

1 A bill to be entitled
2 An act relating to the Occupational Therapy Licensure
3 Compact; creating s. 468.226, F.S.; creating the
4 Occupational Therapy Licensure Compact; providing
5 purpose and objectives; providing definitions;
6 requiring member states to meet certain requirements
7 to join and participate in the compact; providing for
8 recognition of licensees providing occupational
9 therapy in member states; providing criteria that an
10 occupational therapist or an occupational therapy
11 assistant must satisfy to practice under the compact;
12 providing requirements for renewal of an equivalent
13 license in a member state; authorizing an active
14 military member and his or her spouse to be deemed as
15 having a home state license under certain
16 circumstances; requiring member states to report
17 adverse actions taken against the license of an
18 occupational therapist or an occupational therapy
19 assistant by other member states; establishing the
20 Occupational Therapy Compact Commission; providing
21 jurisdiction and venue for court proceedings;
22 providing commission membership, duties, and powers;
23 requiring member states to participate in the exchange
24 of specified information; authorizing the commission
25 to adopt rules and bylaws; providing for the

26 development, maintenance, and use of a coordinated
 27 database and reporting system; requiring member states
 28 to submit specified information to the data system;
 29 providing requirements for the information in the data
 30 system; providing rulemaking procedures; providing for
 31 state enforcement of the compact; providing for the
 32 termination of compact membership; providing
 33 procedures for the resolution of certain disputes;
 34 providing compact amendment procedures; providing
 35 construction and severability and binding effect of
 36 the compact; amending ss. 456.073, 456.076, 468.1755,
 37 468.205, 468.209, and 768.28, F.S.; conforming
 38 provisions to changes made by the act; providing an
 39 effective date.

40
 41 Be It Enacted by the Legislature of the state of Florida:

42
 43 **Section 1. Section 468.226, Florida Statutes, is created**
 44 **to read:**

45 468.226 Occupational Therapy Licensure Compact.—The
 46 Occupational Therapy Licensure Compact is hereby enacted into
 47 law and entered into by this state with all other states legally
 48 joining therein in the form substantially as follows:

49
 50 ARTICLE I

51 PURPOSE AND OBJECTIVES

52
53 (1) The purpose of this compact is to facilitate
54 interstate practice of occupational therapy with the goal of
55 improving public access to occupational therapy services. The
56 compact preserves the regulatory authority of member states to
57 protect public health and safety through their current systems
58 of state licensure. For purposes of state regulation under the
59 compact, the practice of occupational therapy is deemed to have
60 occurred in the state where the patient is located at the time
61 occupational therapy is provided to the patient.

62 (2) The compact is designed to achieve all of the
63 following objectives:

64 (a) Increase public access to occupational therapy
65 services by providing for the mutual recognition of other member
66 state licenses.

67 (b) Enhance the states' ability to protect the public's
68 health and safety.

69 (c) Encourage the cooperation of member states in
70 regulating multistate occupational therapy Practice.

71 (d) Support spouses of relocating military members.

72 (e) Enhance the exchange of licensure, investigative, and
73 disciplinary information between member states.

74 (f) Allow a remote state to hold a provider of services
75 with a compact privilege in that state accountable to that

76 | state's practice standards.

77 | (g) Facilitate the use of telehealth technology in order
 78 | to increase access to occupational therapy services.

80 | ARTICLE II

81 | DEFINITIONS

82 |
 83 | As used in the compact, and except as otherwise provided,
 84 | the term:

85 | (1) "Active duty military" means full-time duty status in
 86 | the active uniformed service of the United states, including
 87 | members of the United States Reserve Forces and the National
 88 | Guard on active duty orders pursuant to 10 U.S.C. chapters 1209
 89 | and 1211.

90 | (2) "Adverse action" means disciplinary action taken by an
 91 | occupational therapy licensing board based upon misconduct,
 92 | unacceptable performance, or a combination of both.

93 | (3) "Alternative program" means a nondisciplinary
 94 | monitoring or practice remediation process approved by a state's
 95 | occupational therapy licensing board. The term includes, but is
 96 | not limited to, programs that address substance abuse issues.

97 | (4) "Compact privilege" means the authorization granted by
 98 | a remote state to allow a licensee from another member state
 99 | with an equivalent license to practice as an occupational
 100 | therapist or an occupational therapy assistant in a remote state

101 under its laws and rules.

102 (5) "Continuing competence" means a requirement, as a
103 condition of license renewal, to provide evidence of
104 participation in, and completion of, educational and
105 professional activities relevant to the practice of occupational
106 therapy.

107 (6) "Data system" means the coordinated database and
108 reporting system created by the Occupational Therapy Compact
109 Commission for the exchange of information between member states
110 relating to licensees or applicants under the compact, including
111 identifying information, licensure data, investigative
112 information, adverse actions, nonconfidential information
113 related to alternative program participation, any denials of
114 applications for licensure, and other information as specified
115 by commission rule.

116 (7) "Encumbered license" means a license that an
117 occupational therapy licensing board has limited in any way.

118 (8) "Executive board" means a group of directors elected
119 or appointed to act on behalf of and within the powers granted
120 to them by the commission.

121 (9) "Home state" means the member state that is the
122 licensee's primary state of residence.

123 (10) "Investigative information" means information,
124 records, and documents received or generated by an occupational
125 therapy licensing board pursuant to an investigation.

126 (11) "Jurisprudence requirement" means the assessment of
127 an individual's knowledge of the laws and rules governing the
128 practice of occupational therapy in a specific state.

