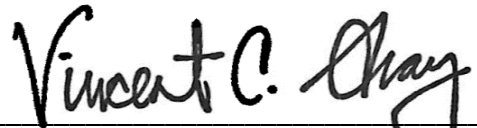


1 

2 Councilmember Charles Allen



Councilmember Vincent C. Gray



Councilmember Matthew Frumin

10 A BILL

14 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

19 To authorize the Mayor to execute, on behalf of the District of Columbia, an Occupational  
20 Therapy Interjurisdictional Compact for the purpose of increasing access to in-person  
21 practice of occupational therapy and to create requirements for home state licensure for  
22 occupational therapists and standard requirements for education and training for  
23 participating compact occupational therapists, require conditions of teletherapy practice  
24 in a receiving state, establish requirements for states to conduct and report adverse  
25 actions and the consequences for occupational therapists receiving adverse action,  
26 provide for additional authority in a compact state’s psychology regulatory authority,  
27 require all compact states to share licensee information with other compact states, create  
28 a coordinated database on participating compact occupational therapists, establish the  
29 Occupational Therapy Licensure Compact Commission, provide for oversight and  
30 enforcement of the compact by participating states, and to provide that the compact shall  
31 become effective on the date of enactment.

33 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
34 act may be cited as the “Occupational Therapy Licensure Compact Approval Act of 2023”.

35 Sec. 2. Purpose.

36 The Mayor shall enter into and execute on behalf of the District the Occupational  
37 Therapy Licensure Compact with any state legally joining therein, in the form substantially as  
38 follows:

39 PREAMBLE

40 (a) The purpose of the Occupational Therapy Licensure Compact (“Compact”) is to  
41 facilitate interstate practice of occupational therapy with the goal of improving public access to  
42 occupational therapy services. The practice of occupational therapy occurs in the state where the  
43 patient and client is located at the time of the patient and client encounter. The Compact  
44 preserves the regulatory authority of states to protect public health and safety through the current  
45 system of state licensure.

46 (b) This Compact is designed to achieve the following objectives:

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

49 (2) Enhance the states’ ability to protect the public’s health and safety;

50 (3) Encourage the cooperation of Member States in regulating multi-State  
51 Occupational Therapy Practice;

52 (4) Support spouses of relocating military members;

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

55 (6) Allow a remote state to hold a provider of services with a compact privilege in  
56 that state accountable to that state’s practice standards; and

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

59 Sec. 3. Definitions.

60 For purposes of this act, the term:

61 (1) “Active Duty Military” means full-time duty status in the active uniformed  
62 service of the United States, including members of the National Guard and Reserve on active  
63 duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.

64 (2) “Adverse Action” means any administrative, civil, equitable, or criminal  
65 action permitted by a state’s laws imposed by a licensing board or other authority against an  
66 occupational therapist or occupational therapy assistant, including actions against an individual’s  
67 license or compact privilege such as censure, revocation, suspension, probation, monitoring of  
68 the licensee, or restriction on the licensee’s practice.

69 (3) “Alternative Program” means a non-disciplinary monitoring process approved  
70 by an occupational therapy licensing board.

71 (4) “Compact Privilege” means the authorization, which is equivalent to a license,  
72 granted by a remote state to allow a licensee from another member state to practice as an  
73 occupational therapist or practice as an occupational therapy assistant in the remote state under  
74 its laws and rules. The practice of occupational therapy occurs in the member state where the  
75 patient/client is located at the time of the patient and client encounter.

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

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

84 (7) “Data System” means a repository of information about licensees, including  
85 license status, investigative information, compact privileges, and adverse actions.

86 (8) “Encumbered License” means a license in which an adverse action restricts  
87 the practice of occupational therapy by the licensee or said adverse action has been reported to  
88 the National Practitioners Data Bank.

89 (9) “Executive Committee” means a group of directors elected or appointed to act  
90 on behalf of, and within the powers granted to them by, the Commission.

91 (10) “Home State” means the member state that is the licensee’s primary state of  
92 residence.

93 (11) “Impaired Practitioner” means individuals whose professional practice is  
94 adversely affected by substance abuse, addiction, or other health-related conditions.

95 (12) “Investigative Information” means information, records, or documents  
96 received or generated by an occupational therapy licensing board pursuant to an investigation.

97 (13) “Jurisprudence Requirement” means the assessment of an individual’s  
98 knowledge of the laws and rules governing the practice of occupational therapy in a state.

