

STATE OF NEW YORK

6872

2023-2024 Regular Sessions

IN SENATE

May 12, 2023

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to adopting the Physical Therapy Licensure Compact (Part A); to amend the education law, in relation to adopting the Interstate Occupational Therapy Compact (Part B); and to amend the education law, in relation to adopting the Audiology and Speech-Language Pathology Interstate Compact (Part C);

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law components of legislation enacting
2 the Physical Therapy Licensure Compact, the Interstate Occupational
3 Therapy Compact, and the Audiology and Speech-Language Pathology Inter-
4 state Compact. Each component is wholly contained within a Part identi-
5 fied as Parts A through C. The effective date for each particular
6 provision contained within such Part is set forth in the last section of
7 such Part. Any provision in any section contained within a Part, includ-
8 ing the effective date of the Part, which makes reference to a section
9 "of this act", when used in connection with that particular component,
10 shall be deemed to mean and refer to the corresponding section of the
11 Part in which it is found. Section three of this act sets forth the
12 general effective date of this act.

13 PART A

14 Section 1. The education law is amended by adding a new section 6744
15 to read as follows:

16 § 6744. Physical Therapy Licensure Compact. The physical therapy
17 licensure compact is hereby enacted into law and entered into with all
18 jurisdictions legally joining therein in the form substantially as
19 follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11346-01-3

PHYSICAL THERAPY LICENSURE COMPACTSECTION 1.PURPOSE

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;
4. Support spouses of relocating military members;
5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

SECTION 2.DEFINITIONS

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

1. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.
2. "Adverse Action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.
3. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.
4. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.
5. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.
6. "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.
7. "Encumbered license" means a license that a physical therapy licensing board has limited in any way.

1 8. "Executive Board" means a group of directors elected or appointed
2 to act on behalf of, and within the powers granted to them by, the
3 Commission.

4 9. "Home state" means the member state that is the licensee's primary
5 state of residence.

6 10. "Investigative information" means information, records, and docu-
7 ments received or generated by a physical therapy licensing board pursu-
8 ant to an investigation.

9 11. "Jurisprudence Requirement" means the assessment of an individ-
10 ual's knowledge of the laws and rules governing the practice of physical
11 therapy in a state.

12 12. "Licensee" means an individual who currently holds an authori-
13 zation from the state to practice as a physical therapist or to work as
14 a physical therapist assistant.

15 13. "Member state" means a state that has enacted the Compact.

16 14. "Party state" means any member state in which a licensee holds a
17 current license or compact privilege or is applying for a license or
18 compact privilege.

19 15. "Physical therapist" means an individual who is licensed by a
20 state to practice physical therapy.

21 16. "Physical therapist assistant" means an individual who is
22 licensed/certified by a state and who assists the physical therapist in
23 selected components of physical therapy.

24 17. "Physical therapy," "physical therapy practice," and "the practice
25 of physical therapy" mean the care and services provided by or under the
26 direction and supervision of a licensed physical therapist.

27 18. "Physical Therapy Compact Commission" or "Commission" means the
28 national administrative body whose membership consists of all states
29 that have enacted the Compact.

30 19. "Physical therapy licensing board" or "licensing board" means the
31 agency of a state that is responsible for the licensing and regulation
32 of physical therapists and physical therapist assistants.

33 20. "Remote State" means a member state other than the home state,
34 where a licensee is exercising or seeking to exercise the compact privi-
35 lege.

36 21. "Rule" means a regulation, principle, or directive promulgated by
37 the Commission that has the force of law.

38 22. "State" means any state, commonwealth, district, or territory of
39 the United States of America that regulates the practice of physical
40 therapy.

41 SECTION 3.

42 STATE PARTICIPATION IN THE COMPACT

43 A. To participate in the Compact, a state must:

44 1. Participate fully in the Commission's data system, including using
45 the Commission's unique identifier as defined in rules;

46 2. Have a mechanism in place for receiving and investigating
47 complaints about licensees;

48 3. Notify the Commission, in compliance with the terms of the Compact
49 and rules, of any adverse action or the availability of investigative
50 information regarding a licensee;

51 4. Fully implement a criminal background check requirement, within a
52 time frame established by rule, by receiving the results of the Federal
53 Bureau of Investigation record search on criminal background checks and

1 use the results in making licensure decisions in accordance with Section
2 3.B.;

3 5. Comply with the rules of the Commission;

4 6. Utilize a recognized national examination as a requirement for
5 licensure pursuant to the rules of the Commission; and

6 7. Have continuing competence requirements as a condition for license
7 renewal.

8 B. Upon adoption of this statute, the member state shall have the
9 authority to obtain biometric-based information from each physical ther-
10 apy licensure applicant and submit this information to the Federal
11 Bureau of Investigation for a criminal background check in accordance
12 with 28 U.S.C. § 534 and 42 U.S.C. § 14616.

13 C. A member state shall grant the compact privilege to a licensee
14 holding a valid unencumbered license in another member state in accord-
15 ance with the terms of the Compact and rules.

16 D. Member states may charge a fee for granting a compact privilege

17 SECTION 4.

18 COMPACT PRIVILEGE

19 A. To exercise the compact privilege under the terms and provisions of
20 the Compact, the licensee shall:

21 1. Hold a license in the home state;

22 2. Have no encumbrance on any state license;

23 3. Be eligible for a compact privilege in any member state in accord-
24 ance with Section 4D, G and H;

25 4. Have not had any adverse action against any license or compact
26 privilege within the previous 2 years;

27 5. Notify the Commission that the licensee is seeking the compact
28 privilege within a remote state(s);

29 6. Pay any applicable fees, including any state fee, for the compact
30 privilege;

31 7. Meet any jurisprudence requirements established by the remote
32 state(s) in which the licensee is seeking a compact privilege; and

33 8. Report to the Commission adverse action taken by any non-member
34 state within 30 days from the date the adverse action is taken.

35 B. The compact privilege is valid until the expiration date of the
36 home license. The licensee must comply with the requirements of Section
37 4.A. to maintain the compact privilege in the remote state.

38 C. A licensee providing physical therapy in a remote state under the
39 compact privilege shall function within the laws and regulations of the
40 remote state.

41 D. A licensee providing physical therapy in a remote state is subject
42 to that state's regulatory authority. A remote state may, in accordance
43 with due process and that state's laws, remove a licensee's compact
44 privilege in the remote state for a specific period of time, impose
45 finer, and/or take any other necessary actions to protect the health and
46 safety of its citizens. The licensee is not eligible for a compact
47 privilege in any state until the specific time for removal has passed
48 and all fines are paid.

49 E. If a home state license is encumbered, the licensee shall lose the
50 compact privilege in any remote state until the following occur:

51 1. The home state license is no longer encumbered; and

52 2. Two years have elapsed from the date of the adverse action.

1 F. Once an encumbered license in the home state is restored to good
2 standing, the licensee must meet the requirements of Section 4A to
3 obtain a compact privilege in any remote state.

4 G. If a licensee's compact privilege in any remote state is removed,
5 the individual shall lose the compact privilege in any remote state
6 until the following occur:

7 1. The specific period of time for which the compact privilege was
8 removed has ended;

9 2. All fines have been paid; and

10 3. Two years have elapsed from the date of the adverse action.

11 H. Once the requirements of Section 4G have been met, the license must
12 meet the requirements in Section 4A to obtain a compact privilege in a
13 remote state.

14 SECTION 5.

15 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

16 A licensee who is active duty military or is the spouse of an individ-
17 ual who is active duty military may designate one of the following as
18 the home state:

19 A. Home of record;

20 B. Permanent Change of Station (PCS); or

21 C. State of current residence if it is different than the PCS state or
22 home of record.

23 SECTION 6.

24 ADVERSE ACTIONS

25 A. A home state shall have exclusive power to impose adverse action
26 against a license issued by the home state.

27 B. A home state may take adverse action based on the investigative
28 information of a remote state, so long as the home state follows its own
29 procedures for imposing adverse action.

30 C. Nothing in this Compact shall override a member state's decision
31 that participation in an alternative program may be used in lieu of
32 adverse action and that such participation shall remain non-public if
33 required by the member state's laws. Member states must require licen-
34 sees who enter any alternative programs in lieu of discipline to agree
35 not to practice in any other member state during the term of the alter-
36 native program without prior authorization from such other member state.

37 D. Any member state may investigate actual or alleged violations of
38 the statutes and rules authorizing the practice of physical therapy in
39 any other member state in which a physical therapist or physical thera-
40 pist assistant holds a license or compact privilege.

41 E. A remote state shall have the authority to:

42 1. Take adverse actions as set forth in Section 4.D. against a
43 licensee's compact privilege in the state;

44 2. Issue subpoenas for both hearings and investigations that require
45 the attendance and testimony of witnesses, and the production of
46 evidence. Subpoenas issued by a physical therapy licensing board in a
47 party state for the attendance and testimony of witnesses, and/or the
48 production of evidence from another party state, shall be enforced in
49 the latter state by any court of competent jurisdiction, according to
50 the practice and procedure of that court applicable to subpoenas issued
51 in proceedings pending before it. The issuing authority shall pay any
52 witness fees, travel expenses, mileage, and other fees required by the

1 service statutes of the state where the witnesses and/or evidence are
2 located; and

3 3. If otherwise permitted by state law, recover from the licensee the
4 costs of investigations and disposition of cases resulting from any
5 adverse action taken against that licensee.

6 F. Joint Investigations.

7 1. In addition to the authority granted to a member state by its
8 respective physical therapy practice act or other applicable state law,
9 a member state may participate with other member states in joint inves-
10 tigations of licensees.

11 2. Member states shall share any investigative, litigation, or compli-
12 ance materials in furtherance of any joint or individual investigation
13 initiated under the Compact.

14 SECTION 7.

15 ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION.

