

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
8 criteria that an occupational therapist or
9 occupational therapy assistant must satisfy to
10 practice under the compact; providing requirements for
11 renewal of an equivalent license in a member state;
12 providing that a licensee may hold a home state
13 license in only one member state at a time; providing
14 requirements and procedures for changing a home state
15 license designation; authorizing an active military
16 member and his or her spouse to be deemed as having a
17 home state license under certain circumstances;
18 requiring member states to report adverse actions
19 taken against the license of an occupational therapist
20 or occupational therapy assistant by other member
21 states; providing that a licensee's compact privilege
22 must be deactivated in all member states for the
23 duration of an encumbrance imposed by the licensee's
24 home state; requiring all home state disciplinary
25 orders imposing adverse actions to include a statement

26 | of deactivation of compact privilege; providing for
27 | prompt notice to the data system and the licensee's
28 | home state when action is taken against a licensee;
29 | establishing the Occupational Therapy Compact
30 | Commission; providing jurisdiction and venue for court
31 | proceedings; providing commission membership, duties,
32 | and powers; requiring member states to participate in
33 | the exchange of specified information; authorizing the
34 | commission to adopt rules and bylaws; authorizing the
35 | commission to convene in closed, nonpublic meetings
36 | under certain circumstances; providing for the
37 | development, maintenance, and use of a coordinated
38 | database and reporting system; requiring member states
39 | to submit specified information to the data system;
40 | providing requirements for the information in the data
41 | system; providing rulemaking procedures; providing for
42 | state enforcement of the compact; providing for the
43 | termination of compact membership; providing
44 | procedures for the resolution of certain disputes;
45 | providing compact amendment procedures; providing
46 | construction and severability and binding effect of
47 | the compact; amending ss. 456.073, 456.076, 468.205,
48 | 468.209, 468.217, and 768.28, F.S.; conforming
49 | provisions to changes made by the act; providing an
50 | effective date.

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

Section 1. Section 468.226, Florida Statutes, is created to read:

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

ARTICLE I

PURPOSE

(1) 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 member state in which the client is located at the time of the client's encounter. The compact preserves the regulatory authority of member states to protect public health and safety through their current systems of state licensure.

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

(a) Increase public access to occupational therapy

76 | services by providing for the mutual recognition of other member
 77 | state licenses.

78 | (b) Enhance the states' ability to protect the public's
 79 | health and safety.

80 | (c) Encourage the cooperation of member states in
 81 | regulating multistate occupational therapy practice.

82 | (d) Support spouses of relocating military members.

83 | (e) Enhance the exchange of licensure, investigative, and
 84 | disciplinary information between member states.

85 | (f) Allow a remote state to hold a provider of services
 86 | with a compact privilege in that state accountable to that
 87 | state's practice standards.

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

91 | ARTICLE II

92 | DEFINITIONS

94 | As used in the compact, and except as otherwise provided,
 95 | the term:

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

101 (2) "Adverse action" means any administrative, civil,
102 equitable, or criminal action permitted by the member state's
103 laws which is imposed by an occupational therapy licensing board
104 or other authority against an occupational therapist or
105 occupational therapy assistant, including actions against an
106 individual's license or compact privilege, such as censure,
107 revocation, suspension, probation, monitoring of the licensee,
108 or restriction on the licensee's practice.

109 (3) "Alternative program" means a nondisciplinary
110 monitoring process approved by a state's occupational therapy
111 licensing board.

112 (4) "Compact privilege" means the authorization, which is
113 equivalent to a license, granted by a remote state to allow a
114 licensee from another member state with an equivalent license to
115 practice as an occupational therapist or occupational therapy
116 assistant in a remote state under its laws and rules. The
117 practice of occupational therapy occurs in the member state in
118 which the client is located at the time of the client's
119 encounter.

120 (5) "Continuing competence" or "continuing education"
121 means a requirement, as a condition of license renewal, to
122 provide evidence of participation in, and completion of,
123 educational and professional activities relevant to practice or
124 area of work.

125 (6) "Current significant investigative information" means

126 investigative information that a licensing board, after an
127 inquiry or investigation that includes notification and an
128 opportunity for the occupational therapist or occupational
129 therapy assistant to respond, if required by state law, has
130 reason to believe is not groundless and, if proven, would
131 indicate more than a minor infraction.

132 (7) "Data system" means a repository of information about
133 licensees, including, but not limited to, license status,
134 investigative information, compact privileges, and adverse
135 actions.

136 (8) "Encumbered license" means a license in which an
137 adverse action restricts the practice of occupational therapy by
138 the licensee or said adverse action has been reported to the
139 National Practitioner Data Bank.

140 (9) "Executive committee" means a group of directors
141 elected or appointed to act on behalf of and within the powers
142 granted to them by the commission.

143 (10) "Home state" means the member state that is the
144 licensee's primary state of residence.

145 (11) "Impaired practitioner" means an individual whose
146 professional practice is adversely affected by substance abuse,
147 addiction, or other health-related conditions.

148 (12) "Investigative information" means information,
149 records, and documents received or generated by an occupational
150 therapy licensing board pursuant to an investigation.

151 (13) "Jurisprudence requirement" means the assessment of
152 an individual's knowledge of the laws and rules governing the
153 practice of occupational therapy in a state.

154 (14) "Licensee" means an individual who currently holds an
155 authorization from a state to practice as an occupational
156 therapist or occupational therapy assistant.

157 (15) "Member state" means a state that has enacted the
158 compact.

159 (16) "Occupational therapist" means an individual who is
160 licensed by a state to practice occupational therapy.

161 (17) "Occupational therapy," "occupational therapy
162 practice," or "the practice of occupational therapy" means the
163 care and services provided by an occupational therapist or
164 occupational therapy assistant as set forth by the member
165 state's laws and regulations.

166 (18) "Occupational therapy assistant" means an individual
167 who is licensed by a state to assist in the practice of
168 occupational therapy.

169 (19) "Occupational Therapy Compact Commission" or
170 "commission" means the national administrative body whose
171 membership consists of all states that have enacted the compact.

172 (20) "Occupational therapy licensing board" or "licensing
173 board" means the agency of a state that is authorized to license
174 and regulate occupational therapists and occupational therapy
175 assistants.

176 (21) "Primary state of residence" means the home state in
177 which an occupational therapist or occupational therapy
178 assistant who is not active duty military declares a primary
179 residence for legal purposes as verified by the licensee's
180 driver's license, federal income tax return, lease, deed,
181 mortgage, voter registration, or other verifying documentation
182 as defined by the rules of the commission.