99 (14) “Licensee” means an individual who currently holds an authorization from  
100 the state to practice as an occupational therapist or as an occupational therapy assistant.

101 (15) “Member State” means a state that has enacted the Compact.

102 (16) “Occupational Therapist” means an individual who is licensed by a state to  
103 practice occupational therapy.

104 (17) “Occupational Therapy Assistant” means an individual who is licensed by a  
105 state to assist in the practice of occupational therapy.

106 (18) “Occupational therapy,” “occupational therapy practice,” or the “practice of  
107 occupational therapy” mean the care and services provided by an occupational therapist or an  
108 occupational therapy assistant as set forth in the member state’s statutes and regulations.

109 (19) “Occupational Therapy Compact Commission” or “Commission” means the  
110 national administrative body whose membership consists of all States that have enacted the  
111 Compact.

112 (20) “Occupational therapy licensing board” or “licensing board” means the  
113 agency of a state that is authorized to license and regulate occupational therapists and  
114 occupational therapy assistants.

115 (21) “Primary state of residence” means the state in which an occupational  
116 therapist or occupational therapy assistant who is not active duty military declares a primary  
117 residence for legal purposes as verified by a driver’s license, federal income tax return, lease,  
118 deed, mortgage, voter registration or other verifying documentation as further defined by  
119 Commission Rules.

120 (22) “Remote State” means a member state other than the home state, where a  
121 licensee is exercising or seeking to exercise the compact privilege.

122 (23) “Rule” means a regulation promulgated by the Commission that has the force  
123 of law.

124 (24) “State” means any state, commonwealth, district, or territory of the United  
125 States of America that regulates the practice of occupational therapy, including the District of  
126 Columbia.

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

130 (26) “Telehealth” means the application of telecommunication technology to  
131 deliver occupational therapy services for assessment, intervention and/or consultation.

132 Sec. 4. State participation in the Compact.

133 (a) To participate in the Compact, a state shall:

134 (1) License occupational therapists and occupational therapy assistants;

135 (2) Participate fully in the Commission’s data system, including using the  
136 Commission’s unique identifier as defined in Rules of the Commission;

137 (3) Have a mechanism in place for receiving and investigating complaints about  
138 licensees;

139 (4) Notify the Commission, in compliance with the terms of the Compact and  
140 Rules, of any adverse action or the availability of investigative information regarding a licensee;

141 (5) Implement or utilize procedures for considering the criminal history records of  
142 applicants when granting an initial compact privilege, which shall include the submission of  
143 fingerprints or other biometric-based information by applicants for the purpose of obtaining an  
144 applicant’s criminal history record information from the Federal Bureau of Investigation and the  
145 agency responsible for retaining the state’s criminal records;

146 (A) A member state shall, within a time frame established by the  
147 Commission, require a criminal background check for a licensee seeking or applying for a  
148 compact privilege whose primary state of residence is that member state by receiving the results

149 of the Federal Bureau of Investigation criminal record search, and shall use the results in making  
150 licensure decisions.

151 (B) Communication between a member state, the Commission and among  
152 member states regarding the verification of eligibility for licensure through the Compact shall  
153 not include any information received from the Federal Bureau of Investigation relating to a  
154 federal criminal records check performed by a member state under Public Law 92-544.

155 (6) Comply with the Rules of the Commission;

156 (7) Utilize only a recognized national examination as a requirement for licensure  
157 pursuant to the Rules of the Commission; and

158 (8) Have continuing competence or continuing education requirements as a  
159 condition for license renewal.

160 (b) A member state shall grant the compact privilege to a Licensee holding a valid  
161 unencumbered license in another member state in accordance with the terms of the Compact and  
162 Rules.

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

164 (d) A member state shall provide for the state's delegate to attend all Commission  
165 meetings.

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

170 (f) Nothing in this Compact shall affect the requirements established by a member state  
171 for the issuance of a single-state license.

