

By: Representative Roberson

To: Public Health and Human Services

HOUSE BILL NO. 259  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-58-1, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THE DEFINITION OF NUCLEAR MEDICINE; TO REVISE THE  
3 DEFINITION OF NUCLEAR MEDICINE TECHNOLOGIST; TO EXTEND THE DATE OF  
4 REPEAL ON THE SECTION; TO AMEND SECTION 41-58-3, MISSISSIPPI CODE  
5 OF 1972, TO EXTEND THE DATE OF REPEAL ON THE SECTION; TO AMEND  
6 SECTION 41-58-5, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF  
7 REPEAL ON THE SECTION; TO ENACT INTO LAW THE OCCUPATIONAL THERAPY  
8 LICENSURE COMPACT AND PROVIDE THAT THE STATE OF MISSISSIPPI ENTERS  
9 THE COMPACT WITH OTHER STATES THAT JOIN IN THE COMPACT; TO AMEND  
10 SECTIONS 73-24-3, 73-24-7, 73-24-9, 73-24-15, 73-24-17, 73-24-19,  
11 73-24-23, 73-24-24, 73-24-25, 73-24-27 AND 73-24-29, MISSISSIPPI  
12 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR  
13 RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** Section 41-58-1, Mississippi Code of 1972, is  
16 amended as follows:

17 41-58-1. As used in this chapter:

18 (a) "Department" means the Mississippi State Department  
19 of Health.

20 (b) "Licensed practitioner" means a person licensed or  
21 otherwise authorized by law to practice medicine, dentistry,  
22 chiropractic, osteopathy or podiatry, or a licensed nurse  
23 practitioner or physician assistant.



24 (c) "Ionizing radiation" means x-rays and gamma rays,  
25 alpha and beta particles, high-speed electrons, neutrons and other  
26 nuclear particles.

27 (d) "X-radiation" means penetrating electromagnetic  
28 radiation with wavelengths shorter than ten (10) nanometers  
29 produced by bombarding a metallic target with fast electrons in a  
30 vacuum.

31 (e) "Supervision" means responsibility for, and control  
32 of, quality radiation safety and protection, and technical aspects  
33 of the application of ionizing radiation to human beings for  
34 diagnostic and/or therapeutic purposes.

35 (f) "Medical radiation technology" means the science  
36 and art of applying ionizing radiation to human beings for  
37 diagnostic and/or therapeutic purposes. The four (4) specialized  
38 disciplines of medical radiation technology are diagnostic  
39 radiologic technology, nuclear medicine technology, radiation  
40 therapy and limited x-ray machine operator.

41 (g) "Radiologic technologist" means a person other than  
42 a licensed practitioner who has passed a national certification  
43 examination recognized by the department such as the American  
44 Registry of Radiologic Technologists examination or its  
45 equivalent, who applies x-radiation or ionizing radiation to any  
46 part of the human body for diagnostic purposes and includes the  
47 administration of parenteral and enteral contrast media and



48 administration of other medications or procedures incidental to  
49 radiologic examinations.

50 (h) "Nuclear medicine" means the discipline of  
51 performing in vivo imaging and measurement procedures and in vitro  
52 nonimaging laboratory studies, preparing radiopharmaceuticals and  
53 administering diagnostic/therapeutic doses of radiopharmaceuticals  
54 and other medications or procedures incidental for nuclear  
55 medicine exams to human beings while under the supervision of a  
56 licensed practitioner who is authorized to use radioactive  
57 material.

58 ( \* \* \* i) "Nuclear medicine technologist" means a  
59 person other than a licensed practitioner who has passed a  
60 national certification examination recognized by the department  
61 such as the American Registry of Radiologic Technologists  
62 examination \* \* \*, the Nuclear Medicine Technology Certification  
63 Board examination or \* \* \* their equivalent, \* \* \* and who has  
64 registered with the department to perform nuclear medicine.