16 A. The Compact member states hereby create and establish a joint
17 public agency known as the Physical Therapy Compact Commission:

18 1. The Commission is an instrumentality of the Compact states.

19 2. Venue is proper and judicial proceedings by or against the Commis-
20 sion shall be brought solely and exclusively in a court of competent
21 jurisdiction where the principal office of the Commission is located.
22 The Commission may waive venue and jurisdictional defenses to the extent
23 it adopts or consents to participate in alternative dispute resolution
24 proceedings.

25 3. Nothing in this Compact shall be construed to be a waiver of sover-
26 eign immunity.

27 B. Membership, Voting, and Meetings.

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

30 2. The delegate shall be a current member of the licensing board, who
31 is a physical therapist, physical therapist assistant, public member, or
32 the board administrator.

33 3. Any delegate may be removed or suspended from office as provided by
34 the law of the state from which the delegate is appointed.

35 4. The member state board shall fill any vacancy occurring in the
36 Commission.

37 5. Each delegate shall be entitled to one (1) vote with regard to the
38 promulgation of rules and creation of bylaws and shall otherwise have an
39 opportunity to participate in the business and affairs of the Commis-
40 sion.

41 6. A delegate shall vote in person or by such other means as provided
42 in the bylaws. The bylaws may provide for delegates' participation in
43 meetings by telephone or other means of communication.

44 7. The Commission shall meet at least once during each calendar year.
45 Additional meetings shall be held as set forth in the bylaws.

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

47 1. Establish the fiscal year of the Commission;

48 2. Establish bylaws;

49 3. Maintain its financial records in accordance with the bylaws;

50 4. Meet and take such actions as are consistent with the provisions of
51 this Compact and the bylaws;

52 5. Promulgate uniform rules to facilitate and coordinate implementa-
53 tion and administration of this Compact. The rules shall have the force
54 and effect of law and shall be binding in all member states;

1 6. Bring and prosecute legal proceedings or actions in the name of the
2 Commission, provided that the standing of any state physical therapy
3 licensing board to sue or be sued under applicable law shall not be
4 affected;

5 7. Purchase and maintain insurance and bonds;

6 8. Borrow, accept, or contract for services of personnel, including,
7 but not limited to, employees of a member state;

8 9. Hire employees, elect or appoint officers, fix compensation, define
9 duties, grant such individuals appropriate authority to carry out the
10 purposes of the Compact, and to establish the Commission's personnel
11 policies and programs relating to conflicts of interest, qualifications
12 of personnel, and other related personnel matters;

13 10. Accept any and all appropriate donations and grants of money,
14 equipment, supplies, materials and services, and to receive, utilize and
15 dispose of the same; provided that at all times the Commission shall
16 avoid any appearance of impropriety and/or conflict of interest;

17 11. Lease, purchase, accept appropriate gifts or donations of, or
18 otherwise to own, hold, improve or use, any property, real, personal or
19 mixed; provided that at all times the Commission shall avoid any appear-
20 ance of impropriety;

21 12. Sell convey, mortgage, pledge, lease, exchange, abandon, or other-
22 wise dispose of any property real, personal, or mixed;

23 13. Establish a budget and make expenditures;

24 14. Borrow money;

25 15. Appoint committees, including standing committees composed of
26 members, state regulators, state legislators or their representatives,
27 and consumer representatives, and such other interested persons as may
28 be designated in this Compact and the bylaws;

29 16. Provide and receive information from, and cooperate with, law
30 enforcement agencies;

31 17. Establish and elect an Executive Board; and

32 18. Perform such other functions as may be necessary or appropriate to
33 achieve the purposes of this Compact consistent with the state regu-
34 lation of physical therapy licensure and practice.

35 D. The Executive Board.

36 The Executive Board shall have the power to act on behalf of the
37 Commission according to the terms of this Compact.

38 1. The Executive Board shall be composed of nine members:

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

41 b. One ex-officio, nonvoting member from the recognized national phys-
42 ical therapy professional association; and

43 c. One ex-officio, nonvoting member from the recognized membership
44 organization of the physical therapy licensing boards.

45 2. The ex-officio members will be selected by their respective organ-
46 izations.

47 3. The Commission may remove any member of the Executive Board as
48 provided in bylaws.

49 4. The Executive Board shall meet at least annually.

50 5. The Executive Board shall have the following duties and responsi-
51 bilities:

52 a. Recommend to the entire Commission changes to the rules or bylaws,
53 changes to this Compact legislation, fees paid by Compact member states
54 such as annual dues, and any commission Compact fee charged to licensees
55 for the compact privilege;

- b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
- c. Prepare and recommend the budget;
- d. Maintain financial records on behalf of the Commission;
- e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
- f. Establish additional committees as necessary; and
- g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission.

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in Section 9.

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

a. Non-compliance of a member state with its obligations under the Compact;

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

c. Current, threatened, or reasonably anticipated litigation;

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

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

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

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

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

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

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

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

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

F. Financing of the Commission.

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

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

1 3. The Commission may levy on and collect an annual assessment from
2 each member state or impose fees on other parties to cover the cost of
3 the operations and activities of the Commission and its staff, which
4 must be in a total amount sufficient to cover its annual budget as
5 approved each year for which revenue is not provided by other sources.
6 The aggregate annual assessment amount shall be allocated based upon a
7 formula to be determined by the Commission, which shall promulgate a
8 rule binding upon all member states.

9 4. The Commission shall not incur obligations of any kind prior to
10 securing the funds adequate to meet the same; nor shall the Commission
11 pledge the credit of any of the member states, except by and with the
12 authority of the member state.

13 5. The Commission shall keep accurate accounts of all receipts and
14 disbursements. The receipts and disbursements of the Commission shall
15 be subject to the audit and accounting procedures established under its
16 bylaws. However, all receipts and disbursements of funds handled by the
17 Commission shall be audited yearly by a certified or licensed public
18 accountant, and the report of the audit shall be included in and become
19 part of the annual report of the Commission.

20 G. Qualified Immunity, Defense, and Indemnification.

21 1. The members, officers, executive director, employees and represen-
22 tatives of the Commission shall be immune from suit and liability,
23 either personally or in their official capacity, for any claim for
24 damage to or loss of property or personal injury or other civil liabil-
25 ity caused by or arising out of any actual or alleged act, error or
26 omission that occurred, or that the person against whom the claim is
27 made had a reasonable basis for believing occurred within the scope of
28 Commission employment, duties or responsibilities; provided that nothing
29 in this paragraph shall be construed to protect any such person from
30 suit and/or liability for any damage, loss, injury, or liability caused
31 by the intentional or willful or wanton misconduct of that person.

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

43 3. The Commission shall indemnify and hold harmless any member, offi-
44 cer, executive director, employee, or representative of the Commission
45 for the amount of any settlement or judgment obtained against that
46 person arising out of any actual or alleged act, error or omission that
47 occurred within the scope of Commission employment, duties, or responsi-
48 bilities, or that such person had a reasonable basis for believing
49 occurred within the scope of Commission employment, duties, or responsi-
50 bilities, provided that the actual or alleged act, error, or omission
51 did not result from the intentional or willful or wanton misconduct of
52 that person.

53 SECTION 8.
54 DATA SYSTEM

1 A. The Commission shall provide for the development, maintenance, and
2 utilization of a coordinated database and reporting system containing
3 licensure, adverse action, and investigative information on all licensed
4 individuals in member states.

5 B. Notwithstanding any other provision of state law to the contrary, a
6 member state shall submit a uniform data set to the data system on all
7 individuals to whom this Compact is applicable as required by the rules
8 of the Commission, including:

9 1. Identifying information;

10 2. Licensure data;

11 3. Adverse actions against a license or compact privilege;

12 4. Non-confidential information related to alternative program partic-
13 ipation;

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

16 6. Other information that may facilitate the administration of this
17 Compact, as determined by the rules of the Commission.

18 C. Investigative information pertaining to a licensee in any member
19 state will only be available to other party states.

20 D. The Commission shall promptly notify all member states of any
21 adverse action taken against a licensee or an individual applying for a
22 license. Adverse action information pertaining to a licensee in any
23 member state will be available to any other member state.

24 E. Member states contributing information to the data system may
25 designate information that may not be shared with the public without the
26 express permission of the contributing state.

27 F. Any information submitted to the data system that is subsequently
28 required to be expunged by the laws of the member state contributing the
29 information shall be removed from the data system.

30 SECTION 9.
31 RULEMAKING

32 A. The Commission shall exercise its rulemaking powers pursuant to the
33 criteria set forth in this Section and the rules adopted thereunder.
34 Rules and amendments shall become binding as of the date specified in
35 each rule or amendment.

36 B. If a majority of the legislatures of the member states rejects a
37 rule, by enactment of a statute or resolution in the same manner used to
38 adopt the Compact within 4 years of the date of adoption of the rule,
39 then such rule shall have no further force and effect in any member
40 state.

41 C. Rules or amendments to the rules shall be adopted at a regular or
42 special meeting of the Commission.

43 D. Prior to promulgation and adoption of a final rule or rules by the
44 Commission, and at least thirty (30) days in advance of the meeting at
45 which the rule will be considered and voted upon, the Commission shall
46 file a Notice of Proposed Rulemaking:

47 1. On the website of the Commission or other publicly accessible plat-
48 form; and

49 2. On the website of each member state physical therapy licensing
50 board or other publicly accessible platform or the publication in which
51 each state would otherwise publish proposed rules.

52 E. The Notice of Proposed Rulemaking shall include:

53 1. The proposed time, date, and location of the meeting in which the
54 rule will be considered and voted upon;

1 2. The text of the proposed rule or amendment and the reason for the
2 proposed rule;

3 3. A request for comments on the proposed rule from any interested
4 person; and

5 4. The manner in which interested persons may submit notice to the
6 Commission of their intention to attend the public hearing and any writ-
7 ten comments.

