

HOUSE No. 352

The Commonwealth of Massachusetts

PRESENTED BY:

Jack Patrick Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the occupational therapist interstate licensure compact.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/20/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>3/2/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>3/2/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>3/7/2023</i>

HOUSE No. 352

By Representative Lewis of Framingham, a petition (accompanied by bill, House, No. 352) of Jack Patrick Lewis and others relative to the occupational therapist interstate licensure compact. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to the occupational therapist interstate licensure compact.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 112A Occupational Therapy Licensure Compact

2 Section 1. DEFINITIONS

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

5 A. “Active Duty Military” means full-time duty status in the active uniformed service of
6 the United States, including members of the National Guard and Reserve on active duty orders
7 pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C. Chapter 1211.

8 B. “Adverse Action” means any administrative, civil, equitable, or criminal action
9 permitted by a State’s laws which is imposed by a Licensing Board or other authority against an
10 Occupational Therapist or Occupational Therapy Assistant, including actions against an

11 individual's license or Compact Privilege such as censure, revocation, suspension, probation,
12 monitoring of the Licensee, or restriction on the Licensee's practice.

13 C. "Alternative Program" means a non-disciplinary monitoring process approved by an
14 Occupational Therapy Licensing Board.

15 D. "Compact Privilege" means the authorization, which is equivalent to a license, granted
16 by a Remote State to allow a Licensee from another Member State to practice as an Occupational
17 Therapist or practice as an Occupational Therapy Assistant in the Remote State under its laws
18 and rules. The Practice of Occupational Therapy occurs in the Member State where the
19 patient/client is located at the time of the patient/client encounter.

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

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

28 G. "Data System" means a repository of information about Licensees, including but not
29 limited to license status, Investigative Information, Compact Privileges, and Adverse Actions.

30 H. “Encumbered License” means a license in which an Adverse Action restricts the
31 Practice of Occupational Therapy by the Licensee or said Adverse Action has been reported to
32 the National Practitioners Data Bank (NPDB).

33 I. “Executive Committee” means a group of directors elected or appointed to act on
34 behalf of, and within the powers granted to them by, the Commission.

35 J. “Home State” means the Member State that is the Licensee’s Primary State of
36 Residence.

37 K. “Impaired Practitioner” means individuals whose professional practice is adversely
38 affected by substance abuse, addiction, or other health-related conditions.

39 L. “Investigative Information” means information, records, and/or documents received or
40 generated by an Occupational Therapy Licensing Board pursuant to an investigation.

41 M. “Jurisprudence Requirement” means the assessment of an individual’s knowledge of
42 the laws and rules governing the Practice of Occupational Therapy in a State.

43 N. “Licensee” means an individual who currently holds an authorization from the State to
44 practice as an Occupational Therapist or as an Occupational Therapy Assistant.

45 O. “Member State” means a State that has enacted the Compact.

46 P. “Occupational Therapist” means an individual who is licensed by a State to practice
47 Occupational Therapy.

48 Q. “Occupational Therapy Assistant” means an individual who is licensed by a State to
49 assist in the Practice of Occupational Therapy.

50 R. “Occupational Therapy,” “Occupational Therapy Practice,” and the “Practice of
51 Occupational Therapy” mean the care and services provided by an Occupational Therapist or an
52 Occupational Therapy Assistant as set forth in the Member State’s statutes and regulations.

53 S. “Occupational Therapy Compact Commission” or “Commission” means the national
54 administrative body whose membership consists of all States that have enacted the Compact.

55 T. “Occupational Therapy Licensing Board” or “Licensing Board” means the agency of a
56 State that is authorized to license and regulate Occupational Therapists and Occupational
57 Therapy Assistants.

58 U. “Primary State of Residence” means the state (also known as the Home State) in
59 which an Occupational Therapist or Occupational Therapy Assistant who is not Active Duty
60 Military declares a primary residence for legal purposes as verified by: driver’s license, federal
61 income tax return, lease, deed, mortgage or voter registration or other verifying documentation as
62 further defined by Commission Rules.

63 V. “Remote State” means a Member State other than the Home State, where a Licensee is
64 exercising or seeking to exercise the Compact Privilege.

