

SENATE BILL No. 73

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-43; IC 34-30-2.1-390.1.

Synopsis: Occupational therapy licensure compact. Establishes the occupational therapy licensure compact.

Effective: July 1, 2023.

Becker, Leising

January 9, 2023, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 73

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-43 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2023]:

4 **ARTICLE 43. OCCUPATIONAL THERAPY LICENSURE**
5 **COMPACT**

6 **Chapter 1. Purpose**

7 **Sec. 1. (a) The purpose of this compact is to facilitate interstate**
8 **practice of occupational therapy with the goal of improving public**
9 **access to occupational therapy services. The practice of**
10 **occupational therapy occurs in the state where the patient/client is**
11 **located at the time of the patient/client encounter. The compact**
12 **preserves the regulatory authority of states to protect public health**
13 **and safety through the current system of state licensure.**

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

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



- 1 **(2) Enhance the states' ability to protect the public's health**
 2 **and safety.**
 3 **(3) Encourage the cooperation of member states in regulating**
 4 **multi-state occupational therapy practice.**
 5 **(4) Support spouses of relocating military members.**
 6 **(5) Enhance the exchange of licensure, investigative, and**
 7 **disciplinary information between member states.**
 8 **(6) Allow a remote state to hold a provider of services with a**
 9 **compact privilege in that state accountable to that state's**
 10 **practice standards.**
 11 **(7) Facilitate the use of telehealth technology to increase**
 12 **access to occupational therapy services.**

13 **Chapter 2. Definitions**

14 **Sec. 1. Except as otherwise provided, the following definitions**
 15 **apply to this article:**

- 16 **(1) "Active duty military" means full-time duty status in the**
 17 **active uniformed service of the United States, including**
 18 **members of the National Guard and Reserve on active duty**
 19 **orders under 10 U.S.C. 1209 and 10 U.S.C. 1211.**
 20 **(2) "Adverse action" means any administrative, civil,**
 21 **equitable, or criminal action permitted by a state's laws which**
 22 **is imposed by a licensing board or other authority against an**
 23 **occupational therapist or occupational therapy assistant,**
 24 **including actions against an individual's license or compact**
 25 **privilege such as censure, revocation, suspension, probation,**
 26 **monitoring of the licensee, or restriction on the licensee's**
 27 **practice.**
 28 **(3) "Alternative program" means a nondisciplinary**
 29 **monitoring process approved by an occupational therapy**
 30 **licensing board.**
 31 **(4) "Compact privilege" means the authorization, which is**
 32 **equivalent to a license, granted by a remote state to allow a**
 33 **licensee from another member state to practice as an**
 34 **occupational therapist or practice as an occupational therapy**
 35 **assistant in the remote state under its laws and rules. The**
 36 **practice of occupational therapy occurs in the member state**
 37 **where the patient/client is located at the time of the**
 38 **patient/client encounter.**
 39 **(5) "Continuing competence/education" means a requirement,**
 40 **as a condition of license renewal, to provide evidence of**
 41 **participation in, and/or completion of, educational and**
 42 **professional activities relevant to practice or area of work.**



- 1 (6) "Current significant investigative information" means
2 investigative information that a licensing board, after an
3 inquiry or investigation that includes notification and an
4 opportunity for the occupational therapist or occupational
5 therapy assistant to respond, if required by state law, has
6 reason to believe is not groundless and, if proved true, would
7 indicate more than a minor infraction.
- 8 (7) "Data system" means a repository of information about
9 licensees, including license status, investigative information,
10 compact privileges, and adverse actions.
- 11 (8) "Encumbered license" means a license in which an
12 adverse action restricts the practice of occupational therapy
13 by the licensee or the adverse action has been reported to the
14 National Practitioners Data Bank (NPDB).
- 15 (9) "Executive committee" means a group of directors elected
16 or appointed to act on behalf of, and within the powers
17 granted to them by, the commission.
- 18 (10) "Home state" means the member state that is the
19 licensee's primary state of residence.
- 20 (11) "Impaired practitioner" means an individual whose
21 professional practice is adversely affected by substance abuse,
22 addiction, or other health related conditions.
- 23 (12) "Investigative information" means information, records,
24 and/or documents received or generated by an occupational
25 therapy licensing board under an investigation.
- 26 (13) "Jurisprudence requirement" means the assessment of
27 an individual's knowledge of the laws and rules governing the
28 practice of occupational therapy in a state.
- 29 (14) "Licensee" means an individual who currently holds an
30 authorization from the state to practice as an occupational
31 therapist or as an occupational therapy assistant.
- 32 (15) "Member state" means a state that has enacted the
33 compact.
- 34 (16) "Occupational therapist" means an individual who is
35 licensed by a state to practice occupational therapy.
- 36 (17) "Occupational therapy assistant" means an individual
37 who is licensed by a state to assist in the practice of
38 occupational therapy.
- 39 (18) "Occupational therapy", "occupational therapy
40 practice", and the "practice of occupational therapy" mean
41 the care and services provided by an occupational therapist or
42 an occupational therapy assistant as set forth in the member