172           Sec. 5. Compact privilege.

173           (a) To exercise the compact privilege under the terms and provisions of the Compact, the  
174 licensee shall:

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

176                   (2) Have a valid United States Social Security Number or National Practitioner  
177 Identification number;

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

179                   (4) Be eligible for a compact privilege in any member state in accordance with  
180 subsections (d), (f), (g), and (h) of this section;

181                   (5) Have paid all fines and completed all requirements resulting from any adverse  
182 action against any license or compact privilege, and 2 years have elapsed from the date of such  
183 completion;

184                   (6) Notify the Commission that the licensee is seeking the compact privilege  
185 within a remote state;

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

187                   (8) Complete a criminal background check in accordance with section 4(a)(5) and  
188 be responsible for the payment of any fee associated with the completion of a criminal  
189 background check;

190                   (9) Meet any jurisprudence requirements established by the remote state in which  
191 the licensee is seeking a compact privilege; and

192                   (10) Report to the Commission adverse action taken by any non-member state  
193 within 30 days from the date the adverse action is taken.



194 (b) The Compact Privilege shall be valid until the expiration date of the home state  
195 license. The licensee shall comply with the requirements of subsection (a) of this section to  
196 maintain the compact privilege in the remote state.

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

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

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

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

209 (1) The home state license is no longer encumbered; and

210 (2) Two years have elapsed from the date on which the Home State license is no  
211 longer encumbered in accordance with subsection (f)(1) of this section.

212 (g) Once an encumbered license in the home state is restored to good standing, the  
213 licensee shall meet the requirements of subsection (a) of this section to obtain a compact  
214 privilege in any remote state.

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

217 (1) The specific period of time for which the compact privilege was removed has  
218 ended;

219 (2) All fines have been paid and all conditions have been met;

220 (3) Two years have elapsed from the date of completing requirements for  
221 subsection (h)(1) and (2) of this section; and

222 (4) The compact privileges are reinstated by the commission, and the Compact  
223 data system is updated to reflect reinstatement.

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

226 (j) Once the requirements of subsection (h) of this section have been met, the licensee  
227 shall meet the requirements in subsection (a) of this section to obtain a compact privilege in a  
228 remote state.

#### 229 Sec. 6. Obtaining a New Home State License by Virtue of Compact Privilege

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

233 (b) If an occupational therapist or occupational therapy assistant changes primary state of  
234 residence by moving between 2 member states:

235 (1) The occupational therapist or occupational therapy assistant shall file an  
236 application for obtaining a new home state license by virtue of a compact privilege, pay all  
237 applicable fees, and notify the current and new home state in accordance with applicable Rules  
238 adopted by the Commission.

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

243 (A) An FBI fingerprint based criminal background check if not previously  
244 performed or updated pursuant to applicable Rules adopted by the Commission in accordance  
245 with Public Law 92-544;

246 (B) Other criminal background check as required by the new home state;  
247 and

248 (C) Submission of any requisite jurisprudence requirements of the new  
249 Home State.

250 (3) The former home state shall convert the former home state license into a  
251 compact privilege once the new home state has activated the new home state license in  
252 accordance with applicable Rules adopted by the Commission.

253 (4) Notwithstanding any other provision of this compact, if the occupational  
254 therapist or occupational therapy assistant cannot meet the criteria in section 5, the new home  
255 state shall apply its requirements for issuing a new single-state license.

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

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

261 (d) Nothing in this compact shall interfere with a licensee’s ability to hold a single-state  
262 license in multiple states; provided for purposes of this Compact, a licensee shall have only one  
263 home state license.

264 (e) Nothing in this Compact shall affect the requirements established by a member state  
265 for the issuance of a single-state license.

266 Sec. 7. Active duty military personnel or their spouses.

267 (a) Active duty military personnel or their spouses shall designate a home state where the  
268 individual has a current license in good standing. The individual may retain the home state  
269 designation during the period the service member is on active duty. Subsequent to designating a  
270 home state, the individual shall only change their home state through application for licensure in  
271 the new state or through the process described in section 5.

272 Sec. 8. Adverse Actions

273 (a) A home state shall have exclusive power to impose adverse action against an  
274 occupational therapist’s or occupational therapy assistant’s license issued by the home state.

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

277 (1) Take adverse action against an occupational therapist’s or occupational  
278 therapy assistant’s compact privilege within that member state.

279 (2) Issue subpoenas for both hearings and investigations that require the  
280 attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued  
281 by a licensing board in a member state for the attendance and testimony of witnesses or the  
282 production of evidence from another member state shall be enforced in the latter state by any  
283 court of competent jurisdiction, according to the practice and procedure of that court applicable

284 to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness  
285 fees, travel expenses, mileage and other fees required by the service statutes of the state in which  
286 the witnesses or evidence are located.

