

1 SB167
2 216405-3
3 By Senators Shelnut, Jones, Barfoot, Williams, Elliott,
4 Gudger, Sessions, Allen, Chesteen, Livingston, Stutts, Holley,
5 Butler, Reed, Melson, McClendon and Whatley
6 RFD: Veterans and Military Affairs
7 First Read: 02-FEB-22

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8 SYNOPSIS: This bill would establish the interstate
9 Occupational Therapy Licensure Compact.

10 This bill would allow the practice of
11 occupational therapy by using telehealth
12 technologies for occupational therapists among
13 compact states.

14 This bill would authorize state occupational
15 therapy regulatory authorities in compact states,
16 which would include the Alabama State Board of
17 Occupational Therapy, to legally recognize, in a
18 manner consistent with terms of the compact,
19 occupational therapists within those states.

20 This bill would provide eligibility
21 requirements for occupational therapists pursuant
22 to the compact.

23 This bill would provide accommodations for
24 occupational therapists who are active duty
25 military personnel and their spouses.

1 This bill would provide for a coordinated
2 database for reporting licensure, investigative
3 information, and disciplinary actions.

4 This bill would establish the Occupational
5 Therapy Compact Commission, and would provide for
6 membership, powers, and duties.

7 This bill would also provide for rulemaking
8 functions of the commission, oversight of the
9 compact, enforcement of the compact, default
10 procedures, dispute resolution, withdrawal of
11 compact states, and amendment of the compact.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 Relating to the practice of occupational therapy; to
18 provide and adopt the Occupational Therapy Licensure Compact
19 to allow occupational therapists to practice among compact
20 states in a limited manner; to provide eligibility
21 requirements for occupational therapists to practice pursuant
22 to the compact; to provide for a coordinated licensure
23 information system, joint investigations, and disciplinary
24 actions; to establish the Occupational Therapy Compact
25 Commission and to provide for membership, powers, and
26 rulemaking functions of the commission; and to provide for the
27 oversight of the compact, enforcement of the compact, default

1 procedures, dispute resolution, withdrawal of compact states,
2 and amendment of the compact.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. PURPOSE

5 (a) The purpose of this compact is to facilitate
6 interstate practice of occupational therapy with the goal of
7 improving public access to occupational therapy services. The
8 practice of occupational therapy occurs in the state where the
9 patient/client is located at the time of the patient/client
10 encounter. The compact preserves the regulatory authority of
11 states to protect public health and safety through the current
12 system of state licensure.

13 (b) This compact is designed to achieve the
14 following objectives:

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

18 (2) Enhance the states' ability to protect the
19 public's health and safety.

20 (3) Encourage the cooperation of member states in
21 regulating multi-state occupational therapy practice.

22 (4) Support spouses of relocating military members.

23 (5) Enhance the exchange of licensure,
24 investigative, and disciplinary information between member
25 states.

1 (6) Allow a remote state to hold a provider of
2 services with a compact privilege in that state accountable to
3 that state's practice standards.

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

6 Section 2. DEFINITIONS

7 As used in this compact, and except as otherwise
8 provided, the following definitions shall have the following
9 meanings:

10 (1) ACTIVE DUTY MILITARY. A full-time duty status in
11 the active uniformed service of the United States, including
12 members of the National Guard and Reserve on active duty
13 orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C.
14 Chapter 1211.

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

23 (3) ALTERNATIVE PROGRAM. A non-disciplinary
24 monitoring process approved by an occupational therapy
25 licensing board.

26 (4) COMPACT PRIVILEGE. The authorization, which is
27 equivalent to a license, granted by a remote state to allow a

1 licensee from another member state to practice as an
2 occupational therapist or practice as an occupational therapy
3 assistant in the remote state under its laws and rules. The
4 practice of occupational therapy occurs in the member state
5 where the patient/client is located at the time of the
6 patient/client encounter.

7 (5) CONTINUING COMPETENCE/EDUCATION. A requirement,
8 as a condition of license renewal, to provide evidence of
9 participation in, and/or completion of, educational and
10 professional activities relevant to practice or area of work.