- 1 state's statutes and regulations.
- 2 (19) "Occupational therapy compact commission" or
3 "commission" means the national administrative body whose
4 membership consists of all states that have enacted the
5 compact.
- 6 (20) "Occupational therapy licensing board" or "licensing
7 board" means the agency of a state that is authorized to
8 license and regulate occupational therapists and occupational
9 therapy assistants.
- 10 (21) "Primary state of residence" means the state (also known
11 as the home state) in which an occupational therapist or
12 occupational therapy assistant who is not active duty military
13 declares a primary residence for legal purposes as verified by:
14 driver's license, federal income tax return, lease, deed,
15 mortgage, or voter registration or other verifying
16 documentation as further defined by commission rules.
- 17 (22) "Remote state" means a member state other than the
18 home state, where a licensee is exercising or seeking to
19 exercise the compact privilege.
- 20 (23) "Rule" means a regulation promulgated by the
21 commission that has the force of law.
- 22 (24) "Single state license" means an occupational therapist or
23 occupational therapy assistant license issued by a member
24 state that authorizes practice only within the issuing state and
25 does not include a compact privilege in any other member
26 state.
- 27 (25) "State" means any state, commonwealth, district, or
28 territory of the United States of America that regulates the
29 practice of occupational therapy.
- 30 (26) "Telehealth" means the application of telecommunication
31 technology to deliver occupational therapy services for
32 assessment, intervention, and/or consultation.
- 33 **Chapter 3. State Participation in the Compact**
- 34 **Sec. 1. (a) To participate in the compact, a member state shall**
35 **do the following:**
- 36 (1) License occupational therapists and occupational therapy
37 assistants.
- 38 (2) Participate fully in the commission's data system,
39 including using the commission's unique identifier as defined
40 in rules of the commission.
- 41 (3) Have a mechanism in place for receiving and investigating
42 complaints about licensees.



- 1 **(4) Notify the commission, in compliance with the terms of the**
2 **compact and rules, of any adverse action or the availability of**
3 **investigative information regarding a licensee.**
4 **(5) Implement or utilize procedures for considering the**
5 **criminal history records of applicants for an initial compact**
6 **privilege. These procedures must include the submission of**
7 **fingerprints or other biometric based information by**
8 **applicants for the purpose of obtaining an applicant's**
9 **criminal history record information from the Federal Bureau**
10 **of Investigation and the agency responsible for retaining that**
11 **state's criminal records.**
12 **(6) Within a time frame established by the commission,**
13 **require a criminal background check for a licensee**
14 **seeking/applying for a compact privilege whose primary state**
15 **of residence is that member state, by receiving the results of**
16 **the Federal Bureau of Investigation criminal record search,**
17 **and shall use the results in making licensure decisions.**
18 **Communication between a member state, the commission,**
19 **and among member states regarding the verification of**
20 **eligibility for licensure through the compact shall not include**
21 **any information received from the Federal Bureau of**
22 **Investigation relating to a federal criminal records check**
23 **performed by a member state under Public Law 92-544.**
24 **(7) Comply with the rules of the commission.**
25 **(8) Utilize only a recognized national examination as a**
26 **requirement for licensure pursuant to the rules of the**
27 **commission.**
28 **(9) Have continuing competence/education requirements as a**
29 **condition for license renewal.**
30 **(b) A member state shall grant the compact privilege to a**
31 **licensee holding a valid unencumbered license in another member**
32 **state in accordance with the terms of the compact and rules.**
33 **(c) Member states may charge a fee for granting a compact**
34 **privilege.**
35 **(d) A member state shall provide for the state's delegate to**
36 **attend all occupational therapy compact commission meetings.**
37 **(e) Individuals not residing in a member state shall continue to**
38 **be able to apply for a member state's single state license as**
39 **provided under the laws of each member state. However, the single**
40 **state license granted to these individuals shall not be recognized as**
41 **granting the compact privilege in any other member state.**
42 **(f) Nothing in this compact shall affect the requirements**



1 established by a member state for the issuance of a single state
2 license.

3 **Chapter 4. Compact Privilege**

4 **Sec. 1. To exercise the compact privilege under the terms and**
5 **provisions of the compact, the licensee shall:**

- 6 (1) hold a license in the home state;
7 (2) have a valid United States Social Security number or
8 National Practitioner Identification number;
9 (3) have no encumbrance on any state license;
10 (4) be eligible for a compact privilege in any member state in
11 accordance with sections 4, 6, 7, and 8 of this chapter;
12 (5) have paid all fines and completed all requirements
13 resulting from any adverse action against any license or
14 compact privilege, and two (2) years have elapsed from the
15 date of such completion;
16 (6) notify the commission that the licensee is seeking the
17 compact privilege within a remote state or states;
18 (7) pay any applicable fees, including any state fee, for the
19 compact privilege;
20 (8) complete a criminal background check in accordance with
21 IC 25-43-3-1(a)(5) and IC 25-43-3-1(a)(6), and is responsible
22 for the payment of any fee associated with the completion of
23 a criminal background check;
24 (9) meet any jurisprudence requirements established by the
25 remote state or states in which the licensee is seeking a
26 compact privilege; and
27 (10) report to the commission adverse action taken by any
28 nonmember state within thirty (30) days from the date the
29 adverse action is taken.