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

291 (d) The home state shall complete any pending investigations of an occupational therapist  
292 or occupational therapy assistant who changes primary state of residence during the course of the  
293 investigations. The home state, where the investigations were initiated, shall also have the  
294 authority to take appropriate action and shall promptly report the conclusions of the  
295 investigations to the data system. The Commission data system administrator shall promptly  
296 notify the new home state of any adverse actions.

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

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

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

306 (2) Member States shall share any investigative, litigation, or compliance  
307 materials in furtherance of any joint or individual investigation initiated under the Compact.

308 (h) If an adverse action is taken by the home state against an occupational therapist's or  
309 occupational therapy assistant's license, the occupational therapist's or occupational therapy  
310 Assistant's compact privilege in all other member states shall be deactivated until all  
311 encumbrances have been removed from the state license. All home state disciplinary orders that  
312 impose adverse action against an occupational therapist's or occupational therapy assistant's  
313 license shall include a statement that the occupational therapist's or occupational therapy  
314 assistant's compact privilege is deactivated in all member states during the pendency of the  
315 order.

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

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

#### 321 Sec. 9. Establishment of the Occupational Therapy Compact Commission

322 (a) The Compact member states hereby create and establish a joint public agency known  
323 as the Occupational Therapy Compact Commission:

324 (1) The Commission is an instrumentality of the compact states.

325 (2) Venue is proper and judicial proceedings by or against the Commission shall  
326 be brought solely and exclusively in a court of competent jurisdiction where the principal office  
327 of the Commission is located. The Commission may waive venue and jurisdictional defenses to  
328 the extent it adopts or consents to participate in alternative dispute resolution proceedings.

329 (3) Nothing in this Compact shall be construed to be a waiver of sovereign  
330 immunity.

331 (b)(1) Each Member State shall have and be limited to one delegate selected by that  
332 member state's licensing board.

333 (2) The delegate shall be either:

334 (A) A current member of the licensing board, who is an occupational  
335 therapist, occupational therapy assistant, or public member; or

336 (B) An administrator of the licensing board.

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

339 (4) The member state board shall fill any vacancy occurring in the Commission  
340 within 90 days.

341 (5) Each delegate shall be entitled to one vote with regard to the promulgation of  
342 Rules and creation of bylaws and shall otherwise have an opportunity to participate in the  
343 business and affairs of the Commission. A delegate shall vote in person or by such other means  
344 as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by  
345 telephone or other means of communication.

346 (6) The Commission shall meet at least once during each calendar year. Additional  
347 meetings shall be held as set forth in the bylaws.

348 (7) The Commission shall establish by Rule a term of office for delegates.

349 (c) The Commission shall have the following powers and duties:

350 (1) Establish a Code of Ethics for the Commission;

351 (2) Establish the fiscal year of the Commission;

- 352 (3) Establish bylaws;
- 353 (4) Maintain its financial records in accordance with the bylaws;
- 354 (5) Meet and take such actions as are consistent with the provisions of this  
355 Compact and the bylaws;
- 356 (6) Promulgate uniform Rules to facilitate and coordinate implementation and  
357 administration of this Compact. The Rules shall have the force and effect of law and shall be  
358 binding in all member states;
- 359 (7) Bring and prosecute legal proceedings or actions in the name of the  
360 Commission, provided that the standing of any state occupational therapy licensing board to sue  
361 or be sued under applicable law shall not be affected;
- 362 (8) Purchase and maintain insurance and bonds;
- 363 (9) Borrow, accept, or contract for services of personnel, including, but not  
364 limited to, employees of a member state;
- 365 (10) Hire employees, elect or appoint officers, fix compensation, define duties,  
366 grant such individuals appropriate authority to carry out the purposes of the Compact, and  
367 establish the Commission's personnel policies and programs relating to conflicts of interest,  
368 qualifications of personnel, and other related personnel matters;
- 369 (11) Accept any and all appropriate donations and grants of money, equipment,  
370 supplies, materials and services, and receive, utilize and dispose of the same; provided that at all  
371 times the Commission shall avoid any appearance of impropriety or conflict of interest;
- 372 (12) Lease, purchase, accept appropriate gifts or donations of, or otherwise own,  
373 hold, improve or use, any property, real, personal or mixed; provided that at all times the  
374 Commission shall avoid any appearance of impropriety;



- 375 (13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
376 dispose of any property real, personal, or mixed;
- 377 (14) Establish a budget and make expenditures;
- 378 (15) Borrow money;
- 379 (16) Appoint committees, including standing committees composed of members,  
380 state regulators, state legislators or their representatives, and consumer representatives, and such  
381 other interested persons as may be designated in this Compact and the bylaws;
- 382 (17) Provide and receive information from, and cooperate with, law enforcement  
383 agencies;
- 384 (18) Establish and elect an Executive Committee; and
- 385 (19) Perform such other functions as may be necessary or appropriate to achieve  
386 the purposes of this Compact consistent with the state regulation of occupational therapy  
387 licensure and practice.