65 A \* \* \* registered nuclear medicine technologist \* \* \* may  
66 perform \* \* \* computed tomography or magnetic resonance imaging  
67 only for the purposes of anatomical location and attenuation  
68 correction, provided that this limitation does not apply to  
69 persons registered by the department to perform nuclear  
70 medicine \* \* \* who are also certified in radiography, computed  
71 tomography or magnetic resonance imaging by the American Registry



72 of Radiologic Technologists, the Nuclear Medicine Technology  
73 Certification Board, or \* \* \* their equivalent. \* \* \*

74 ( \* \* \*j) "Radiation therapist" means a person other  
75 than a licensed practitioner who has passed a national  
76 certification examination recognized by the department such as the  
77 American Registry of Radiologic Technologists examination or its  
78 equivalent, who applies x-radiation and the ionizing radiation  
79 emitted from particle accelerators, cobalt sixty (60) units and  
80 sealed sources of radioactive material to human beings for  
81 therapeutic purposes while under the supervision of a licensed  
82 radiation oncologist or a board-certified radiologist who is  
83 licensed to possess and use radioactive material.

84 ( \* \* \*k) "Limited x-ray machine operator" means a  
85 person other than a licensed practitioner or radiologic  
86 technologist who is issued a permit by the State Board of Medical  
87 Licensure to perform medical radiation technology limited to  
88 specific radiographic procedures on certain parts of the human  
89 anatomy, specifically the chest, abdomen and skeletal structures,  
90 and excluding fluoroscopic, both stationary and mobile (C-arm),  
91 and contrast studies, computed tomography, nuclear medicine,  
92 radiation therapy studies and mammography.

93 ( \* \* \*l) "Council" means the Medical Radiation  
94 Advisory Council created under Section 41-58-3.

95 This section shall stand repealed on July 1, \* \* \* 2028.



96           **SECTION 2.** Section 41-58-3, Mississippi Code of 1972, is  
97 amended as follows:

98           41-58-3. (1) The department shall have full authority to  
99 adopt such rules and regulations not inconsistent with the laws of  
100 this state as may be necessary to effectuate the provisions of  
101 this chapter, and may amend or repeal the same as may be necessary  
102 for such purposes.

103           (2) There shall be established a Medical Radiation Advisory  
104 Council to be appointed as provided in this section. The council  
105 shall consist of ten (10) members as follows:

106                   (a) One (1) radiologist who is an active practitioner  
107 and member of the Mississippi Radiological Society;

108                   (b) One (1) licensed family physician;

109                   (c) One (1) licensed practitioner;

110                   (d) Two (2) registered radiologic technologists;

111                   (e) One (1) nuclear medicine technologist;

112                   (f) One (1) radiation therapist;

113                   (g) One (1) radiation physicist;

114                   (h) One (1) hospital administrator; and

115                   (i) The State Health Officer, or his designee, who  
116 shall serve as ex officio chairman with no voting authority.

117           (3) The department shall, following the recommendations from  
118 the appropriate professional state societies and organizations,  
119 including the Mississippi Radiological Society, the Mississippi  
120 Society of Radiologic Technologists, and the Mississippi State



121 Nuclear Medicine Society, and other nominations that may be  
122 received from whatever source, appoint the members of the council  
123 as soon as possible after April 13, 1996. Any person serving on  
124 the council who is a practitioner of a profession or occupation  
125 required to be licensed, credentialed or certified in the state  
126 shall be a holder of an appropriate license, credential or  
127 certificate issued by the state. All members of the council shall  
128 be residents of the State of Mississippi. The council shall  
129 promulgate such rules and regulations by which it shall conduct  
130 its business. Members of the council shall receive no salary for  
131 services performed on the council but may be reimbursed for their  
132 reasonable and necessary actual expenses incurred in the  
133 performance of the same, from funds provided for such purpose.  
134 The council shall assist and advise the department in the  
135 development of regulations and standards to effectuate the  
136 provisions of this chapter.