30 **Sec. 2. The compact privilege is valid until the expiration date**
31 **of the home state license. The licensee must comply with the**
32 **requirements of section 1 of this chapter to maintain the compact**
33 **privilege in the remote state.**

34 **Sec. 3. A licensee providing occupational therapy in a remote**
35 **state under the compact privilege shall function within the laws**
36 **and regulations of the remote state.**

37 **Sec. 4. Occupational therapy assistants practicing in a remote**
38 **state shall be supervised by an occupational therapist licensed or**
39 **holding a compact privilege in that remote state.**

40 **Sec. 5. A licensee providing occupational therapy in a remote**
41 **state is subject to that state's regulatory authority. A remote state**
42 **may, in accordance with due process and that state's laws, remove**



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

6 **Sec. 6. If a home state license is encumbered, the licensee shall**
 7 **lose the compact privilege in any remote state until the following**
 8 **occur:**

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

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

13 **Sec. 7. Once an encumbered license in the home state is restored**
 14 **to good standing, the licensee must meet the requirements of**
 15 **section 1 of this chapter to obtain a compact privilege in any**
 16 **remote state.**

17 **Sec. 8. If a licensee's compact privilege in any remote state is**
 18 **removed, the individual may lose the compact privilege in any**
 19 **other remote state until the following occur:**

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

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

23 (3) Two (2) years have elapsed from the date of completing
 24 requirements for subdivisions (1) and (2).

25 (4) The compact privileges are reinstated by the commission,
 26 and the compact data system is updated to reflect
 27 reinstatement.

28 **Sec. 9. If a licensee's compact privilege in any remote state is**
 29 **removed due to an erroneous charge, privileges shall be restored**
 30 **through the compact data system.**

31 **Sec. 10. Once the requirements of section 8 of this chapter have**
 32 **been met, the licensee must meet the requirements in section 1 of**
 33 **this chapter to obtain a compact privilege in a remote state.**

34 **Chapter 5. Obtaining a New Home State License by Virtue of**
 35 **Compact Privilege**

36 **Sec. 1. An occupational therapist or occupational therapy**
 37 **assistant may hold a home state license, which allows for compact**
 38 **privileges in member states, in only one (1) member state at a time.**

39 **Sec. 2. If an occupational therapist or occupational therapy**
 40 **assistant changes primary state of residence by moving between**
 41 **two (2) member states:**

42 (1) The occupational therapist or occupational therapy



1 assistant shall file an application for obtaining a new home
2 state license by virtue of a compact privilege, pay all
3 applicable fees, and notify the current and new home state in
4 accordance with applicable rules adopted by the commission.

5 (2) Upon receipt of an application for obtaining a new home
6 state license by virtue of compact privilege, the new home
7 state shall verify that the occupational therapist or
8 occupational therapy assistant meets the pertinent criteria
9 outlined in IC 25-43-4 via the data system, without need for
10 primary source verification except for:

11 (A) a Federal Bureau of Investigation fingerprint based
12 criminal background check if not previously performed or
13 updated pursuant to applicable rules adopted by the
14 commission in accordance with Public Law 92-544;

15 (B) other criminal background check as required by the
16 new home state; and

17 (C) submission of any requisite jurisprudence
18 requirements of the new home state.

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

23 (4) Notwithstanding any other provision of this compact, if the
24 occupational therapist or occupational therapy assistant
25 cannot meet the criteria in IC 25-43-4, the new home state
26 shall apply its requirements for issuing a new single state
27 license.

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

31 **Sec. 3.** If an occupational therapist or occupational therapy
32 assistant changes primary state of residence by moving from a
33 member state to a nonmember state, or from a nonmember state
34 to a member state, the state criteria shall apply for issuance of a
35 single state license in the new state.

36 **Sec. 4.** Nothing in this compact shall interfere with a licensee's
37 ability to hold a single state license in multiple states; however, for
38 the purposes of this compact, a licensee shall have only one (1)
39 home state license.

40 **Sec. 5.** Nothing in this compact shall affect the requirements
41 established by a member state for the issuance of a single state
42 license.



1 **Chapter 6. Active Duty Military Personnel or Their Spouses**

2 **Sec. 1. Active duty military personnel, or their spouses, shall**
3 **designate a home state where the individual has a current license**
4 **in good standing. The individual may retain the home state**
5 **designation during the period the service member is on active duty.**
6 **Subsequent to designating a home state, the individual shall only**
7 **change their home state through application for licensure in the**
8 **new state or through the process described in IC 25-43-5.**

9 **Chapter 7. Adverse Actions**

10 **Sec. 1. A home state shall have exclusive power to impose**
11 **adverse action against an occupational therapist's or occupational**
12 **therapy assistant's license issued by the home state.**

13 **Sec. 2. In addition to the other powers conferred by state law, a**
14 **remote state shall have the authority, in accordance with existing**
15 **state due process law, to do the following:**

16 (1) **Take adverse action against an occupational therapist's or**
17 **occupational therapy assistant's compact privilege within that**
18 **member state.**

19 (2) **Issue subpoenas for both hearings and investigations that**
20 **require the attendance and testimony of witnesses as well as**
21 **the production of evidence. Subpoenas issued by a licensing**
22 **board in a member state for the attendance and testimony of**
23 **witnesses or the production of evidence from another member**
24 **state shall be enforced in the latter state by any court of**
25 **competent jurisdiction, according to the practice and**
26 **procedure of that court applicable to subpoenas issued in**
27 **proceedings pending before it. The issuing authority shall pay**
28 **any witness fees, travel expenses, mileage, and other fees**
29 **required by the service statutes of the state in which the**
30 **witnesses or evidence are located.**

31 **Sec. 3. For purposes of taking adverse action, the home state**
32 **shall give the same priority and effect to reported conduct received**
33 **from a member state as it would if the conduct had occurred within**
34 **the home state. In so doing, the home state shall apply its own state**
35 **laws to determine appropriate action.**

36 **Sec. 4. The home state shall complete any pending investigations**
37 **of an occupational therapist or occupational therapy assistant who**
38 **changes primary state of residence during the course of the**
39 **investigations. The home state, where the investigations were**
40 **initiated, shall also have the authority to take appropriate action**
41 **or actions and shall promptly report the conclusions of the**
42 **investigations to the occupational therapy compact commission**



1 data system. The occupational therapy compact commission data
2 system administrator shall promptly notify the new home state of
3 any adverse actions.