8 F. Prior to adoption of a proposed rule, the Commission shall allow
9 persons to submit written data, facts, opinions, and arguments, which
10 shall be made available to the public.

11 G. The Commission shall grant an opportunity for a public hearing
12 before it adopts a rule or amendment if a hearing is requested by:

13 1. At least twenty-five (25) persons;

14 2. A state or federal governmental subdivision or agency; or

15 3. An association having at least twenty-five (25) members.

16 H. If a hearing is held on the proposed rule or amendment, the Commis-
17 sion shall publish the place, time, and date of the scheduled public
18 hearing. If the hearing is held via electronic means, the Commission
19 shall publish the mechanism for access to the electronic hearing.

20 1. All persons wishing to be heard at the hearing shall notify the
21 executive director of the Commission or other designated member in writ-
22 ing of their desire to appear and testify at the hearing not less than
23 five (5) business days before the scheduled date of the hearing.

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

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

29 4. Nothing in this section shall be construed as requiring a separate
30 hearing on each rule. Rules may be grouped for the convenience of the
31 Commission at hearings required by this section.

32 I. Following the scheduled hearing date, or by the close of business
33 on the scheduled hearing date if the hearing was not held, the Commis-
34 sion shall consider all written and oral comments received.

35 J. If no written notice of intent to attend the public hearing by
36 interested parties is received, the Commission may proceed with promul-
37 gation of the proposed rule without a public hearing.

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

42 L. Upon determination that an emergency exists, the Commission may
43 consider and adopt an emergency rule without prior notice, opportunity
44 for comment, or hearing, provided that the usual rulemaking procedures
45 provided in the Compact and in this section shall be retroactively
46 applied to the rule as soon as reasonably possible, in no event later
47 than ninety (90) days after the effective date of the rule. For the
48 purposes of this provision, an emergency rule is one that must be
49 adopted immediately in order to:

50 1. Meet an imminent threat to public health, safety, or welfare;

51 2. Prevent a loss of Commission or member state funds;

52 3. Meet a deadline for the promulgation of an administrative rule that
53 is established by federal law or rule; or

54 4. Protect public health and safety.

55 M. The Commission or an authorized committee of the Commission may
56 direct revisions to a previously adopted rule or amendment for purposes

1 of correcting typographical errors, errors in format, errors in consist-
2 ency, or grammatical errors. Public notice of any revisions shall be
3 posted on the website of the Commission. The revision shall be subject
4 to challenge by any person for a period of thirty (30) days after post-
5 ing. The revision may be challenged only on grounds that the revision
6 results in a material change to a rule. A challenge shall be made in
7 writing, and delivered to the chair of the Commission prior to the end
8 of the notice period. If no challenge is made, the revision will take
9 effect without further action. If the revision is challenged, the
10 revision may not take effect without the approval of the Commission.

11 SECTION 10.

12 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

13 A. Oversight.

14 1. The executive, legislative, and judicial branches of state govern-
15 ment in each member state shall enforce this Compact and take all
16 actions necessary and appropriate to effectuate the Compact's purposes
17 and intent. The provisions of this Compact and the rules promulgated
18 hereunder shall have standing as statutory law.

19 2. All courts shall take judicial notice of the Compact and the rules
20 in any judicial or administrative proceeding in a member state pertain-
21 ing to the subject matter of this Compact which may affect the powers,
22 responsibilities or actions of the Commission.

23 3. The Commission shall be entitled to receive service of process in
24 any such proceeding, and shall have standing to intervene in such a
25 proceeding for all purposes. Failure to provide service of process to
26 the Commission shall render a judgment or order void as to the Commis-
27 sion, this Compact, or promulgated rules.

28 B. Default, Technical Assistance, and Termination.

29 1. If the Commission determines that a member state has defaulted in
30 the performance of its obligations or responsibilities under this
31 Compact or the promulgated rules, the Commission shall:

32 a. Provide written notice to the defaulting state and other member
33 states of the nature of the default, the proposed means of curing the
34 default and/or any other action to be taken by the Commission; and

35 b. Provide remedial training and specific technical assistance regard-
36 ing the default.

37 2. If a state in default fails to cure the default, the defaulting
38 state may be terminated from the Compact upon an affirmative vote of a
39 majority of the member states, and all rights, privileges and benefits
40 conferred by this Compact may be terminated on the effective date of
41 termination. A cure of the default does not relieve the offending state
42 of obligations or liabilities incurred during the period of default.

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

48 4. A state that has been terminated is responsible for all assess-
49 ments, obligations, and liabilities incurred through the effective date
50 of termination, including obligations that extend beyond the effective
51 date of termination.

52 5. The Commission shall not bear any costs related to a state that is
53 found to be in default or that has been terminated from the Compact.

1 unless agreed upon in writing between the Commission and the defaulting
2 state.

3 6. The defaulting state may appeal the action of the Commission by
4 petitioning the U.S. District Court for the District of Columbia or the
5 federal district where the Commission has its principal offices. The
6 prevailing member shall be awarded all costs of such litigation, includ-
7 ing reasonable attorney's fees.

8 C. Dispute Resolution.

9 1. Upon request by a member state, the Commission shall attempt to
10 resolve disputes related to the Compact that arise among member states
11 and between member and non-member states.

12 2. The Commission shall promulgate a rule providing for both mediation
13 and binding dispute resolution for disputes as appropriate.

14 D. Enforcement.

15 1. The Commission, in the reasonable exercise of its discretion, shall
16 enforce the provisions and rules of this Compact.

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

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

28 SECTION 11.

29 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL
30 THERAPY
31 PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

32 A. The Compact shall come into effect on the date on which the Compact
33 statute is enacted into law in the tenth member state. The provisions,
34 which become effective at that time, shall be limited to the powers
35 granted to the Commission relating to assembly and the promulgation of
36 rules. Thereafter, the Commission shall meet and exercise rulemaking
37 powers necessary to the implementation and administration of the
38 Compact.

39 B. Any state that joins the Compact subsequent to the Commission's
40 initial adoption of the rules shall be subject to the rules as they
41 exist on the date on which the Compact becomes law in that state. Any
42 rule that has been previously adopted by the Commission shall have the
43 full force and effect of law on the day the Compact becomes law in that
44 state.

45 C. Any member state may withdraw from this Compact by enacting a stat-
46 ute repealing the same.

47 1. A member state's withdrawal shall not take effect until six (6)
48 months after enactment of the repealing statute.

49 2. Withdrawal shall not affect the continuing requirement of the with-
50 drawing state's physical therapy licensing board to comply with the
51 investigative and adverse action reporting requirements of this act
52 prior to the effective date of withdrawal.

53 D. Nothing contained in this Compact shall be construed to invalidate
54 or prevent any physical therapy licensure agreement or other cooperative

arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

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

SECTION 12.
CONSTRUCTION AND SEVERABILITY

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

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART B

Section 1. The education law is amended by adding a new section 7909 to read as follows:

§ 7909. Interstate Occupational Therapy Compact . The interstate occupational therapy compact is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE OCCUPATIONAL THERAPY COMPACT
SECTION 1.
PURPOSE

The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The Practice of Occupational Therapy occurs in the State where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Occupational Therapy services by providing for the mutual recognition of other Member State licenses;

B. Enhance the States' ability to protect the public's health and safety;

C. Encourage the cooperation of Member States in regulating multi-State Occupational Therapy Practice;

D. Support spouses of relocating military members;

E. Enhance the exchange of licensure, investigative, and disciplinary information between Member States;

F. Allow a Remote State to hold a provider of services with a Compact Privilege in that State accountable to that State's practice standards; and

G. Facilitate the use of Telehealth technology in order to increase access to Occupational Therapy services.

SECTION 2.

DEFINITIONS

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

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

B. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a Licensing Board or other authority against an Occupational Therapist or Occupational Therapy Assistant, including actions against an individual's license or Compact Privilege such as censure, revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

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

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

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

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

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

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

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

J. "Home State" means the Member State that is the Licensee's Primary State of Residence.

1 K. "Impaired Practitioner" means individuals whose professional prac-
2 tice is adversely affected by substance abuse, addiction, or other
3 health-related conditions.

4 L. "Investigative Information" means information, records, and/or
5 documents received or generated by an Occupational Therapy Licensing
6 Board pursuant to an investigation.

7 M. "Jurisprudence Requirement" means the assessment of an individual's
8 knowledge of the laws and rules governing the Practice of Occupational
9 Therapy in a State.

10 N. "Licensee" means an individual who currently holds an authorization
11 from the State to practice as an Occupational Therapist or as an Occupa-
12 tional Therapy Assistant.

13 O. "Member State" means a State that has enacted the Compact.

14 P. "Occupational Therapist" means an individual who is licensed by a
15 State to practice Occupational Therapy.

16 Q. "Occupational Therapy Assistant" means an individual who is
17 licensed by a State to assist in the Practice of Occupational Therapy.

18 R. "Occupational Therapy," "Occupational Therapy Practice," and the
19 "Practice of Occupational Therapy" mean the care and services provided
20 by an Occupational Therapist or an Occupational Therapy Assistant as set
21 forth in the Member State's statutes and regulations.

22 S. "Occupational Therapy Compact Commission" or "Commission" means the
23 national administrative body whose membership consists of all States
24 that have enacted the Compact.

25 T. "Occupational Therapy Licensing Board" or "Licensing Board" means
26 the agency of a State that is authorized to license and regulate Occupa-
27 tional Therapists and Occupational Therapy Assistants.

28 U. "Primary State of Residence" means the state (also known as the
29 Home State) in which an Occupational Therapist or Occupational Therapy
30 Assistant who is not Active Duty Military declares a primary residence
31 for legal purposes as verified by: driver's license, federal income tax
32 return, lease, deed, mortgage or voter registration or other verifying
33 documentation as further defined by Commission Rules.