11 (6) CURRENT SIGNIFICANT INVESTIGATIVE INFORMATION.
12 Investigative information that a licensing board, after an
13 inquiry or investigation that includes notification and an
14 opportunity for the occupational therapist or occupational
15 therapy assistant to respond, if required by state law, has
16 reason to believe is not groundless and, if proved true, would
17 indicate more than a minor infraction.

18 (7) DATA SYSTEM. A repository of information about
19 licensees, including, but not limited to, license status,
20 investigative information, compact privileges, and adverse
21 actions.

22 (8) ENCUMBERED LICENSE. A license in which an
23 adverse action restricts the practice of occupational therapy
24 by the licensee or said adverse action has been reported to
25 the National Practitioners Data Bank (NPDB).

1 (9) EXECUTIVE COMMITTEE. A group of directors
2 elected or appointed to act on behalf of, and within the
3 powers granted to them by, the commission.

4 (10) HOME STATE. The member state that is the
5 licensee's primary state of residence.

6 (11) IMPAIRED PRACTITIONER. Individuals whose
7 professional practice is adversely affected by substance
8 abuse, addiction, or other health-related conditions.

9 (12) INVESTIGATIVE INFORMATION. Information,
10 records, and/or documents received or generated by an
11 occupational therapy licensing board pursuant to an
12 investigation.

13 (13) JURISPRUDENCE REQUIREMENT. The assessment of an
14 individual's knowledge of the laws and rules governing the
15 practice of occupational therapy in a state.

16 (14) LICENSEE. An individual who currently holds an
17 authorization from the state to practice as an occupational
18 therapist or as an occupational therapy assistant.

19 (15) MEMBER STATE. A state that has enacted the
20 compact.

21 (16) OCCUPATIONAL THERAPIST. An individual who is
22 licensed by a state to practice occupational therapy.

23 (17) OCCUPATIONAL THERAPY ASSISTANT. An individual
24 who is licensed by a state to assist in the practice of
25 occupational therapy.

1 (18) OCCUPATIONAL THERAPY COMPACT COMMISSION or
2 COMMISSION. The national administrative body whose membership
3 consists of all states that have enacted the compact.

4 (19) OCCUPATIONAL THERAPY LICENSING BOARD or
5 LICENSING BOARD. The agency of a state that is authorized to
6 license and regulate occupational therapists and occupational
7 therapy assistants.

8 (20) OCCUPATIONAL THERAPY, OCCUPATIONAL THERAPY
9 PRACTICE, and PRACTICE OF OCCUPATIONAL THERAPY. The care and
10 services provided by an occupational therapist or an
11 occupational therapy assistant as set forth in the member
12 state's statutes and regulations.

13 (21) PRIMARY STATE OF RESIDENCE. The state (also
14 known as the home state) in which an occupational therapist or
15 occupational therapy assistant who is not active duty military
16 declares a primary residence for legal purposes as verified
17 by: driver license, federal income tax return, lease, deed,
18 mortgage, or voter registration, or other verifying
19 documentation as further defined by commission rules.

20 (22) REMOTE STATE. A member state other than the
21 home state, where a licensee is exercising or seeking to
22 exercise the compact privilege.

23 (23) RULE. A regulation adopted by the commission
24 that has the force of law.

25 (24) SINGLE STATE LICENSE. An occupational therapist
26 or occupational therapy assistant license issued by a member
27 state that authorizes practice only within the issuing state

1 and does not include a compact privilege in any other member
2 state.

3 (25) STATE. Any state, commonwealth, district, or
4 territory of the United States that regulates the practice of
5 occupational therapy.

6 (26) TELEHEALTH. The application of
7 telecommunication technology to deliver occupational therapy
8 services for assessment, intervention, and/or consultation.

9 Section 3. STATE PARTICIPATION IN THE COMPACT

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

12 (1) License occupational therapists and occupational
13 therapy assistants.

14 (2) Participate fully in the commission's data
15 system, including, but not limited to, using the commission's
16 unique identifier as defined in rules of the commission.

17 (3) Have a mechanism in place for receiving and
18 investigating complaints about licensees.