4 **Sec. 5.** A member state, if otherwise permitted by state law, may
5 recover from the affected occupational therapist or occupational
6 therapy assistant the costs of investigations and disposition of cases
7 resulting from any adverse action taken against that occupational
8 therapist or occupational therapy assistant.

9 **Sec. 6.** A member state may take adverse action based on the
10 factual findings of the remote state, provided that the member state
11 follows its own procedures for taking the adverse action.

12 **Sec. 7. (a)** In addition to the authority granted to a member state
13 by its respective state occupational therapy laws and regulations or
14 other applicable state law, any member state may participate with
15 other member states in joint investigations of licensees.

16 **(b)** Member states shall share any investigative, litigation, or
17 compliance materials in furtherance of any joint or individual
18 investigation initiated under the compact.

19 **Sec. 8.** If an adverse action is taken by the home state against an
20 occupational therapist's or occupational therapy assistant's license,
21 the occupational therapist's or occupational therapy assistant's
22 compact privilege in all other member states shall be deactivated
23 until all encumbrances have been removed from the state license.
24 All home state disciplinary orders that impose adverse action
25 against an occupational therapist's or occupational therapy
26 assistant's license shall include a statement that the occupational
27 therapist's or occupational therapy assistant's compact privilege
28 is deactivated in all member states during the pendency of the
29 order.

30 **Sec. 9.** If a member state takes adverse action, it shall promptly
31 notify the administrator of the data system. The administrator of
32 the data system shall promptly notify the home state of any adverse
33 actions by remote states.

34 **Sec. 10.** Nothing in this compact shall override a member state's
35 decision that participation in an alternative program may be used
36 in lieu of adverse action.

37 **Chapter 8. Establishment of the Occupational Therapy**
38 **Compact Commission**

39 **Sec. 1. (a)** The compact member states hereby create and
40 establish a joint public agency known as the Occupational Therapy
41 Compact Commission.

42 **(b)** The commission is an instrumentality of the compact states.



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

7 (d) Nothing in this compact shall be construed to be a waiver of
8 sovereign immunity.

9 **Sec. 2. (a) Each member state shall have and be limited to one**
10 **(1) delegate selected by that member state's licensing board.**

11 **(b) The delegate shall be either:**

12 **(1) a current member of the licensing board, who is an**
13 **occupational therapist, occupational therapy assistant, or**
14 **public member; or**

15 **(2) an administrator of the licensing board.**

16 **(c) Any delegate may be removed or suspended from office as**
17 **provided by the law of the state from which the delegate is**
18 **appointed.**

19 **(d) The member state board shall fill any vacancy occurring in**
20 **the commission within ninety (90) days.**

21 **(e) Each delegate shall be entitled to one (1) vote with regard to**
22 **the promulgation of rules and creation of bylaws and shall**
23 **otherwise have an opportunity to participate in the business and**
24 **affairs of the commission. A delegate shall vote in person or by**
25 **such other means as provided in the bylaws. The bylaws may**
26 **provide for delegates' participation in meetings by telephone or**
27 **other means of communication.**

28 **(f) The commission shall meet at least once during each calendar**
29 **year. Additional meetings shall be held as set forth in the bylaws.**

30 **(g) The commission shall establish by rule a term of office for**
31 **delegates.**

32 **Sec. 3. The commission shall have the following powers and**
33 **duties:**

34 **(1) Establish a code of ethics for the commission.**

35 **(2) Establish the fiscal year of the commission.**

36 **(3) Establish bylaws.**

37 **(4) Maintain its financial records in accordance with the**
38 **bylaws.**

39 **(5) Meet and take such actions as are consistent with the**
40 **provisions of this compact and the bylaws.**

41 **(6) Promulgate uniform rules to facilitate and coordinate**
42 **implementation and administration of this compact. The rules**