34 V. "Remote State" means a Member State other than the Home State,
35 where a Licensee is exercising or seeking to exercise the Compact Privi-
36 lege.

37 W. "Rule" means a regulation promulgated by the Commission that has
38 the force of law.

39 X. "State" means any state, commonwealth, district, or territory of
40 the United States of America that regulates the Practice of Occupational
41 Therapy.

42 Y. "Single-State License" means an Occupational Therapist or Occupa-
43 tional Therapy Assistant license issued by a Member State that author-
44 izes practice only within the issuing State and does not include a
45 Compact Privilege in any other Member State.

46 Z. "Telehealth" means the application of telecommunication technology
47 to deliver Occupational Therapy services for assessment, intervention
48 and/or consultation.

SECTION 3.

STATE PARTICIPATION IN THE COMPACT

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

52 1. License Occupational Therapists and Occupational Therapy Assist-
53 ants;

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

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

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

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

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

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

6. Comply with the Rules of the Commission;

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

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

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

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

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

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

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

SECTION 4.

COMPACT PRIVILEGE

A. To exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States Social Security Number or National Practitioner Identification number;

3. Have no encumbrance on any State license;

4. Be eligible for a Compact Privilege in any Member State in accordance with Section 4D, F, G, and H;

1 5. Have paid all fines and completed all requirements resulting from
2 any Adverse Action against any license or Compact Privilege, and two
3 years have elapsed from the date of such completion;

4 6. Notify the Commission that the Licensee is seeking the Compact
5 Privilege within a Remote State(s);

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

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

10 a. The Licensee shall be responsible for the payment of any fee asso-
11 ciated with the completion of a criminal background check.

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

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

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

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

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

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

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

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

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

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

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

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

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

47 3. Two years have elapsed from the date of completing requirements for
48 4(H)(1) and (2); and

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

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

54 J. Once the requirements of Section 4H have been met, the license must
55 meet the requirements in Section 4A to obtain a Compact Privilege in a
56 Remote State.

1 SECTION 5.

2 OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE

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

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

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

13 2. Upon receipt of an application for obtaining a new Home State
14 license by virtue of compact privilege, the new Home State shall verify
15 that the Occupational Therapist or Occupational Therapy Assistant meets
16 the pertinent criteria outlined in Section 4 via the Data System, with-
17 out need for primary source verification except for:

18 a. an FBI fingerprint based criminal background check if not previous-
19 ly performed or updated pursuant to applicable Rules adopted by the
20 Commission in accordance with Public Law 92-544;

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

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

25 3. The former Home State shall convert the former Home State license
26 into a Compact Privilege once the new Home State has activated the new
27 Home State license in accordance with applicable Rules adopted by the
28 Commission.

29 4. Notwithstanding any other provision of this Compact, if the Occupa-
30 tional Therapist or Occupational Therapy Assistant cannot meet the
31 criteria in Section 4, the new Home State shall apply its requirements
32 for issuing a new Single-State License.

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

36 C. If an Occupational Therapist or Occupational Therapy Assistant
37 changes Primary State of Residence by moving from a Member State to a
38 non-Member State, or from a non-Member State to a Member State, the
39 State criteria shall apply for issuance of a Single-State License in the
40 new State.

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

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

47 SECTION 6.

48 ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

49 Active Duty Military personnel, or their spouses, shall designate a
50 Home State where the individual has a current license in good standing.
51 The individual may retain the Home State designation during the period
52 the service member is on active duty. Subsequent to designating a Home
53 State, the individual shall only change their Home State through appli-

1 cation for licensure in the new State or through the process described
2 in Section 5.

3 SECTION 7.
4 ADVERSE ACTIONS

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

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

11 1. Take Adverse Action against an Occupational Therapist's or Occupa-
12 tional Therapy Assistant's Compact Privilege within that Member State.

13 2. Issue subpoenas for both hearings and investigations that require
14 the attendance and testimony of witnesses as well as the production of
15 evidence. Subpoenas issued by a Licensing Board in a Member State for
16 the attendance and testimony of witnesses or the production of evidence
17 from another Member State shall be enforced in the latter State by any
18 court of competent jurisdiction, according to the practice and procedure
19 of that court applicable to subpoenas issued in proceedings pending
20 before it. The issuing authority shall pay any witness fees, travel
21 expenses, mileage and other fees required by the service statutes of the
22 State in which the witnesses or evidence are located.

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

28 D. The Home State shall complete any pending investigations of an
29 Occupational Therapist or Occupational Therapy Assistant who changes
30 Primary State of Residence during the course of the investigations. The
31 Home State, where the investigations were initiated, shall also have the
32 authority to take appropriate action(s) and shall promptly report the
33 conclusions of the investigations to the OT Compact Commission Data
34 System. The Occupational Therapy Compact Commission Data System adminis-
35 trator shall promptly notify the new Home State of any Adverse Actions.

36 E. A Member State, if otherwise permitted by State law, may recover
37 from the affected Occupational Therapist or Occupational Therapy Assist-
38 ant the costs of investigations and disposition of cases resulting from
39 any Adverse Action taken against that Occupational Therapist or Occupa-
40 tional Therapy Assistant.

41 F. A Member State may take Adverse Action based on the factual find-
42 ings of the Remote State, provided that the Member State follows its own
43 procedures for taking the Adverse Action.

44 G. Joint Investigations.

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

49 2. Member States shall share any investigative, litigation, or compli-
50 ance materials in furtherance of any joint or individual investigation
51 initiated under the Compact.

52 H. If an Adverse Action is taken by the Home State against an Occupa-
53 tional Therapist's or Occupational Therapy Assistant's license, the
54 Occupational Therapist's or Occupational Therapy Assistant's Compact

1 Privilege in all other Member States shall be deactivated until all
2 encumbrances have been removed from the State license. All Home State
3 disciplinary orders that impose Adverse Action against an Occupational
4 Therapist's or Occupational Therapy Assistant's license shall include a
5 Statement that the Occupational Therapist's or Occupational Therapy
6 Assistant's Compact Privilege is deactivated in all Member States during
7 the pendency of the order.

8 I. If a Member State takes Adverse Action, it shall promptly notify
9 the administrator of the Data System. The administrator of the Data
10 System shall promptly notify the Home State of any Adverse Actions by
11 Remote States.

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

15 SECTION 8.

16 ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION.

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

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

20 2. Venue is proper and judicial proceedings by or against the Commis-
21 sion shall be brought solely and exclusively in a court of competent
22 jurisdiction where the principal office of the Commission is located.
23 The Commission may waive venue and jurisdictional defenses to the extent
24 it adopts or consents to participate in alternative dispute resolution
25 proceedings.

26 3. Nothing in this Compact shall be construed to be a waiver of sover-
27 eign immunity.

28 B. Membership, Voting, and Meetings.

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

31 2. The delegate shall be either:

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

34 b. An administrator of the Licensing Board.

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

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

39 5. Each delegate shall be entitled to one (1) vote with regard to the
40 promulgation of Rules and creation of bylaws and shall otherwise have an
41 opportunity to participate in the business and affairs of the Commis-
42 sion. A delegate shall vote in person or by such other means as provided
43 in the bylaws. The bylaws may provide for delegates' participation in
44 meetings by telephone or other means of communication.

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

47 7. The Commission shall establish by Rule a term of office for deleg-
48 ates.

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

50 1. Establish a Code of Ethics for the Commission;

51 2. Establish the fiscal year of the Commission;

52 3. Establish bylaws;

53 4. Maintain its financial records in accordance with the bylaws;

1 5. Meet and take such actions as are consistent with the provisions of
2 this Compact and the bylaws;

3 6. Promulgate uniform Rules to facilitate and coordinate implementa-
4 tion and administration of this Compact. The Rules shall have the force
5 and effect of law and shall be binding in all Member States;

6 7. Bring and prosecute legal proceedings or actions in the name of the
7 Commission, provided that the standing of any State Occupational Therapy
8 Licensing Board to sue or be sued under applicable law shall not be
9 affected;

10 8. Purchase and maintain insurance and bonds;

11 9. Borrow, accept, or contract for services of personnel, including,
12 but not limited to, employees of a Member State;

13 10. Hire employees, elect or appoint officers, fix compensation,
14 define duties, grant such individuals appropriate authority to carry out
15 the purposes of the Compact, and establish the Commission's personnel
16 policies and programs relating to conflicts of interest, qualifications
17 of personnel, and other related personnel matters;

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

22 12. Lease, purchase, accept appropriate gifts or donations of, or
23 otherwise own, hold, improve or use, any property, real, personal or
24 mixed; provided that at all times the Commission shall avoid any appear-
25 ance of impropriety;

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

28 14. Establish a budget and make expenditures;

29 15. Borrow money;

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

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

36 18. Establish and elect an Executive Committee; and

37 19. Perform such other functions as may be necessary or appropriate to
38 achieve the purposes of this Compact consistent with the State regu-
39 lation of Occupational Therapy licensure and practice.

40 D. The Executive Committee.

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

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

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

46 b. One ex-officio, nonvoting member from a recognized national Occupa-
47 tional Therapy professional association; and

48 c. One ex-officio, nonvoting member from a recognized national Occupa-
49 tional Therapy certification organization.

50 2. The ex-officio members will be selected by their respective organ-
51 izations.

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

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

55 5. The Executive Committee shall have the following Duties and respon-
56 sibilities:

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

5 b. Ensure Compact administration services are appropriately provided,
6 contractual or otherwise;

7 c. Prepare and recommend the budget;

8 d. Maintain financial records on behalf of the Commission;

9 e. Monitor Compact compliance of Member States and provide compliance
10 reports to the Commission;

11 f. Establish additional committees as necessary; and

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

13 E. Meetings of the Commission.

14 1. All meetings shall be open to the public, and public notice of
15 meetings shall be given in the same manner as required under the Rule-
16 making provisions in Section 10.