19 (4) Notify the commission, in compliance with the
20 terms of the compact and rules, of any adverse action or the
21 availability of investigative information regarding a
22 licensee.

23 (5) Implement or utilize procedures for considering
24 the criminal history records of applicants for an initial
25 compact privilege. These procedures shall include the
26 submission of fingerprints or other biometric-based
27 information by applicants for the purpose of obtaining an

1 applicant's criminal history record information from the
2 Federal Bureau of Investigation (FBI) and the agency
3 responsible for retaining that state's criminal records.

4 a. A member state shall, within a time frame
5 established by the commission, require a criminal background
6 check for a licensee seeking or applying for a compact
7 privilege whose primary state of residence is that member
8 state, by receiving the results of the FBI criminal record
9 search, and shall use the results in making licensure
10 decisions.

11 b. Communication between a member state, the
12 commission, and among member states regarding the verification
13 of eligibility for licensure through the compact shall not
14 include any information received from the FBI relating to a
15 federal criminal records check performed by a member state
16 under Public Law 92-544.

17 (6) Comply with the rules of the commission.

18 (7) Utilize only a recognized national examination
19 as a requirement for licensure pursuant to the rules of the
20 commission.

21 (8) Have continuing competence and education
22 requirements as a condition for license renewal.

23 (b) A member state shall grant the compact privilege
24 to a licensee holding a valid unencumbered license in another
25 member state in accordance with the terms of the compact and
26 rules.

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

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

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

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

15 Section 4. COMPACT PRIVILEGE

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

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

19 (2) Have a valid United States Social Security
20 number or National Practitioner Identification number;

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

22 (4) Be eligible for a compact privilege in any
23 member state in accordance with Sections 4D, F, G, and H;

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

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

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

5 (8) Complete a criminal background check in
6 accordance with Section 3(a)(5). The licensee shall be
7 responsible for the payment of any fee associated with the
8 completion of a criminal background check;

9 (9) Meet any jurisprudence requirements established
10 by the remote state or states in which the licensee is seeking
11 a compact privilege; and

12 (10) Report to the commission adverse action taken
13 by any non-member state within 30 days from the date the
14 adverse action is taken.

15 (b) The compact privilege is valid until the
16 expiration date of the home state license. The licensee must
17 comply with the requirements of Section 4(a) to maintain the
18 compact privilege in the remote state.

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

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

25 (e) A licensee providing occupational therapy in a
26 remote state is subject to that state's regulatory authority.
27 A remote state may, in accordance with due process and that

1 state's laws, remove a licensee's compact privilege in the
2 remote state for a specific period of time, impose fines,
3 and/or take any other necessary actions to protect the health
4 and safety of its residents. The licensee may be ineligible
5 for a compact privilege in any state until the specific time
6 for removal has passed and all fines are paid.

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

10 (1) The home state license is no longer encumbered.

11 (2) Two years have elapsed from the date on which
12 the home state license is no longer encumbered in accordance
13 with Section 4(f)(1).

14 (g) Once an encumbered license in the home state is
15 restored to good standing, the licensee must meet the
16 requirements of Section 4(a) to obtain a compact privilege in
17 any remote state.

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

21 (1) The specific period of time for which the
22 compact privilege was removed has ended.

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

25 (3) Two years have elapsed from the date of
26 completing requirements for Section 4(h)(1) and (2).

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

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

7 (j) Once the requirements of Section 4(h) have been
8 met, the licensee must meet the requirements in Section 4(a)
9 to obtain a compact privilege in a remote state.

10 Section 5. OBTAINING A NEW HOME STATE LICENSE BY
11 VIRTUE OF COMPACT PRIVILEGE

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

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

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

24 (2) Upon receipt of an application for obtaining a
25 new home state license by virtue of compact privilege, the new
26 home state shall verify that the occupational therapist or
27 occupational therapy assistant meets the pertinent criteria

1 outlined in Section 4 via the data system, without need for
2 primary source verification except for:

3 a. An FBI fingerprint based criminal background
4 check if not previously performed or updated pursuant to
5 applicable rules adopted by the commission in accordance with
6 Public Law 92-544;

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

9 c. Submission of any requisite jurisprudence
10 requirements of the new home state.