- 1 shall have the force and effect of law and shall be binding in
 2 all member states.
- 3 (7) Bring and prosecute legal proceedings or actions in the
 4 name of the commission, provided that the standing of any
 5 state occupational therapy licensing board to sue or be sued
 6 under applicable law shall not be affected.
- 7 (8) Purchase and maintain insurance and bonds.
- 8 (9) Borrow, accept, or contract for services of personnel,
 9 including, but not limited to, employees of a member state.
- 10 (10) Hire employees, elect or appoint officers, fix
 11 compensation, define duties, grant such individuals
 12 appropriate authority to carry out the purposes of the
 13 compact, and establish the commission's personnel policies
 14 and programs relating to conflicts of interest, qualifications
 15 of personnel, and other related personnel matters.
- 16 (11) Accept any and all appropriate donations and grants of
 17 money, equipment, supplies, materials, and services, and
 18 receive, utilize, and dispose of the same, provided that at all
 19 times the commission shall avoid any appearance of
 20 impropriety and/or conflict of interest.
- 21 (12) Lease, purchase, accept appropriate gifts or donations of,
 22 or otherwise own, hold, improve, or use, any property, real,
 23 personal, or mixed; provided that at all times the commission
 24 shall avoid any appearance of impropriety.
- 25 (13) Sell, convey, mortgage, pledge, lease, exchange, abandon,
 26 or otherwise dispose of any property real, personal, or mixed.
- 27 (14) Establish a budget and make expenditures.
- 28 (15) Borrow money.
- 29 (16) Appoint committees, including standing committees
 30 composed of members, state regulators, state legislators or
 31 their representatives, and consumer representatives, and such
 32 other interested persons as may be designated in this compact
 33 and the bylaws.
- 34 (17) Provide and receive information from, and cooperate
 35 with, law enforcement agencies.
- 36 (18) Establish and elect an executive committee.
- 37 (19) Perform such other functions as may be necessary or
 38 appropriate to achieve the purposes of this compact consistent
 39 with the state regulation of occupational therapy licensure
 40 and practice.
- 41 **Sec. 4. (a) The executive committee shall have the power to act**
 42 **on behalf of the commission according to the terms of this compact.**



1 **(b) The executive committee shall be composed of the following**
 2 **nine (9) members:**

3 **(1) Seven (7) voting members who are elected by the**
 4 **commission from the current membership of the commission.**

5 **(2) One (1) ex-officio, nonvoting member from a recognized**
 6 **national occupational therapy professional association.**

7 **(3) One (1) ex-officio, nonvoting member from a recognized**
 8 **national occupational therapy certification organization.**

9 **(c) The ex-officio members will be selected by their respective**
 10 **organizations.**

11 **(d) The commission may remove any member of the executive**
 12 **committee as provided in bylaws.**

13 **(e) The executive committee shall meet at least annually.**

14 **(f) The executive committee shall have the following duties and**
 15 **responsibilities:**

16 **(1) Recommend to the entire commission changes to the rules**
 17 **or bylaws, changes to this compact legislation, fees paid by**
 18 **compact member states such as annual dues, and any**
 19 **commission compact fee charged to licensees for the compact**
 20 **privilege.**

21 **(2) Ensure compact administration services are appropriately**
 22 **provided, contractual, or otherwise.**

23 **(3) Prepare and recommend the budget.**

24 **(4) Maintain financial records on behalf of the commission.**

25 **(5) Monitor compact compliance of member states and**
 26 **provide compliance reports to the commission.**

27 **(6) Establish additional committees as necessary.**

28 **(7) Perform other duties as provided in rules or bylaws.**

29 **Sec. 5. (a) All meetings shall be open to the public, and public**
 30 **notice of meetings shall be given in the same manner as required**
 31 **under the rulemaking provisions in IC 25-43-10.**

32 **(b) The commission or the executive committee or other**
 33 **committees of the commission may convene in a closed, nonpublic**
 34 **meeting if the commission or executive committee or other**
 35 **committees of the commission must discuss any of the following:**

36 **(1) Noncompliance of a member state with its obligations**
 37 **under the compact.**

38 **(2) The employment, compensation, discipline or other**
 39 **matters, practices, or procedures related to specific employees**
 40 **or other matters related to the commission's internal**
 41 **personnel practices and procedures.**

42 **(3) Current, threatened, or reasonably anticipated litigation.**



- 1 **(4) Negotiation of contracts for the purchase, lease, or sale of**
- 2 **goods, services, or real estate.**
- 3 **(5) Accusing any person of a crime or formally censuring any**
- 4 **person.**
- 5 **(6) Disclosure of trade secrets or commercial or financial**
- 6 **information that is privileged or confidential.**
- 7 **(7) Disclosure of information of a personal nature in which**
- 8 **disclosure would constitute a clearly unwarranted invasion of**
- 9 **personal privacy.**
- 10 **(8) Disclosure of investigative records compiled for law**
- 11 **enforcement purposes.**
- 12 **(9) Disclosure of information related to any investigative**
- 13 **reports prepared by or on behalf of or for use of the**
- 14 **commission or other committee charged with responsibility of**
- 15 **investigation or determination of compliance issues pursuant**
- 16 **to the compact.**
- 17 **(10) Matters specifically exempted from disclosure by federal**
- 18 **or member state statute.**

19 **(c) If a meeting, or portion of a meeting, is closed pursuant to**
 20 **this provision, the commission's legal counsel or designee shall**
 21 **certify that the meeting may be closed and shall reference each**
 22 **relevant exempting provision.**

23 **(d) The commission shall keep minutes that fully and clearly**
 24 **describe all matters discussed in a meeting and shall provide a full**
 25 **and accurate summary of actions taken, and the reasons therefore,**
 26 **including a description of the views expressed. All documents**
 27 **considered in connection with an action shall be identified in such**
 28 **minutes. All minutes and documents of a closed meeting shall**
 29 **remain under seal, subject to release by a majority vote of the**
 30 **commission or order of a court of competent jurisdiction.**

31 **Sec. 6. (a) The commission shall pay, or provide for the payment**
 32 **of, the reasonable expenses of its establishment, organization, and**
 33 **ongoing activities.**

34 **(b) The commission may accept any and all appropriate revenue**
 35 **sources, donations, and grants of money, equipment, supplies,**
 36 **materials, and services.**

37 **(c) The commission may levy on and collect an annual**
 38 **assessment from each member state or impose fees on other parties**
 39 **to cover the cost of the operations and activities of the commission**
 40 **and its staff, which must be in a total amount sufficient to cover its**
 41 **annual budget as approved by the commission each year for which**
 42 **revenue is not provided by other sources. The aggregate annual**



1 assessment amount shall be allocated based upon a formula to be
2 determined by the commission, which shall promulgate a rule
3 binding upon all member states.