17 2. The Commission or the Executive Committee or other committees of
18 the Commission may convene in a closed, non-public meeting if the
19 Commission or Executive Committee or other committees of the Commission
20 must discuss:

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

23 b. The employment, compensation, discipline or other matters, prac-
24 tices or procedures related to specific employees or other matters
25 related to the Commission's internal personnel practices and procedures;

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

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

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

30 f. Disclosure of trade secrets or commercial or financial information
31 that is privileged or confidential;

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

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

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

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

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

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

54 F. Financing of the Commission.

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

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

7 3. The Commission may levy on and collect an annual assessment from
8 each Member State or impose fees on other parties to cover the cost of
9 the operations and activities of the Commission and its staff, which
10 must be in a total amount sufficient to cover its annual budget as
11 approved by the Commission each year for which revenue is not provided
12 by other sources. The aggregate annual assessment amount shall be allo-
13 cated based upon a formula to be determined by the Commission, which
14 shall promulgate a Rule binding upon all Member States.

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

19 5. The Commission shall keep accurate accounts of all receipts and
20 disbursements. The receipts and disbursements of the Commission shall
21 be subject to the audit and accounting procedures established under its
22 bylaws. However, all receipts and disbursements of funds handled by the
23 Commission shall be audited yearly by a certified or licensed public
24 accountant, and the report of the audit shall be included in and become
25 part of the annual report of the Commission.

26 G. Qualified Immunity, Defense, and Indemnification.

27 1. The members, officers, executive director, employees and represen-
28 tatives of the Commission shall be immune from suit and liability,
29 either personally or in their official capacity, for any claim for
30 damage to or loss of property or personal injury or other civil liabil-
31 ity caused by or arising out of any actual or alleged act, error or
32 omission that occurred, or that the person against whom the claim is
33 made had a reasonable basis for believing occurred within the scope of
34 Commission employment, duties or responsibilities; provided that nothing
35 in this paragraph shall be construed to protect any such person from
36 suit and/or liability for any damage, loss, injury, or liability caused
37 by the intentional or willful or wanton misconduct of that person.

38 2. The Commission shall defend any member, officer, executive direc-
39 tor, employee, or representative of the Commission in any civil action
40 seeking to impose liability arising out of any actual or alleged act,
41 error, or omission that occurred within the scope of Commission employ-
42 ment, duties, or responsibilities, or that the person against whom the
43 claim is made had a reasonable basis for believing occurred within the
44 scope of Commission employment, duties, or responsibilities; provided
45 that nothing herein shall be construed to prohibit that person from
46 retaining his or her own counsel; and provided further, that the actual
47 or alleged act, error, or omission did not result from that person's
48 intentional or willful or wanton misconduct.

49 3. The Commission shall indemnify and hold harmless any member, offi-
50 cer, executive director, employee, or representative of the Commission
51 for the amount of any settlement or judgment obtained against that
52 person arising out of any actual or alleged act, error or omission that
53 occurred within the scope of Commission employment, duties, or responsi-
54 bilities, or that such person had a reasonable basis for believing
55 occurred within the scope of Commission employment, duties, or responsi-
56 bilities, provided that the actual or alleged act, error, or omission

1 did not result from the intentional or willful or wanton misconduct of
2 that person.

3 SECTION 9.
4 DATA SYSTEM

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

9 B. A Member State shall submit a uniform data set to the Data System
10 on all individuals to whom this Compact is applicable (utilizing a
11 unique identifier) as required by the Rules of the Commission, includ-
12 ing:

13 1. Identifying information;

14 2. Licensure data;

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

16 4. Non-confidential information related to Alternative Program partic-
17 ipation;

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

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

22 7. Current Significant Investigative Information.

23 C. Current Significant Investigative Information and other Investi-
24 gative Information pertaining to a Licensee in any Member State will
25 only be available to other Member States.

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

30 E. Member States contributing information to the Data System may
31 designate information that may not be shared with the public without the
32 express permission of the contributing State.

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

36 SECTION 10.
37 RULEMAKING

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

42 B. The Commission shall promulgate reasonable rules in order to effec-
43 tively and efficiently achieve the purposes of the Compact. Notwith-
44 standing the foregoing, in the event the Commission exercises its rule-
45 making authority in a manner that is beyond the scope of the purposes of
46 the Compact, or the powers granted hereunder, then such an action by the
47 Commission shall be invalid and have no force and effect.

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

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

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

7 1. On the website of the Commission or other publicly accessible plat-
8 form; and

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

12 F. The Notice of Proposed Rulemaking shall include:

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

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

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

19 4. The manner in which interested persons may submit notice to the
20 Commission of their intention to attend the public hearing and any writ-
21 ten comments. G. Prior to adoption of a proposed Rule, the Commission
22 shall allow persons to submit written data, facts, opinions, and argu-
23 ments, which shall be made available to the public.

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

26 1. At least twenty-five (25) persons;

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

28 3. An association or organization having at least twenty-five (25)
29 members.

30 I. If a hearing is held on the proposed Rule or amendment, the Commis-
31 sion shall publish the place, time, and date of the scheduled public
32 hearing. If the hearing is held via electronic means, the Commission
33 shall publish the mechanism for access to the electronic hearing.

34 1. All persons wishing to be heard at the hearing shall notify the
35 executive director of the Commission or other designated member in writ-
36 ing of their desire to appear and testify at the hearing not less than
37 five (5) business days before the scheduled date of the hearing.

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

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

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

46 J. Following the scheduled hearing date, or by the close of business
47 on the scheduled hearing date if the hearing was not held, the Commis-
48 sion shall consider all written and oral comments received.

49 K. If no written notice of intent to attend the public hearing by
50 interested parties is received, the Commission may proceed with promul-
51 gation of the proposed Rule without a public hearing.

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

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

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

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

SECTION 11.

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight.

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

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

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

B. Default, Technical Assistance, and Termination.

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

- a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and
- b. Provide remedial training and specific technical assistance regarding the default.

2. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits

1 conferred by this Compact may be terminated on the effective date of
2 termination. A cure of the default does not relieve the offending State
3 of obligations or liabilities incurred during the period of default.

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

9 4. A State that has been terminated is responsible for all assess-
10 ments, obligations, and liabilities incurred through the effective date
11 of termination, including obligations that extend beyond the effective
12 date of termination.

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

17 6. The defaulting State may appeal the action of the Commission by
18 petitioning the U.S. District Court for the District of Columbia or the
19 federal district where the Commission has its principal offices. The
20 prevailing member shall be awarded all costs of such litigation, includ-
21 ing reasonable attorney's fees.

22 C. Dispute Resolution.

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

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

28 D. Enforcement.

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

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

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

42 SECTION 12.

43 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
44 OCCUPATIONAL

45 THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

46 A. The Compact shall come into effect on the date on which the Compact
47 statute is enacted into law in the tenth Member State. The provisions,
48 which become effective at that time, shall be limited to the powers
49 granted to the Commission relating to assembly and the promulgation of
50 Rules. Thereafter, the Commission shall meet and exercise Rulemaking
51 powers necessary to the implementation and administration of the
52 Compact.

53 B. Any State that joins the Compact subsequent to the Commission's
54 initial adoption of the Rules shall be subject to the Rules as they

1 exist on the date on which the Compact becomes law in that State. Any
2 Rule that has been previously adopted by the Commission shall have the
3 full force and effect of law on the day the Compact becomes law in that
4 State.

5 C. Any Member State may withdraw from this Compact by enacting a stat-
6 ute repealing the same.

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

9 2. Withdrawal shall not affect the continuing requirement of the with-
10 drawing State's Occupational Therapy Licensing Board to comply with the
11 investigative and Adverse Action reporting requirements of this act
12 prior to the effective date of withdrawal.

13 D. Nothing contained in this Compact shall be construed to invalidate
14 or prevent any Occupational Therapy licensure agreement or other cooper-
15 ative arrangement between a Member State and a non-Member State that
16 does not conflict with the provisions of this Compact.

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

20 SECTION 13.

21 CONSTRUCTION AND SEVERABILITY

22 This Compact shall be liberally construed so as to effectuate the
23 purposes thereof. The provisions of this Compact shall be severable and
24 if any phrase, clause, sentence or provision of this Compact is declared
25 to be contrary to the constitution of any Member State or of the United
26 States or the applicability thereof to any government, agency, person,
27 or circumstance is held invalid, the validity of the remainder of this
28 Compact and the applicability thereof to any government, agency, person,
29 or circumstance shall not be affected thereby. If this Compact shall be
30 held contrary to the constitution of any Member State, the Compact shall
31 remain in full force and effect as to the remaining Member States and in
32 full force and effect as to the Member State affected as to all severa-
33 ble matters.

34 SECTION 14.

35 BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

41 C. Any laws in a Member State in conflict with the Compact are super-
42 seded to the extent of the conflict.

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

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

48 F. In the event any provision of the Compact exceeds the constitu-
49 tional limits imposed on the legislature of any Member State, the
50 provision shall be ineffective to the extent of the conflict with the
51 constitutional provision in question in that Member State.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART C

Section 1. The education law is amended by adding a new section 8209-a to read as follows:

§ 8209-a. Audiology and Speech-Language Pathology Interstate Compact. The audiology and speech-language pathology interstate compact is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

SECTION 1.

PURPOSE

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

3. Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

4. Support spouses of relocating active duty military personnel;

5. Enhance the exchange of licensure, investigative and disciplinary information between member states;

6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

7. Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

SECTION 2.

DEFINITIONS

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

A. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211.

B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-lan-

1 guage pathologist, including actions against an individual's license or
2 privilege to practice such as revocation, suspension, probation, moni-
3 toring of the licensee, or restriction on the licensee's practice.

4 C. "Alternative program" means a non-disciplinary monitoring process
5 approved by an audiology or speech-language pathology licensing board to
6 address impaired practitioners.