183 (22) "Remote state" means a member state other than the
184 home state in which a licensee is exercising or seeking to
185 exercise the compact privilege.

186 (23) "Rule" means a regulation adopted by the commission
187 that has the force of law.

188 (24) "Single-state license" means an occupational
189 therapist or occupational therapy assistant license issued by a
190 member state that authorizes practice only within the issuing
191 state and does not include a compact privilege in any other
192 member state.

193 (25) "State" means any state, commonwealth, district, or
194 territory of the United States that regulates the practice of
195 occupational therapy.

196 (26) "Telehealth" means the application of
197 telecommunications technology to deliver occupational therapy
198 services for assessment, intervention, or consultation.

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ARTICLE III

STATE PARTICIPATION IN THE COMPACT

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203 (1) To participate in the compact, a member state must do
204 all of the following:

205 (a) License occupational therapists and occupational
206 therapy assistants.

207 (b) Participate fully in the data system, including, but
208 not limited to, using the commission's unique identifier, as
209 defined by the rules of the commission.

210 (c) Have a mechanism in place for receiving and
211 investigating complaints about licensees.

212 (d) Notify the commission, in compliance with the terms of
213 the compact and rules, of any adverse action or the availability
214 of investigative information regarding a licensee.

215 (e) Implement or use procedures for considering the
216 criminal history records of applicants for an initial compact
217 privilege. These procedures shall include the submission of
218 fingerprints or other biometric-based information by applicants
219 for the purpose of obtaining an applicant's criminal history
220 record from the Federal Bureau of Investigation and the agency
221 responsible for retaining that state's criminal records.

222 1. A member state shall, within a timeframe established by
223 the commission, require a criminal background check for a
224 licensee seeking compact privilege whose primary state of
225 residence is in that member state, by receiving the results of

226 the Federal Bureau of Investigation criminal record search, and
227 shall use the results in making licensure decisions.

228 2. Communication between a member state and the commission
229 and among member states regarding the verification of
230 eligibility for licensure through the compact shall not include
231 any information received from the Federal Bureau of
232 Investigation relating to a federal criminal records check
233 performed by a member state under Pub. L. No. 92-544.

234 (f) Comply with the rules of the commission.

235 (g) Use a recognized national examination as a requirement
236 for licensure pursuant to the rules of the commission.

237 (h) Have continuing competence or education requirements
238 as a condition for license renewal.

239 (2) A member state must grant the compact privilege to a
240 licensee holding a valid unencumbered license in another member
241 state in accordance with the terms of the compact and rules.

242 (3) Member states may charge a fee for granting a compact
243 privilege.

244 (4) A member state shall provide for the state's delegate
245 to attend all Occupational Therapy Compact Commission meetings.

246 (5) Individuals not residing in a member state shall
247 continue to be able to apply for a member state's single-state
248 license as provided under the laws of each member state.
249 However, the single-state license granted to these individuals
250 shall not be recognized as granting the compact privilege in any

251 other member state.

252 (6) Nothing in this compact shall affect the requirements
253 established by a member state for the issuance of a single-state
254 license.

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256 ARTICLE IV

257 COMPACT PRIVILEGE

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259 (1) To exercise compact privilege under the terms and
260 provisions of the compact, a licensee must:

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

262 (b) Have a valid United States Social Security Number or
263 National Practitioner Identification number.

264 (c) Have no encumbrance on any state license.

265 (d) Be eligible for a compact privilege in any member
266 state in accordance with subsections (4), (5), (8), and (10).

267 (e) Have paid all fines and completed all requirements
268 resulting from any adverse action against any license or compact
269 privilege, and 2 years must have elapsed from the date of
270 completion.

271 (f) Notify the commission that the licensee is seeking the
272 compact privilege within a remote state.

273 (g) Pay any applicable fees, including any state fee, for
274 the compact privilege.

275 (h)1. Complete a criminal background check in accordance

276 with Article III.

277 2. The licensee shall be responsible for the payment of
278 any fee associated with the completion of a criminal background
279 check.

280 (i) Meet any jurisprudence requirements established by the
281 remote state in which the licensee is seeking a compact
282 privilege.

283 (j) Report to the commission adverse action taken by any
284 nonmember state within 30 days after the date the adverse action
285 is taken.

286 (2) The compact privilege is valid until the expiration
287 date of the home state license. The licensee must comply with
288 the requirements of subsection (1) to maintain the compact
289 privilege in a remote state.

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

293 (4) Occupational therapy assistants practicing in a remote
294 state shall be supervised by an occupational therapist licensed
295 or holding a compact privilege in that remote state.

296 (5) A licensee providing occupational therapy in a remote
297 state is subject to that state's regulatory authority. A remote
298 state may, in accordance with due process and that state's laws,
299 remove a licensee's compact privilege in the remote state for a
300 specific period of time, impose fines, and take any other

301 necessary actions to protect the health and safety of its
302 citizens. The licensee is not eligible for a compact privilege
303 in any member state until the specific period of time for
304 removal has passed and all fines are paid.

305 (6) If a home state license is encumbered, the licensee
306 shall lose the compact privilege in any remote state until the
307 following conditions are met:

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

309 (b) Two years have elapsed from the date on which the home
310 state license is no longer encumbered.

311 (7) Once an encumbered license in the home state is
312 restored to good standing, the licensee must meet the
313 requirements of subsection (1) to obtain compact privilege in
314 any remote state.

315 (8) If a licensee's compact privilege in any remote state
316 is removed, the licensee may lose the compact privilege in any
317 other remote state until the following conditions are met:

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

320 (b) All fines have been paid and all conditions have been
321 met.

322 (c) Two years have elapsed from the date of completing the
323 requirements under paragraphs (a) and (b).

324 (d) The compact privileges are reinstated by the
325 commission, and the data system is updated to reflect

326 reinstatement.

327 (9) If a licensee's compact privilege in any remote state
328 is removed due to an erroneous charge, privileges shall be
329 restored through the data system.

330 (10) Once the requirements of subsection (8) have been
331 met, the licensee must meet the requirements of subsection (1)
332 to obtain a compact privilege in a remote state.

334 ARTICLE V

335 OBTAINING A NEW HOME STATE LICENSE

336 BY VIRTUE OF COMPACT PRIVILEGE

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338 (1) An occupational therapist or occupational therapy
339 assistant may hold a home state license, which allows for
340 compact privileges in member states, in only one member state at
341 a time.