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

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

16 Sec. 7. (a) The members, officers, executive director, employees,
17 and representatives of the commission shall be immune from suit
18 and liability, either personally or in their official capacity, for any
19 claim for damage to or loss of property or personal injury or other
20 civil liability caused by or arising out of any actual or alleged act,
21 error, or omission that occurred, or that the person against whom
22 the claim is made had a reasonable basis for believing occurred
23 within the scope of commission employment, duties, or
24 responsibilities; provided that nothing in this paragraph shall be
25 construed to protect any such person from suit and/or liability for
26 any damage, loss, injury, or liability caused by the intentional or
27 willful or wanton misconduct of that person.

28 (b) The commission shall defend any member, officer, executive
29 director, employee, or representative of the commission in any civil
30 action seeking to impose liability arising out of any actual or
31 alleged act, error, or omission that occurred within the scope of
32 commission employment, duties, or responsibilities, or that the
33 person against whom the claim is made had a reasonable basis for
34 believing occurred within the scope of commission employment,
35 duties, or responsibilities; provided that nothing herein shall be
36 construed to prohibit that person from retaining his or her own
37 counsel; and provided further, that the actual or alleged act, error,
38 or omission did not result from that person's intentional or willful
39 or wanton misconduct.

40 (c) The commission shall indemnify and hold harmless any
41 member, officer, executive director, employee, or representative of
42 the commission for the amount of any settlement or judgment



1 obtained against that person arising out of any actual or alleged
 2 act, error, or omission that occurred within the scope of
 3 commission employment, duties, or responsibilities, or that such
 4 person had a reasonable basis for believing occurred within the
 5 scope of commission employment, duties, or responsibilities,
 6 provided that the actual or alleged act, error, or omission did not
 7 result from the intentional or willful or wanton misconduct of that
 8 person.

9 **Chapter 9. Data System**

10 **Sec. 1. The commission shall provide for the development,**
 11 **maintenance, and utilization of a coordinated data base and**
 12 **reporting system containing licensure, adverse action, and**
 13 **investigative information on all licensed individuals in member**
 14 **states.**

15 **Sec. 2. A member state shall submit a uniform data set to the**
 16 **data system on all individuals to whom this compact is applicable**
 17 **(utilizing a unique identifier) as required by the rules of the**
 18 **commission, including:**

- 19 (1) identifying information;
- 20 (2) licensure data;
- 21 (3) adverse actions against a license or compact privilege;
- 22 (4) nonconfidential information related to alternative
- 23 program participation;
- 24 (5) any denial of application for licensure, and the reason(s)
- 25 for such denial;
- 26 (6) other information that may facilitate the administration of
- 27 this compact, as determined by the rules of the commission;
- 28 and
- 29 (7) current significant investigative information.

30 **Sec. 3. Current significant investigative information and other**
 31 **investigative information pertaining to a licensee in any member**
 32 **state will only be available to other member states.**

33 **Sec. 4. The commission shall promptly notify all member states**
 34 **of any adverse action taken against a licensee or an individual**
 35 **applying for a license. Adverse action information pertaining to a**
 36 **licensee in any member state will be available to any other member**
 37 **state.**

38 **Sec. 5. Member states contributing information to the data**
 39 **system may designate information that may not be shared with the**
 40 **public without the express permission of the contributing state.**

41 **Sec. 6. Any information submitted to the data system that is**
 42 **subsequently required to be expunged by the laws of the member**



1 state contributing the information shall be removed from the data
2 system.

3 **Chapter 10. Rulemaking**

4 **Sec. 1. The commission shall exercise its rulemaking powers**
5 **pursuant to the criteria set forth in this chapter and the rules**
6 **adopted thereunder. Rules and amendments shall become binding**
7 **as of the date specified in each rule or amendment.**

8 **Sec. 2. The commission shall promulgate reasonable rules in**
9 **order to effectively and efficiently achieve the purposes of the**
10 **compact. Notwithstanding the foregoing, in the event the**
11 **commission exercises its rulemaking authority in a manner that is**
12 **beyond the scope of the purposes of the compact, or the powers**
13 **granted hereunder, then such an action by the commission shall be**
14 **invalid and have no force and effect.**

15 **Sec. 3. If a majority of the legislatures of the member states**
16 **rejects a rule, by enactment of a statute or resolution in the same**
17 **manner used to adopt the compact within four (4) years of the date**
18 **of adoption of the rule, then such rule shall have no further force**
19 **and effect in any member state.**

20 **Sec. 4. Rules or amendments to the rules shall be adopted at a**
21 **regular or special meeting of the commission.**

22 **Sec. 5. Before the promulgation and adoption of a final rule or**
23 **rules by the commission, and at least thirty (30) days in advance of**
24 **the meeting at which the rule will be considered and voted upon,**
25 **the commission shall file a notice of proposed rulemaking:**

- 26 (1) on the website of the commission or other publicly
27 accessible platform; and
28 (2) on the website of each member state occupational therapy
29 licensing board or other publicly accessible platform or the
30 publication in which each state would otherwise publish
31 proposed rules.

