation transfers that have been or are estimated to be made under
15 s. 20.165 (1) (i) during the fiscal biennium in progress at the time of the deadline for
16 an adjustment under this subdivision or during the fiscal biennium beginning on the
17 July 1 immediately following the deadline for an adjustment under this subdivision.

18 **SECTION 10.** 440.03 (11m) (c) 2r. of the statutes is created to read:

19 440.03 **(11m)** (c) 2r. The coordinated database and reporting system under s.
20 448.987 (9), if such disclosure is required under the occupational therapy licensure
21 compact under s. 440.987.

22 **SECTION 11.** 440.03 (13) (b) (intro.) of the statutes is amended to read:

23 440.03 **(13)** (b) (intro.) The department may investigate whether an applicant
24 for or holder of any of the following credentials has been charged with or convicted
25 of a crime only pursuant to rules promulgated by the department under this

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1 paragraph, including rules that establish the criteria that the department will use
2 to determine whether an investigation under this paragraph is necessary, except as
3 provided in par. (c) and ss. 441.51 (5) (a) 5., 448.980 (5) (b) 3., and 448.985 (3) (a) 4.,
4 and 448.987 (3) (a) 5. a. and (5) (b) 2. a.:

5 **SECTION 12.** 440.03 (13) (c) of the statutes is amended to read:

6 440.03 (13) (c) The department shall require an applicant for a private
7 detective license or a private security permit under s. 440.26, an applicant for a
8 juvenile martial arts instructor permit under sub. (17), an applicant for a real estate
9 appraiser certification under s. 458.06 or license under s. 458.08, an applicant for a
10 multistate license under s. 441.06 (1c) or 441.10 (1c), an applicant for a compact
11 license under s. 448.05 (2) (f), an applicant for a physical therapist license under s.
12 448.53 or physical therapist assistant license under s. 448.535, an applicant for an
13 occupational therapist or occupational therapy assistant compact privilege under s.
14 448.987 (4), an applicant for an occupational therapist or occupational therapy
15 assistant license described in s. 448.987 (5) (b) 2. a., and a person for whom the
16 department conducts an investigation under par. (b), to be photographed and
17 fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's
18 fingerprints. The department of justice may submit the fingerprint cards, and the
19 department of justice shall submit the fingerprint cards of all applicants for a real
20 estate appraiser certification under s. 458.06 or license under s. 458.08, of all
21 applicants for a multistate license under s. 441.06 (1c) or 441.10 (1c), of all applicants
22 for a compact license under s. 448.05 (2) (f), and of all applicants for a physical
23 therapist license under s. 448.53 or a physical therapist assistant license under s.
24 448.535, to the federal bureau of investigation for the purpose of verifying the
25 identity of the persons fingerprinted and obtaining records of their criminal arrests

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1 and convictions. Information obtained from the federal bureau of investigation may
2 be shared with the department or the appropriate credentialing board, but shall
3 otherwise be kept confidential and is not subject to disclosure under s. 19.35.

4 **SECTION 13.** 440.15 of the statutes, as affected by 2021 Wisconsin Act 25, is
5 amended to read:

6 **440.15 No fingerprinting.** Except as provided under ss. 440.03 (13) (c),
7 441.51 (5) (a) 5., 448.980 (5) (b) 3., 448.985 (3) (a) 4., 448.987 (3) (a) 5. a. and (5) (b)
8 2. a., 450.071 (3) (c) 9., and 450.075 (3) (c) 9., the department or a credentialing board
9 may not require that an applicant for a credential or a credential holder be
10 fingerprinted or submit fingerprints in connection with the department's or the
11 credentialing board's credentialing.

12 **SECTION 14.** 446.01 (1v) (h) of the statutes is amended to read:

13 446.01 (1v) (h) Occupational therapists affiliated credentialing board under
14 subch. VII of ch. 448. "Health care professional" also includes an individual who
15 holds a compact privilege under subch. XI of ch. 448.