129 (12) "Licensee" means an individual who currently holds an
130 authorization from a state to practice as an occupational
131 therapist or an occupational therapy assistant.

132 (13) "Member state" means a state that has enacted the
133 compact.

134 (14) "Occupational therapist" means an individual licensed
135 by a state to practice occupational therapy.

136 (15) "Occupational therapy assistant" means an individual
137 licensed by a state to assist an occupational therapist in
138 specified areas of occupational therapy.

139 (16) "Occupational therapy" or "the practice of
140 occupational therapy" means the care and services provided by or
141 under the direction and supervision of a licensed occupational
142 therapist.

143 (17) "Occupational Therapy Compact Commission" or
144 "commission" means the national administrative body whose
145 membership consists of all states that have enacted the compact.

146 (18) "Occupational therapy licensing board" means the
147 agency of a state which is responsible for the licensing and
148 regulation of occupational therapists and occupational therapy
149 assistants.

150 (19) "Remote state" means a member state other than the

151 home state where a licensee is exercising or seeking to exercise
152 the compact privilege.

153 (20) "Rule" means a regulation, principle, or directive
154 adopted by the commission which has the force of law.

155 (21) "State" means any state, commonwealth, district, or
156 territory of the United states which regulates the practice of
157 occupational therapy.

158 (22) "Telehealth" means use of synchronous or asynchronous
159 telecommunications technology to provide occupational therapy
160 services for assessment, intervention, or consultation.

162 ARTICLE III

163 STATE PARTICIPATION IN THE COMPACT

165 (1) To participate in the compact, a state must do all of
166 the following:

167 (a) Participate fully in the data system, including using
168 the commission's unique identifier, as defined by commission
169 rule.

170 (b) Have a mechanism in place for receiving and
171 investigating complaints about licensees.

172 (c) Notify the commission, in accordance with the terms of
173 the compact and rules, of any adverse action or the availability
174 of investigative information regarding a licensee.

175 (d) Fully implement a criminal background check

176 requirement, within a timeframe established by commission rule,
177 which uses results from the Federal Bureau of Investigation
178 record search on criminal background checks to make licensure
179 decisions in accordance with subsection (2).

180 (e) Comply with the commission's rules.

181 (f) Use a recognized national examination as a requirement
182 for licensure pursuant to the commission's rules.

183 (g) Have continuing competence requirements as a condition
184 for license renewal.

185 (2) Upon adoption of the compact, a member state has the
186 authority to obtain biometric-based information from each
187 licensee applying for a compact privilege and submit such
188 information to the Federal Bureau of Investigation for a
189 criminal background check in accordance with 28 U.S.C. s. 534
190 and 34 U.S.C. s. 40316.

191 (3) A member state must grant the compact privilege to a
192 licensee holding a valid unencumbered license in another member
193 state in accordance with the terms of the compact and rules.

194
195 ARTICLE IV

196 COMPACT PRIVILEGE

197
198 (1) To exercise compact privilege under the compact, a
199 licensee must satisfy all of the following conditions:

200 (a) Hold an unencumbered license in the home state.

- 201 (b) Not have an encumbered license in any state.
- 202 (c) Be eligible for a compact privilege in all member
203 states in accordance with subsections (4), (7), and (8).
- 204 (d) Not have had an adverse action against any license or
205 compact privilege within the preceding 2 years.
- 206 (e) Notify the commission that the licensee is seeking the
207 compact privilege within a remote state.
- 208 (f) Meet any jurisprudence requirements established by the
209 remote state in which the licensee is seeking a compact
210 privilege.
- 211 (g) Report to the commission adverse action taken by any
212 nonmember state within 30 days after the date the adverse action
213 is taken.
- 214 (2) The compact privilege is valid until the expiration
215 date of the home license. The licensee must continue to meet the
216 requirements of subsection (1) to maintain the compact privilege
217 in a remote state.
- 218 (3) A licensee providing occupational therapy in a remote
219 state under the compact privilege must comply with the laws and
220 rules of the remote state.
- 221 (4) A licensee providing occupational therapy in a remote
222 state is subject to that state's regulatory authority. A remote
223 state may, in accordance with due process and that state's laws,
224 remove a licensee's compact privilege in the remote state for a
225 specific period of time, impose fines, and take any other

226 necessary actions to protect the health and safety of its
227 citizens. The licensee is not eligible for a compact privilege
228 in any member state until the specific period of time for
229 removal has ended and all fines are paid.

230 (5) If a home state license is encumbered, the licensee
231 loses the compact privilege in any remote state until the
232 following conditions are met:

233 (a) The home state license is no longer encumbered.

234 (b) Two years have elapsed from the date of the adverse
235 action.

236 (6) Once an encumbered license in the home state is
237 restored to good standing, the licensee must meet the
238 requirements of subsection (1) to obtain compact privilege in
239 any remote state.

240 (7) If a licensee's compact privilege in any remote state
241 is removed, the licensee loses the compact privilege in all
242 remote states until all of the following conditions are met:

243 (a) The specific period of time for which the compact
244 privilege was removed has ended.

245 (b) All fines have been paid.

246 (c) Two years have elapsed from the date of the adverse
247 action.

248 (8) Once the requirements of subsection (7) have been met,
249 the licensee must meet the requirements of subsection (1) to
250 obtain a compact privilege in a remote state.

251
252 ARTICLE V

253 ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

254
255 A licensee who is active duty military or is the spouse of
256 an individual who is active duty military may choose any of the
257 following locations to designate his or her home state:

258 (1) Home of record.