342 (2) If an occupational therapist or occupational therapy
343 assistant changes his or her primary state of residence by
344 moving between two member states:

345 (a) The occupational therapist or occupational therapy
346 assistant shall file an application for obtaining a new home
347 state license by virtue of a compact privilege, pay all
348 applicable fees, and notify the current and new home state in
349 accordance with applicable rules adopted by the commission.

350 (b) Upon receipt of an application for obtaining a new

351 home state license by virtue of compact privilege, the new home
352 state shall verify that the occupational therapist or
353 occupational therapy assistant meets the applicable criteria
354 under Article IV via the data system, without the need for
355 primary source verification except for:

356 1. A Federal Bureau of Investigation fingerprint-based
357 criminal background check if not previously performed or updated
358 pursuant to applicable rules adopted by the commission in
359 accordance with Pub. L. No. 92-544.

360 2. Any other criminal background check as required by the
361 new home state.

362 3. Submission of any requisite jurisprudence requirements
363 of the new home state.

364 (c) The former home state shall convert the former home
365 state license into a compact privilege once the new home state
366 has activated the new home state license in accordance with
367 applicable rules adopted by the commission.

368 (d) Notwithstanding any other provision of this compact,
369 if the occupational therapist or occupational therapy assistant
370 cannot meet the criteria in Article IV, the new home state shall
371 apply its requirements for issuing a new single-state license.

372 (e) The occupational therapist or occupational therapy
373 assistant shall pay all applicable fees to the new home state in
374 order to be issued a new home state license.

375 (3) If an occupational therapist or occupational therapy

376 assistant changes his or her primary state of residence by
377 moving from a member state to a nonmember state, or from a
378 nonmember state to a member state, the state criteria shall
379 apply for issuance of a single-state license in the new state.

380 (4) Nothing in this compact shall interfere with a
381 licensee's ability to hold a single-state license in multiple
382 states; however, for the purposes of this compact, a licensee
383 may have only one home state license.

384 (5) Nothing in this compact shall affect the requirements
385 established by a member state for the issuance of a single-state
386 license.

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388 ARTICLE VI

389 ACTIVE DUTY MILITARY PERSONNEL AND THEIR SPOUSES

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391 Active duty military personnel and their spouses shall
392 designate a home state in which the individual has a current
393 license in good standing. The individual may retain the home
394 state designation during the period the service member is on
395 active duty. Subsequent to designating a home state, the
396 individual shall only change his or her home state through
397 application for licensure in the new state in accordance with
398 Article V.

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400 ARTICLE VII

ADVERSE ACTIONS

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403 (1) A home state has exclusive power to impose adverse
404 action against an occupational therapist's or occupational
405 therapy assistant's license issued by the home state.

406 (2) In addition to the powers conferred by state law, a
407 remote state has the authority, in accordance with existing
408 state due process law, to:

409 (a) Take adverse action against an occupational
410 therapist's or occupational therapy assistant's compact
411 privilege within that member state.

412 (b) Issue subpoenas for both hearings and investigations
413 that require the attendance and testimony of witnesses and the
414 production of evidence. Subpoenas issued by a licensing board in
415 a member state for the attendance and testimony of witnesses or
416 for the production of evidence from another member state shall
417 be enforced in the latter state by any court of competent
418 jurisdiction, according to the practice and procedure of that
419 court applicable to subpoenas issued in proceedings pending
420 before it. The issuing authority shall pay any witness fees,
421 travel expenses, mileage, and other fees required by the service
422 laws of the state in which the witnesses or evidence is located.

423 (3) For purposes of taking adverse action, the home state
424 shall give the same priority and effect to reported conduct
425 received from a member state as it would if the conduct had

426 occurred within the home state. In so doing, the home state
427 shall apply its own state laws to determine appropriate action.

428 (4) The home state shall complete any pending
429 investigations of an occupational therapist or occupational
430 therapy assistant who changes primary state of residence during
431 the course of the investigations. The home state in which the
432 investigations were initiated shall also have the authority to
433 take appropriate actions and shall promptly report the
434 conclusions of the investigations to the data system. The data
435 system administrator shall promptly notify the new home state of
436 any adverse actions.

437 (5) A member state, if otherwise permitted by state law,
438 may recover from the affected occupational therapist or
439 occupational therapy assistant the costs of investigations and
440 disposition of cases resulting from any adverse action taken
441 against that occupational therapist or occupational therapy
442 assistant.

443 (6) A member state may take adverse action based on the
444 factual findings of the remote state, provided that the member
445 state follows its own procedures for taking the adverse action.

446 (7) (a) In addition to the authority granted to a member
447 state by its respective state occupational therapy laws and
448 regulations or other applicable state law, any member state may
449 participate with other member states in joint investigations of
450 licensees.

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

454 (8) If an adverse action is taken by the home state
455 against an occupational therapist's or occupational therapy
456 assistant's license, the occupational therapist's or
457 occupational therapy assistant's compact privilege in all other
458 member states shall be deactivated until all encumbrances have
459 been removed from the state license. All home state disciplinary
460 orders that impose adverse action against an occupational
461 therapist's or occupational therapy assistant's license shall
462 include a statement that the occupational therapist's or
463 occupational therapy assistant's compact privilege is
464 deactivated in all member states during the pendency of the
465 order.

466 (9) If a member state takes adverse action, it shall
467 promptly notify the administrator of the data system. The
468 administrator of the data system shall promptly notify the home
469 state of any adverse actions by remote states.

470 (10) Nothing in this compact shall override a member
471 state's decision that participation in an alternative program
472 may be used in lieu of adverse action.

474 ARTICLE VIII

475 ESTABLISHMENT OF THE OCCUPATIONAL THERAPY

COMPACT COMMISSION

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478 (1) CREATION.—The member states hereby create and
479 establish a joint public agency known as the Occupational
480 Therapy Compact Commission.

481 (a) The commission is an instrumentality of the compact
482 states.

483 (b) Venue is proper and judicial proceedings by or against
484 the commission must be brought solely and exclusively in a court
485 of competent jurisdiction in which the principal office of the
486 commission is located. The commission may waive venue and
487 jurisdictional defenses to the extent it adopts or consents to
488 participate in alternative dispute resolution proceedings.

489 (c) Nothing in this compact may be construed to be a
490 waiver of sovereign immunity, except to the extent it is waived
491 in a member state.

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

493 (a) Each member state has and is limited to one delegate
494 selected by that member state's licensing board. The delegate
495 must be a current member of the licensing board, who is an
496 occupational therapist, an occupational therapy assistant, a
497 public member, or an administrator of the licensing board.