16 **SECTION 15.** 448.956 (1m) of the statutes is amended to read:

17 448.956 (1m) Subject to sub. (1) (a), a licensee may provide athletic training
18 to an individual without a referral, except that a licensee may not provide athletic
19 training as described under s. 448.95 (5) (d) or (e) in an outpatient rehabilitation
20 setting unless the licensee has obtained a written referral for the individual from a
21 practitioner licensed or certified under subch. II, III, IV, V, or VII of this chapter;
22 under ch. 446; or under s. 441.16 (2) or from a practitioner who holds a compact
23 privilege under subch. IX or XI of ch. 448.

24 **SECTION 16.** 448.96 (1n) and (1o) of the statutes are created to read:

SENATE BILL 412**SECTION 16**

1 448.96 **(1n)** “Compact” means the occupational therapy licensure compact
2 under s. 448.987.

3 **(1o)** “Compact privilege” means a compact privilege, as defined in s. 448.987
4 (2) (d), that is granted under the compact to an individual to practice in this state.

5 **SECTION 17.** 448.96 (4) and (6) of the statutes are amended to read:

6 448.96 **(4)** “Occupational therapist” means an individual who is licensed by the
7 affiliated credentialing board to practice occupational therapy or who holds an
8 occupational therapist compact privilege.

9 **(6)** “Occupational therapy assistant” means an individual who is licensed by
10 the affiliated credentialing board to assist in the practice of occupational therapy
11 under the supervision of an occupational therapist or who holds an occupational
12 therapy assistant compact privilege.

13 **SECTION 18.** 448.961 of the statutes is amended to read:

14 **448.961 License required. (1)** Except as provided in s. 448.962 (1), ~~a~~ no
15 ~~person who is not licensed as an occupational therapist may not practice~~
16 ~~occupational therapy, designate himself or herself as an occupational therapist,~~
17 ~~claim to render occupational therapy services, or use the abbreviation “O.T.” or~~
18 ~~“O.T.R.” after the person’s name~~ unless the person is licensed as an occupational
19 therapist or holds a valid occupational therapist compact privilege.

20 **(2)** Except as provided in s. 448.962 (2) ~~a~~, ~~no person who is not licensed as an~~
21 ~~occupational therapy assistant may not assist in the practice of occupational therapy,~~
22 ~~describe himself or herself as an occupational therapy assistant or,~~ claim to render
23 occupational therapy services as an occupational therapy assistant, or use the
24 abbreviation “O.T.A.” or “C.O.T.A.” after the person’s name unless the person is

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1 licensed as an occupational therapy assistant or holds a valid occupational therapy
2 assistant compact privilege.

3 **SECTION 19.** 448.968 (2) (intro.) of the statutes is amended to read:

4 448.968 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
5 affiliated credentialing board may reprimand a licensee or compact privilege holder
6 or deny, limit, suspend or revoke a license granted under this subchapter or a
7 compact privilege if it finds that the applicant ~~or~~ licensee, or compact privilege
8 holder has done any of the following:

9 **SECTION 20.** Subchapter XI of chapter 448 [precedes 448.987] of the statutes
10 is created to read:

11 **CHAPTER 448**

12 **SUBCHAPTER XI**

13 **OCCUPATIONAL THERAPY**

14 **LICENSURE COMPACT**

15 **448.987 Occupational therapy licensure compact. (1) PURPOSE.** The
16 purpose of this compact is to facilitate interstate practice of occupational therapy
17 with the goal of improving public access to occupational therapy services. The
18 practice of occupational therapy occurs in the state where the patient/client is located
19 at the time of the patient/client encounter. The compact preserves the regulatory
20 authority of states to protect public health and safety through the current system of
21 state licensure. This compact is designed to achieve the following objectives:

22 (a) Increase public access to occupational therapy services by providing for the
23 mutual recognition of other member state licenses;

24 (b) Enhance the states' ability to protect the public's health and safety;

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1 (c) Encourage the cooperation of member states in regulating multi-state
2 occupational therapy practice;

3 (d) Support spouses of relocating military members;

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

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

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

10 **(2) DEFINITIONS.** As used in this compact, and except as otherwise provided, the
11 following definitions shall apply:

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

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

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

23 (d) "Compact privilege" means the authorization, which is equivalent to a
24 license, granted by a remote state to allow a licensee from another member state to
25 practice as an occupational therapist or practice as a occupational therapy assistant

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1 in the remote state under its laws and rules. The practice of occupational therapy
2 occurs in the member state where the patient/client is located at the time of the
3 patient/client encounter.