259 (2) Permanent change of station location.

260 (3) State of current residence, if it is different from
261 the home of record or permanent change of station location.

262
263 ARTICLE VI

264 ADVERSE ACTIONS

265
266 (1) A home state has exclusive power to impose adverse
267 action against a license issued by the home state.

268 (2) A home state may take adverse action based on the
269 investigative information of a remote state, so long as the home
270 state follows its own procedures for imposing adverse action.

271 (3) The compact does not override a member state's
272 decision that participation in an alternative program may be
273 used in lieu of adverse action and that such participation
274 remains nonpublic if required by the member state's laws. Member
275 states must require licensees who enter any alternative programs

276 in lieu of discipline to agree not to practice in any other
277 member state during the term of the alternative program without
278 prior authorization from such other member state.

279 (4) A member state may investigate actual or alleged
280 violations of the laws and rules for the practice of
281 occupational therapy committed in any other member state by an
282 occupational therapist or an occupational therapy assistant
283 practicing under the compact who holds a license or compact
284 privilege in such other member state.

285 (5) A remote state may do any of the following:

286 (a) Take adverse actions as provided in subsection (4) of
287 Article IV against a licensee's compact privilege in the state.

288 (b) Issue subpoenas for both hearings and investigations
289 which require the attendance and testimony of witnesses and the
290 production of evidence. Subpoenas issued by an occupational
291 therapy licensing board in a member state for the attendance and
292 testimony of witnesses or for the production of evidence from
293 another member state must be enforced in the latter state by any
294 court of competent jurisdiction, according to the practice and
295 procedure of that court applicable to subpoenas issued in
296 proceedings pending before it. The issuing authority shall pay
297 any witness fees, travel expenses, mileage, and other fees
298 required by the service laws of the state where the witnesses or
299 evidence is located.

300 (c) If otherwise permitted by state law, recover from the

301 licensee the costs of investigations and disposition of cases
 302 resulting from any adverse action taken against that licensee.

303 (6) (a) In addition to the authority granted to a member
 304 state by its respective occupational therapy practice act or
 305 other applicable state law, a member state may participate with
 306 other member state in joint investigations of licensees.

307 (b) Member states shall share any investigative,
 308 litigation, or compliance materials in furtherance of any joint
 309 or individual investigation initiated under the compact.

310
 311 ARTICLE VII

312 ESTABLISHMENT OF THE OCCUPATIONAL THERAPY

313 COMPACT COMMISSION

314
 315 (1) COMMISSION CREATED.—The member states hereby create
 316 and establish a joint public agency known as the Occupational
 317 Therapy Compact Commission:

318 (a) The commission is an instrumentality of the member
 319 states.

320 (b) Venue is proper, and judicial proceedings by or
 321 against the commission must be brought solely and exclusively,
 322 in a court of competent jurisdiction where the principal office
 323 of the commission is located. The commission may waive venue and
 324 jurisdictional defenses to the extent it adopts or consents to
 325 participate in alternative dispute resolution proceedings.

326 (c) The compact may not be construed to be a waiver of
327 sovereign immunity.

328 (2) MEMBERSHIP, VOTING, AND MEETINGS.—

329 (a) Each member state has and is limited to one delegate
330 selected by that member state's occupational therapy licensing
331 board to serve on the commission. The delegate must be a current
332 member of the occupational therapy licensing board who is an
333 occupational therapist, an occupational therapy assistant, a
334 public member, or the board administrator.

335 (b) A delegate may be removed or suspended from office as
336 provided by the law of the state from which the delegate is
337 appointed. Any vacancy occurring on the commission must be
338 filled by the occupational therapy licensing board of the member
339 state for which the vacancy exists.

340 (c) Each delegate is entitled to one vote with regard to
341 the adoption of rules and bylaws and shall otherwise have an
342 opportunity to participate in the business and affairs of the
343 commission.

344 (d) A delegate shall vote in person or by such other means
345 as provided in the bylaws. The bylaws may provide for delegates'
346 participation in meetings by telephone or other means of
347 communication.

348 (e) The commission shall meet at least once during each
349 calendar year. Additional meetings may be held as provided in
350 the bylaws.

351 (f) All meetings must be open to the public, and public
352 notice of meetings must be given in the same manner as required
353 under the rulemaking provisions in Article IX.

354 (g) If a meeting, or portion of a meeting, is closed
355 pursuant to s. 486.227, the commission's legal counsel or
356 designee must certify that the meeting may be closed and must
357 reference each relevant exempting provision.

358 (h) The commission shall keep minutes that fully and
359 clearly describe all matters discussed in a meeting and shall
360 provide a full and accurate summary of actions taken and the
361 reasons therefor, including a description of the views
362 expressed. All documents considered in connection with an action
363 must be identified in the minutes. All minutes and documents of
364 a closed meeting must remain under seal, subject to release only
365 by a majority vote of the commission or order of a court of
366 competent jurisdiction.

367 (3) DUTIES.—The commission shall do all of the following:

368 (a) Establish the fiscal year of the commission.

369 (b) Establish bylaws.

370 (c) Maintain its financial records in accordance with the
371 bylaws.

372 (d) Meet and take such actions as are consistent with the
373 provisions of the compact and the bylaws.

374 (4) POWERS.—The commission may do any of the following:

375 (a) Adopt uniform rules to facilitate and coordinate

376 implementation and administration of the compact. The rules have
377 the force and effect of law and are binding in all member
378 states.