65 W. “Rule” means a regulation promulgated by the Commission that has the force of law.

66 X. “State” means any state, commonwealth, district, or territory of the United States of
67 America that regulates the Practice of Occupational Therapy.

68 Y. “Single-State License” means an Occupational Therapist or Occupational Therapy
69 Assistant license issued by a Member State that authorizes practice only within the issuing State
70 and does not include a Compact Privilege in any other Member State.

71 Z. “Telehealth” means the application of telecommunication technology to deliver
72 Occupational Therapy services for assessment, intervention and/or consultation.

73 Section 2. STATE PARTICIPATION IN THE COMPACT

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

75 1. License Occupational Therapists and Occupational Therapy Assistants

76 2. Participate fully in the Commission’s Data System, including but not limited to using
77 the Commission’s unique identifier as defined in Rules of the Commission;

78 3. Have a mechanism in place for receiving and investigating complaints about
79 Licensees;

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

82 5. Implement or utilize procedures for considering the criminal history records of
83 applicants for an initial Compact Privilege. These procedures shall include the submission of
84 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
85 applicant’s criminal history record information from the Federal Bureau of Investigation and the
86 agency responsible for retaining that State’s criminal records;

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

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

95 6. Comply with the Rules of the Commission;

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

98 8. Have Continuing Competence/Education requirements as a condition for license
99 renewal.

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

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

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

106 E. Individuals not residing in a Member State shall continue to be able to apply for a
107 Member State's Single-State License as provided under the laws of each Member State.
108 However, the Single-State License granted to these individuals shall not be recognized as
109 granting the Compact Privilege in any other Member State.

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

112 Section 3. COMPACT PRIVILEGE

113 A. To exercise the Compact Privilege under the terms and provisions of the Compact, the

114 Licensee shall:

115 1. Hold a license in the Home State;

116 2. Have a valid United States Social Security Number or National Practitioner

117 Identification number;

118 3. Have no encumbrance on any State license;

119 4. Be eligible for a Compact Privilege in any Member State in accordance with Section

120 4D, F, G, and H;

121 5. Have paid all fines and completed all requirements resulting from any Adverse Action

122 against any license or Compact Privilege, and two years have elapsed from the date of such

123 completion;

124 6. Notify the Commission that the Licensee is seeking the Compact Privilege within a

125 Remote State(s);

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

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

128 a. The Licensee shall be responsible for the payment of any fee associated with the

129 completion of a criminal background check.

130 9. Meet any Jurisprudence Requirements established by the Remote State(s) in which the
131 Licensee is seeking a Compact Privilege; and

132 10. Report to the Commission Adverse Action taken by any non-Member State within 30
133 days from the date the Adverse Action is taken.

134 B. The Compact Privilege is valid until the expiration date of the Home State license. The
135 Licensee must comply with the requirements of Section 4A to maintain the Compact Privilege in
136 the Remote State.

137 C. A Licensee providing Occupational Therapy in a Remote State under the Compact
138 Privilege shall function within the laws and regulations of the Remote State.

139 D. Occupational Therapy Assistants practicing in a Remote State shall be supervised by
140 an Occupational Therapist licensed or holding a Compact Privilege in that Remote State.

141 E. A Licensee providing Occupational Therapy in a Remote State is subject to that
142 State's regulatory authority. A Remote State may, in accordance with due process and that
143 State's laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of
144 time, impose fines, and/or take any other necessary actions to protect the health and safety of its
145 citizens. The Licensee may be ineligible for a Compact Privilege in any State until the specific
146 time for removal has passed and all fines are paid.

147 F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege
148 in any Remote State until the following occur:

149 1. The Home State license is no longer encumbered; and

150 2. Two years have elapsed from the date on which the Home State license is no longer
151 encumbered in accordance with Section 4(F)(1).

152 G. Once an Encumbered License in the Home State is restored to good standing, the
153 Licensee must meet the requirements of Section 4A to obtain a Compact Privilege in any Remote
154 State.