4 (e) “Continuing competence/education” means a requirement, as a condition of
5 license renewal, to provide evidence of participation in, and/or completion of,
6 educational and professional activities relevant to practice or area of work.

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

12 (g) “Data system” means a repository of information about licensees, including
13 but not limited to license status, investigative information, compact privileges, and
14 adverse actions.

15 (h) “Encumbered License” means a license in which an adverse action restricts
16 the practice of occupational therapy by the licensee or said adverse action has been
17 reported to the National Practitioners Data Bank (NPDB).

18 (i) “Executive committee” means a group of directors elected or appointed to act
19 on behalf of, and within the powers granted to them by, the commission.

20 (j) “Home state” means the member state that is the licensee’s primary state
21 of residence.

22 (k) “Impaired practitioner” means individuals whose professional practice is
23 adversely affected by substance abuse, addiction, or other health-related conditions.

SENATE BILL 412**SECTION 20**

1 (L) "Investigative information" means information, records, and/or documents
2 received or generated by an occupational therapy licensing board pursuant to an
3 investigation.

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

7 (n) "Licensee" means an individual who currently holds an authorization from
8 the state to practice as an occupational therapist or as an occupational therapy
9 assistant.

10 (o) "Member state" means a state that has enacted the compact.

11 (p) "Occupational therapist" means an individual who is licensed by a state to
12 practice occupational therapy.

13 (q) "Occupational therapy assistant" means an individual who is licensed by
14 a state to assist in the practice of occupational therapy.

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

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

22 (t) "Occupational therapy licensing board" or "licensing board" means the
23 agency of a state that is authorized to license and regulate occupational therapists
24 and occupational therapy assistants.

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1 (u) “Primary state of residence” means the state (also known as the home state)
2 in which an occupational therapist or occupational therapy assistant who is not
3 active duty military declares a primary residence for legal purposes as verified by:
4 driver’s license, federal income tax return, lease, deed, mortgage, or voter
5 registration or other verifying documentation as further defined by commission
6 rules.

7 (v) “Remote state” means a member state other than the home state, where a
8 licensee is exercising or seeking to exercise the compact privilege.

9 (w) “Rule” means a regulation promulgated by the commission that has the
10 force of law.

11 (x) “State” means any state, commonwealth, district, or territory of the United
12 States of America that regulates the practice of occupational therapy.

13 (y) “Single-state license” means an occupational therapist or occupational
14 therapy assistant license issued by a member state that authorizes practice only
15 within the issuing state and does not include a compact privilege in any other
16 member state.

17 (z) “Telehealth” means the application of telecommunication technology to
18 deliver occupational therapy services for assessment, intervention and/or
19 consultation.

20 **(3) STATE PARTICIPATION IN THE COMPACT.** (a) To participate in the compact, a
21 member state shall:

22 1. License occupational therapists and occupational therapy assistants;

23 2. Participate fully in the commission’s data system, including but not limited
24 to using the commission’s unique identifier as defined in rules of the commission;

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1 3. Have a mechanism in place for receiving and investigating complaints about
2 licensees;

3 4. Notify the commission, in compliance with the terms of the compact and
4 rules, of any adverse action or the availability of investigative information regarding
5 a licensee;

6 5. Implement or utilize procedures for considering the criminal history records
7 of applicants for an initial compact privilege. These procedures shall include the
8 submission of fingerprints or other biometric-based information by applicants for
9 the purpose of obtaining an applicant's criminal history record information from the
10 federal bureau of investigation and the agency responsible for retaining that state's
11 criminal records;

12 a. A member state shall, within a time frame established by the commission,
13 require a criminal background check for a licensee seeking/applying for a compact
14 privilege whose primary state of residence is that member state, by receiving the
15 results of the federal bureau of investigation criminal record search, and shall use
16 the results in making licensure decisions.