498 (b) Any delegate may be removed or suspended from office
499 as provided by the law of the state from which the delegate is
500 appointed.

501 (c) The member state board shall fill any vacancy
502 occurring on the commission within 90 days.

503 (d) Each delegate is entitled to one vote with regard to
504 the adoption of rules and creation of bylaws and shall otherwise
505 have an opportunity to participate in the business and affairs
506 of the commission.

507 (e) A delegate shall vote in person or by such other means
508 as provided in the bylaws. The bylaws may provide for delegates'
509 participation in meetings by telephone or other means of
510 communication.

511 (f) The commission shall meet at least once during each
512 calendar year. Additional meetings may be held as set forth in
513 the bylaws.

514 (g) The commission shall establish by rule a term of
515 office for delegates.

516 (3) DUTIES.—The commission shall have all of the following
517 powers and duties:

518 (a) Establish the code of ethics for the commission.

519 (b) Establish the fiscal year of the commission.

520 (c) Establish bylaws.

521 (d) Maintain its financial records in accordance with the
522 bylaws.

523 (e) Meet and take such actions as are consistent with the
524 provisions of the compact and the bylaws.

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

526 (a) Adopt uniform rules to facilitate and coordinate
527 implementation and administration of the compact. The rules have
528 the force and effect of law and are binding in all member
529 states.

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

534 (c) Purchase and maintain insurance and bonds.

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

537 (e) Hire employees, elect or appoint officers, fix
538 compensation of, define duties of, grant such individuals
539 appropriate authority to carry out the purposes of the compact,
540 and establish the commission's personnel policies and programs
541 relating to conflicts of interest, qualifications of personnel,
542 and other related personnel matters.

543 (f) Accept any appropriate donations and grants of money,
544 equipment, supplies, materials, and services, and receive, use,
545 and dispose of the same, provided that at all times the
546 commission avoids any appearance of impropriety or conflict of
547 interest.

548 (g) Lease, purchase, accept appropriate gifts or donations
549 of, or otherwise own, hold, improve, or use any property, real,
550 personal, or mixed, provided that at all times the commission

551 avoids any appearance of impropriety or conflict of interest.

552 (h) Sell, convey, mortgage, pledge, lease, exchange,
553 abandon, or otherwise dispose of any property, real, personal,
554 or mixed.

555 (i) Establish a budget and make expenditures.

556 (j) Borrow money.

557 (k) Appoint committees, including standing committees
558 composed of members, state regulators, state legislators or
559 their representatives, and consumer representatives, and such
560 other interested persons as may be designated in the compact and
561 the bylaws.

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

564 (m) Establish and elect an executive committee.

565 (n) Perform such other functions as may be necessary or
566 appropriate to achieve the purposes of the compact consistent
567 with the state regulation of occupational therapy licensure and
568 practice.

569 (5) THE EXECUTIVE COMMITTEE.—

570 (a) The executive committee may act on behalf of the
571 commission according to the terms of the compact.

572 (b) The executive committee shall be composed of the
573 following nine members:

574 1. Seven voting members who are elected by the commission
575 from the current membership of the commission.

576 2. One ex officio, nonvoting member from a recognized
577 National Occupational Therapy Professional Association.

578 3. One ex officio, nonvoting member from a recognized
579 National Occupational Therapy certification organization.

580 (c) The ex officio members shall be selected by their
581 respective organizations.

582 (d) The commission may remove any member of the executive
583 committee as provided in its bylaws.

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

585 (f) The executive committee shall have all of the
586 following duties:

587 1. Recommend to the entire commission changes to the rules
588 or bylaws, changes to the compact legislation, fees paid by
589 member states, such as annual dues, and any commission compact
590 fee charged to licensees for the compact privilege.

591 2. Ensure compact administration services are
592 appropriately provided, contractually or otherwise.

593 3. Prepare and recommend the budget.

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

595 5. Monitor compact compliance of member states and provide
596 compliance reports to the commission.

597 6. Establish additional committees as necessary.

598 7. Perform other duties as provided in the rules or
599 bylaws.

600 (6) MEETINGS OF THE COMMISSION.-

601 (a) All meetings shall be open to the public, and public
602 notice of meetings shall be given in the same manner as required
603 under the rulemaking provisions in Article X.

604 (b) The commission, the executive committee, or other
605 committees of the commission may convene in a closed, nonpublic
606 meeting if the commission or executive committee or other
607 committees of the commission must discuss:

608 1. Noncompliance of a member state with its obligations
609 under the compact.

610 2. The employment, compensation, discipline, or other
611 matters, practices, or procedures related to specific employees
612 or other matters related to the commission's internal personnel
613 practices and procedures.

614 3. Current, threatened, or reasonably anticipated
615 litigation.

616 4. Negotiation of contracts for the purchase, lease, or
617 sale of goods, services, or real estate.

618 5. Accusing any person of a crime or formally censuring
619 any person.

620 6. Disclosure of trade secrets or commercial or financial
621 information that is privileged or confidential.

622 7. Disclosure of information of a personal nature where
623 disclosure would constitute a clearly unwarranted invasion of
624 personal privacy.

625 8. Disclosure of investigative records compiled for law

626 enforcement purposes.

627 9. Disclosure of information related to any investigative
628 reports prepared by or on behalf of or for use of the commission
629 or other committee charged with responsibility of investigation
630 or determination of compliance issues pursuant to the compact.

631 10. Matters specifically exempted from disclosure by
632 federal or member state statute.

633 (7) FINANCING OF THE COMMISSION.—

634 (a) The commission shall pay, or provide for the payment
635 of, the reasonable expenses of its establishment, organization,
636 and ongoing activities.

637 (b) The commission may accept any appropriate revenue
638 sources, donations, and grants of money, equipment, supplies,
639 materials, and services.

640 (c) The commission may levy and collect an annual
641 assessment from each member state or impose fees on other
642 parties to cover the cost of the operations and activities of
643 the commission and its staff. Such assessments and fees must
644 total to an amount sufficient to cover the commission's annual
645 budget as approved each year for which revenue is not provided
646 by other sources. The aggregate annual assessment amount must be
647 allocated based upon a formula to be determined by the
648 commission, which shall adopt a rule binding upon all member
649 states.

650 (d) The commission may not incur obligations of any kind

651 before securing the funds adequate to meet such obligations or
652 pledge the credit of any of the member states, except by and
653 with the authority of the member state.