379 (b) Bring and prosecute legal proceedings or actions in
380 the name of the commission, provided that the standing of any
381 state occupational therapy licensing board to sue or be sued
382 under applicable law is not affected.

383 (c) Purchase and maintain insurance and bonds.

384 (d) Borrow, accept, or contract for services of personnel,
385 including, but not limited to, employees of a member state.

386 (e) Hire employees and elect or appoint officers; fix the
387 compensation of, define the duties of, and grant appropriate
388 authority to such individuals to carry out the purposes of the
389 compact; and establish the commission's personnel policies and
390 programs relating to conflicts of interest, qualifications of
391 personnel, and other related personnel matters.

392 (f) Accept any appropriate donations and grants of money,
393 equipment, supplies, materials, and services and receive, use,
394 and dispose of the same, provided that at all times the
395 commission avoids any appearance of impropriety or conflict of
396 interest.

397 (g) Lease, purchase, accept appropriate gifts or donations
398 of, or otherwise own, hold, improve, or use any property, real,
399 personal, or mixed, provided that at all times the commission
400 avoids any appearance of impropriety or conflict of interest.

401 (h) Sell, convey, mortgage, pledge, lease, exchange,
402 abandon, or otherwise dispose of any property, real, personal,
403 or mixed.

404 (i) Establish a budget and make expenditures.

405 (j) Borrow money.

406 (k) Appoint committees, including standing committees
407 composed of members, state regulators, state legislators or
408 their representatives, and consumer representatives, and such
409 other interested persons as may be designated in the compact and
410 the bylaws.

411 (l) Provide information to, receive information from, and
412 cooperate with law enforcement agencies.

413 (m) Establish and elect an executive board.

414 (n) Perform such other functions as may be necessary or
415 appropriate to achieve the purposes of the compact consistent
416 with the state regulation of occupational therapy licensure and
417 practice.

418 (5) THE EXECUTIVE BOARD.—

419 (a) The executive board may act on behalf of the
420 commission according to the terms of the compact.

421 (b) The executive board shall be composed of the following
422 nine members:

423 1. Seven voting members who are elected by the commission
424 from the current membership of the commission.

425 2. One ex officio, nonvoting member from the recognized

426 National Occupational Therapy Professional Association.

427 3. One ex officio, nonvoting member from the recognized
428 membership organization of the occupational therapy licensing
429 boards.

430 (c) The ex officio members shall be selected by their
431 respective organizations.

432 (d) The commission may remove any member of the executive
433 board as provided in its bylaws.

434 (e) The executive board shall meet at least annually.

435 (f) The executive board shall do all of the following:

436 1. Recommend to the entire commission changes to the rules
437 or bylaws, compact legislation, fees paid by compact member
438 states, such as annual dues, and any commission compact fee
439 charged to licensees for the compact privilege.

440 2. Ensure compact administration services are
441 appropriately provided, contractually or otherwise.

442 3. Prepare and recommend the budget.

443 4. Maintain financial records on behalf of the commission.

444 5. Monitor compact compliance of member states and provide
445 compliance reports to the commission.

446 6. Establish additional committees as necessary.

447 7. Perform other duties as provided in the rules or
448 bylaws.

449 (6) FINANCING OF THE COMMISSION.—

450 (a) The commission shall pay, or provide for the payment

451 of, the reasonable expenses of its establishment, organization,
452 and ongoing activities.

453 (b) The commission may accept any appropriate revenue
454 sources, donations, and grants of money, equipment, supplies,
455 materials, and services.

456 (c) The commission may levy and collect an annual
457 assessment from each member state or impose fees on other
458 parties to cover the cost of the operations and activities of
459 the commission and its staff. Such assessments and fees must
460 total to an amount sufficient to cover the commission's annual
461 budget as approved each year for which revenue is not provided
462 by other sources. The aggregate annual assessment amount must be
463 allocated based upon a formula to be determined by the
464 commission, which shall adopt a rule binding upon all member
465 states.

466 (d) The commission may not incur obligations of any kind
467 before securing the funds adequate to meet such obligations or
468 pledge the credit of any of the member states, except by and
469 with the authority of the member state.

470 (e) The commission shall keep accurate accounts of all
471 receipts and disbursements. The receipts and disbursements of
472 the commission are subject to the audit and accounting
473 procedures established under its bylaws. However, all receipts
474 and disbursements of funds handled by the commission must be
475 audited yearly by a certified or licensed public accountant, and

476 the report of the audit must be included in and become part of
 477 the annual report of the commission.

478 (7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

479 (a) The members, officers, executive director, employees,
 480 and representatives of the commission are immune from suit and
 481 liability, whether personally or in their official capacity, for
 482 any claim for damage to or loss of property or personal injury
 483 or other civil liability caused by or arising out of any actual
 484 or alleged act, error, or omission that occurred, or that the
 485 person against whom the claim is made had a reasonable basis for
 486 believing occurred, within the scope of commission employment,
 487 duties, or responsibilities. However, this paragraph may not be
 488 construed to protect any such person from suit or liability for
 489 any damage, loss, injury, or liability caused by the
 490 intentional, willful, or wanton misconduct of that person.

491 (b) The commission shall defend any member, officer,
 492 executive director, employee, or representative of the
 493 commission in any civil action seeking to impose liability
 494 arising out of any actual or alleged act, error, or omission
 495 that occurred within the scope of commission employment, duties,
 496 or responsibilities, or that the person against whom the claim
 497 is made had a reasonable basis for believing occurred within the
 498 scope of commission employment, duties, or responsibilities.
 499 However, this subsection may not be construed to prohibit any
 500 member, officer, executive director, employee, or representative

501 of the commission from retaining his or her own counsel or to
502 require the commission to defend such person if the actual or
503 alleged act, error, or omission resulted from that person's
504 intentional, willful, or wanton misconduct.