17 b. Communication between a member state, the commission or among member
18 states regarding the verification of eligibility for licensure through the compact shall
19 not include any information received from the federal bureau of investigation
20 relating to a federal criminal records check performed by a member state under P.L.
21 92-544.

22 6. Comply with the rules of the commission;

23 7. Utilize only a recognized national examination as a requirement for
24 licensure pursuant to the rules of the commission; and

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1 8. Have continuing competence/education requirements as a condition for
2 license renewal.

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

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

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

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

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

15 **(4) COMPACT PRIVILEGE.** (a) To exercise the compact privilege under the terms
16 and provisions of the compact, the licensee shall:

17 1. Hold a license in the home state;

18 2. Have a valid United States social security number or national practitioner
19 identification number;

20 3. Have no encumbrance on any state license;

21 4. Be eligible for a compact privilege in any member state in accordance with
22 pars. (d), (f), (g), and (h);

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

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1 6. Notify the commission that the licensee is seeking the compact privilege
2 within a remote state(s);

3 7. Pay any applicable fees, including any state fee, for the compact privilege;

4 8. Complete a criminal background check in accordance with sub. (3) (a) 5.;

5 a. The licensee shall be responsible for the payment of any fee associated with
6 the completion of a criminal background check.

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

9 10. Report to the commission adverse action taken by any non-member state
10 within 30 days from the date the adverse action is taken.

11 (b) The compact privilege is valid until the expiration date of the home state
12 license. The licensee must comply with the requirements of par. (a) to maintain the
13 compact privilege in the remote state.

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

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

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

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

3 1. The home state license is no longer encumbered; and

4 2. Two years have elapsed from the date on which the home state license is no
5 longer encumbered in accordance with subd. 1.

6 (g) Once an encumbered license in the home state is restored to good standing,
7 the licensee must meet the requirements of par. (a) to obtain a compact privilege in
8 any remote state.

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

12 1. The specific period of time for which the compact privilege was removed has
13 ended;

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

15 3. Two years have elapsed from the date of completing requirements under
16 subds. 1. and 2; and

17 4. The compact privileges are reinstated by the commission and the compact
18 data system is updated to reflect reinstatement.

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

21 (j) Once the requirements of par. (h) have been met, the license must meet the
22 requirements in par. (a) to obtain a compact privilege in a remote state.

23 **(5) OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE. (a)**

24 An occupational therapist or occupational therapy assistant may hold a home state

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1 license, which allows for compact privileges in member states, in only one member
2 state at a time.

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

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

9 2. Upon receipt of an application for obtaining a new home state license by
10 virtue of compact privilege, the new home state shall verify that the occupational
11 therapist or occupational therapy assistant meets the pertinent criteria outlined in
12 sub. (4) via the data system, without need for primary source verification except for:

13 a. An FBI fingerprint based criminal background check if not previously
14 performed or updated pursuant to applicable rules adopted by the commission in
15 accordance with P.L. 92-544;

16 b. Other criminal background check as required by the new home state; and

17 c. Submission of any requisite jurisprudence requirements of the new home
18 state.

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

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

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

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

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

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

13 **(6) ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES.** (a) Active duty military
14 personnel, or their spouses, shall designate a home state where the individual has
15 a current license in good standing. The individual may retain the home state
16 designation during the period the service member is on active duty. Subsequent to
17 designating a home state, the individual shall only change their home state through
18 application for licensure in the new state or through the process described in sub. (5).

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

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

24 1. Take adverse action against an occupational therapist's or occupational
25 therapy assistant's compact privilege within that member state.

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

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

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

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

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

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

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

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

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

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

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1 **(8) ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION.** (a) The
2 compact member states hereby create and establish a joint public agency known as
3 the occupational therapy compact commission:

4 1. The commission is an instrumentality of the compact states.