137 (4) A radiologic technologist, nuclear medicine technologist  
138 or radiation therapist shall not apply ionizing or x-radiation or  
139 administer radiopharmaceuticals to a human being or otherwise  
140 engage in the practice of medical radiation technology unless the  
141 person possesses a valid registration issued by the department  
142 under the provisions of this chapter.

143 (5) The department may issue a temporary registration to  
144 practice a specialty of medical radiation technology to any  
145 applicant who has completed an approved program, who has complied



146 with the provisions of this chapter, and is awaiting examination  
147 for that specialty. This registration shall convey the same  
148 rights as the registration for which the applicant is awaiting  
149 examination and shall be valid for one (1) six-month period.

150 (6) The department may charge a registration fee of not more  
151 than Fifty Dollars (\$50.00) biennially to each person to whom it  
152 issues a registration under the provisions of this chapter. Any  
153 increase in the fee charged by the department under this  
154 subsection shall be in accordance with the provisions of Section  
155 41-3-65.

156 (7) Registration with the department is not required for:

157 (a) A student enrolled in and participating in an  
158 accredited course of study approved by the department for  
159 diagnostic radiologic technology, nuclear medicine technology or  
160 radiation therapy, who as a part of his clinical course of study  
161 applies ionizing radiation to a human being while under the  
162 supervision of a licensed practitioner, registered radiologic  
163 technologist, registered nuclear medicine technologist or  
164 registered radiation therapist;

165 (b) Laboratory personnel who use radiopharmaceuticals  
166 for in vitro studies;

167 (c) A dental hygienist or a dental assistant who is not  
168 a radiologic technologist, nuclear medicine technologist or  
169 radiation therapist, who possesses a radiology permit issued by



170 the Board of Dental Examiners and applies ionizing radiation under  
171 the specific direction of a licensed dentist;

172 (d) A chiropractic assistant who is not a radiologic  
173 technologist, nuclear medicine technologist or radiation  
174 therapist, who possesses a radiology permit issued by the Board of  
175 Chiropractic Examiners and applies ionizing radiation under the  
176 specific direction of a licensed chiropractor;

177 (e) An individual who is permitted as a limited x-ray  
178 machine operator by the State Board of Medical Licensure and  
179 applies ionizing radiation in a physician's office, radiology  
180 clinic or a licensed hospital in Mississippi under the specific  
181 direction of a licensed practitioner; and

182 (f) A student enrolled in and participating in an  
183 accredited course of study for diagnostic radiologic technology,  
184 nuclear medicine technology or radiation therapy and is employed  
185 by a physician's office, radiology clinic or a licensed hospital  
186 in Mississippi and applies ionizing radiation under the specific  
187 direction of a licensed practitioner.

188 (8) Nothing in this chapter is intended to limit, preclude,  
189 or otherwise interfere with the practices of a licensed  
190 practitioner who is duly licensed or registered by the appropriate  
191 agency of the State of Mississippi, provided that the agency  
192 specifically recognizes that the procedures covered by this  
193 chapter are within the scope of practice of the licensee or  
194 registrant.





195           (9) (a) If any radiologic technologist, nuclear medicine  
196 technologist or radiation therapist violates any provision of this  
197 chapter or the regulations adopted by the department, the  
198 department shall suspend or revoke the registration and practice  
199 privileges of the person or issue other disciplinary actions in  
200 accordance with statutory procedures and rules and regulations of  
201 the department.

202           (b) If any person violates any provision of this  
203 chapter, the department shall issue a written warning to the  
204 licensed practitioner or medical institution that employs the  
205 person; and if that person violates any provision of this chapter  
206 again within three (3) years after the first violation, the  
207 department may suspend or revoke the permit or registration for  
208 the x-radiation and ionizing equipment of the licensed  
209 practitioner or medical institution that employs the person, in  
210 accordance with statutory procedures and rules and regulations of  
211 the department regarding suspension and revocation of those  
212 permits or registrations.