505 (c) The commission shall indemnify and hold harmless any
506 member, officer, executive director, employee, or representative
507 of the commission for the amount of any settlement or judgment
508 obtained against that person arising out of any actual or
509 alleged act, error, or omission that occurred within the scope
510 of commission employment, duties, or responsibilities, or that
511 such person had a reasonable basis for believing occurred within
512 the scope of commission employment, duties, or responsibilities,
513 provided that the actual or alleged act, error, or omission did
514 not result from the intentional, willful, or wanton misconduct
515 of that person.

516
517 ARTICLE VIII

518 DATA SYSTEM

519
520 (1) The commission shall provide for the development,
521 maintenance, and use of a coordinated database and reporting
522 system containing licensure, adverse action, and investigative
523 information on all licensed individuals in member states.

524 (2) Notwithstanding any other provision of state law to
525 the contrary, a member state shall submit a uniform data set to

526 the data system on all individuals to whom the compact is
527 applicable as required by the rules of the commission, which
528 data set must include all of the following:

529 (a) Identifying information.

530 (b) Licensure data.

531 (c) adverse actions against a license or compact
532 privilege.

533 (d) Nonconfidential information related to alternative
534 program participation.

535 (e) Any denial of application for licensure and the reason
536 for such denial.

537 (f) Other information that may facilitate the
538 administration of the compact, as determined by the rules of the
539 commission.

540 (g) Other information that may facilitate the
541 administration of the compact, as determined by commission
542 rules.

543 (3) Investigative information in the system pertaining to
544 a licensee in any member state must be available only to other
545 member states.

546 (4) The commission shall promptly notify all member states
547 of any adverse action taken against a licensee or an individual
548 applying for a license in a member state. Adverse action
549 information pertaining to a licensee in any member state must be
550 available to all other member state.

551 (5) Member states submitting information to the data
552 system may designate information that may not be shared with the
553 public without the express permission of the contributing state.

554 (6) Any information submitted to the data system which is
555 subsequently required to be expunged by the laws of the member
556 state contributing the information must be removed from the data
557 system.

558
559 ARTICLE IX

560 RULEMAKING

561
562 (1) The commission shall exercise its rulemaking powers
563 pursuant to this article and the rules adopted thereunder. Rules
564 and amendments become binding as of the date specified in each
565 rule or amendment.

566 (2) If a majority of the legislatures of the member states
567 reject a rule by enactment of a statute or resolution in the
568 same manner used to adopt the compact within 4 years after the
569 date of adoption of the rule, such rule does not have further
570 force and effect in any member state.

571 (3) Rules or amendments to the rules must be adopted at a
572 regular or special meeting of the commission.

573 (4) Before adoption of a final rule by the commission, and
574 at least 30 days before the meeting at which the rule will be
575 considered and voted upon, the commission must file a notice of

576 proposed rulemaking on all of the following:

577 (a) The website of the commission or another publicly
578 accessible platform.

579 (b) The website of each member state occupational therapy
580 licensing board or another publicly accessible platform or the
581 publication in which each state would otherwise publish proposed
582 rules.

583 (5) The notice of proposed rulemaking must include all of
584 the following:

585 (a) The proposed date, time, and location of the meeting
586 in which the rule or amendment will be considered and voted
587 upon.

588 (b) The text of the proposed rule or amendment and the
589 reason for the proposed rule.

590 (c) A request for comments on the proposed rule or
591 amendment from any interested person.

592 (d) The manner in which interested persons may submit
593 notice to the commission of their intention to attend the public
594 hearing and any written comments.

595 (6) Before adoption of a proposed rule or amendment, the
596 commission must allow persons to submit written data, facts,
597 opinions, and arguments, which must be made available to the
598 public.

599 (7) The commission must grant an opportunity for a public
600 hearing before it adopts a rule or an amendment if a hearing is

601 requested by any of the following:

602 (a) At least 25 persons.

603 (b) A state or federal governmental subdivision or agency.

604 (c) An association having at least 25 members.

605 (8) If a scheduled public hearing is held on the proposed
606 rule or amendment, the commission must publish the date, time,
607 and location of hearing. If the hearing is held through
608 electronic means, the commission must publish the mechanism for
609 access to the electronic hearing.

610 (a) All persons wishing to be heard at the hearing must
611 notify the executive director of the commission or another
612 designated member in writing of their desire to appear and
613 testify at the hearing at least 5 business days before the
614 scheduled date of the hearing.

615 (b) Hearings must be conducted in a manner providing each
616 person who wishes to comment a fair and reasonable opportunity
617 to comment orally or in writing.

618 (c) All hearings will be recorded. A copy of the recording
619 must be made available on request.

620 (d) This article may not be construed to require a
621 separate hearing on each rule. Rules may be grouped for the
622 convenience of the commission at hearings required by this
623 article.

624 (9) Following the scheduled hearing date, or by the close
625 of business on the scheduled hearing date if the hearing was not

626 held, the commission shall consider all written and oral
627 comments received.

628 (10) If no written notice of intent to attend the public
629 hearing by interested parties is received, the commission may
630 proceed with adoption of the proposed rule without a public
631 hearing.