155 H. If a Licensee's Compact Privilege in any Remote State is removed, the individual may
156 lose the Compact Privilege in any other Remote State until the following occur:

157 1. The specific period of time for which the Compact Privilege was removed has ended;

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

159 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2);

160 and

161 4. The Compact Privileges are reinstated by the Commission, and the compact Data
162 System is updated to reflect reinstatement.

163 I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous
164 charge, privileges shall be restored through the compact Data System.

165 J. Once the requirements of Section 4H have been met, the Licensee must meet the
166 requirements in Section 4A to obtain a Compact Privilege in a Remote State.

167 Section 4: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF
168 COMPACT PRIVILEGE

169 A. An Occupational Therapist or Occupational Therapy Assistant may hold a Home State
170 license, which allows for Compact Privileges in Member States, in only one Member State at a
171 time.

172 B. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State
173 of Residence by moving between two Member States:

174 1. The Occupational Therapist or Occupational Therapy Assistant shall file an application
175 for obtaining a new Home State license by virtue of a Compact Privilege, pay all applicable fees,
176 and notify the current and new Home State in accordance with applicable Rules adopted by the
177 Commission.

178 2. Upon receipt of an application for obtaining a new Home State license by virtue of
179 compact privilege, the new Home State shall verify that the Occupational Therapist or
180 Occupational Therapy Assistant meets the pertinent criteria outlined in Section 4 via the Data
181 System, without need for primary source verification except for:

182 a. an FBI fingerprint based criminal background check if not previously performed or
183 updated pursuant to applicable Rules adopted by the Commission in accordance with Public Law
184 92-544;

185 b. other criminal background check as required by the new Home State; and

186 c. submission of any requisite Jurisprudence Requirements of the new Home
187 State.

188 3. The former Home State shall convert the former Home State license into a Compact
189 Privilege once the new Home State has activated the new Home State license in accordance with
190 applicable Rules adopted by the Commission.

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

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

196 C. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State
197 of Residence by moving from a Member State to a non-Member State, or from a non-Member
198 State to a Member State, the State criteria shall apply for issuance of a Single-State License in
199 the new State.

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

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

205 Section 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

206 A. Active Duty Military personnel, or their spouses, shall designate a Home State where
207 the individual has a current license in good standing. The individual may retain the Home State
208 designation during the period the service member is on active duty. Subsequent to designating a

209 Home State, the individual shall only change their Home State through application for licensure
210 in the new State or through the process described in Section 5.

211 Section 6. ADVERSE ACTIONS

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

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

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

218 2. Issue subpoenas for both hearings and investigations that require the attendance and
219 testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing
220 Board in a Member State for the attendance and testimony of witnesses or the production of
221 evidence from another Member State shall be enforced in the latter State by any court of
222 competent jurisdiction, according to the practice and procedure of that court applicable to
223 subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness
224 fees, travel expenses, mileage and other fees required by the service statutes of the State in which
225 the witnesses or evidence are located.

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

230 D. The Home State shall complete any pending investigations of an Occupational
231 Therapist or Occupational Therapy Assistant who changes Primary State of Residence during the
232 course of the investigations. The Home State, where the investigations were initiated, shall also
233 have the authority to take appropriate action(s) and shall promptly report the conclusions of the
234 investigations to the OT Compact Commission Data System. The Occupational Therapy
235 Compact Commission Data System administrator shall promptly notify the new Home State of
236 any Adverse Actions.

237 E. A Member State, if otherwise permitted by State law, may recover from the affected
238 Occupational Therapist or Occupational Therapy Assistant the costs of investigations and
239 disposition of cases resulting from any Adverse Action taken against that Occupational Therapist
240 or Occupational Therapy Assistant.

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

243 G. Joint Investigations

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

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

249 H. If an Adverse Action is taken by the Home State against an Occupational Therapist's
250 or Occupational Therapy Assistant's license, the Occupational Therapist's or Occupational

251 Therapy Assistant's Compact Privilege in all other Member States shall be deactivated until all
252 encumbrances have been removed from the State license. All Home State disciplinary orders that
253 impose Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's
254 license shall include a Statement that the Occupational Therapist's or Occupational Therapy
255 Assistant's Compact Privilege is deactivated in all Member States during the pendency of the
256 order.