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

15 (4) Notwithstanding any other provision of this
16 compact, if the occupational therapist or occupational therapy
17 assistant cannot meet the criteria in Section 4, the new home
18 state shall apply its requirements for issuing a new
19 single-state license.

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

23 (c) If an occupational therapist or occupational
24 therapy assistant changes primary state of residence by moving
25 from a member state to a non-member state, or from a
26 non-member state to a member state, the state criteria shall
27 apply for issuance of a single-state license in the new state.

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

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

8 Section 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
9 SPOUSES

10 Active duty military personnel, or their spouses,
11 shall designate a home state where the individual has a
12 current license in good standing. The individual may retain
13 the home state designation during the period the service
14 member is on active duty. Subsequent to designating a home
15 state, the individual shall only change his or her home state
16 through application for licensure in the new state, or through
17 the process outlined in Section 5.

18 Section 7. ADVERSE ACTIONS

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

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

1 (1) Take adverse action against a licensed
2 occupational therapist's or occupational therapy assistant's
3 compact privilege within that member state.

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

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

22 (d) The home state shall complete any pending
23 investigations of an occupational therapist or occupational
24 therapy assistant who changes primary state of residence
25 during the course of the investigations. The home state, where
26 the investigations were initiated, shall also have the
27 authority to take appropriate action or actions and shall

1 promptly report the conclusions of the investigations to the
2 Occupational Therapist Compact Commission data system. The
3 Occupational Therapy Compact Commission data system
4 administrator shall promptly notify the new home state of any
5 adverse actions.

6 (e) A member state, if otherwise permitted by state
7 law, may recover from the affected occupational therapist or
8 occupational therapy assistant the costs of investigations and
9 disposition of cases resulting from any adverse action taken
10 against that occupational therapist or occupational therapy
11 assistant.

12 (f) A member state may take adverse action based on
13 the factual findings of the remote state, provided that the
14 member state follows its own procedures for taking the adverse
15 action.

16 (g) Joint Investigations:

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

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

25 (h) If an adverse action is taken by the home state
26 against an occupational therapist's or occupational therapy
27 assistant's license, the occupational therapist's or

1 occupational therapy assistant's compact privilege in all
2 other member states shall be deactivated until all
3 encumbrances have been removed from the state license. All
4 home state disciplinary orders that impose adverse action
5 against an occupational therapist's or occupational therapy
6 assistant's license shall include a statement that the
7 occupational therapist's or occupational therapy assistant's
8 compact privilege is deactivated in all member states during
9 the pendency of the order.

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

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

17 Section 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY
18 COMPACT COMMISSION

19 (a) The compact member states hereby create and
20 establish a joint public agency known as the occupational
21 therapy compact commission.

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

24 (2) Venue is proper and judicial proceedings by or
25 against the commission shall be brought solely and exclusively
26 in a court of competent jurisdiction where the principal
27 office of the commission is located. The commission may waive

1 venue and jurisdictional defenses to the extent it adopts or
2 consents to participate in alternative dispute resolution
3 proceedings.

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

6 (b) Membership, voting, and meetings.

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

9 (2) The delegate shall be either:

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

13 b. An administrator of the licensing board.

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

17 (4) The member state licensing board shall fill any
18 vacancy occurring on the commission within 90 days.

19 (5) Each delegate shall be entitled to one vote with
20 regard to the adoption of rules and creation of bylaws and
21 shall otherwise have an opportunity to participate in the
22 business and affairs of the commission. A delegate shall vote
23 in person or by such other means as provided in the bylaws.
24 The bylaws may provide for delegates' participation in
25 meetings by telephone or other means of communication.

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

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

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

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

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

10 (3) Establish bylaws;

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

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

15 (6) Adopt uniform rules to facilitate and coordinate
16 implementation and administration of this compact. The rules
17 shall have the force and effect of law and shall be binding in
18 all member states;

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

23 (8) Purchase and maintain insurance and bonds;

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

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

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

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

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

20 (14) Establish a budget and make expenditures;

21 (15) Borrow money;

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

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

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

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

8 (d) The executive committee.