654 (e) The commission shall keep accurate accounts of all
655 receipts and disbursements. The receipts and disbursements of
656 the commission are subject to the audit and accounting
657 procedures established under its bylaws. However, all receipts
658 and disbursements of funds handled by the commission must be
659 audited yearly by a certified or licensed public accountant, and
660 the report of the audit must be included in and become part of
661 the annual report of the commission.

662 (8) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

663 (a) The members, officers, executive director, employees,
664 and representatives of the commission are immune from suit and
665 liability, whether personally or in their official capacity, for
666 any claim for damage to or loss of property or personal injury
667 or other civil liability caused by or arising out of any actual
668 or alleged act, error, or omission that occurred, or that the
669 person against whom the claim is made had a reasonable basis for
670 believing occurred, within the scope of commission employment,
671 duties, or responsibilities. However, this paragraph may not be
672 construed to protect any such person from suit or liability for
673 any damage, loss, injury, or liability caused by the
674 intentional, willful, or wanton misconduct of that person.

675 (b) The commission shall defend any member, officer,

676 executive director, employee, or representative of the
677 commission in any civil action seeking to impose liability
678 arising out of any actual or alleged act, error, or omission
679 that occurred within the scope of commission employment, duties,
680 or responsibilities, or that the person against whom the claim
681 is made had a reasonable basis for believing occurred within the
682 scope of commission employment, duties, or responsibilities.
683 However, this paragraph may not be construed to prohibit any
684 member, officer, executive director, employee, or representative
685 of the commission from retaining his or her own counsel or to
686 require the commission to defend such person if the actual or
687 alleged act, error, or omission resulted from that person's
688 intentional, willful, or wanton misconduct.

689 (c) The commission shall indemnify and hold harmless any
690 member, officer, executive director, employee, or representative
691 of the commission for the amount of any settlement or judgment
692 obtained against that person arising out of any actual or
693 alleged act, error, or omission that occurred within the scope
694 of commission employment, duties, or responsibilities, or that
695 such person had a reasonable basis for believing occurred within
696 the scope of commission employment, duties, or responsibilities,
697 provided that the actual or alleged act, error, or omission did
698 not result from the intentional, willful, or wanton misconduct
699 of that person.

700

ARTICLE IXDATA SYSTEM

701
702
703
704 (1) The commission shall provide for the development,
705 maintenance, and use of a coordinated database and reporting
706 system containing licensure, adverse action, and investigative
707 information on all licensed individuals in member states.

708 (2) A member state shall submit a uniform data set to the
709 data system on all individuals to whom the compact is
710 applicable, using a unique identifier, as required by the rules
711 of the commission, including:

712 (a) Identifying information.

713 (b) Licensure data.

714 (c) Adverse actions against a license or compact
715 privilege.

716 (d) Nonconfidential information related to alternative
717 program participation.

718 (e) Any denial of application for licensure and the reason
719 for such denial.

720 (f) Other information that may facilitate the
721 administration of the compact, as determined by the rules of the
722 commission.

723 (g) Current significant investigative information.

724 (3) Current significant investigative information and
725 other investigative information in the system pertaining to a

726 licensee in any member state must be available only to other
727 member states.

728 (4) The commission shall promptly notify all member states
729 of any adverse action taken against a licensee or an applicant.
730 Adverse action information pertaining to a licensee in any
731 member state must be available to all other member states.

732 (5) Member states contributing information to the data
733 system may designate information that may not be shared with the
734 public without the express permission of the contributing state.

735 (6) Any information submitted to the data system which is
736 subsequently required to be expunged by the laws of the member
737 state contributing the information must be removed from the data
738 system.

740 ARTICLE X

741 RULEMAKING

742
743 (1) The commission shall exercise its rulemaking powers
744 pursuant to this article and the rules adopted thereunder. Rules
745 and amendments become binding as of the date specified in each
746 rule or amendment.

747 (2) The commission shall adopt reasonable rules in order
748 to effectively and efficiently achieve the purposes of the
749 compact. Notwithstanding the foregoing, in the event the
750 commission exercises its rulemaking authority in a manner that

751 is beyond the scope of the purposes of the compact, or the
752 powers granted hereunder, then such an action by the commission
753 shall be invalid and have no force and effect.

754 (3) If a majority of the legislatures of the member states
755 reject a rule by enactment of a statute or resolution in the
756 same manner used to adopt the compact within 4 years after the
757 date of adoption of the rule, such rule does not have further
758 force and effect in any member state.

759 (4) Rules or amendments to the rules must be adopted at a
760 regular or special meeting of the commission.

761 (5) Before adoption of a final rule or rules by the
762 commission, and at least 30 days before the meeting at which the
763 rule will be considered and voted upon, the commission must file
764 a notice of proposed rulemaking on all of the following:

765 (a) The website of the commission or another publicly
766 accessible platform.

767 (b) The website of each member state occupational therapy
768 licensing board or another publicly accessible platform or the
769 publication in which each state would otherwise publish proposed
770 rules.

771 (6) The notice of proposed rulemaking must include all of
772 the following:

773 (a) The proposed date, time, and location of the meeting
774 in which the rule will be considered and voted upon.

775 (b) The text of the proposed rule and the reason for the

776 proposed rule.

777 (c) A request for comments on the proposed rule from any
778 interested person.

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

782 (7) Before adoption of a proposed rule, the commission
783 must allow persons to submit written data, facts, opinions, and
784 arguments, which must be made available to the public.

785 (8) The commission must grant an opportunity for a public
786 hearing before it adopts a rule or an amendment if a hearing is
787 requested by any of the following:

788 (a) At least 25 persons.

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

790 (c) An association or organization having at least 25
791 members.

792 (9) If a scheduled public hearing is held on the proposed
793 rule or amendment, the commission must publish the date, time,
794 and location of the hearing. If the hearing is held through
795 electronic means, the commission must publish the mechanism for
796 access to the electronic hearing.

797 (a) All persons wishing to be heard at the hearing must
798 notify the executive director of the commission or another
799 designated member in writing of their desire to appear and
800 testify at the hearing at least 5 business days before the

801 scheduled date of the hearing.

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

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

807 (d) This article may not be construed to require a
808 separate hearing on each rule. Rules may be grouped for the
809 convenience of the commission at hearings required by this
810 article.

811 (10) Following the scheduled hearing date, or by the close
812 of business on the scheduled hearing date if the hearing was not
813 held, the commission shall consider all written and oral
814 comments received.

815 (11) If no written notice of intent to attend the public
816 hearing by interested parties is received, the commission may
817 proceed with adoption of the proposed rule without a public
818 hearing.