213           (10) This section shall stand repealed on July 1, \* \* \*  
214 2028.

215           **SECTION 3.** Section 41-58-5, Mississippi Code of 1972, is  
216 amended as follows:

217           41-58-5. (1) Each registered radiologic technologist,  
218 registered nuclear medicine technologist and registered radiation  
219 therapist shall submit evidence to the department of completing



220 twenty-four (24) hours of continuing education in a two-year  
221 period as described in the rules and regulations of the  
222 department.

223 (2) Each limited x-ray machine operator who is first  
224 employed to apply ionizing radiation in the State of Mississippi  
225 shall complete twelve (12) hours of education in radiologic  
226 technology, with six (6) of those hours specifically in radiation  
227 protection, not later than twelve (12) months after the date of  
228 his or her employment to apply ionizing radiation, and shall  
229 thereafter submit evidence to the State Board of Medical Licensure  
230 of completing twelve (12) hours of continuing education in a  
231 two-year period as described in the rules and regulations of the  
232 State Board of Medical Licensure. Six (6) of the continuing  
233 education hours must be in radiation protection.

234 (3) Each individual who is exempt from registration under  
235 paragraph (d) of Section 41-58-3(7) shall complete twelve (12)  
236 hours of continuing education in a two-year period as described in  
237 the rules and regulations of the department. Six (6) of the  
238 continuing education hours must be in radiation protection.

239 (4) Each individual who is exempt from registration under  
240 paragraph (d) of Section 41-58-3(7) and who is first employed to  
241 apply ionizing radiation in the State of Mississippi shall  
242 complete twelve (12) hours of education in radiologic technology,  
243 with six (6) of those hours specifically in radiation protection,



244 not later than twelve (12) months after the date of his or her  
245 employment to apply ionizing radiation.

246 (5) The department shall approve training sessions that will  
247 provide the continuing education required under this section in  
248 each of the junior/community college districts in the state, with  
249 at least one (1) training session being held during each quarter  
250 of the year.

251 (6) The Board of Chiropractic Examiners and the State Board  
252 of Medical Licensure may charge a fee of not more than Fifty  
253 Dollars (\$50.00) biennially to each individual whom the board  
254 certifies as having completed the continuing education  
255 requirements of this section.

256 (7) This section shall stand repealed on July 1, \* \* \* 2028.

257 **SECTION 4.** The Occupational Therapy Licensure Compact is  
258 enacted into law and entered into by this state with any and all  
259 states legally joining in the Compact in accordance with its  
260 terms, in the form substantially as follows:

261 **OCCUPATIONAL THERAPY LICENSURE COMPACT**

262 **SECTION 1.**

263 **PURPOSE**

264 The purpose of this Compact is to facilitate interstate  
265 practice of occupational therapy with the goal of improving public  
266 access to occupational therapy services. The practice of  
267 occupational therapy occurs in the state where the patient/client  
268 is located at the time of the patient/client encounter. The



269 Compact preserves the regulatory authority of states to protect  
270 public health and safety through the current system of state  
271 licensure.

272 This Compact is designed to achieve the following objectives:

273 1. Increase public access to occupational therapy  
274 services by providing for the mutual recognition of other member  
275 state licenses;

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

278 3. Encourage the cooperation of member states in  
279 regulating multi-state occupational therapy practice;

280 4. Support spouses of relocating military members;

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

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

286 7. Facilitate the use of telehealth technology in order  
287 to increase access to occupational therapy services.

288 **SECTION 2.**

289 **DEFINITIONS**

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

292 1. "Active duty military" means full-time duty status  
293 in the active uniformed service of the United States, including



294 members of the National Guard and Reserve on active duty orders  
295 pursuant to 10 USC Chapter 1209 and 10 USC Chapter 1211.