9 (1) The executive committee shall have the power to
10 act on behalf of the commission according to the terms of this
11 compact.

12 (2) The executive committee shall be composed of up
13 to nine members:

14 a. Seven voting members who are elected by the
15 commission from the current membership of the commission;

16 b. One ex-officio, nonvoting member from a
17 recognized national occupational therapy professional
18 association; and

19 c. One ex-officio, nonvoting member from a
20 recognized national occupational therapy certification
21 organization.

22 d. The ex-officio members will be selected by their
23 respective organizations.

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

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

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

3 a. Recommend to the entire commission changes to the
4 rules or bylaws, changes to this compact legislation, fees
5 paid by compact member states such as annual dues, and any
6 commission compact fees charged to licensees for the privilege
7 to practice within the compact;

8 b. Ensure compact administration services are
9 appropriately provided, contractual or otherwise;

10 c. Prepare and recommend the budget;

11 d. Maintain financial records on behalf of the
12 commission;

13 e. Monitor compact compliance of member states and
14 provide compliance reports to the commission;

15 f. Establish additional committees as necessary; and

16 g. Perform other duties as provided in rules or
17 bylaws.

18 (e) Meetings of the commission.

19 (1) All meetings shall be open to the public, and
20 public notice of meetings shall be given in the same manner as
21 required under the rulemaking provisions in Section 10.

22 (2) The commission or the executive committee or
23 other committees of the commission may convene in a closed,
24 non-public meeting if the commission or executive committee or
25 other committees of the commission must discuss:

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

1 b. The employment, compensation, discipline or other
2 matters, practices, or procedures related to specific
3 employees, or other matters related to the commission's
4 internal personnel practices and procedures;

5 c. Current, threatened, or reasonably anticipated
6 litigation;

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

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

11 f. Disclosure of trade secrets or commercial or
12 financial information that is privileged or confidential;

13 g. Disclosure of information of a personal nature
14 where disclosure would constitute a clearly unwarranted
15 invasion of personal privacy;

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

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

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

25 (3) If a meeting, or portion of a meeting, is closed
26 pursuant to this provision, the commission's legal counsel or

1 designee shall certify that the meeting may be closed and
2 shall reference each relevant exempting provision.

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

12 (f) Financing of the commission.

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

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

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

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

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

14 (g) Qualified immunity, defense, and
15 indemnification.

16 (1) The members, officers, executive director,
17 employees, and representatives of the commission shall be
18 immune from suit and liability, either personally or in their
19 official capacity, for any claim for damage to or loss of
20 property or personal injury or other civil liability caused by
21 or arising out of any actual or alleged act, error, or
22 omission that occurred, or that the person against whom the
23 claim is made had a reasonable basis for believing occurred,
24 within the scope of commission employment, duties, or
25 responsibilities; provided, that nothing in this paragraph
26 shall be construed to protect any person from suit, liability,
27 or both, for any damage, loss, injury, or liability caused by

1 the intentional or willful or wanton misconduct of that
2 person.

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

16 (3) The commission shall indemnify and hold harmless
17 any member, officer, executive director, employee, or
18 representative of the commission for the amount of any
19 settlement or judgment obtained against that person arising
20 out of any actual or alleged act, error, or omission that
21 occurred within the scope of commission employment, duties, or
22 responsibilities, or that the person had a reasonable basis
23 for believing occurred within the scope of commission
24 employment, duties, or responsibilities, provided that the
25 actual or alleged act, error, or omission did not result from
26 the intentional or willful or wanton misconduct of that
27 person.

1 Section 9. DATA SYSTEM

2 (a) The commission shall provide for the
3 development, maintenance, operation, and utilization of a
4 coordinated database and reporting system containing
5 licensure, adverse action, and investigative information on
6 all licensed individuals in member states.

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

11 (1) Identifying information;

12 (2) Licensure data;

13 (3) Adverse actions against a license or privilege
14 within the compact to practice ;

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

17 (5) Any denial of application for licensure, and the
18 reason or reasons for the denial;

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

22 (7) Current significant investigative information.