819 (12) The commission shall, by majority vote of all
820 members, take final action on the proposed rule and shall
821 determine the effective date of the rule, if any, based on the
822 rulemaking record and the full text of the rule.

823 (13) Upon determination that an emergency exists, the
824 commission may consider and adopt an emergency rule without
825 prior notice, opportunity for comment, or hearing, provided that

826 the usual rulemaking procedures provided in the compact and in
827 this article are retroactively applied to the rule as soon as
828 reasonably possible, in no event later than 90 days after the
829 effective date of the rule. For the purposes of this subsection,
830 an "emergency rule" means a rule that must be adopted
831 immediately in order to do any of the following:

832 (a) Meet an imminent threat to public health, safety, or
833 welfare.

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

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

837 (d) Protect public health and safety.

838 (14) The commission or an authorized committee of the
839 commission may direct revisions to a previously adopted rule or
840 amendment for purposes of correcting typographical errors,
841 errors in format, errors in consistency, or grammatical errors.
842 Public notice of any revisions must be posted on the website of
843 the commission. The revision is subject to challenge by any
844 person for a period of 30 days after posting. The revision may
845 be challenged only on grounds that the revision results in a
846 material change to a rule. A challenge must be made in writing
847 and delivered to the executive director of the commission before
848 the end of the notice period. If a challenge is not made, the
849 revision takes effect without further action. If the revision is
850 challenged, the revision may not take effect without the

851 approval of the commission.

852
853 ARTICLE XI

854 OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

855
856 (1) OVERSIGHT.—

857 (a) The executive, legislative, and judicial branches of
858 state government in each member state shall enforce the compact
859 and take all actions necessary and appropriate to carry out the
860 compact's purposes and intent. The provisions of the compact and
861 the rules adopted hereunder have standing as statutory law.

862 (b) All courts shall take judicial notice of the compact
863 and the rules in any judicial or administrative proceeding in a
864 member state pertaining to the subject matter of the compact
865 which may affect the powers, responsibilities, or actions of the
866 commission.

867 (c) The commission is entitled to receive service of
868 process in any such proceeding and has standing to intervene in
869 such a proceeding for all purposes. Failure to provide service
870 of process to the commission renders a judgment or an order void
871 as to the commission, the compact, or the adopted rules.

872 (2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.—

873 (a) If the commission determines that a member state has
874 defaulted in the performance of its obligations or
875 responsibilities under the compact or the adopted rules, the

876 commission must do all of the following:

877 1. Provide written notice to the defaulting state and
878 other member states of the nature of the default, the proposed
879 means of curing the default, and any other action to be taken by
880 the commission.

881 2. Provide remedial training and specific technical
882 assistance regarding the default.

883 (b) If a state in default fails to cure the default, the
884 defaulting state may be terminated from the compact upon an
885 affirmative vote of a majority of the member states, and all
886 rights, privileges, and benefits conferred by the compact may be
887 terminated on the effective date of termination. A cure of the
888 default does not relieve the offending state of obligations or
889 liabilities incurred during the period of default.

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

896 (d) A state that has been terminated from the compact is
897 responsible for all assessments, obligations, and liabilities
898 incurred through the effective date of termination, including
899 obligations that extend beyond the effective date of
900 termination.

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

905 (f) The defaulting state may appeal the action of the
906 commission by petitioning the United States District Court for
907 the District of Columbia or the federal district in which the
908 commission has its principal offices. The prevailing member
909 shall be awarded all costs of such litigation, including
910 reasonable attorney's fees.

911 (3) DISPUTE RESOLUTION.—

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

915 (b) The commission shall adopt a rule providing for both
916 mediation and binding dispute resolution for disputes as
917 appropriate.

918 (4) ENFORCEMENT.—

919 (a) The commission, in the reasonable exercise of its
920 discretion, shall enforce the compact and the commission's
921 rules.

922 (b) By majority vote, the commission may initiate legal
923 action in the United states District Court for the District of
924 Columbia or the federal district in which the commission has its
925 principal offices against a member state in default to enforce

926 compliance with the provisions of the compact and its adopted
927 rules and bylaws. The relief sought may include both injunctive
928 relief and damages. In the event judicial enforcement is
929 necessary, the prevailing member shall be awarded all costs of
930 such litigation, including reasonable attorney's fees.

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

934
935 ARTICLE XII

936 DATE OF IMPLEMENTATION OF THE COMPACT AND ASSOCIATED RULES;
937 WITHDRAWAL; AMENDMENTS

938
939 (1) The compact becomes effective on the date that the
940 compact statute is enacted into law in the tenth member state.
941 The provisions that become effective at that time are limited to
942 the powers granted to the commission relating to assembly and
943 the adoption of rules. Thereafter, the commission shall meet and
944 exercise rulemaking powers necessary for the implementation and
945 administration of the compact.

946 (2) Any state that joins the compact subsequent to the
947 commission's initial adoption of the rules is subject to the
948 rules as they exist on the date that the compact becomes law in
949 that state. Any rule that has been previously adopted by the
950 commission has the full force and effect of law on the day the

951 compact becomes law in that state.

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

954 (a) A member state's withdrawal does not take effect until
955 6 months after enactment of the repealing statute.

956 (b) Withdrawal does not affect the continuing requirement
957 of the withdrawing state's occupational therapy licensing board
958 to comply with the investigative and adverse action reporting
959 requirements of this act before the effective date of
960 withdrawal.

961 (4) The compact may not be construed to invalidate or
962 prevent any occupational therapy licensure agreement or other
963 cooperative arrangement between a member state and a nonmember
964 state which does not conflict with the provisions of the
965 compact.

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

970
971 ARTICLE XIII

972 CONSTRUCTION AND SEVERABILITY

973
974 The compact must be liberally construed so as to carry out the
975 purposes thereof. The provisions of the compact are severable,

976 and if any phrase, clause, sentence, or provision of the compact
977 is declared to be contrary to the constitution of any member
978 state or of the United States or the applicability thereof to
979 any government, agency, person, or circumstance is held invalid,
980 the validity of the remainder of the compact and the
981 applicability thereof to any government, agency, person, or
982 circumstance is not affected thereby. If the compact is held
983 contrary to the constitution of any member state, the compact
984 remains in full force and effect as to the remaining member
985 states and in full force and effect as to the member state
986 affected as to all severable matters.