7 D. "Audiologist" means an individual who is licensed by a state to
8 practice audiology.

9 E. "Audiology" means the care and services provided by a licensed
10 audiologist as set forth in the member state's statutes and rules.

11 F. "Audiology and Speech-Language Pathology Compact Commission" or
12 "Commission" means the national administrative body whose membership
13 consists of all states that have enacted the Compact.

14 G. "Audiology and speech-language pathology licensing board," "audiol-
15 ogy licensing board," "speech-language pathology licensing board," or
16 "licensing board" means the agency of a state that is responsible for
17 the licensing and regulation of audiologists and/or speech-language
18 pathologists.

19 H. "Compact privilege" means the authorization granted by a remote
20 state to allow a licensee from another member state to practice as an
21 audiologist or speech-language pathologist in the remote state under its
22 laws and rules. The practice of audiology or speech-language pathology
23 occurs in the member state where the patient/client/student is located
24 at the time of the patient/client/student encounter.

25 I. "Current significant investigative information" means investigative
26 information that a licensing board, after an inquiry or investigation
27 that includes notification and an opportunity for the audiologist or
28 speech-language pathologist to respond, if required by state law, has
29 reason to believe is not groundless and, if proved true, would indicate
30 more than a minor infraction.

31 J. "Data system" means a repository of information about licensees,
32 including, but not limited to, continuing education, examination, licen-
33 sure, investigative, compact privilege and adverse action.

34 K. "Encumbered license" means a license in which an adverse action
35 restricts the practice of audiology or speech-language pathology by the
36 licensee and said adverse action has been reported to the National Prac-
37 titioners Data Bank (NPDB).

38 L. "Executive Committee" means a group of directors elected or
39 appointed to act on behalf of, and within the powers granted to them by,
40 the Commission.

41 M. "Home state" means the member state that is the licensee's primary
42 state of residence.

43 N. "Impaired practitioner" means individuals whose professional prac-
44 tice is adversely affected by substance abuse, addiction, or other
45 health-related conditions.

46 O. "Licensee" means an individual who currently holds an authorization
47 from the state licensing board to practice as an audiologist or speech-
48 language pathologist.

49 P. "Member state" means a state that has enacted the Compact.

50 Q. "Privilege to practice" means a legal authorization permitting the
51 practice of audiology or speech-language pathology in a remote state.

52 R. "Remote state" means a member state other than the home state where
53 a licensee is exercising or seeking to exercise the compact privilege.

54 S. "Rule" means a regulation, principle or directive promulgated by
55 the Commission that has the force of law.

1 T. "Single-state license" means an audiology or speech-language
2 pathology license issued by a member state that authorizes practice only
3 within the issuing state and does not include a privilege to practice in
4 any other member state.

5 U. "Speech-language pathologist" means an individual who is licensed
6 by a state to practice speech-language pathology.

7 V. "Speech-language pathology means the care and services provided by
8 a licensed speech-language pathologist as set forth in the member
9 state's statutes and rules.

10 W. "State" means any state, commonwealth, district or territory of the
11 United States of America that regulates the practice of audiology and
12 speech-language pathology.

13 X. "State practice laws" means a member state's laws, rules and regu-
14 lations that govern the practice of audiology or speech-language pathol-
15 ogy, define the scope of audiology or speech-language pathology prac-
16 tice, and create the methods and grounds for imposing discipline.

17 Y. "Telehealth" means the application of telecommunication technology
18 to deliver audiology or speech-language pathology services at a distance
19 for assessment, intervention and/or consultation.

20 SECTION 3.

21 STATE PARTICIPATION IN THE COMPACT

22 A. A license issued to an audiologist or speech-language pathologist
23 by a home state to a resident in that state shall be recognized by each
24 member state as authorizing an audiologist or speech-language patholo-
25 gist to practice audiology or speech-language pathology, under a privi-
26 lege to practice, in each member state.

27 B. A state must implement or utilize procedures for considering the
28 criminal history records of applicants for initial privilege to prac-
29 tice. These procedures shall include the submission of fingerprints or
30 other biometric-based information by applicants for the purpose of
31 obtaining an applicant's criminal history record information from the
32 Federal Bureau of Investigation and the agency responsible for retaining
33 that state's criminal records.

34 1. A member state must fully implement a criminal background check
35 requirement, within a time frame established by rule, by receiving the
36 results of the Federal Bureau of Investigation record search on criminal
37 background checks and use the results in making licensure decisions.

38 2. Communication between a member state, the Commission and among
39 member states regarding the verification of eligibility for licensure
40 through the Compact shall not include any information received from the
41 Federal Bureau of Investigation relating to a federal criminal records
42 check performed by a member state under Public Law 92-544.

43 C. Upon application for a privilege to practice, the licensing board
44 in the issuing remote state shall ascertain, through the data system,
45 whether the applicant has ever held, or is the holder of, a license
46 issued by any other state, whether there are any encumbrances on any
47 license or privilege to practice held by the applicant, whether any
48 adverse action has been taken against any license or privilege to prac-
49 tice held by the applicant.

50 D. Each member state shall require an applicant to obtain or retain a
51 license in the home state and meet the home state's qualifications for
52 licensure or renewal of licensure, as well as, all other applicable
53 state laws.

54 E. For an audiologist:

1 1. Must meet one of the following educational requirements:

2 a. On or before, Dec. 31, 2007, has graduated with a master's degree
3 or doctorate in audiology, or equivalent degree regardless of degree
4 name, from a program that is accredited by an accrediting agency recog-
5 nized by the Council for Higher Education Accreditation, or its succes-
6 sor, or by the United States Department of Education and operated by a
7 college or university accredited by a regional or national accrediting
8 organization recognized by the board; or

9 b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in
10 audiology, or equivalent degree, regardless of degree name, from a
11 program that is accredited by an accrediting agency recognized by the
12 Council for Higher Education Accreditation, or its successor, or by the
13 United States Department of Education and operated by a college or
14 university accredited by a regional or national accrediting organization
15 recognized by the board; or

16 c. Has graduated from an audiology program that is housed in an insti-
17 tution of higher education outside of the United States (a) for which
18 the program and institution have been approved by the authorized accred-
19 iting body in the applicable country and (b) the degree program has been
20 verified by an independent credentials review agency to be comparable to
21 a state licensing board-approved program.

22 2. Has completed a supervised clinical practicum experience from an
23 accredited educational institution or its cooperating programs as
24 required by the Commission;

25 3. Has successfully passed a national examination approved by the
26 Commission;

27 4. Holds an active, unencumbered license;

28 5. Has not been convicted or found guilty, and has not entered into an
29 agreed disposition, of a felony related to the practice of audiology,
30 under applicable state or federal criminal law;

31 6. Has a valid United States Social Security or National Practitioner
32 Identification number.

33 F. For a speech-language pathologist:

34 1. Must meet one of the following educational requirements:

35 a. Has graduated with a master's degree from a speech-language pathol-
36 ogy program that is accredited by an organization recognized by the
37 United States Department of Education and operated by a college or
38 university accredited by a regional or national accrediting organization
39 recognized by the board; or

40 b. Has graduated from a speech-language pathology program that is
41 housed in an institution of higher education outside of the United
42 States (a) for which the program and institution have been approved by
43 the authorized accrediting body in the applicable country and (b) the
44 degree program has been verified by an independent credentials review
45 agency to be comparable to a state licensing board-approved program.

46 2. Has completed a supervised clinical practicum experience from an
47 educational institution or its cooperating programs as required by the
48 Commission;

49 3. Has completed a supervised postgraduate professional experience as
50 required by the Commission;

51 4. Has successfully passed a national examination approved by the
52 Commission;

53 5. Holds an active, unencumbered license;

54 6. Has not been convicted or found guilty, and has not entered into an
55 agreed disposition, of a felony related to the practice of speech-lan-
56 guage pathology, under applicable state or federal criminal law;

1 7. Has a valid United States Social Security or National Practitioner
2 Identification number.

3 G. The privilege to practice is derived from the home state license.

4 H. An audiologist or speech-language pathologist practicing in a
5 member state must comply with the state practice laws of the state in
6 which the client is located at the time service is provided. The prac-
7 tice of audiology and speech-language pathology shall include all
8 audiology and speech-language pathology practice as defined by the state
9 practice laws of the member state in which the client is located. The
10 practice of audiology and speech-language pathology in a member state
11 under a privilege to practice shall subject an audiologist or speech-
12 language pathologist to the jurisdiction of the licensing board, the
13 courts and the laws of the member state in which the client is located
14 at the time service is provided.

15 I. Individuals not residing in a member state shall continue to be
16 able to apply for a member state's single-state license as provided
17 under the laws of each member state. However, the single-state license
18 granted to these individuals shall not be recognized as granting the
19 privilege to practice audiology or speech-language pathology in any
20 other member state. Nothing in this Compact shall affect the require-
21 ments established by a member state for the issuance of a single-state
22 license.

23 J. Member states may charge a fee for granting a compact privilege.

24 K. Member states must comply with the bylaws and rules and regulations
25 of the Commission.

26 SECTION 4.
27 COMPACT PRIVILEGE

28 A. To exercise the compact privilege under the terms and provisions of
29 the Compact, the audiologist or speech-language pathologist shall:

30 1. Hold an active license in the home state;

31 2. Have no encumbrance on any state license;

32 3. Be eligible for a compact privilege in any member state in accord-
33 ance with Section 3;

34 4. Have not had any adverse action against any license or compact
35 privilege within the previous 2 years from date of application;

36 5. Notify the Commission that the licensee is seeking the compact
37 privilege within a remote state(s);

38 6. Pay any applicable fees, including any state fee, for the compact
39 privilege;

40 7. Report to the Commission adverse action taken by any non-member
41 state within 30 days from the date the adverse action is taken.

42 B. For the purposes of the compact privilege, an audiologist or
43 speech-language pathologist shall only hold one home state license at a
44 time.