388 (d) The Executive Committee shall have the power to act on behalf of the Commission  
389 according to the terms of this Compact.

390 (1) The Executive Committee shall be composed of 9 members:

391 (A) 7 voting members who are elected by the Commission from the  
392 current membership of the Commission;

393 (B) One ex-officio, nonvoting member from a recognized national  
394 occupational therapy professional association; and

395 (C) One ex-officio, nonvoting member from a recognized national  
396 occupational therapy certification organization.

397 (2) The ex-officio members shall be selected by their respective organizations.

398 (3) The Commission may remove any member of the Executive Committee as  
399 provided in bylaws.

400 (4) The Executive Committee shall meet at least annually.

401 (5) The Executive Committee shall have the following duties and responsibilities:

402 (A) Recommend changes to the Rules or bylaws, changes to this Compact  
403 legislation, fees paid by member states such as annual dues, and any Commission compact fee  
404 charged to licensees for the compact privilege;

405 (B) Ensure Compact administration services are appropriately provided,  
406 contractual or otherwise;

407 (C) Prepare and recommend the budget;

408 (D) Maintain financial records on behalf of the Commission;

409 (E) Monitor Compact compliance of Member States and provide  
410 compliance reports to the Commission;

411 (F) Establish additional committees as necessary; and

412 (G) Perform other duties as provided in Rules or bylaws.

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

415 (2) The Commission or the Executive Committee or other committees of the  
416 Commission may convene in a closed, non-public meeting if the Commission or Executive  
417 Committee or other committees of the Commission must discuss:

418 (A) Non-compliance of a member state with its obligations under the  
419 Compact;

420 (B) The employment, compensation, discipline or other matters, practices  
421 or procedures related to specific employees or other matters related to the Commission's internal  
422 personnel practices and procedures;

423 (C) Current, threatened, or reasonably anticipated litigation;

424 (D) Negotiation of contracts for the purchase, lease, or sale of goods,  
425 services, or real estate;

426 (E) Accusing any person of a crime or formally censuring any person;

427 (F) Disclosure of trade secrets or commercial or financial information that  
428 is privileged or confidential;

429 (G) Disclosure of information of a personal nature where disclosure would  
430 constitute a clearly unwarranted invasion of personal privacy;

431 (H) Disclosure of investigative records compiled for law enforcement  
432 purposes;

433 (I) Disclosure of information related to any investigative reports prepared  
434 by or on behalf of or for use of the Commission or other committee charged with responsibility  
435 of investigation or determination of compliance issues pursuant to the Compact; or

436 (J) Matters specifically exempted from disclosure by federal or member  
437 state statute.

438 (3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
439 Commission's legal counsel or designee shall certify that the meeting may be closed and shall  
440 reference each relevant exempting provision.

441 (4) The Commission shall keep minutes that fully and clearly describe all matters  
442 discussed in a meeting and shall provide a full and accurate summary of actions taken, and the

443 reasons therefore, including a description of the views expressed. All documents considered in  
444 connection with an action shall be identified in such minutes. All minutes and documents of a  
445 closed meeting shall remain under seal, subject to release by a majority vote of the Commission  
446 or order of a court of competent jurisdiction.

447 (f)(1) The Commission shall pay, or provide for the payment of, the reasonable expenses  
448 of its establishment, organization, and ongoing activities.

449 (2) The Commission may accept any and all appropriate revenue sources,  
450 donations, and grants of money, equipment, supplies, materials, and services.

451 (3) The Commission may levy on and collect an annual assessment from each  
452 member state or impose fees on other parties to cover the cost of the operations and activities of  
453 the Commission and its staff, which must be in a total amount sufficient to cover its annual  
454 budget as approved by the Commission each year for which revenue is not provided by other  
455 sources. The aggregate annual assessment amount shall be allocated based upon a formula to be  
456 determined by the Commission, which shall promulgate a Rule binding upon all member states.