257 I. If a Member State takes Adverse Action, it shall promptly notify the administrator of
258 the Data System. The administrator of the Data System shall promptly notify the Home State of
259 any Adverse Actions by Remote States.

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

262 Section 7. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT
263 COMMISSION.

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

266 1. The Commission is an instrumentality of the Compact States.

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

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

272 B. Membership, Voting, and Meetings

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

275 2. The delegate shall be either:

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

278 b. An administrator of the Licensing Board.

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

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

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

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

290 7. The Commission shall establish by Rule a term of office for delegates.

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

- 292 1. Establish a Code of Ethics for the Commission;
- 293 2. Establish the fiscal year of the Commission;
- 294 3. Establish bylaws;
- 295 4. Maintain its financial records in accordance with the bylaws;
- 296 5. Meet and take such actions as are consistent with the provisions of this Compact and
297 the bylaws;
- 298 6. Promulgate uniform Rules to facilitate and coordinate implementation and
299 administration of this Compact. The Rules shall have the force and effect of law and shall be
300 binding in all Member States;
- 301 7. Bring and prosecute legal proceedings or actions in the name of the Commission,
302 provided that the standing of any State Occupational Therapy Licensing Board to sue or be sued
303 under applicable law shall not be affected;
- 304 8. Purchase and maintain insurance and bonds;
- 305 9. Borrow, accept, or contract for services of personnel, including, but not limited to,
306 employees of a Member State;
- 307 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
308 individuals appropriate authority to carry out the purposes of the Compact, and establish the
309 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
310 personnel, and other related personnel matters;

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

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

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

319 14. Establish a budget and make expenditures;

320 15. Borrow money;

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

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

325 18. Establish and elect an Executive Committee; and

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

329 D. The Executive Committee

330 The Executive Committee shall have the power to act on behalf of the Commission
331 according to the terms of this Compact.

332 1. The Executive Committee shall be composed of nine members:

333 a. Seven voting members who are elected by the Commission from the current
334 membership of the Commission;

335 b. One ex-officio, nonvoting member from a recognized national Occupational Therapy
336 professional association; and

337 c. One ex-officio, nonvoting member from a recognized national Occupational Therapy
338 certification organization.

339 2. The ex-officio members will be selected by their respective organizations.

340 3. The Commission may remove any member of the Executive Committee as provided in
341 bylaws.

342 4. The Executive Committee shall meet at least annually.

343 5. The Executive Committee shall have the following Duties and responsibilities:

344 a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this
345 Compact legislation, fees paid by Compact Member States such as annual dues, and any
346 Commission Compact fee charged to Licensees for the Compact Privilege;

347 b. Ensure Compact administration services are appropriately provided, contractual or
348 otherwise;

- 349 c. Prepare and recommend the budget;
- 350 d. Maintain financial records on behalf of the Commission;
- 351 e. Monitor Compact compliance of Member States and provide compliance reports to the
352 Commission;
- 353 f. Establish additional committees as necessary; and
- 354 g. Perform other duties as provided in Rules or bylaws.
- 355 E. Meetings of the Commission
- 356 1. All meetings shall be open to the public, and public notice of meetings shall be given
357 in the same manner as required under the Rulemaking provisions in Section 10.
- 358 2. The Commission or the Executive Committee or other committees of the Commission
359 may convene in a closed, non-public meeting if the Commission or Executive Committee or
360 other committees of the Commission must discuss:
- 361 a. Non-compliance of a Member State with its obligations under the Compact;
- 362 b. The employment, compensation, discipline or other matters, practices or procedures
363 related to specific employees or other matters related to the Commission's internal personnel
364 practices and procedures;
- 365 c. Current, threatened, or reasonably anticipated litigation;
- 366 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
367 estate;

- 368 e. Accusing any person of a crime or formally censuring any person;
- 369 f. Disclosure of trade secrets or commercial or financial information that is privileged or
370 confidential;
- 371 g. Disclosure of information of a personal nature where disclosure would constitute a
372 clearly unwarranted invasion of personal privacy;
- 373 h. Disclosure of investigative records compiled for law enforcement purposes;
- 374 i. Disclosure of information related to any investigative reports prepared by or on behalf
375 of or for use of the Commission or other committee charged with responsibility of investigation
376 or determination of compliance issues pursuant to the Compact; or
- 377 j. Matters specifically exempted from disclosure by federal or Member State statute.