296           2. "Adverse action" means any administrative, civil,  
297 equitable, or criminal action permitted by a state's laws which is  
298 imposed by a licensing board or other authority against an  
299 occupational therapist or occupational therapy assistant,  
300 including actions against an individual's license or compact  
301 privilege such as censure, revocation, suspension, probation,  
302 monitoring of the licensee, or restriction on the licensee's  
303 practice.

304           3. "Alternative program" means a non-disciplinary  
305 monitoring process approved by an occupational therapy licensing  
306 board.

307           4. "Compact privilege" means the authorization, which  
308 is equivalent to a license, granted by a remote state to allow a  
309 licensee from another member state to practice as an occupational  
310 therapist or practice as an occupational therapy assistant in the  
311 remote state under its laws and rules. The practice of  
312 occupational therapy occurs in the member state where the  
313 patient/client is located at the time of the patient/client  
314 encounter.

315           5. "Continuing competence/education" means a  
316 requirement, as a condition of license renewal, to provide  
317 evidence of participation in, and/or completion of, educational  
318 and professional activities relevant to practice or area of work.



319           6. "Current significant investigative information"  
320 means investigative information that a licensing board, after an  
321 inquiry or investigation that includes notification and an  
322 opportunity for the occupational therapist or occupational therapy  
323 assistant to respond, if required by state law, has reason to  
324 believe is not groundless and, if proved true, would indicate more  
325 than a minor infraction.

326           7. "Data system" means a repository of information  
327 about licensees, including, but not limited to, license status,  
328 investigative information, compact privileges, and adverse  
329 actions.

330           8. "Encumbered license" means a license in which an  
331 adverse action restricts the practice of occupational therapy by  
332 the licensee or the adverse action has been reported to the  
333 National Practitioners Data Bank (NPDB).

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

337           10. "Home state" means the member state that is the  
338 licensee's primary state of residence.

339           11. "Impaired practitioner" means individuals whose  
340 professional practice is adversely affected by substance abuse,  
341 addiction, or other health-related conditions.



342           12. "Investigative information" means information,  
343 records, and/or documents received or generated by an occupational  
344 therapy licensing board pursuant to an investigation.

345           13. "Jurisprudence requirement" means the assessment of  
346 an individual's knowledge of the laws and rules governing the  
347 practice of occupational therapy in a state.

348           14. "Licensee" means an individual who currently holds  
349 an authorization from the state to practice as an occupational  
350 therapist or as an occupational therapy assistant.

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

353           16. "Occupational therapist" means an individual who is  
354 licensed by a state to practice occupational therapy.

355           17. "Occupational therapy assistant" means an  
356 individual who is licensed by a state to assist in the practice of  
357 occupational therapy.

358           18. "Occupational therapy," "occupational therapy  
359 practice," and the "practice of occupational therapy" mean the  
360 care and services provided by an occupational therapist or an  
361 occupational therapy assistant as set forth in the member state's  
362 statutes and regulations.

363           19. "Occupational Therapy Compact Commission" or  
364 "Commission" means the national administrative body whose  
365 membership consists of all states that have enacted the Compact.



366           20. "Occupational therapy licensing board" or  
367 "licensing board" means the agency of a state that is authorized  
368 to license and regulate occupational therapists and occupational  
369 therapy assistants.

370           21. "Primary state of residence" means the state (also  
371 known as the home state) in which an occupational therapist or  
372 occupational therapy assistant who is not active duty military  
373 declares a primary residence for legal purposes as verified by:  
374 driver's license, federal income tax return, lease, deed, mortgage  
375 or voter registration or other verifying documentation as further  
376 defined by Commission Rules.

377           22. "Remote state" means a member state other than the  
378 home state, where a licensee is exercising or seeking to exercise  
379 the compact privilege.

380           23. "Rule" means a regulation promulgated by the  
381 Commission that has the force of law.

382           24. "State" means any state, commonwealth, district, or  
383 territory of the United States of America that regulates the  
384 practice of occupational therapy.