457 (4) The Commission shall not incur obligations of any kind prior to securing the  
458 funds adequate to meet the same nor shall the Commission pledge the credit of any of the  
459 member states except by and with the authority of the Member State.

460 (5) The Commission shall keep accurate accounts of all receipts and  
461 disbursements. The receipts and disbursements of the Commission shall be subject to the audit  
462 and accounting procedures established under its bylaws. However, all receipts and disbursements  
463 of funds handled by the Commission shall be audited yearly by a certified or licensed public  
464 accountant, and the report of the audit shall be included in and become part of the annual report  
465 of the Commission.

466 (g)(1) The members, officers, executive director, employees and representatives of the  
467 Commission shall be immune from suit and liability, either personally or in their official  
468 capacity, for any claim for damage to or loss of property or personal injury or other civil liability  
469 caused by or arising out of any actual or alleged act, error or omission that occurred, or that the  
470 person against whom the claim is made had a reasonable basis for believing occurred within the  
471 scope of Commission employment, duties or responsibilities; provided that nothing in this  
472 paragraph shall be construed to protect any such person from suit or liability for any damage,  
473 loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

474 (2) The Commission shall defend any member, officer, executive director,  
475 employee, or representative of the Commission in any civil action seeking to impose liability  
476 arising out of any actual or alleged act, error, or omission that occurred within the scope of  
477 Commission employment, duties, or responsibilities, or that the person against whom the claim is  
478 made had a reasonable basis for believing occurred within the scope of Commission  
479 employment, duties, or responsibilities; provided that nothing herein shall be construed to  
480 prohibit that person from retaining his or her own counsel; provided further that the actual or  
481 alleged act, error, or omission did not result from that person's intentional or willful or wanton  
482 misconduct.

483 (3) The Commission shall indemnify and hold harmless any member, officer,  
484 executive director, employee, or representative of the Commission for the amount of any  
485 settlement or judgment obtained against that person arising out of any actual or alleged act, error  
486 or omission that occurred within the scope of Commission employment, duties, or  
487 responsibilities, or that such person had a reasonable basis for believing occurred within the  
488 scope of Commission employment, duties, or responsibilities; provided that the actual or alleged

489 act, error, or omission did not result from the intentional or willful or wanton misconduct of that  
490 person.

491 Sec. 10. Data system.

492 (a) The Commission shall provide for the development, maintenance, and utilization of a  
493 coordinated database and reporting system containing licensure, adverse action, and investigative  
494 information on all licensed individuals in member states.

495 (b) A member state shall submit a uniform data set to the data system on all individuals to  
496 whom this Compact is applicable (utilizing a unique identifier) as required by the Rules of the  
497 Commission, including:

498 (1) Identifying information;

499 (2) Licensure data;

500 (3) Adverse actions against a license or compact privilege;

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

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

503 (6) Other information that may facilitate the administration of this Compact, as  
504 determined by the Rules of the Commission; and

505 (7) Current significant investigative information.

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

508 (d) The Commission shall promptly notify all member states of any adverse action taken  
509 against a licensee or an individual applying for a license. Adverse action information pertaining  
510 to a licensee in any member state will be available to any other member state.

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

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

516 Sec. 11. Rulemaking.

517 (a) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth  
518 in this section and the Rules adopted thereunder. Rules and amendments shall become binding as  
519 of the date specified in each Rule or amendment.

520 (b) The Commission shall promulgate reasonable rules in order to achieve the purposes of  
521 the Compact effectively and efficiently. Notwithstanding the foregoing, in the event the  
522 Commission exercises its rulemaking authority in a manner that is beyond the scope of the  
523 purposes of the Compact, or the powers granted hereunder, such action by the Commission shall  
524 be invalid and have no force and effect.

525 (c) If a majority of the legislatures of the member states rejects a rule, by enactment of a  
526 statute or resolution in the same manner used to adopt the Compact within 4 years of the date of  
527 adoption of the Rule, such Rule shall have no further force and effect in any member state.

528 (d) Rules or amendments to the Rules shall be adopted at a regular or special meeting of  
529 the Commission.