632 (11) The commission shall, by majority vote of all
633 members, take final action on the proposed rule and shall
634 determine the effective date of the rule, if any, based on the
635 rulemaking record and the full text of the rule.

636 (12) Upon determination that an emergency exists, the
637 commission may consider and adopt an emergency rule without
638 prior notice, opportunity for comment, or hearing, provided that
639 the usual rulemaking procedures provided in the compact and in
640 this article are retroactively applied to the rule as soon as
641 reasonably possible, in no event later than 90 days after the
642 effective date of the rule. For the purposes of this subsection,
643 an "emergency rule" means a rule that must be adopted
644 immediately in order to do any of the following:

645 (a) Meet an imminent threat to public health, safety, or
646 welfare.

647 (b) Prevent a loss of commission or member state funds.

648 (c) Meet a deadline for the adoption of an administrative
649 rule established by federal law or rule.

650 (d) Protect public health and safety.

651 (13) The commission or an authorized committee of the
652 commission may direct revisions to a previously adopted rule or
653 amendment for purposes of correcting typographical errors,
654 errors in format, errors in consistency, or grammatical errors.
655 Public notice of any revisions must be posted on the website of
656 the commission. The revision is subject to challenge by any
657 person for a period of 30 days after posting. The revision may
658 be challenged only on grounds that the revision results in a
659 material change to a rule. A challenge must be made in writing
660 and delivered to the chair of the commission before the end of
661 the notice period. If a challenge is not made, the revision
662 takes effect without further action. If the revision is
663 challenged, the revision may not take effect without the
664 approval of the commission.

665
666 ARTICLE X

667 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

668
669 (1) OVERSIGHT.—

670 (a) The executive, legislative, and judicial branches of
671 state government in each member state shall enforce the compact
672 and take all actions necessary and appropriate to carry out the
673 compact's purposes and intent. The provisions of the compact and
674 the rules adopted pursuant thereto shall have standing as
675 statutory law.

676 (b) All courts shall take judicial notice of the compact
677 and the rules in any judicial or administrative proceeding in a
678 member state pertaining to the subject matter of the compact
679 which may affect the powers, responsibilities, or actions of the
680 commission.

681 (c) The commission is entitled to receive service of
682 process in any such proceeding and has standing to intervene in
683 such a proceeding for all purposes. Failure to provide service
684 of process to the commission renders a judgment or an order void
685 as to the commission, the compact, or the adopted rules.

686 (2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.-

687 (a) If the commission determines that a member state has
688 defaulted in the performance of its obligations or
689 responsibilities under the compact or the adopted rules, the
690 commission must do all of the following:

691 1. Provide written notice to the defaulting state and other
692 member states of the nature of the default, the proposed means
693 of curing the default, and any other action to be taken by the
694 commission.

695 2. Provide remedial training and specific technical
696 assistance regarding the default.

697 (b) If a state in default fails to cure the default, the
698 defaulting state may be terminated from the compact upon an
699 affirmative vote of a majority of the member states, and all
700 rights, privileges, and benefits conferred by the compact may be

701 terminated on the effective date of termination. A cure of the
702 default does not relieve the offending state of obligations or
703 liabilities incurred during the period of default.

704 (c) Termination of membership in the compact may be
705 imposed only after all other means of securing compliance have
706 been exhausted. The commission shall give notice of intent to
707 suspend or terminate a defaulting member state to the governor
708 and majority and minority leaders of the defaulting state's
709 legislature, and to each of the member states.

710 (d) A state that has been terminated from the compact is
711 responsible for all assessments, obligations, and liabilities
712 incurred through the effective date of termination, including
713 obligations that extend beyond the effective date of
714 termination.

715 (e) The commission does not bear any costs related to a
716 state that is found to be in default or that has been terminated
717 from the compact, unless agreed upon in writing between the
718 commission and the defaulting state.

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

725 (3) DISPUTE RESOLUTION.—

726 (a) Upon request by a member state, the commission must
 727 attempt to resolve disputes related to the compact which arise
 728 among member states and between member and nonmember states.

729 (b) The commission shall adopt a rule providing for both
 730 mediation and binding dispute resolution for disputes as
 731 appropriate.

732 (4) ENFORCEMENT.—

733 (a) The commission, in the reasonable exercise of its
 734 discretion, shall enforce the compact and the commission's
 735 rules.

736 (b) By majority vote, the commission may initiate legal
 737 action in the United states District Court for the District of
 738 Columbia or the federal district where the commission has its
 739 principal offices against a member state in default to enforce
 740 compliance with the provisions of the compact and its adopted
 741 rules and bylaws. The relief sought may include both injunctive
 742 relief and damages. In the event judicial enforcement is
 743 necessary, the prevailing member shall be awarded all costs of
 744 such litigation, including reasonable attorney's fees.

745 (c) The remedies under this article are not the exclusive
 746 remedies of the commission. The commission may pursue any other
 747 remedies available under federal or state law.

748
 749 ARTICLE XI

750 DATE OF IMPLEMENTATION OF THE COMPACT AND ASSOCIATED RULES;

WITHDRAWAL; AND AMENDMENTS

751
752
753 (1) The compact becomes effective on the date that the
754 compact statute is enacted into law in the tenth member state.
755 The provisions that become effective at that time are limited to
756 the powers granted to the commission relating to assembly and
757 the adoption of rules. Thereafter, the commission shall meet and
758 exercise rulemaking powers necessary for the implementation and
759 administration of the compact.