45 C. Except as provided in Section 6, if an audiologist or speech-lan-
46 guage pathologist changes primary state of residence by moving between
47 two-member states, the audiologist or speech-language pathologist must
48 apply for licensure in the new home state, and the license issued by the
49 prior home state shall be deactivated in accordance with applicable
50 rules adopted by the Commission.

51 D. The audiologist or speech-language pathologist may apply for licen-
52 sure in advance of a change in primary state of residence.

53 E. A license shall not be issued by the new home state until the
54 audiologist or speech-language pathologist provides satisfactory

evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

F. If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a non-member state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state.

G. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of Section 4A to maintain the compact privilege in the remote state.

H. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

I. A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens.

J. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date of the adverse action.

K. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4A to obtain a compact privilege in any remote state.

L. Once the requirements of Section 4J have been met, the licensee must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5.

COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.

SECTION 6.

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

SECTION 7.

ADVERSE ACTIONS

A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

1 1. Take adverse action against an audiologist's or speech-language
2 pathologist's privilege to practice within that member state.

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

13 3. Only the home state shall have the power to take adverse action
14 against a audiologist's or speech-language pathologist's license issued
15 by the home state.

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

21 C. The home state shall complete any pending investigations of an
22 audiologist or speech-language pathologist who changes primary state of
23 residence during the course of the investigations. The home state shall
24 also have the authority to take appropriate action(s) and shall promptly
25 report the conclusions of the investigations to the administrator of the
26 data system. The administrator of the coordinated licensure information
27 system shall promptly notify the new home state of any adverse actions.

28 D. If otherwise permitted by state law, the member state may recover
29 from the affected audiologist or speech-language pathologist the costs
30 of investigations and disposition of cases resulting from any adverse
31 action taken against that audiologist or speech-language pathologist.

32 E. The member state may take adverse action based on the factual find-
33 ings of the remote state, provided that the member state follows the
34 member state's own procedures for taking the adverse action.

35 F. Joint Investigations.

36 1. In addition to the authority granted to a member state by its
37 respective audiology or speech-language pathology practice act or other
38 applicable state law, any member state may participate with other member
39 states in joint investigations of licensees.

40 2. Member states shall share any investigative, litigation, or compli-
41 ance materials in furtherance of any joint or individual investigation
42 initiated under the Compact.

43 G. If adverse action is taken by the home state against an
44 audiologist's or speech language pathologist's license, the
45 audiologist's or speech-language pathologist's privilege to practice in
46 all other member states shall be deactivated until all encumbrances have
47 been removed from the state license. All home state disciplinary orders
48 that impose adverse action against an audiologist's or speech language
49 pathologist's license shall include a statement that the audiologist's
50 or speech-language pathologist's privilege to practice is deactivated in
51 all member states during the pendency of the order.

52 H. If a member state takes adverse action, it shall promptly notify
53 the administrator of the data system. The administrator of the data
54 system shall promptly notify the home state of any adverse actions by
55 remote states.

1 I. Nothing in this Compact shall override a member state's decision
2 that participation in an alternative program may be used in lieu of
3 adverse action.

4 SECTION 8.
5 ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
6 COMPACT COMMISSION

7 A. The Compact member states hereby create and establish a joint
8 public agency known as the Audiology and Speech-Language Pathology
9 Compact Commission:

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

11 2. Venue is proper and judicial proceedings by or against the Commis-
12 sion shall be brought solely and exclusively in a court of competent
13 jurisdiction where the principal office of the Commission is located.
14 The Commission may waive venue and jurisdictional defenses to the extent
15 it adopts or consents to participate in alternative dispute resolution
16 proceedings.

17 3. Nothing in this Compact shall be construed to be a waiver of sover-
18 eign immunity.

19 B. Membership, Voting and Meetings.

20 1. Each member state shall have two (2) delegates selected by that
21 member state's licensing board. The delegates shall be current members
22 of the licensing board. One shall be an audiologist and one shall be a
23 speech-language pathologist.

24 2. An additional five (5) delegates, who are either a public member or
25 board administrator from a state licensing board, shall be chosen by the
26 Executive Committee from a pool of nominees provided by the Commission
27 at Large.

28 3. Any delegate may be removed or suspended from office as provided by
29 the law of the state from which the delegate is appointed.

30 4. The member state board shall fill any vacancy occurring on the
31 Commission, within 90 days.

32 5. Each delegate shall be entitled to one (1) vote with regard to the
33 promulgation of rules and creation of bylaws and shall otherwise have an
34 opportunity to participate in the business and affairs of the Commis-
35 sion.

36 6. A delegate shall vote in person or by other means as provided in
37 the bylaws. The bylaws may provide for delegates' participation in meet-
38 ings by telephone or other means of communication.

39 7. The Commission shall meet at least once during each calendar year.
40 Additional meetings shall be held as set forth in the bylaws.

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

42 1. Establish the fiscal year of the Commission;

43 2. Establish bylaws;

44 3. Establish a Code of Ethics;

45 4. Maintain its financial records in accordance with the bylaws;

46 5. Meet and take actions as are consistent with the provisions of this
47 Compact and the bylaws;

48 6. Promulgate uniform rules to facilitate and coordinate implementa-
49 tion and administration of this Compact. The rules shall have the force
50 and effect of law and shall be binding in all member states;

51 7. Bring and prosecute legal proceedings or actions in the name of the
52 Commission, provided that the standing of any state audiology or speech-
53 language pathology licensing board to sue or be sued under applicable
54 law shall not be affected;

1 8. Purchase and maintain insurance and bonds;
2 9. Borrow, accept, or contract for services of personnel, including,
3 but not limited to, employees of a member state;
4 10. Hire employees, elect or appoint officers, fix compensation,
5 define duties, grant individuals appropriate authority to carry out the
6 purposes of the Compact, and to establish the Commission's personnel
7 policies and programs relating to conflicts of interest, qualifications
8 of personnel, and other related personnel matters;
9 11. Accept any and all appropriate donations and grants of money,
10 equipment, supplies, materials and services, and to receive, utilize and
11 dispose of the same; provided that at all times the Commission shall
12 avoid any appearance of impropriety and/or conflict of interest;
13 12. Lease, purchase, accept appropriate gifts or donations of, or
14 otherwise to own, hold, improve or use, any property, real, personal or
15 mixed; provided that at all times the Commission shall avoid any appear-
16 ance of impropriety;
17 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or other-
18 wise dispose of any property real, personal, or mixed;
19 14. Establish a budget and make expenditures;
20 15. Borrow money;
21 16. Appoint committees, including standing committees composed of
22 members, and other interested persons as may be designated in this
23 Compact and the bylaws;
24 17. Provide and receive information from, and cooperate with, law
25 enforcement agencies;
26 18. Establish and elect an Executive Committee; and
27 19. Perform other functions as may be necessary or appropriate to
28 achieve the purposes of this Compact consistent with the state regu-
29 lation of audiology and speech-language pathology licensure and prac-
30 tice.
31 D. The Executive Committee.
32 The Executive Committee shall have the power to act on behalf of the
33 Commission according to the terms of this Compact:
34 1. The Executive Committee shall be composed of ten (10) members:
35 a. Seven (7) voting members who are elected by the Commission from the
36 current membership of the Commission;
37 b. Two (2) ex-officios, consisting of one nonvoting member from a
38 recognized national audiology professional association and one nonvoting
39 member from a recognized national speech-language pathology association;
40 and
41 c. One (1) ex-officio, nonvoting member from the recognized membership
42 organization of the audiology and speech-language pathology licensing
43 boards.
44 E. The ex-officio members shall be selected by their respective organ-
45 izations.
46 1. The Commission may remove any member of the Executive Committee as
47 provided in bylaws.
48 2. The Executive Committee shall meet at least annually.
49 3. The Executive Committee shall have the following duties and respon-
50 sibilities:
51 a. Recommend to the entire Commission changes to the rules or bylaws,
52 changes to this Compact legislation, fees paid by Compact member states
53 such as annual dues, and any commission Compact fee charged to licensees
54 for the compact privilege;
55 b. Ensure Compact administration services are appropriately provided,
56 contractual or otherwise;

- c. Prepare and recommend the budget;
 - d. Maintain financial records on behalf of the Commission;
 - e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
 - f. Establish additional committees as necessary; and
 - g. Other duties as provided in rules or bylaws.
4. Meetings of the Commission.

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

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

- a. Non-compliance of a member state with its obligations under the Compact;
- b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
- c. Current, threatened, or reasonably anticipated litigation;
- d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- e. Accusing any person of a crime or formally censuring any person;
- f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- h. Disclosure of investigative records compiled for law enforcement purposes;
- i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
- j. Matters specifically exempted from disclosure by federal or member state statute.

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

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

8. Financing of the Commission.

- a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
- b. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
- c. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of

1 the operations and activities of the Commission and its staff, which
2 must be in a total amount sufficient to cover its annual budget as
3 approved each year for which revenue is not provided by other sources.
4 The aggregate annual assessment amount shall be allocated based upon a
5 formula to be determined by the Commission, which shall promulgate a
6 rule binding upon all member states.

7 9. The Commission shall not incur obligations of any kind prior to
8 securing the funds adequate to meet the same; nor shall the Commission
9 pledge the credit of any of the member states, except by and with the
10 authority of the member state.

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

18 F. Qualified Immunity, Defense, and Indemnification.

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

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

41 3. The Commission shall indemnify and hold harmless any member, offi-
42 cer, executive director, employee, or representative of the Commission
43 for the amount of any settlement or judgment obtained against that
44 person arising out of any actual or alleged act, error or omission that
45 occurred within the scope of Commission employment, duties, or responsi-
46 bilities, or that person had a reasonable basis for believing occurred
47 within the scope of Commission employment, duties, or responsibilities,
48 provided that the actual or alleged act, error, or omission did not
49 result from the intentional or willful or wanton misconduct of that
50 person.