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

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

387 F. Financing of the Commission

388 1.The Commission shall pay, or provide for the payment of, the reasonable expenses of
389 its establishment, organization, and ongoing activities.

390 2.The Commission may accept any and all appropriate revenue sources, donations, and
391 grants of money, equipment, supplies, materials, and services.

392 3.The Commission may levy on and collect an annual assessment from each Member
393 State or impose fees on other parties to cover the cost of the operations and activities of the
394 Commission and its staff, which must be in a total amount sufficient to cover its annual budget as
395 approved by the Commission each year for which revenue is not provided by other sources. The
396 aggregate annual assessment amount shall be allocated based upon a formula to be determined
397 by the Commission, which shall promulgate a Rule binding upon all Member States.

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

401 5.The Commission shall keep accurate accounts of all receipts and disbursements. The
402 receipts and disbursements of the Commission shall be subject to the audit and accounting
403 procedures established under its bylaws. However, all receipts and disbursements of funds
404 handled by the Commission shall be audited yearly by a certified or licensed public accountant,
405 and the report of the audit shall be included in and become part of the annual report of the
406 Commission.

407 G.Qualified Immunity, Defense, and Indemnification

408 1. The members, officers, executive director, employees and representatives of the
409 Commission shall be immune from suit and liability, either personally or in their official
410 capacity, for any claim for damage to or loss of property or personal injury or other civil liability
411 caused by or arising out of any actual or alleged act, error or omission that occurred, or that the
412 person against whom the claim is made had a reasonable basis for believing occurred within the
413 scope of Commission employment, duties or responsibilities; provided that nothing in this
414 paragraph shall be construed to protect any such person from suit and/or liability for any damage,
415 loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

416 2. The Commission shall defend any member, officer, executive director, employee, or
417 representative of the Commission in any civil action seeking to impose liability arising out of
418 any actual or alleged act, error, or omission that occurred within the scope of Commission
419 employment, duties, or responsibilities, or that the person against whom the claim is made had a
420 reasonable basis for believing occurred within the scope of Commission employment, duties, or
421 responsibilities; provided that nothing herein shall be construed to prohibit that person from
422 retaining his or her own counsel; and provided further, that the actual or alleged act, error, or
423 omission did not result from that person's intentional or willful or wanton misconduct.

424 3. The Commission shall indemnify and hold harmless any member, officer, executive
425 director, employee, or representative of the Commission for the amount of any settlement or
426 judgment obtained against that person arising out of any actual or alleged act, error or omission
427 that occurred within the scope of Commission employment, duties, or responsibilities, or that
428 such person had a reasonable basis for believing occurred within the scope of Commission
429 employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission
430 did not result from the intentional or willful or wanton misconduct of that person.

431 Section 8. DATA SYSTEM

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

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

438 1. Identifying information;

439 2. Licensure data;

440 3. Adverse Actions against a license or Compact Privilege;

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

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

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

445 7. Current Significant Investigative Information.

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

448 D. The Commission shall promptly notify all Member States of any Adverse Action
449 taken against a Licensee or an individual applying for a license. Adverse Action information
450 pertaining to a Licensee in any Member State will be available to any other Member State.

451 E. Member States contributing information to the Data System may designate
452 information that may not be shared with the public without the express permission of the
453 contributing State.

454 F. Any information submitted to the Data System that is subsequently required to be
455 expunged by the laws of the Member State contributing the information shall be removed from
456 the Data System.

457 Section 9. RULEMAKING

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

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

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

469 D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of
470 the Commission.

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

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

475 2. On the website of each Member State Occupational Therapy Licensing Board or other
476 publicly accessible platform or the publication in which each State would otherwise publish
477 proposed Rules.