32 **Sec. 6. The notice of proposed rulemaking shall include the**
33 **following:**

- 34 (1) The proposed time, date, and location of the meeting
35 where the rule will be considered and voted upon.
36 (2) The text of the proposed rule or amendment and the
37 reason for the proposed rule.
38 (3) A request for comments on the proposed rule from any
39 interested person.
40 (4) The manner in which interested persons may submit
41 notice to the commission of their intention to attend the public
42 hearing and any written comments.



1 **Sec. 7. Prior to adoption of a proposed rule, the commission**
2 **shall allow persons to submit written data, facts, opinions, and**
3 **arguments, which shall be made available to the public.**

4 **Sec. 8. The commission shall grant an opportunity for a public**
5 **hearing before it adopts a rule or amendment if a hearing is**
6 **requested by:**

- 7 **(1) at least twenty-five (25) persons;**
8 **(2) a state or federal governmental subdivision or agency; or**
9 **(3) an association or organization having at least twenty-five**
10 **(25) members.**

11 **Sec. 9. (a) If a hearing is held on the proposed rule or**
12 **amendment, the commission shall publish the place, time, and date**
13 **of the scheduled public hearing. If the hearing is held via electronic**
14 **means, the commission shall publish the mechanism for access to**
15 **the electronic hearing.**

16 **(b) All persons wishing to be heard at the hearing shall notify**
17 **the executive director of the commission or other designated**
18 **member in writing of their desire to appear and testify at the**
19 **hearing not less than five (5) business days before the scheduled**
20 **date of the hearing.**

21 **(c) Hearings shall be conducted in a manner providing each**
22 **person who wishes to comment a fair and reasonable opportunity**
23 **to comment orally or in writing.**

24 **(d) All hearings will be recorded. A copy of the recording will be**
25 **made available on request.**

26 **(e) Nothing in this section shall be construed as requiring a**
27 **separate hearing on each rule. Rules may be grouped for the**
28 **convenience of the commission at hearings required by this**
29 **chapter.**

30 **Sec. 10. Following the scheduled hearing date, or by the close of**
31 **business on the scheduled hearing date if the hearing was not held,**
32 **the commission shall consider all written and oral comments**
33 **received.**

34 **Sec. 11. If no written notice of intent to attend the public**
35 **hearing by interested parties is received, the commission may**
36 **proceed with promulgation of the proposed rule without a public**
37 **hearing.**

38 **Sec. 12. The commission shall, by majority vote of all members,**
39 **take final action on the proposed rule and shall determine the**
40 **effective date of the rule, if any, based on the rulemaking record**
41 **and the full text of the rule.**

42 **Sec. 13. Upon determination that an emergency exists, the**



1 commission may consider and adopt an emergency rule without
 2 prior notice, opportunity for comment, or hearing, provided that
 3 the usual rulemaking procedures provided in the compact and in
 4 this chapter shall be retroactively applied to the rule as soon as
 5 reasonably possible, in no event later than ninety (90) days after
 6 the effective date of the rule. For the purposes of this provision, an
 7 emergency rule is one that must be adopted immediately in order
 8 to:

- 9 (1) meet an imminent threat to public health, safety, or
 10 welfare;
 11 (2) prevent a loss of commission or member state funds;
 12 (3) meet a deadline for the promulgation of an administrative
 13 rule that is established by federal law or rule; or
 14 (4) protect public health and safety.

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

28 **Chapter 11. Oversight, Dispute Resolution, and Enforcement**

29 **Sec. 1. (a)** The executive, legislative, and judicial branches of
 30 state government in each member state shall enforce this compact
 31 and take all actions necessary and appropriate to effectuate the
 32 compact's purposes and intent. The provisions of this compact and
 33 the rules promulgated hereunder shall have standing as statutory
 34 law.

35 (b) All courts shall take judicial notice of the compact and the
 36 rules in any judicial or administrative proceeding in a member
 37 state pertaining to the subject matter of this compact which may
 38 affect the powers, responsibilities, or actions of the commission.

39 (c) The commission shall be entitled to receive service of process
 40 in any such proceeding, and shall have standing to intervene in
 41 such a proceeding for all purposes. Failure to provide service of
 42 process to the commission shall render a judgment or order void



1 as to the commission, this compact, or promulgated rules.

2 **Sec. 2. (a) If the commission determines that a member state has**
 3 **defaulted in the performance of its obligations or responsibilities**
 4 **under this compact or the promulgated rules, the commission shall:**

5 (1) provide written notice to the defaulting state and other
 6 member states of the nature of the default, the proposed
 7 means of curing the default and/or any other action to be
 8 taken by the commission; and

9 (2) provide remedial training and specific technical assistance
 10 regarding the default.

11 (b) If a state in default fails to cure the default, the defaulting
 12 state may be terminated from the compact upon an affirmative
 13 vote of a majority of the member states, and all rights, privileges
 14 and benefits conferred by this compact may be terminated on the
 15 effective date of termination. A cure of the default does not relieve
 16 the offending state of obligations or liabilities incurred during the
 17 period of default.