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

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

12 **(b) Membership, voting, and meetings.** 1. Each member state shall have and
13 be limited to one delegate selected by that member state's licensing board.

14 2. The delegate shall be either:

15 a. A current member of the licensing board, who is an occupational therapist,
16 occupational therapy assistant, or public member; or

17 b. An administrator of the licensing board.

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

20 4. The member state board shall fill any vacancy occurring in the commission
21 within 90 days.

22 5. Each delegate shall be entitled to one vote with regard to the promulgation
23 of rules and creation of bylaws and shall otherwise have an opportunity to participate
24 in the business and affairs of the commission. A delegate shall vote in person or by

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1 such other means as provided in the bylaws. The bylaws may provide for delegates'
2 participation in meetings by telephone or other means of communication.

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

5 7. The commission shall establish by rule a term of office for delegates.

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

7 1. Establish a code of ethics for the commission;

8 2. Establish the fiscal year of the commission;

9 3. Establish bylaws;

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

11 5. Meet and take such actions as are consistent with the provisions of this
12 compact and the bylaws;

13 6. Promulgate uniform rules to facilitate and coordinate implementation and
14 administration of this compact. The rules shall have the force and effect of law and
15 shall be binding in all member states;

16 7. Bring and prosecute legal proceedings or actions in the name of the
17 commission, provided that the standing of any state occupational therapy licensing
18 board to sue or be sued under applicable law shall not be affected;

19 8. Purchase and maintain insurance and bonds;

20 9. Borrow, accept, or contract for services of personnel, including, but not
21 limited to, employees of a member state.

22 10. Hire employees, elect or appoint officers, fix compensation, define duties,
23 grant such individuals appropriate authority to carry out the purposes of the
24 compact, and establish the commission's personnel policies and programs relating

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1 to conflicts of interest, qualifications of personnel, and other related personnel
2 matters;

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

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

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

12 14. Establish a budget and make expenditures;

13 15. Borrow money;

14 16. Appoint committees, including standing committees composed of members,
15 state regulators, state legislators or their representatives, and consumer
16 representatives, and such other interested persons as may be designated in this
17 compact and the bylaws;

18 17. Provide and receive information from, and cooperate with, law enforcement
19 agencies;

20 18. Establish and elect an executive committee; and

21 19. Perform such other functions as may be necessary or appropriate to achieve
22 the purposes of this compact consistent with the state regulation of occupational
23 therapy licensure and practice.

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

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- 1 1. The executive committee shall be composed of 9 members:
- 2 a. Seven voting members who are elected by the commission from the current
- 3 membership of the commission;
- 4 b. One ex-officio, nonvoting member from a recognized national occupational
- 5 therapy professional association; and
- 6 c. One ex-officio, nonvoting member from a recognized national occupational
- 7 therapy certification organization;
- 8 2. The ex-officio members will be selected by their respective organizations.
- 9 3. The commission may remove any member of the executive committee as
- 10 provided in bylaws.
- 11 4. The executive committee shall meet at least annually.
- 12 5. The executive committee shall have the following duties and responsibilities:
- 13 a. Recommend to the entire commission changes to the rules or bylaws, changes
- 14 to this compact legislation, fees paid by compact member states such as annual dues,
- 15 and any commission compact fee charged to licensees for the compact privilege;
- 16 b. Ensure compact administration services are appropriately provided,
- 17 contractual or otherwise;
- 18 c. Prepare and recommend the budget;
- 19 d. Maintain financial records on behalf of the commission;
- 20 e. Monitor compact compliance of member states and provide compliance
- 21 reports to the commission;
- 22 f. Establish additional committees as necessary; and
- 23 g. Perform other duties as provided in rules or bylaws.

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1 (e) 1. All meetings shall be open to the public, and public notice of meetings
2 shall be given in the same manner as required under the rulemaking provisions in
3 sub. (10).