385           25. "Single-state license" means an occupational  
386 therapist or occupational therapy assistant license issued by a  
387 member state that authorizes practice only within the issuing  
388 state and does not include a compact privilege in any other member  
389 state.





390 26. "Telehealth" means the application of  
391 telecommunication technology to deliver occupational therapy  
392 services for assessment, intervention and/or consultation.

393 **SECTION 3.**

394 **STATE PARTICIPATION IN THE COMPACT**

395 A. To participate in the Compact, a member state shall:

396 1. License occupational therapists and occupational  
397 therapy assistants;

398 2. Participate fully in the Commission's data system,  
399 including, but not limited to, using the Commission's unique  
400 identifier as defined in rules of the Commission;

401 3. Have a mechanism in place for receiving and  
402 investigating complaints about licensees;

403 4. Notify the Commission, in compliance with the terms  
404 of the Compact and rules, of any adverse action or the  
405 availability of investigative information regarding a licensee;

406 5. Implement or use procedures for considering the  
407 criminal history records of applicants for an initial compact  
408 privilege. These procedures shall include the submission of  
409 fingerprints or other biometric-based information by applicants  
410 for the purpose of obtaining an applicant's criminal history  
411 record information from the Federal Bureau of Investigation and  
412 the agency responsible for retaining that state's criminal  
413 records;



414                   a. A member state shall, within a time frame  
415 established by the Commission, require a criminal background check  
416 for a licensee seeking/applying for a compact privilege whose  
417 primary state of residence is that member state, by receiving the  
418 results of the Federal Bureau of Investigation criminal record  
419 search, and shall use the results in making licensure decisions.

420                   b. Communication between a member state, the  
421 Commission and among member states regarding the verification of  
422 eligibility for licensure through the Compact shall not include  
423 any information received from the Federal Bureau of Investigation  
424 relating to a federal criminal records check performed by a member  
425 state under Public Law 92-544.

426                   6. Comply with the rules of the Commission;

427                   7. Use only a recognized national examination as a  
428 requirement for licensure pursuant to the rules of the Commission;  
429 and

430                   8. Have continuing competence/education requirements as  
431 a condition for license renewal.

432           B. A member state shall grant the compact privilege to a  
433 licensee holding a valid unencumbered license in another member  
434 state in accordance with the terms of the Compact and rules.

435           C. Member states may charge a fee for granting a compact  
436 privilege.

437           D. A member state shall provide for the state's delegate to  
438 attend all Occupational Therapy Compact Commission meetings.



439 E. Individuals not residing in a member state shall continue  
440 to be able to apply for a member state's single-state license as  
441 provided under the laws of each member state. However, the  
442 single-state license granted to these individuals shall not be  
443 recognized as granting the compact privilege in any other member  
444 state.

445 F. Nothing in this Compact shall affect the requirements  
446 established by a member state for the issuance of a single-state  
447 license.

448 **SECTION 4.**

449 **COMPACT PRIVILEGE**

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

- 452 1. Hold a license in the home state;
- 453 2. Have a valid United States Social Security Number or  
454 National Practitioner Identification number;
- 455 3. Have no encumbrance on any state license;
- 456 4. Be eligible for a compact privilege in any member  
457 state in accordance with subsections D, F, G, and H of this  
458 section;
- 459 5. Have paid all fines and completed all requirements  
460 resulting from any adverse action against any license or compact  
461 privilege, and two (2) years have elapsed from the date of such  
462 completion;



463           6. Notify the Commission that the licensee is seeking  
464 the compact privilege within a remote state(s);

465           7. Pay any applicable fees, including any state fee,  
466 for the compact privilege;

467           8. Complete a criminal background check in accordance  
468 with subsection A.5 of Section 3 of this Compact;

469           a. The licensee shall be responsible for the  
470 payment of any fee associated with the completion of a criminal  
471 background check.

472           9. Meet any jurisprudence requirements established by  
473 the remote state(s) in which the licensee is seeking a compact  
474 privilege; and

475           10. Report to the Commission adverse action taken by  
476 any non-member state within thirty (30) days from the date the  
477 adverse action is taken.