51 SECTION 9.
52 DATA SYSTEM

53 A. The Commission shall provide for the development, maintenance, and
54 utilization of a coordinated database and reporting system containing

1 licensure, adverse action, and investigative information on all licensed
2 individuals in member states.

3 B. Notwithstanding any other provision of state law to the contrary, a
4 member state shall submit a uniform data set to the data system on all
5 individuals to whom this Compact is applicable as required by the rules
6 of the Commission, including:

7 1. Identifying information;

8 2. Licensure data;

9 3. Adverse actions against a license or compact privilege;

10 4. Non-confidential information related to alternative program partic-
11 ipation;

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

14 6. Other information that may facilitate the administration of this
15 Compact, as determined by the rules of the Commission.

16 C. Investigative information pertaining to a licensee in any member
17 state shall only be available to other member states.

18 D. The Commission shall promptly notify all member states of any
19 adverse action taken against a licensee or an individual applying for a
20 license. Adverse action information pertaining to a licensee in any
21 member state shall be available to any other member state.

22 E. Member states contributing information to the data system may
23 designate information that may not be shared with the public without the
24 express permission of the contributing state.

25 F. Any information submitted to the data system that is subsequently
26 required to be expunged by the laws of the member state contributing the
27 information shall be removed from the data system.

28 SECTION 10.

29 RULEMAKING

30 A. The Commission shall exercise its rulemaking powers pursuant to the
31 criteria set forth in this Section and the rules adopted thereunder.
32 Rules and amendments shall become binding as of the date specified in
33 each rule or amendment.

34 B. If a majority of the legislatures of the member states rejects a
35 rule, by enactment of a statute or resolution in the same manner used to
36 adopt the Compact within 4 years of the date of adoption of the rule,
37 the rule shall have no further force and effect in any member state.

38 C. Rules or amendments to the rules shall be adopted at a regular or
39 special meeting of the Commission.

40 D. Prior to promulgation and adoption of a final rule or rules by the
41 Commission, and at least thirty (30) days in advance of the meeting at
42 which the rule shall be considered and voted upon, the Commission shall
43 file a Notice of Proposed Rulemaking:

44 1. On the website of the Commission or other publicly accessible plat-
45 form; and

46 2. On the website of each member state audiology or speech-language
47 pathology licensing board or other publicly accessible platform or the
48 publication in which each state would otherwise publish proposed rules.

49 E. The Notice of Proposed Rulemaking shall include:

50 1. The proposed time, date, and location of the meeting in which the
51 rule shall be considered and voted upon;

52 2. The text of the proposed rule or amendment and the reason for the
53 proposed rule;

1 3. A request for comments on the proposed rule from any interested
2 person; and

3 4. The manner in which interested persons may submit notice to the
4 Commission of their intention to attend the public hearing and any writ-
5 ten comments.

6 F. Prior to the adoption of a proposed rule, the Commission shall
7 allow persons to submit written data, facts, opinions and arguments,
8 which shall be made available to the public.

9 G. The Commission shall grant an opportunity for a public hearing
10 before it adopts a rule or amendment if a hearing is requested by:

11 1. At least twenty-five (25) persons;

12 2. A state or federal governmental subdivision or agency; or

13 3. An association having at least twenty-five (25) members.

14 H. If a hearing is held on the proposed rule or amendment, the Commis-
15 sion shall publish the place, time, and date of the scheduled public
16 hearing. If the hearing is held via electronic means, the Commission
17 shall publish the mechanism for access to the electronic hearing.

18 1. All persons wishing to be heard at the hearing shall notify the
19 executive director of the Commission or other designated member in writ-
20 ing of their desire to appear and testify at the hearing not less than
21 five (5) business days before the scheduled date of the hearing.

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

25 3. All hearings shall be recorded. A copy of the recording shall be
26 made available on request.

27 4. Nothing in this section shall be construed as requiring a separate
28 hearing on each rule. Rules may be grouped for the convenience of the
29 Commission at hearings required by this section.

30 I. Following the scheduled hearing date, or by the close of business
31 on the scheduled hearing date if the hearing was not held, the Commis-
32 sion shall consider all written and oral comments received.

33 J. If no written notice of intent to attend the public hearing by
34 interested parties is received, the Commission may proceed with promul-
35 gation of the proposed rule without a public hearing.

36 K. The Commission shall, by majority vote of all members, take final
37 action on the proposed rule and shall determine the effective date of
38 the rule, if any, based on the rulemaking record and the full text of
39 the rule.

40 L. Upon determination that an emergency exists, the Commission may
41 consider and adopt an emergency rule without prior notice, opportunity
42 for comment, or hearing, provided that the usual rulemaking procedures
43 provided in the Compact and in this section shall be retroactively
44 applied to the rule as soon as reasonably possible, in no event later
45 than ninety (90) days after the effective date of the rule. For the
46 purposes of this provision, an emergency rule is one that must be
47 adopted immediately in order to:

48 1. Meet an imminent threat to public health, safety, or welfare;

49 2. Prevent a loss of Commission or member state funds; or

50 3. Meet a deadline for the promulgation of an administrative rule that
51 is established by federal law or rule.

52 M. The Commission or an authorized committee of the Commission may
53 direct revisions to a previously adopted rule or amendment for purposes
54 of correcting typographical errors, errors in format, errors in consist-
55 ency, or grammatical errors. Public notice of any revisions shall be
56 posted on the website of the Commission. The revision shall be subject

1 to challenge by any person for a period of thirty (30) days after post-
2 ing. The revision may be challenged only on grounds that the revision
3 results in a material change to a rule. A challenge shall be made in
4 writing and delivered to the chair of the Commission prior to the end of
5 the notice period. If no challenge is made, the revision shall take
6 effect without further action. If the revision is challenged, the
7 revision may not take effect without the approval of the Commission.

8 SECTION 11.

9 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

10 A. Dispute Resolution.

11 1. Upon request by a member state, the Commission shall attempt to
12 resolve disputes related to the Compact that arise among member states
13 and between member and non-member states.

14 2. The Commission shall promulgate a rule providing for both mediation
15 and binding dispute resolution for disputes as appropriate.

16 B. Enforcement.

17 1. The Commission, in the reasonable exercise of its discretion, shall
18 enforce the provisions and rules of this Compact.

19 2. By majority vote, the Commission may initiate legal action in the
20 United States District Court for the District of Columbia or the federal
21 district where the Commission has its principal offices against a member
22 state in default to enforce compliance with the provisions of the
23 Compact and its promulgated rules and bylaws. The relief sought may
24 include both injunctive relief and damages. In the event judicial
25 enforcement is necessary, the prevailing member shall be awarded all
26 costs of litigation, including reasonable attorney's fees.

27 3. The remedies herein shall not be the exclusive remedies of the
28 Commission. The Commission may pursue any other remedies available under
29 federal or state law.

30 SECTION 12.

31 DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
32 AUDIOLOGY AND
33 SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
34 AMENDMENT

35 A. The Compact shall come into effect on the date on which the Compact
36 statute is enacted into law in the 10th member state. The provisions,
37 which become effective at that time, shall be limited to the powers
38 granted to the Commission relating to assembly and the promulgation of
39 rules. Thereafter, the Commission shall meet and exercise rulemaking
40 powers necessary to the implementation and administration of the
41 Compact.

42 B. Any state that joins the Compact subsequent to the Commission's
43 initial adoption of the rules shall be subject to the rules as they
44 exist on the date on which the Compact becomes law in that state. Any
45 rule that has been previously adopted by the Commission shall have the
46 full force and effect of law on the day the Compact becomes law in that
47 state.

48 C. Any member state may withdraw from this Compact by enacting a stat-
49 ute repealing the same.

50 1. A member state's withdrawal shall not take effect until six (6)
51 months after enactment of the repealing statute.

1 2. Withdrawal shall not affect the continuing requirement of the with-
2 drawing state's audiology or speech-language pathology licensing board
3 to comply with the investigative and adverse action reporting require-
4 ments of this act prior to the effective date of withdrawal.

5 D. Nothing contained in this Compact shall be construed to invalidate
6 or prevent any audiology or speech-language pathology licensure agree-
7 ment or other cooperative arrangement between a member state and a non-
8 member state that does not conflict with the provisions of this Compact.

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

12 SECTION 13.

13 CONSTRUCTION AND SEVERABILITY

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

26 SECTION 14.

27 BINDING EFFECT OF COMPACT AND OTHER LAWS

28 A. Nothing herein prevents the enforcement of any other law of a
29 member state that is not inconsistent with the Compact.

30 B. All laws in a member state in conflict with the Compact are super-
31 seded to the extent of the conflict.

32 C. All lawful actions of the Commission, including all rules and
33 bylaws promulgated by the Commission, are binding upon the member
34 states.

35 D. All agreements between the Commission and the member states are
36 binding in accordance with their terms.

37 E. In the event any provision of the Compact exceeds the constitu-
38 tional limits imposed on the legislature of any member state, the
39 provision shall be ineffective to the extent of the conflict with the
40 constitutional provision in question in that member state.

41 § 2. This act shall take effect on the ninetieth day after it shall
42 have become a law. Effective immediately, the addition, amendment
43 and/or repeal of any rule or regulation necessary for the implementation
44 of this act on its effective date are authorized to be made and
45 completed on or before such effective date.

46 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
47 sion, section or part of this act shall be adjudged by any court of
48 competent jurisdiction to be invalid, such judgment shall not affect,
49 impair, or invalidate the remainder thereof, but shall be confined in
50 its operation to the clause, sentence, paragraph, subdivision, section
51 or part thereof directly involved in the controversy in which such judg-
52 ment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included herein.
3 § 3. This act shall take effect immediately; provided, however, that
4 the applicable effective date of Parts A through C of this act shall be
5 as specifically set forth in the last section of such Parts.