760 (2) Any state that joins the compact subsequent to the
761 commission's initial adoption of the rules is subject to the
762 rules as they exist on the date that the compact becomes law in
763 that state. Any rule that has been previously adopted by the
764 commission has the full force and effect of law on the day the
765 compact becomes law in that state.

766 (3) Any member state may withdraw from the compact by
767 enacting a statute repealing the same.

768 (a) A member state's withdrawal does not take effect until
769 6 months after enactment of the repealing statute.

770 (b) Withdrawal does not affect the continuing requirement
771 of the withdrawing state's occupational therapy licensing board
772 to comply with the investigative and adverse action reporting
773 requirements of this act before the effective date of
774 withdrawal.

775 (4) The compact may not be construed to invalidate or

776 prevent any occupational therapy licensure agreement or other
777 cooperative arrangement between a member state and a nonmember
778 state which does not conflict with the provisions of the
779 compact.

780 (5) The compact may be amended by the member states. An
781 amendment to the compact does not become effective and binding
782 upon any member state until it is enacted into the laws of all
783 member states.

784
785 ARTICLE XII

786 CONSTRUCTION AND SEVERABILITY

787
788 The compact must be liberally construed so as to carry out the
789 purposes thereof. The provisions of the compact are severable,
790 and if any phrase, clause, sentence, or provision of the compact
791 is declared to be contrary to the constitution of any member
792 state or of the United States or the applicability thereof to
793 any government, agency, person, or circumstance is held invalid,
794 the validity of the remainder of the compact and the
795 applicability thereof to any government, agency, person, or
796 circumstance is not affected thereby. If the compact is held
797 contrary to the constitution of any member state, the compact
798 remains in full force and effect as to the remaining member
799 states and in full force and effect as to the member state
800 affected as to all severable matters.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

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

(2) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(3) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(4) Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(5) All agreements between the commission and the member states are binding in accordance with their terms.

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

Section 2. Paragraph (b) of subsection (10) of section 456.073, Florida Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the

826 department.

827 (10)

828 (b) The department shall report any significant
829 investigation information relating to a nurse holding a
830 multistate license to the coordinated licensure information
831 system pursuant to s. 464.0095; any investigative information
832 relating to an audiologist or a speech-language pathologist
833 holding a compact privilege under the Audiology and Speech-
834 Language Pathology Interstate Compact to the data system
835 pursuant to s. 468.1335; any investigative information relating
836 to a physical therapist or physical therapist assistant holding
837 a compact privilege under the Physical Therapy Licensure Compact
838 to the data system pursuant to s. 486.112; any significant
839 investigatory information relating to a psychologist practicing
840 under the Psychology Interjurisdictional Compact to the
841 coordinated licensure information system pursuant to s.
842 490.0075; any investigative information relating to an
843 occupational therapist or occupational therapy assistant holding
844 a compact privilege under the Occupational Therapy Licensure
845 Compact to the data system under 468.226; and any significant
846 investigatory information relating to a health care practitioner
847 practicing under the Professional Counselors Licensure Compact
848 to the data system pursuant to s. 491.017.

849 **Section 3. Subsection (5) of section 456.076, Florida**
850 **Statutes, is amended to read:**

851 456.076 Impaired practitioner programs.—
852 (5) A consultant shall enter into a participant contract
853 with an impaired practitioner and shall establish the terms of
854 monitoring and shall include the terms in a participant
855 contract. In establishing the terms of monitoring, the
856 consultant may consider the recommendations of one or more
857 approved evaluators, treatment programs, or treatment providers.
858 A consultant may modify the terms of monitoring if the
859 consultant concludes, through the course of monitoring, that
860 extended, additional, or amended terms of monitoring are
861 required for the protection of the health, safety, and welfare
862 of the public. If the impaired practitioner is an audiologist or
863 a speech-language pathologist practicing under the Audiology and
864 Speech-Language Pathology Interstate Compact pursuant to s.
865 468.1335, a physical therapist or physical therapist assistant
866 practicing under the Physical Therapy Licensure Compact pursuant
867 to s. 486.112, a psychologist practicing under the Psychology
868 Interjurisdictional Compact pursuant to s. 490.0075, an
869 occupational therapist or occupational therapy assistant holding
870 a compact privilege under the Occupational Therapy Licensure
871 Compact to the data system under 468.226, or a health care
872 practitioner practicing under the Professional Counselors
873 Licensure Compact pursuant to s. 491.017, the terms of the
874 monitoring contract must include the impaired practitioner's
875 withdrawal from all practice under the compact unless authorized

876 | by a member state.

877 | **Section 4. Subsection (6) is added to section 468.205,**
 878 | **Florida Statutes, to read:**

879 | 468.205 Board of Occupational Therapy Practice.—

880 | (6) The board shall appoint an individual to serve as the
 881 | state's delegate on the Occupational Therapy Compact Commission
 882 | under s. 468.226.

883 | **Section 5. Subsection (6) is added to section 468.209,**
 884 | **Florida Statutes, to read:**

885 | 468.209 Requirements for licensure.—

886 | (6) A person licensed as an occupational therapist in
 887 | another state who is practicing under the Occupational Therapy
 888 | Licensure Compact under 468.226, and only within the scope
 889 | provided therein, is exempt from the licensure requirements of
 890 | this section.

891 | **Section 6. Subsections (1) and (2) of section 468.1755,**
 892 | **Florida Statutes, are amended to read:**

893 | 468.1755 Disciplinary proceedings.—

894 | (1) The following acts constitute grounds for denial of a
 895 | license or disciplinary action, as specified in s. 456.072(2) or
 896 | s. 468.226:

897 | (a) Violation of any provision of s. 456.072(1) or s.
 898 | 468.1745(1).