530 (e) Prior to promulgation and adoption of a final rule by the Commission, and at least 30  
531 days in advance of the meeting at which the rule will be considered and voted upon, the  
532 Commission shall file a notice of proposed rulemaking:

533 (1) On the website of the Commission or other publicly accessible platform; and

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

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

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

540 (2) The text of the proposed rule or amendment and the reason for the proposed  
541 Rule;

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

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

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

547 (h) The Commission shall grant an opportunity for a public hearing before it adopts a rule  
548 or amendment if a hearing is requested by:

549 (1) At least 25 persons;

550 (2) A state or federal governmental subdivision or agency; or

551 (3) An association or organization having at least 25 members.

552 (i) If a hearing is held on the proposed rule or amendment, the Commission shall publish  
553 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic  
554 means, the Commission shall publish the mechanism for access to the electronic hearing.



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

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

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

562 (4) Nothing in this section shall be construed as requiring a separate hearing on  
563 each rule. Rules may be grouped for the convenience of the Commission at hearings required by  
564 this section.

565 (j) Following the scheduled hearing date, or by the close of business on the scheduled  
566 hearing date if the hearing was not held, the Commission shall consider all written and oral  
567 comments received.

568 (k) If no written notice of intent to attend the public hearing by interested parties is  
569 received, the Commission may proceed with promulgation of the proposed rule without a public  
570 hearing.

571 (l) The Commission shall, by majority vote of all members, take final action on the  
572 proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking  
573 record and the full text of the rule.

574 (m) Upon determination that an emergency exists, the Commission may consider and  
575 adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided  
576 that the usual Rulemaking procedures provided in the Compact and in this section shall be  
577 retroactively applied to the Rule as soon as reasonably possible, in no event later than 90 days

578 after the effective date of the Rule. For the purposes of this provision, an emergency rule is one  
579 that must be adopted immediately in order to:

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

581 (2) Prevent a loss of Commission or Member State funds;

582 (3) Meet a deadline for the promulgation of an administrative rule that is  
583 established by federal law or rule; or

584 (4) Protect public health and safety.

585 (n) The Commission or an authorized committee of the Commission may direct revisions  
586 to a previously adopted rule or amendment for purposes of correcting typographical errors, errors  
587 in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be  
588 posted on the website of the Commission. The revision shall be subject to challenge by any  
589 person for a period of 30 days after posting. The revision may be challenged only on grounds  
590 that the revision results in a material change to a rule. A challenge shall be made in writing and  
591 delivered to the chair of the Commission prior to the end of the notice period. If no challenge is  
592 made, the revision will take effect without further action. If the revision is challenged, the  
593 revision may not take effect without the approval of the Commission.

594 Sec. 12. Oversight, dispute resolution, and enforcement.

595 (a)(1) The executive, legislative, and judicial branches of state government in each  
596 member state shall enforce this Compact and take all actions necessary and appropriate to  
597 effectuate the Compact's purposes and intent. The provisions of this Compact and the rules  
598 promulgated hereunder shall have standing as statutory law.

599 (2) All courts shall take judicial notice of the Compact and the rules in any  
600 judicial or administrative proceeding in a member state pertaining to the subject matter of this  
601 Compact which may affect the powers, responsibilities, or actions of the Commission.

602 (3) The Commission shall be entitled to receive service of process in any such  
603 proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to  
604 provide service of process to the Commission shall render a judgment or order void as to the  
605 Commission, this Compact, or promulgated rules.

606 (b)(1) If the Commission determines that a member state has defaulted in the  
607 performance of its obligations or responsibilities under this Compact or the promulgated rules,  
608 the Commission shall:

609 (A) Provide written notice to the defaulting state and other member states  
610 of the nature of the default, the proposed means of curing the default and/or any other action to  
611 be taken by the Commission; and

612 (B) Provide remedial training and specific technical assistance regarding  
613 the default.

614 (2) If a state in default fails to cure the default, the defaulting state may be  
615 terminated from the Compact upon an affirmative vote of a majority of the member states and all  
616 rights, privileges and benefits conferred by this Compact may be terminated on the effective date  
617 of termination. A cure of the default does not relieve the offending state of obligations or  
618 liabilities incurred during the period of default.

619 (3) Termination of membership in the Compact shall be imposed only after all  
620 other means of securing compliance have been exhausted. Notice of intent to suspend or  
621 terminate shall be given by the Commission to the governor, the majority and minority leaders of  
622 the defaulting state's legislature, and each of the member states.

623 (4) A state that has been terminated is responsible for all assessments, obligations,  
624 and liabilities incurred through the effective date of termination, including obligations that  
625 extend beyond the effective date of termination.