987
988 ARTICLE XIV

989 BINDING EFFECT OF COMPACT AND OTHER LAWS

990
991 (1) A licensee providing occupational therapy in a remote
992 state under the compact privilege shall function within the laws
993 and regulations of the remote state.

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

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

998 (4) Any lawful actions of the commission, including all
999 rules and bylaws adopted by the commission, are binding upon the
1000 member states.

1001 (5) All agreements between the commission and the member
 1002 states are binding in accordance with their terms.

1003 (6) In the event any provision of the compact exceeds the
 1004 constitutional limits imposed on the legislature of any member
 1005 state, the provision shall be ineffective to the extent of the
 1006 conflict with the constitutional provision in question in that
 1007 member state.

1008 **Section 2. Paragraph (b) of subsection (10) of section**
 1009 **456.073, Florida Statutes, is amended to read:**

1010 456.073 Disciplinary proceedings.—Disciplinary proceedings
 1011 for each board shall be within the jurisdiction of the
 1012 department.

1013 (10)

1014 (b) The department shall report any significant
 1015 investigation information relating to a nurse holding a
 1016 multistate license to the coordinated licensure information
 1017 system pursuant to s. 464.0095; any investigative information
 1018 relating to an audiologist or a speech-language pathologist
 1019 holding a compact privilege under the Audiology and Speech-
 1020 Language Pathology Interstate Compact to the data system
 1021 pursuant to s. 468.1335; any investigative information relating
 1022 to an occupational therapist or occupational therapy assistant
 1023 holding a compact privilege under the Occupational Therapy
 1024 Licensure Compact to the data system pursuant to s. 468.226; any
 1025 investigative information relating to a physical therapist or

1026 physical therapist assistant holding a compact privilege under
 1027 the Physical Therapy Licensure Compact to the data system
 1028 pursuant to s. 486.112; any significant investigatory
 1029 information relating to a psychologist practicing under the
 1030 Psychology Interjurisdictional Compact to the coordinated
 1031 licensure information system pursuant to s. 490.0075; and any
 1032 significant investigatory information relating to a health care
 1033 practitioner practicing under the Professional Counselors
 1034 Licensure Compact to the data system pursuant to s. 491.017.

1035 **Section 3. Subsection (5) of section 456.076, Florida**
 1036 **Statutes, is amended to read:**

1037 456.076 Impaired practitioner programs.—

1038 (5) A consultant shall enter into a participant contract
 1039 with an impaired practitioner and shall establish the terms of
 1040 monitoring and shall include the terms in a participant
 1041 contract. In establishing the terms of monitoring, the
 1042 consultant may consider the recommendations of one or more
 1043 approved evaluators, treatment programs, or treatment providers.
 1044 A consultant may modify the terms of monitoring if the
 1045 consultant concludes, through the course of monitoring, that
 1046 extended, additional, or amended terms of monitoring are
 1047 required for the protection of the health, safety, and welfare
 1048 of the public. If the impaired practitioner is an audiologist or
 1049 a speech-language pathologist practicing under the Audiology and
 1050 Speech-Language Pathology Interstate Compact pursuant to s.

1051 468.1335, an occupational therapist or occupational therapy
 1052 assistant holding a compact privilege under the Occupational
 1053 Therapy Licensure Compact pursuant to s. 468.226, a physical
 1054 therapist or physical therapist assistant practicing under the
 1055 Physical Therapy Licensure Compact pursuant to s. 486.112, a
 1056 psychologist practicing under the Psychology Interjurisdictional
 1057 Compact pursuant to s. 490.0075, or a health care practitioner
 1058 practicing under the Professional Counselors Licensure Compact
 1059 pursuant to s. 491.017, the terms of the monitoring contract
 1060 must include the impaired practitioner's withdrawal from all
 1061 practice under the compact unless authorized by a member state.

1062 **Section 4. Subsection (6) is added to section 468.205,**
 1063 **Florida Statutes, to read:**

1064 468.205 Board of Occupational Therapy Practice.—

1065 (6) The board shall appoint an individual to serve as the
 1066 state's delegate on the Occupational Therapy Compact Commission
 1067 pursuant to s. 468.226.

1068 **Section 5. Subsection (6) is added to section 468.209,**
 1069 **Florida Statutes, to read:**

1070 468.209 Requirements for licensure.—

1071 (6) A person licensed as an occupational therapist in
 1072 another state who is practicing under the Occupational Therapy
 1073 Licensure Compact under s. 468.226, and only within the scope
 1074 provided therein, is exempt from the licensure requirements of
 1075 this section.

1076 **Section 6. Subsections (1) and (2) of section 468.217,**
1077 **Florida Statutes, are amended to read:**

1078 468.217 Denial of or refusal to renew license; suspension
1079 and revocation of license and other disciplinary measures.—

1080 (1) The following acts constitute grounds for denial of a
1081 license or disciplinary action, as specified in s. 456.072(2) or
1082 s. 468.226:

1083 (a) Attempting to obtain, obtaining, or renewing a license
1084 to practice occupational therapy by bribery, by fraudulent
1085 misrepresentation, or through an error of the department or the
1086 board.

1087 (b) Having a license to practice occupational therapy
1088 revoked, suspended, or otherwise acted against, including the
1089 denial of licensure, by the licensing authority of another
1090 state, territory, or country.

1091 (c) Being convicted or found guilty, regardless of
1092 adjudication, of a crime in any jurisdiction which directly
1093 relates to the practice of occupational therapy or to the
1094 ability to practice occupational therapy. A plea of nolo
1095 contendere shall be considered a conviction for the purposes of
1096 this part.

1097 (d) False, deceptive, or misleading advertising.

1098 (e) Advertising, practicing, or attempting to practice
1099 under a name other than one's own name.

1100 (f) Failing to report to the department any person who the

1101 licensee knows is in violation of this part or of the rules of
1102 the department or of the board. However, a person who the
1103 licensee knows is unable to practice occupational therapy with
1104 reasonable skill and safety to patients by reason of illness or
1105 use of alcohol, drugs, narcotics, chemicals, or any other type
1106 of material, or as a result of a mental or physical condition,
1107 may be reported to a consultant operating an impaired
1108 practitioner program as described in s. 456.076 rather than to
1109 the department.

1110 (g) Aiding, assisting, procuring, or advising any
1111 unlicensed person to practice occupational therapy contrary to
1112 this part or to a rule of the department or the board.

1113 (h) Failing to perform any statutory or legal obligation
1114 placed upon a licensed occupational therapist or occupational
1115 therapy assistant.

