

SENATE No. 187

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>3/23/2023</i>

SENATE No. 187

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 187) of Joan B. Lovely and Jack Patrick Lewis for legislation 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 The General Laws are hereby amended by inserting, after chapter 112, the following
2 chapter:-

3 Chapter 112A Occupational Therapy Licensure Compact

4 Section 1. DEFINITIONS

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

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

10 B. “Adverse Action” means any administrative, civil, equitable, or criminal action
11 permitted by a State’s laws which is imposed by a Licensing Board or other authority against an

12 Occupational Therapist or Occupational Therapy Assistant, including actions against an
13 individual’s license or Compact Privilege such as censure, revocation, suspension, probation,
14 monitoring of the Licensee, or restriction on the Licensee’s practice.

15 C. “Alternative Program” means a non-disciplinary monitoring process approved by an
16 Occupational Therapy Licensing Board.

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

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

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

30 G. “Data System” means a repository of information about Licensees, including but not
31 limited to license status, Investigative Information, Compact Privileges, and Adverse Actions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75 Section 2. STATE PARTICIPATION IN THE COMPACT

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

77 1. License Occupational Therapists and Occupational Therapy Assistants

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

80 3. Have a mechanism in place for receiving and investigating complaints about
81 Licensees;

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

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

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

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

97 6. Comply with the Rules of the Commission;

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

100 8. Have Continuing Competence/Education requirements as a condition for license
101 renewal.

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

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

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

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

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

114 Section 3. COMPACT PRIVILEGE

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

116 Licensee shall:

117 1. Hold a license in the Home State;

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

119 Identification number;

120 3. Have no encumbrance on any State license;

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

122 4D, F, G, and H;

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

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

125 completion;

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

127 Remote State(s);

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

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

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

131 completion of a criminal background check.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

162 and

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

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

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

169 Section 4: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF
170 COMPACT PRIVILEGE

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

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

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

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

184 a. an FBI fingerprint based criminal background check if not previously performed or
185 updated pursuant to applicable Rules adopted by the Commission in accordance with Public Law
186 92-544;

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

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

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

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

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

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

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

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

206 Section 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

207 A. Active Duty Military personnel, or their spouses, shall designate a Home State where
208 the individual has a current license in good standing. The individual may retain the Home State
209 designation during the period the service member is on active duty. Subsequent to designating a
210 Home State, the individual shall only change their Home State through application for licensure
211 in the new State or through the process described in Section 5.

212 Section 6. ADVERSE ACTIONS

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

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

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

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

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

231 D. The Home State shall complete any pending investigations of an Occupational
232 Therapist or Occupational Therapy Assistant who changes Primary State of Residence during the
233 course of the investigations. The Home State, where the investigations were initiated, shall also
234 have the authority to take appropriate action(s) and shall promptly report the conclusions of the

235 investigations to the OT Compact Commission Data System. The Occupational Therapy
236 Compact Commission Data System administrator shall promptly notify the new Home State of
237 any Adverse Actions.

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

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

244 G. Joint Investigations

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

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

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

256 Assistant's Compact Privilege is deactivated in all Member States during the pendency of the
257 order.

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

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

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

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

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

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

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

273 B. Membership, Voting, and Meetings

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

- 276 2. The delegate shall be either:
- 277 a. A current member of the Licensing Board, who is an Occupational Therapist,
278 Occupational Therapy Assistant, or public member; or
- 279 b. An administrator of the Licensing Board.
- 280 3. Any delegate may be removed or suspended from office as provided by the law of the
281 State from which the delegate is appointed.
- 282 4. The Member State board shall fill any vacancy occurring in the Commission within 90
283 days.
- 284 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules
285 and creation of bylaws and shall otherwise have an opportunity to participate in the business and
286 affairs of the Commission. A delegate shall vote in person or by such other means as provided in
287 the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or
288 other means of communication.
- 289 6. The Commission shall meet at least once during each calendar year. Additional
290 meetings shall be held as set forth in the bylaws.
- 291 7. The Commission shall establish by Rule a term of office for delegates.
- 292 C. The Commission shall have the following powers and duties:
- 293 1. Establish a Code of Ethics for the Commission;
- 294 2. Establish the fiscal year of the Commission;

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

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

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

320 14. Establish a budget and make expenditures;

321 15. Borrow money;