478           B. The compact privilege is valid until the expiration date  
479 of the home state license. The licensee must comply with the  
480 requirements of subsection A of this section to maintain the  
481 compact privilege in the remote state.

482           C. A licensee providing occupational therapy in a remote  
483 state under the compact privilege shall function within the laws  
484 and regulations of the remote state.

485           D. Occupational therapy assistants practicing in a remote  
486 state shall be supervised by an occupational therapist licensed or  
487 holding a compact privilege in that remote state.



488 E. A licensee providing occupational therapy in a remote  
489 state is subject to that state's regulatory authority. A remote  
490 state may, in accordance with due process and that state's laws,  
491 remove a licensee's compact privilege in the remote state for a  
492 specific period of time, impose fines, and/or take any other  
493 necessary actions to protect the health and safety of its  
494 citizens. The licensee may be ineligible for a compact privilege  
495 in any state until the specific time for removal has passed and  
496 all fines are paid.

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

- 500 1. The home state license is no longer encumbered; and
- 501 2. Two (2) years have elapsed from the date on which  
502 the home state license is no longer encumbered in accordance with  
503 paragraph 1 of this subsection F.

504 G. Once an encumbered license in the home state is restored  
505 to good standing, the licensee must meet the requirements of  
506 subsection A of this section to obtain a compact privilege in any  
507 remote state.

508 H. If a licensee's compact privilege in any remote state is  
509 removed, the individual may lose the compact privilege in any  
510 other remote state until the following occur:

- 511 1. The specific period of time for which the compact  
512 privilege was removed has ended;



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

515                   3. Two (2) years have elapsed from the date of  
516 completing requirements for paragraphs 1 and 2 of this subsection  
517 H; and

518                   4. The compact privileges are reinstated by the  
519 Commission, and the compact data system is updated to reflect  
520 reinstatement.

521           I. If a licensee's compact privilege in any remote state is  
522 removed due to an erroneous charge, privileges shall be restored  
523 through the compact data system.

524           J. Once the requirements of subsection H of this section  
525 have been met, the licensee must meet the requirements in  
526 subsection A of this section to obtain a compact privilege in a  
527 remote state.

528                                   **SECTION 5.**

529                                   **OBTAINING A NEW HOME STATE LICENSE**

530                                   **BY VIRTUE OF COMPACT PRIVILEGE**

531           A. An occupational therapist or occupational therapy  
532 assistant may hold a home state license, which allows for compact  
533 privileges in member states, in only one (1) member state at a  
534 time.

535           B. If an occupational therapist or occupational therapy  
536 assistant changes primary state of residence by moving between two  
537 (2) member states:



538           1. The occupational therapist or occupational therapy  
539 assistant shall file an application for obtaining a new home state  
540 license by virtue of a compact privilege, pay all applicable fees,  
541 and notify the current and new home state in accordance with  
542 applicable rules adopted by the Commission.

543           2. Upon receipt of an application for obtaining a new  
544 home state license by virtue of compact privilege, the new home  
545 state shall verify that the occupational therapist or occupational  
546 therapy assistant meets the pertinent criteria outlined in Section  
547 4 of this Compact via the data system, without need for primary  
548 source verification except for:

549                 a. An FBI fingerprint based criminal background  
550 check if not previously performed or updated pursuant to  
551 applicable rules adopted by the Commission in accordance with  
552 Public Law 92-544;

553                 b. Other criminal background check as required by  
554 the new home state; and

555                 c. Submission of any requisite Jurisprudence  
556 Requirements of the new home state.

557           3. The former home state shall convert the former home  
558 state license into a compact privilege once the new home state has  
559 activated the new home state license in accordance with applicable  
560 rules adopted by the Commission.