626 (5) The Commission shall not bear any costs related to a state that is found to be  
627 in default or that has been terminated from the Compact, unless agreed upon in writing between  
628 the Commission and the defaulting state.

629 (6) The defaulting state may appeal the action of the Commission by petitioning  
630 the U.S. District Court for the District of Columbia or the federal district where the Commission  
631 has its principal offices. The prevailing member shall be awarded all costs of such litigation,  
632 including reasonable attorney's fees.

633 (c)(1) Upon request by a member state, the Commission shall attempt to resolve disputes  
634 related to the Compact that arise among member states and between member and non-member  
635 states.

636 (2) The Commission shall promulgate a rule providing for both mediation and  
637 binding dispute resolution for disputes as appropriate.

638 (d)(1) The Commission, in the reasonable exercise of its discretion, shall enforce the  
639 provisions and rules of this Compact.

640 (2) By majority vote, the Commission may initiate legal action in the United  
641 States District Court for the District of Columbia or the federal district where the Commission  
642 has its principal offices against a member state in default to enforce compliance with the  
643 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include  
644 both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing  
645 member shall be awarded all costs of such litigation, including reasonable attorney's fees.

646 (3) The remedies herein shall not be the exclusive remedies of the Commission.  
647 The Commission may pursue any other remedies available under federal or State law.

648 Sec. 13. Date of implementation of the Interstate Commission for Occupational Therapy  
649 Practice and associated rules, withdrawal, and amendment.

650 (a) The Compact shall come into effect on the date on which the Compact statute is  
651 enacted into law in the 10th Member State. The provisions, which become effective at that time,  
652 shall be limited to the powers granted to the Commission relating to assembly and the  
653 promulgation of Rules. Thereafter, the Commission shall meet and exercise rulemaking powers  
654 necessary to the implementation and administration of the Compact.

655 (b) Any state that joins the Compact subsequent to the Commission's initial adoption of  
656 the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes  
657 law in that state. Any rule that has been previously adopted by the Commission shall have the  
658 full force and effect of law on the day the Compact becomes law in that state.

659 (c)(1) Any member state may withdraw from this Compact by enacting a statute repealing  
660 the same.

661 (2) A member state's withdrawal shall not take effect until 6 months after  
662 enactment of the repealing statute.

663 (3) Withdrawal shall not affect the continuing requirement of the withdrawing  
664 state's occupational therapy licensing board to comply with the investigative and adverse action  
665 reporting requirements of this act prior to the effective date of withdrawal.

666 (d) Nothing contained in this Compact shall be construed to invalidate or prevent any  
667 occupational therapy licensure agreement or other cooperative arrangement between a member  
668 state and a non-member state that does not conflict with the provisions of this Compact.

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

672 Sec. 14. Construction and severability.

673 (a) This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
674 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of  
675 this Compact is declared to be contrary to the constitution of any member state or of the United  
676 States or the applicability thereof to any government, agency, person, or circumstance is held  
677 invalid, the validity of the remainder of this Compact and the applicability thereof to any  
678 government, agency, person, or circumstance shall not be affected thereby. If this Compact shall  
679 be held contrary to the constitution of any member state, the Compact shall remain in full force  
680 and effect as to the remaining member states and in full force and effect as to the member state  
681 affected as to all severable matters.

682 Sec. 15. Binding effect of Compact and other laws.

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

685 (b) Nothing herein prevents the enforcement of any other law of a member state that is  
686 not inconsistent with the Compact.

687 (c) Any laws in a member state in conflict with the Compact are superseded to the extent  
688 of the conflict.

689 (d) Any lawful actions of the Commission, including all Rules and bylaws promulgated  
690 by the Commission, are binding upon the member states.

691 (e) All agreements between the Commission and the member states are binding in  
692 accordance with their terms.

693 (f) In the event any provision of the Compact exceeds the constitutional limits imposed  
694 on the legislature of any member state, the provision shall be ineffective to the extent of the  
695 conflict with the constitutional provision in question in that member state.

696 Sec. 16. Fiscal impact statement.

697 The Council adopts the fiscal impact statement in the committee report as the fiscal  
698 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
699 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

700 Sec. 17. Effective date.

701 This act shall take effect following approval by the Mayor (or in the event of veto by the  
702 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
703 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
704 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
705 Columbia Register.