4 2. The commission or the executive committee or other committees of the
5 commission may convene in a closed, non-public meeting if the commission or
6 executive committee or other committees of the commission must discuss:

7 a. Non-compliance of a member state with its obligations under the compact;

8 b. The employment, compensation, discipline or other matters, practices or
9 procedures related to specific employees, or other matters related to the
10 commission's internal personnel practices and procedures;

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

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

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

15 f. Disclosure of trade secrets or commercial or financial information that is
16 privileged or confidential;

17 g. Disclosure of information of a personal nature where disclosure would
18 constitute a clearly unwarranted invasion of personal privacy;

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

20 i. Disclosure of information related to any investigative reports prepared by or
21 on behalf of or for use of the commission or other committee charged with
22 responsibility of investigation or determination of compliance issues pursuant to the
23 compact; or

24 j. Matters specifically exempted from disclosure by federal or member state
25 statute.

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

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

11 (f) *Financing of the commission.* 1. The commission shall pay, or provide for
12 the payment of, the reasonable expenses of its establishment, organization, and
13 ongoing activities.

14 2. The commission may accept any and all appropriate revenue sources,
15 donations, and grants of money, equipment, supplies, materials, and services.

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

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

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

7 (g) *Qualified immunity, defense, and indemnification.* 1. The members,
8 officers, executive director, employees and representatives of the commission shall
9 be immune from suit and liability, either personally or in their official capacity, for
10 any claim for damage to or loss of property or personal injury or other civil liability
11 caused by or arising out of any actual or alleged act, error or omission that occurred,
12 or that the person against whom the claim is made had a reasonable basis for
13 believing occurred within the scope of commission employment, duties or
14 responsibilities; provided that nothing in this subdivision shall be construed to
15 protect any such person from suit and/or liability for any damage, loss, injury, or
16 liability caused by the intentional or willful or wanton misconduct of that person.

17 2. The commission shall defend any member, officer, executive director,
18 employee, or representative of the commission in any civil action seeking to impose
19 liability arising out of any actual or alleged act, error, or omission that occurred
20 within the scope of commission employment, duties, or responsibilities, or that the
21 person against whom the claim is made had a reasonable basis for believing occurred
22 within the scope of commission employment, duties, or responsibilities; provided
23 that nothing herein shall be construed to prohibit that person from retaining his or
24 her own counsel; and provided further that the actual or alleged act, error, or

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1 omission did not result from that person's intentional or willful or wanton
2 misconduct.

3 3. The commission shall indemnify and hold harmless any member, officer,
4 executive director, employee, or representative of the commission for the amount of
5 any settlement or judgment obtained against that person arising out of any actual
6 or alleged act, error or omission that occurred within the scope of commission
7 employment, duties, or responsibilities, or that such person had a reasonable basis
8 for believing occurred within the scope of commission employment, duties, or
9 responsibilities, provided that the actual or alleged act, error, or omission did not
10 result from the intentional or willful or wanton misconduct of that person.

11 **(9) DATA SYSTEM.** (a) The commission shall provide for the development,
12 maintenance, and utilization of a coordinated database and reporting system
13 containing licensure, adverse action, and investigative information on all licensed
14 individuals in member states.

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

- 18 1. Identifying information;
- 19 2. Licensure data;
- 20 3. Adverse actions against a license or compact privilege;
- 21 4. Non-confidential information related to alternative program participation;
- 22 5. Any denial of application for licensure, and the reason(s) for such denial;
- 23 6. Other information that may facilitate the administration of this compact, as
24 determined by the rules of the commission; and
- 25 7. Current significant investigative information.

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

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

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

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

14 **(10) RULEMAKING.** (a) The commission shall exercise its rulemaking powers
15 pursuant to the criteria set forth in this subsection and the rules adopted thereunder.
16 Rules and amendments shall become binding as of the date specified in each rule or
17 amendment.

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

23 (c) If a majority of the legislatures of the member states rejects a rule, by
24 enactment of a statute or resolution in the same manner used to adopt the compact

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1 within 4 years of the date of adoption of the rule, then such rule shall have no further
2 force and effect in any member state.