18 (c) Termination of membership in the compact shall be imposed
 19 only after all other means of securing compliance have been
 20 exhausted. Notice of intent to suspend or terminate shall be given
 21 by the commission to the governor, the majority and minority
 22 leaders of the defaulting state's legislature, and each of the member
 23 states.

24 (d) A state that has been terminated is responsible for all
 25 assessments, obligations, and liabilities incurred through the
 26 effective date of termination, including obligations that extend
 27 beyond the effective date of termination.

28 (e) The commission shall not bear any costs related to a state
 29 that is found to be in default or that has been terminated from the
 30 compact, unless agreed upon in writing between the commission
 31 and the defaulting state.

32 (f) The defaulting state may appeal the action of the commission
 33 by petitioning the United States District Court for the District of
 34 Columbia or the federal district where the commission has its
 35 principal offices. The prevailing member shall be awarded all costs
 36 of such litigation, including reasonable attorney's fees.

37 **Sec. 3. (a) Upon request by a member state, the commission**
 38 **shall attempt to resolve disputes related to the compact that arise**
 39 **among member states and between member and nonmember**
 40 **states.**

41 (b) The commission shall promulgate a rule providing for both
 42 mediation and binding dispute resolution for disputes as



1 appropriate.

2 **Sec. 4. (a) The commission, in the reasonable exercise of its**
3 **discretion, shall enforce the provisions and rules of this compact.**

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

13 **(c) The remedies herein shall not be the exclusive remedies of**
14 **the commission. The commission may pursue any other remedies**
15 **available under federal or state law.**

16 **Chapter 12. Date of Implementation of the Interstate**
17 **Commission for Occupational Therapy Practice and Associated**
18 **Rules, Withdrawal, and Amendment**

19 **Sec. 1. The compact shall come into effect on the date on which**
20 **the compact statute is enacted into law in the tenth member state.**
21 **The provisions, which become effective at that time, shall be**
22 **limited to the powers granted to the commission relating to**
23 **assembly and the promulgation of rules. Thereafter, the**
24 **commission shall meet and exercise rulemaking powers necessary**
25 **to the implementation and administration of the compact.**

26 **Sec. 2. Any state that joins the compact subsequent to the**
27 **commission's initial adoption of the rules shall be subject to the**
28 **rules as they exist on the date on which the compact becomes law**
29 **in that state. Any rule that has been previously adopted by the**
30 **commission shall have the full force and effect of law on the day the**
31 **compact becomes law in that state.**

32 **Sec. 3. (a) Any member state may withdraw from this compact**
33 **by enacting a statute repealing the same.**

34 **(b) A member state's withdrawal shall not take effect until six**
35 **(6) months after enactment of the repealing statute.**

36 **(c) Withdrawal shall not affect the continuing requirement of**
37 **the withdrawing state's occupational therapy licensing board to**
38 **comply with the investigative and adverse action reporting**
39 **requirements of this act prior to the effective date of withdrawal.**

40 **Sec. 4. Nothing contained in this compact shall be construed to**
41 **invalidate or prevent any occupational therapy licensure**
42 **agreement or other cooperative arrangement between a member**



1 state and a nonmember state that does not conflict with the
2 provisions of this compact.

3 **Sec. 5.** This compact may be amended by the member states. No
4 amendment to this compact shall become effective and binding
5 upon any member state until it is enacted into the laws of all
6 member states.

7 **Chapter 13. Construction and Severability**

8 **Sec. 1.** This compact shall be liberally construed so as to
9 effectuate the purposes thereof. The provisions of this compact
10 shall be severable and if any phrase, clause, sentence, or provision
11 of this compact is declared to be contrary to the constitution of any
12 member state or of the United States or the applicability thereof to
13 any government, agency, person, or circumstance is held invalid,
14 the validity of the remainder of this compact and the applicability
15 thereof to any government, agency, person, or circumstance shall
16 not be affected thereby. If this compact shall be held contrary to
17 the constitution of any member state, the compact shall remain in
18 full force and effect as to the remaining member states and in full
19 force and effect as to the member state affected as to all severable
20 matters.

21 **Chapter 14. Binding Effect of Compact and Other Laws**

22 **Sec. 1.** A licensee providing occupational therapy in a remote
23 state under the compact privilege shall function within the laws
24 and regulations of the remote state.

25 **Sec. 2.** Nothing herein prevents the enforcement of any other
26 law of a member state that is not inconsistent with the compact.

27 **Sec. 3.** Any laws in a member state in conflict with the compact
28 are superseded to the extent of the conflict.

29 **Sec. 4.** Any lawful actions of the commission, including all rules
30 and bylaws promulgated by the commission, are binding upon the
31 member states.

32 **Sec. 5.** All agreements between the commission and the member
33 states are binding in accordance with their terms.

34 **Sec. 6.** In the event any provision of the compact exceeds the
35 constitutional limits imposed on the legislature of any member
36 state, the provision shall be ineffective to the extent of the conflict
37 with the constitutional provision in question in that member state.

38 SECTION 2. IC 34-30-2.1-390.1 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2023]: **Sec. 390.1. IC 25-43-8-7 (Concerning**
41 **certain acts, errors, or omissions under the occupational therapy**
42 **licensure compact).**