478 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

487 H. The Commission shall grant an opportunity for a public hearing before it adopts a
488 Rule or amendment if a hearing is requested by:

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

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

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

492 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish

493 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic

494 means, the Commission shall publish the mechanism for access to the electronic hearing.

495 1. All persons wishing to be heard at the hearing shall notify the executive director of the

496 Commission or other designated member in writing of their desire to appear and testify at the

497 hearing not less than five (5) business days before the scheduled date of the hearing.

498 2. Hearings shall be conducted in a manner providing each person who wishes to

499 comment a fair and reasonable opportunity to comment orally or in writing.

500 3. All hearings will be recorded. A copy of the recording will be made available on

501 request.

502 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.

503 Rules may be grouped for the convenience of the Commission at hearings required by this

504 section.

505 J. Following the scheduled hearing date, or by the close of business on the scheduled

506 hearing date if the hearing was not held, the Commission shall consider all written and oral

507 comments received.

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

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

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

- 520 1. Meet an imminent threat to public health, safety, or welfare;
- 521 2. Prevent a loss of Commission or Member State funds;
- 522 3. Meet a deadline for the promulgation of an administrative Rule that is established by
523 federal law or Rule; or
- 524 4. Protect public health and safety.

525 N. The Commission or an authorized committee of the Commission may direct revisions
526 to a previously adopted Rule or amendment for purposes of correcting typographical errors,
527 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall
528 be posted on the website of the Commission. The revision shall be subject to challenge by any

529 person for a period of thirty (30) days after posting. The revision may be challenged only on
530 grounds that the revision results in a material change to a Rule. A challenge shall be made in
531 writing and delivered to the chair of the Commission prior to the end of the notice
532 period. If no challenge is made, the revision will take effect without further action. If the revision
533 is challenged, the revision may not take effect without the approval of the Commission.

534 Section 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

535 A. Oversight

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

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

543 3. The Commission shall be entitled to receive service of process in any such proceeding,
544 and shall have standing to intervene in such a proceeding for all purposes. Failure to provide
545 service of process to the Commission shall render a judgment or order void as to the
546 Commission, this Compact, or promulgated Rules.

547 B. Default, Technical Assistance, and Termination

548 1. If the Commission determines that a Member State has defaulted in the performance of
549 its obligations or responsibilities under this Compact or the promulgated Rules, the Commission
550 shall:

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

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

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

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

564 4. A State that has been terminated is responsible for all assessments, obligations, and
565 liabilities incurred through the effective date of termination, including obligations that extend
566 beyond the effective date of termination.

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

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

574 C. Dispute Resolution

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

578 2. The Commission shall promulgate a Rule providing for both mediation and binding
579 dispute resolution for disputes as appropriate.

580 D. Enforcement

581 1. The Commission, in the reasonable exercise of its discretion, shall enforce the
582 provisions and Rules of this Compact.

583 2. By majority vote, the Commission may initiate legal action in the United States
584 District Court for the District of Columbia or the federal district where the Commission has its
585 principal offices against a Member State in default to enforce compliance with the provisions of
586 the Compact and its promulgated Rules and bylaws. The relief sought may include both

587 injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing
588 member shall be awarded all costs of such litigation, including reasonable attorney's fees.

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

591 Section 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION
592 FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES,
593 WITHDRAWAL, AND AMENDMENT

594 A. The Compact shall come into effect on the date on which the Compact statute is
595 enacted into law in the tenth Member State. The provisions, which become effective at that time,
596 shall be limited to the powers granted to the Commission relating to assembly and the
597 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers
598 necessary to the implementation and administration of the Compact.

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

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

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

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

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

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

616 Section 12. CONSTRUCTION AND SEVERABILITY

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

626 Section 13. BINDING EFFECT OF COMPACT AND OTHER LAWS

627 A. A Licensee providing Occupational Therapy in a Remote State under the Compact
628 Privilege shall function within the laws and regulations of the Remote State.

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

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

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

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

637 F. In the event any provision of the Compact exceeds the constitutional limits imposed on
638 the legislature of any Member State, the provision shall be ineffective to the extent of the conflict
639 with the constitutional provision in question in that Member State.