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

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

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

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

14 Section 10. RULEMAKING

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

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

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

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

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

13 (1) On the website of the commission or other
14 publicly accessible platform.

15 (2) On the website of each member state occupational
16 therapy counseling licensing board or other publicly
17 accessible platform or the publication in which each state
18 would otherwise publish proposed rules.

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

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

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

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

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

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

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

11 (1) At least 25 persons;

12 (2) A state or federal governmental subdivision or
13 agency; or

14 (3) An association having at least 25 members.

15 (i) If a hearing is held on the proposed rule or
16 amendment, the commission shall publish the place, time, and
17 date of the scheduled public hearing. If the hearing is held
18 via electronic means, the commission shall publish the
19 mechanism for access to the electronic hearing.

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

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

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

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

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

11 (k) If no written notice of intent to attend the
12 public hearing by interested parties is received, the
13 commission may proceed with adoption of the proposed rule
14 without a public hearing.

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

19 (m) Upon determination that an emergency exists, the
20 commission may consider and adopt an emergency rule without
21 prior notice, opportunity for comment, or hearing, provided
22 that the usual rulemaking procedures provided in the compact
23 and in this section shall be retroactively applied to the rule
24 as soon as reasonably possible, in no event later than 90 days
25 after the effective date of the rule. For the purposes of this
26 provision, an emergency rule is one that must be adopted
27 immediately in order to:

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

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

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

8 (4) Protect public health and safety.

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

23 Section 11. OVERSIGHT, DISPUTE RESOLUTION, AND
24 ENFORCEMENT

25 (a) Oversight.

26 (1) The executive, legislative, and judicial
27 branches of state government in each member state shall

1 enforce this compact and take all actions necessary and
2 appropriate to effectuate the compact's purposes and intent.
3 The provisions of this compact and the rules adopted hereunder
4 shall have standing as statutory law.

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

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

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

17 (1) If the commission determines that a member state
18 has defaulted in the performance of its obligations or
19 responsibilities under this compact or the adopted rules, the
20 commission shall:

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

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

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

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

15 (4) A state that has been terminated is responsible
16 for all assessments, obligations, and liabilities incurred
17 through the effective date of termination, including
18 obligations that extend beyond the effective date of
19 termination.

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

24 (6) The defaulting state may appeal the action of
25 the commission by petitioning the U.S. District Court for the
26 District of Columbia or the federal district where the
27 commission has its principal offices. The prevailing member

1 shall be awarded all costs of such litigation, including
2 reasonable attorney fees.

3 (c) Dispute Resolution.

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

8 (2) The commission shall adopt a rule providing for
9 both mediation and binding dispute resolution for disputes as
10 appropriate.

11 (d) Enforcement.

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

15 (2) By majority vote, the commission may initiate
16 legal action in the U.S. District Court for the District of
17 Columbia or the federal district where the commission has its
18 principal offices against a member state in default to enforce
19 compliance with the provisions of the compact and its adopted
20 rules and bylaws. The relief sought may include both
21 injunctive relief and damages. In the event judicial
22 enforcement is necessary, the prevailing member shall be
23 awarded all costs of litigation, including reasonable attorney
24 fees.

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

1 Section 12. DATE OF IMPLEMENTATION OF THE INTERSTATE
2 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED
3 RULES, WITHDRAWAL, AND AMENDMENT

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

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

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

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

24 (2) Withdrawal shall not affect the continuing
25 requirement of the withdrawing state's occupational therapy
26 licensing board to comply with the investigative and adverse

1 action reporting requirements of this act prior to the
2 effective date of withdrawal.

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

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

12 Section 13. CONSTRUCTION AND SEVERABILITY

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

27 Section 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

9 (d) Any lawful actions of the commission, including
10 all rules and bylaws properly adopted by the commission, are
11 binding upon the member states.

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

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

19 Section 15. Except as to judicial proceedings for
20 the enforcement of this compact among member states,
21 individuals may pursue judicial proceedings related to this
22 compact in any Alabama state or federal court that would
23 otherwise have competent jurisdiction.

24 Section 16. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.