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

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

- 9 1. On the website of the commission or other publicly accessible platform; and
- 10 2. On the website of each member state occupational therapy licensing board
11 or other publicly accessible platform or the publication in which each state would
12 otherwise publish proposed rules;

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

- 14 1. The proposed time, date, and location of the meeting in which the rule will
15 be considered and voted upon;
- 16 2. The text of the proposed rule or amendment and the reason for the proposed
17 rule;
- 18 3. A request for comments on the proposed rule from any interested person; and
- 19 4. The manner in which interested persons may submit notice to the
20 commission of their intention to attend the public hearing and any written
21 comments.

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

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

- 3 1. At least 25 persons;
- 4 2. A state or federal governmental subdivision or agency; or
- 5 3. An association or organization having at least 25 members.

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

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

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

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

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

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

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

4 (L) The commission shall, by majority vote of all members, take final action on
5 the proposed rule and shall determine the effective date of the rule, if any, based on
6 the rulemaking record and the full text of the rule.

7 (m) Upon determination that an emergency exists, the commission may
8 consider and adopt an emergency rule without prior notice, opportunity for
9 comment, or hearing, provided that the usual rulemaking procedures provided in the
10 compact and in this subsection shall be retroactively applied to the rule as soon as
11 reasonably possible, in no event later than 90 days after the effective date of the rule.
12 For the purposes of this provision, an emergency rule is one that must be adopted
13 immediately in order to:

- 14 1. Meet an imminent threat to public health, safety, or welfare;
- 15 2. Prevent a loss of commission or member state funds;
- 16 3. Meet a deadline for the promulgation of an administrative rule that is
17 established by federal law or rule; or
- 18 4. Protect public health and safety.

19 (n) The commission or an authorized committee of the commission may direct
20 revisions to a previously adopted rule or amendment for purposes of correcting
21 typographical errors, errors in format, errors in consistency, or grammatical errors.
22 Public notice of any revisions shall be posted on the website of the commission. The
23 revision shall be subject to challenge by any person for a period of 30 days after
24 posting. The revision may be challenged only on grounds that the revision results
25 in a material change to a rule. A challenge shall be made in writing and delivered

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1 to the chair of the commission prior to the end of the notice period. If no challenge
2 is made, the revision will take effect without further action. If the revision is
3 challenged, the revision may not take effect without the approval of the commission.

4 **(11) OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.** (a) *Oversight.* 1. The
5 executive, legislative, and judicial branches of state government in each member
6 state shall enforce this compact and take all actions necessary and appropriate to
7 effectuate the compact's purposes and intent. The provisions of this compact and the
8 rules promulgated hereunder shall have standing as statutory law.

9 2. All courts shall take judicial notice of the compact and the rules in any
10 judicial or administrative proceeding in a member state pertaining to the subject
11 matter of this compact which may affect the powers, responsibilities, or actions of the
12 commission.

13 3. The commission shall be entitled to receive service of process in any such
14 proceeding, and shall have standing to intervene in such a proceeding for all
15 purposes. Failure to provide service of process to the commission shall render a
16 judgment or order void as to the commission, this compact, or promulgated rules.

17 (b) *Default, technical assistance, and termination.* 1. If the commission
18 determines that a member state has defaulted in the performance of its obligations
19 or responsibilities under this compact or the promulgated rules, the commission
20 shall:

21 a. Provide written notice to the defaulting state and other member states of the
22 nature of the default, the proposed means of curing the default, and/or any other
23 action to be taken by the commission; and

24 b. Provide remedial training and specific technical assistance regarding the
25 default.

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

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

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

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

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

21 (c) *Dispute resolution.* 1. Upon request by a member state, the commission
22 shall attempt to resolve disputes related to the compact that arise among member
23 states and between member and non-member states.

24 2. The commission shall promulgate a rule providing for both mediation and
25 binding dispute resolution for disputes as appropriate.

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1 (d) *Enforcement.* 1. The commission, in the reasonable exercise of its
2 discretion, shall enforce the provisions and rules of this compact.