1116 (i) Making or filing a report which the licensee knows to
1117 be false, intentionally or negligently failing to file a report
1118 or record required by state or federal law, willfully impeding
1119 or obstructing such filing or inducing another person to do so.
1120 Such reports or records include only those which are signed in
1121 the capacity as a licensed occupational therapist or
1122 occupational therapy assistant.

1123 (j) Paying or receiving any commission, bonus, kickback,
1124 or rebate to or from, or engaging in any split-fee arrangement
1125 in any form whatsoever with, a physician, organization, agency,

1126 or person, either directly or indirectly, for patients referred
1127 to providers of health care goods and services, including, but
1128 not limited to, hospitals, nursing homes, clinical laboratories,
1129 ambulatory surgical centers, or pharmacies. The provisions of
1130 this paragraph shall not be construed to prevent an occupational
1131 therapist or occupational therapy assistant from receiving a fee
1132 for professional consultation services.

1133 (k) Exercising influence within a patient-therapist
1134 relationship for purposes of engaging a patient in sexual
1135 activity. A patient is presumed to be incapable of giving free,
1136 full, and informed consent to sexual activity with the patient's
1137 occupational therapist or occupational therapy assistant.

1138 (l) Making deceptive, untrue, or fraudulent
1139 representations in the practice of occupational therapy or
1140 employing a trick or scheme in the practice of occupational
1141 therapy if such scheme or trick fails to conform to the
1142 generally prevailing standards of treatment in the occupational
1143 therapy community.

1144 (m) Soliciting patients, either personally or through an
1145 agent, through the use of fraud, intimidation, undue influence,
1146 or a form of overreaching or vexatious conduct. A "solicitation"
1147 is any communication which directly or implicitly requests an
1148 immediate oral response from the recipient.

1149 (n) Failing to keep written records justifying the course
1150 of treatment of the patient, including, but not limited to,

1151 patient histories, examination results, and test results.

1152 (o) Exercising influence on the patient or client in such
 1153 a manner as to exploit the patient or client for financial gain
 1154 of the licensee or of a third party which includes, but is not
 1155 limited to, the promoting or selling of services, goods,
 1156 appliances, or drugs.

1157 (p) Performing professional services which have not been
 1158 duly authorized by the patient or client, or his or her legal
 1159 representative, except as provided in s. 768.13.

1160 (q) Gross or repeated malpractice or the failure to
 1161 practice occupational therapy with that level of care, skill,
 1162 and treatment which is recognized by a reasonably prudent
 1163 similar occupational therapist or occupational therapy assistant
 1164 as being acceptable under similar conditions and circumstances.

1165 (r) Performing any procedure which, by the prevailing
 1166 standards of occupational therapy practice in the community,
 1167 would constitute experimentation on a human subject without
 1168 first obtaining full, informed, and written consent.

1169 (s) Practicing or offering to practice beyond the scope
 1170 permitted by law or accepting and performing professional
 1171 responsibilities which the licensee knows or has reason to know
 1172 that he or she is not competent to perform.

1173 (t) Being unable to practice occupational therapy with
 1174 reasonable skill and safety to patients by reason of illness or
 1175 use of alcohol, drugs, narcotics, chemicals, or any other type

1176 of material or as a result of any mental or physical condition.
1177 In enforcing this paragraph, the department shall have, upon
1178 probable cause, authority to compel an occupational therapist or
1179 occupational therapy assistant to submit to a mental or physical
1180 examination by physicians designated by the department. The
1181 failure of an occupational therapist or occupational therapy
1182 assistant to submit to such examination when so directed
1183 constitutes an admission of the allegations against him or her,
1184 upon which a default and final order may be entered without the
1185 taking of testimony or presentation of evidence, unless the
1186 failure was due to circumstances beyond his or her control. An
1187 occupational therapist or occupational therapy assistant
1188 affected under this paragraph shall at reasonable intervals be
1189 afforded an opportunity to demonstrate that he or she can resume
1190 the competent practice of occupational therapy with reasonable
1191 skill and safety to patients. In any proceeding under this
1192 paragraph, neither the record of proceedings nor the orders
1193 entered by the board shall be used against an occupational
1194 therapist or occupational therapy assistant in any other
1195 proceeding.

1196 (u) Delegating professional responsibilities to a person
1197 when the licensee who is delegating such responsibilities knows
1198 or has reason to know that such person is not qualified by
1199 training, experience, or licensure to perform them.

1200 (v) Violating a lawful order of the board or department

1201 previously entered in a disciplinary hearing or failing to
 1202 comply with a lawfully issued subpoena of the department.

1203 (w) Conspiring with another licensee or with any other
 1204 person to commit an act, or committing an act, which would tend
 1205 to coerce, intimidate, or preclude another licensee from
 1206 lawfully advertising his or her services.

1207 (x) Violating any provision of this chapter or chapter
 1208 456, or any rules adopted pursuant thereto.

1209 (2) (a) The board may enter an order denying licensure or
 1210 imposing any of the penalties in s. 456.072(2) against any
 1211 applicant for licensure or licensee who is found guilty of
 1212 violating ~~any provision of subsection (1) of this section~~ or who
 1213 is found guilty of violating ~~any provision of~~ s. 456.072(1).

1214 (b) The board may take adverse action against the compact
 1215 privilege of an occupational therapist or occupational therapy
 1216 assistant under s. 468.226 and may impose any of the penalties
 1217 in s. 456.072(2) if an occupational therapist or occupational
 1218 therapy assistant commits an act specified in subsection (1) or
 1219 s. 456.072(1).

1220 **Section 7. Paragraph (m) is added to subsection (10) of**
 1221 **section 768.28, Florida Statutes, is to read:**

1222 768.28 Waiver of sovereign immunity in tort actions;
 1223 recovery limits; civil liability for damages caused during a
 1224 riot; limitation on attorney fees; statute of limitations;
 1225 exclusions; indemnification; risk management programs.—

1226 (10)
 1227 (m) For purposes of this section, the individual appointed
 1228 under s. 468.226 as the state's delegate on the Occupational
 1229 Therapy Compact Commission, when serving in that capacity under
 1230 s. 468.226, and any administrator, officer, executive director,
 1231 employee, or representative of the Occupational Therapy Compact
 1232 Commission, when acting within the scope of his or her
 1233 employment, duties, or responsibilities in this state, is
 1234 considered an agent of the state. The commission shall pay any
 1235 claims or judgments pursuant to this section and may maintain
 1236 insurance coverage to pay any such claims or judgments.

1237 **Section 8.** This act shall take effect July 1, 2025.