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

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

326 18. Establish and elect an Executive Committee; and

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

330 D. The Executive Committee

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

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

- 334 a. Seven voting members who are elected by the Commission from the current
335 membership of the Commission;
- 336 b. One ex-officio, nonvoting member from a recognized national Occupational Therapy
337 professional association; and
- 338 c. One ex-officio, nonvoting member from a recognized national Occupational Therapy
339 certification organization.
- 340 2. The ex-officio members will be selected by their respective organizations.
- 341 3. The Commission may remove any member of the Executive Committee as provided in
342 bylaws.
- 343 4. The Executive Committee shall meet at least annually.
- 344 5. The Executive Committee shall have the following Duties and responsibilities:
- 345 a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this
346 Compact legislation, fees paid by Compact Member States such as annual dues, and any
347 Commission Compact fee charged to Licensees for the Compact Privilege;
- 348 b. Ensure Compact administration services are appropriately provided, contractual or
349 otherwise;
- 350 c. Prepare and recommend the budget;
- 351 d. Maintain financial records on behalf of the Commission;

352 e. Monitor Compact compliance of Member States and provide compliance reports to the
353 Commission;

354 f. Establish additional committees as necessary; and

355 g. Perform other duties as provided in Rules or bylaws.

356 E. Meetings of the Commission

357 1. All meetings shall be open to the public, and public notice of meetings shall be given
358 in the same manner as required under the Rulemaking provisions in Section 10.

359 2. The Commission or the Executive Committee or other committees of the Commission
360 may convene in a closed, non-public meeting if the Commission or Executive Committee or
361 other committees of the Commission must discuss:

362 a. Non-compliance of a Member State with its obligations under the Compact;

363 b. The employment, compensation, discipline or other matters, practices or procedures
364 related to specific employees or other matters related to the Commission's internal personnel
365 practices and procedures;

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

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

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

370 f. Disclosure of trade secrets or commercial or financial information that is privileged or
371 confidential;

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

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

375 i. Disclosure of information related to any investigative reports prepared by or on behalf
376 of or for use of the Commission or other committee charged with responsibility of investigation
377 or determination of compliance issues pursuant to the Compact; or

378 j. Matters specifically exempted from disclosure by federal or Member State statute.

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

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

388 F. Financing of the Commission

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

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

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

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

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

408 6.Qualified Immunity, Defense, and Indemnification

409 1.The members, officers, executive director, employees and representatives of the
410 Commission shall be immune from suit and liability, either personally or in their official
411 capacity, for any claim for damage to or loss of property or personal injury or other civil liability
412 caused by or arising out of any actual or alleged act, error or omission that occurred, or that the

413 person against whom the claim is made had a reasonable basis for believing occurred within the
414 scope of Commission employment, duties or responsibilities; provided that nothing in this
415 paragraph shall be construed to protect any such person from suit and/or liability for any damage,
416 loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

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

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

432 Section 8. DATA SYSTEM

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

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

439 1. Identifying information;

440 2. Licensure data;

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

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

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

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

446 7. Current Significant Investigative Information.

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

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

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

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

458 Section 9. RULEMAKING

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

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

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

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

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

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

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

479 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

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

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

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

493 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish
494 the place, time, and date of the scheduled public hearing. If the hearing is held via electronic
495 means, the Commission shall publish the mechanism for access to the electronic hearing.

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

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

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

503 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.
504 Rules may be grouped for the convenience of the Commission at hearings required by this
505 section.

506 J. Following the scheduled hearing date, or by the close of business on the scheduled
507 hearing date if the hearing was not held, the Commission shall consider all written and oral
508 comments received.

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

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

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

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

526 N. The Commission or an authorized committee of the Commission may direct revisions
527 to a previously adopted Rule or amendment for purposes of correcting typographical errors,
528 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall
529 be posted on the website of the Commission. The revision shall be subject to challenge by any
530 person for a period of thirty (30) days after posting. The revision may be challenged only on
531 grounds that the revision results in a material change to a Rule. A challenge shall be made in
532 writing and delivered to the chair of the Commission prior to the end of the notice period.

533 If no challenge is made, the revision will take effect without further action. If the revision is
534 challenged, the revision may not take effect without the approval of the Commission.

535 Section 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

536 A. Oversight

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

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

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

548 B. Default, Technical Assistance, and Termination

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

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

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

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

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

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

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

571 6. The defaulting State may appeal the action of the Commission by petitioning the U.S.
572 District Court for the District of Columbia or the federal district where the Commission has its

573 principal offices. The prevailing member shall be awarded all costs of such litigation, including
574 reasonable attorney's fees.

575 C. Dispute Resolution

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

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

581 D. Enforcement

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

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

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

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

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

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

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

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

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

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

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

617 Section 12. CONSTRUCTION AND SEVERABILITY

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

627 Section 13. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

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