3 2. By majority vote, the commission may initiate legal action in the United
4 States District Court for the District of Columbia or the federal district where the
5 commission has its principal offices against a member state in default to enforce
6 compliance with the provisions of the compact and its promulgated rules and bylaws.
7 The relief sought may include both injunctive relief and damages. In the event
8 judicial enforcement is necessary, the prevailing member shall be awarded all costs
9 of such litigation, including reasonable attorney's fees.

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

12 **(12) DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL**
13 **THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT.** (a) The
14 compact shall come into effect on the date on which the compact statute is enacted
15 into law in the tenth member state. The provisions, which become effective at that
16 time, shall be limited to the powers granted to the commission relating to assembly
17 and the promulgation of rules. Thereafter, the commission shall meet and exercise
18 rulemaking powers necessary to the implementation and administration of the
19 compact.

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

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

3 1. A member state's withdrawal shall not take effect until 6 months after
4 enactment of the repealing statute.

5 2. Withdrawal shall not affect the continuing requirement of the withdrawing
6 state's occupational therapy licensing board to comply with the investigative and
7 adverse action reporting requirements of this act prior to the effective date of
8 withdrawal.

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

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

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

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1 **(14) BINDING EFFECT OF COMPACT AND OTHER LAWS.** (a) A licensee providing
2 occupational therapy in a remote state under the compact privilege shall function
3 within the laws and regulations of the remote state.

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

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

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

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

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

16 **448.9875 Implementation of the occupational therapy licensure**
17 **compact. (1)** In this section:

18 (a) “Compact” means the occupational therapy licensure compact under s.
19 448.987.

20 (b) “Compact privilege” means a compact privilege, as defined in s. 448.987 (2)
21 (d), that is granted under the compact to an individual to practice in this state.

22 (c) “Examining board” means the occupational therapists affiliated
23 credentialing board.

24 **(2)** The department may impose a fee for an individual to receive a compact
25 privilege as provided in s. 448.987 (3) (c).

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1 **(3)** The examining board may, by rule, require an individual seeking a compact
2 privilege to meet a jurisprudence requirement in accordance with s. 448.987 (4) (a)
3 9., if such a requirement is imposed by the examining board under s. 448.964 in order
4 to obtain a license under s. 448.963.

5 **(4)** (a) An individual who holds a compact privilege shall comply with s. 440.03
6 (13) (am).

7 (b) Subject to s. 448.987 and any rules promulgated thereunder, ss. 440.20 to
8 440.22 and the rules promulgated under s. 440.03 (1) shall apply to an individual who
9 holds a compact privilege in the same manner that they apply to holders of licenses
10 issued under subch. VII.

11 **SECTION 21.** 450.10 (3) (a) 5. of the statutes is amended to read:

12 450.10 **(3)** (a) 5. A physician, physician assistant, podiatrist, physical
13 therapist, physical therapist assistant, occupational therapist, or occupational
14 therapy assistant licensed under ch. 448 ~~or~~, a physical therapist or physical therapist
15 assistant who holds a compact privilege under subch. IX of ch. 448, or an occupational
16 therapist or occupational therapy assistant who holds a compact privilege under
17 subch. XI of ch. 448.

18 **SECTION 22.** 451.02 (1) of the statutes is amended to read:

19 451.02 **(1)** An individual holding a license, permit or certificate under ch. 441,
20 446, 447, 448, or 449 or a compact privilege under subch. IX or XI of ch. 448 who
21 engages in a practice of acupuncture that is also included within the scope of his or
22 her license, permit ~~or~~, certificate, or privilege.

23 **SECTION 23. Nonstatutory provisions.**

24 (1) The occupational therapists affiliated credentialing board and the
25 department of safety and professional services may promulgate emergency rules

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1 under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c)
2 and (2), emergency rules promulgated under this subsection remain in effect until
3 May 1, 2024, or the date on which permanent rules take effect, whichever is sooner.
4 Notwithstanding s. 227.24 (1) (a) and (3), neither the board nor the department is
5 required to provide evidence that promulgating a rule under this subsection as an
6 emergency rule is necessary for the preservation of the public peace, health, safety,
7 or welfare or provide a finding of emergency for a rule promulgated under this
8 subsection.

9 (END)