899 | (b) Attempting to procure a license to practice nursing
 900 | home administration by bribery, by fraudulent misrepresentation,

901 or through an error of the department or the board.

902 (c) Having a license to practice nursing home
 903 administration revoked, suspended, or otherwise acted against,
 904 including the denial of licensure, by the licensing authority of
 905 another state, territory, or country.

906 (d) Being convicted or found guilty, regardless of
 907 adjudication, of a crime in any jurisdiction which relates to
 908 the practice of nursing home administration or the ability to
 909 practice nursing home administration. Any plea of nolo
 910 contendere shall be considered a conviction for purposes of this
 911 part.

912 (e) Making or filing a report or record which the licensee
 913 knows to be false, intentionally failing to file a report or
 914 record required by state or federal law, willfully impeding or
 915 obstructing such filing, or inducing another person to impede or
 916 obstruct such filing. Such reports or records shall include only
 917 those which are signed in the capacity of a licensed nursing
 918 home administrator.

919 (f) Authorizing the discharge or transfer of a resident
 920 for a reason other than those provided in ss. 400.022 and
 921 400.0255.

922 (g) Advertising goods or services in a manner which is
 923 fraudulent, false, deceptive, or misleading in form or content.

924 (h) Fraud or deceit, negligence, incompetence, or
 925 misconduct in the practice of nursing home administration.

926 (i) Violation of a lawful order of the board or department
927 previously entered in a disciplinary hearing or failing to
928 comply with a lawfully issued subpoena of the board or
929 department.

930 (j) Practicing with a revoked, suspended, inactive, or
931 delinquent license.

932 (k) Repeatedly acting in a manner inconsistent with the
933 health, safety, or welfare of the patients of the facility in
934 which he or she is the administrator.

935 (l) Being unable to practice nursing home administration
936 with reasonable skill and safety to patients by reason of
937 illness, drunkenness, use of drugs, narcotics, chemicals, or any
938 other material or substance or as a result of any mental or
939 physical condition. In enforcing this paragraph, upon a finding
940 of the State Surgeon General or his or her designee that
941 probable cause exists to believe that the licensee is unable to
942 serve as a nursing home administrator due to the reasons stated
943 in this paragraph, the department shall have the authority to
944 issue an order to compel the licensee to submit to a mental or
945 physical examination by a physician designated by the
946 department. If the licensee refuses to comply with such order,
947 the department's order directing such examination may be
948 enforced by filing a petition for enforcement in the circuit
949 court where the licensee resides or serves as a nursing home
950 administrator. The licensee against whom the petition is filed

951 shall not be named or identified by initials in any public court
952 records or documents, and the proceedings shall be closed to the
953 public. The department shall be entitled to the summary
954 procedure provided in s. 51.011. A licensee affected under this
955 paragraph shall have the opportunity, at reasonable intervals,
956 to demonstrate that he or she can resume the competent practice
957 of nursing home administration with reasonable skill and safety
958 to patients.

959 (m) Willfully or repeatedly violating any of the
960 provisions of the law, code, or rules of the licensing or
961 supervising authority or agency of the state or political
962 subdivision thereof having jurisdiction of the operation and
963 licensing of nursing homes.

964 (n) Paying, giving, causing to be paid or given, or
965 offering to pay or to give to any person a commission or other
966 valuable consideration for the solicitation or procurement,
967 either directly or indirectly, of nursing home usage.

968 (o) Willfully permitting unauthorized disclosure of
969 information relating to a patient or his or her records.

970 (p) Discriminating with respect to patients, employees, or
971 staff on account of race, religion, color, sex, or national
972 origin.

973 (q) Failing to implement an ongoing quality assurance
974 program directed by an interdisciplinary team that meets at
975 least every other month.

976 (r) Violating any provision of this chapter or chapter
977 456, or any rules adopted pursuant thereto.

978 (2) (a) The board may enter an order denying licensure or
979 imposing any of the penalties in s. 456.072(2) against any
980 applicant for licensure or licensee who is found guilty of
981 violating any provision of subsection (1) of this section or who
982 is found guilty of violating any provision of s. 456.072(1).

983 (b) The board may take adverse action against the compact
984 privilege of an occupational therapist or an occupational
985 therapist assistant under the Occupational Therapy Licensure
986 Compact, s. 468.226, and may impose any of the penalties in s.
987 456.072(2) if an occupational therapist or occupational
988 therapist assistant commits an act specified in subsection (1)
989 or s. 456.072(1).

990 **Section 7. Paragraph (m) is added to subsection (10) of**
991 **section 768.28, Florida Statutes, is to read:**

992 768.28 Waiver of sovereign immunity in tort actions;
993 recovery limits; civil liability for damages caused during a
994 riot; limitation on attorney fees; statute of limitations;
995 exclusions; indemnification; risk management programs.—

996 (10)

997 (m) For purposes of this section, the individual appointed
998 under s. 468.226 as the state's delegate on the Occupational
999 Therapy Compact Commission, when serving in that capacity under
1000 s. 468.226 and any administrator, officer, executive director,

1001 employee, or representative of the Occupational Therapy Compact
1002 Commission, when acting within the scope of his or her
1003 employment, duties, or responsibilities in this state, is
1004 considered an agent of the state. The commission shall pay any
1005 claims or judgments pursuant to this section and may maintain
1006 insurance coverage to pay any such claims or judgments.

1007 **Section 8.** This act shall take effect July 1, 2025.