561           4. Notwithstanding any other provision of this Compact,  
562 if the occupational therapist or occupational therapy assistant



563 cannot meet the criteria in Section 4 of this Compact, the new  
564 home state shall apply its requirements for issuing a new  
565 single-state license.

566           5. The occupational therapist or the occupational  
567 therapy assistant shall pay all applicable fees to the new home  
568 state in order to be issued a new home state license.

569           C. If an occupational therapist or occupational therapy  
570 assistant changes primary state of residence by moving from a  
571 member state to a non-member state, or from a non-member state to  
572 a member state, the state criteria shall apply for issuance of a  
573 single-state license in the new state.

574           D. Nothing in this Compact shall interfere with a licensee's  
575 ability to hold a single-state license in multiple states;  
576 however, for the purposes of this Compact, a licensee shall have  
577 only one home state license.

578           E. Nothing in this Compact shall affect the requirements  
579 established by a member state for the issuance of a single-state  
580 license.

## 581                   **SECTION 6.**

### 582                   **ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

583           Active duty military personnel, or their spouses, shall  
584 designate a home state where the individual has a current license  
585 in good standing. The individual may retain the home state  
586 designation during the period the service member is on active  
587 duty. Subsequent to designating a home state, the individual





588 shall only change their home state through application for  
589 licensure in the new state or through the process described in  
590 Section 5 of this Compact.

591 **SECTION 7**

592 **ADVERSE ACTIONS**

593 A. A home state shall have exclusive power to impose adverse  
594 action against an occupational therapist's or occupational therapy  
595 assistant's license issued by the home state.

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

599 1. Take adverse action against an occupational  
600 therapist's or occupational therapy assistant's compact privilege  
601 within that member state.

602 2. Issue subpoenas for both hearings and investigations  
603 that require the attendance and testimony of witnesses as well as  
604 the production of evidence. Subpoenas issued by a licensing board  
605 in a member state for the attendance and testimony of witnesses or  
606 the production of evidence from another member state shall be  
607 enforced in the latter state by any court of competent  
608 jurisdiction, according to the practice and procedure of that  
609 court applicable to subpoenas issued in proceedings pending before  
610 it. The issuing authority shall pay any witness fees, travel  
611 expenses, mileage and other fees required by the service statutes  
612 of the state in which the witnesses or evidence are located.



613 C. For purposes of taking adverse action, the home state  
614 shall give the same priority and effect to reported conduct  
615 received from a member state as it would if the conduct had  
616 occurred within the home state. In so doing, the home state shall  
617 apply its own state laws to determine appropriate action.

618 D. The home state shall complete any pending investigations  
619 of an occupational therapist or occupational therapy assistant who  
620 changes primary state of residence during the course of the  
621 investigations. The home state, where the investigations were  
622 initiated, shall also have the authority to take appropriate  
623 action(s) and shall promptly report the conclusions of the  
624 investigations to the compact data system. The administrator of  
625 the data system shall promptly notify the new home state of any  
626 adverse actions.

627 E. A member state, if otherwise permitted by state law, may  
628 recover from the affected occupational therapist or occupational  
629 therapy assistant the costs of investigations and disposition of  
630 cases resulting from any adverse action taken against that  
631 occupational therapist or occupational therapy assistant.

632 F. A member state may take adverse action based on the  
633 factual findings of the remote state, provided that the member  
634 state follows its own procedures for taking the adverse action.

635 G. Joint investigations.

636 1. In addition to the authority granted to a member  
637 state by its respective state occupational therapy laws and



638 regulations or other applicable state law, any member state may  
639 participate with other member states in joint investigations of  
640 licensees.

641           2. Member states shall share any investigative,  
642 litigation, or compliance materials in furtherance of any joint or  
643 individual investigation initiated under the Compact.

644           H. If an adverse action is taken by the home state against  
645 an occupational therapist's or occupational therapy assistant's  
646 license, the occupational therapist's or occupational therapy  
647 assistant's compact privilege in all other member states shall be  
648 deactivated until all encumbrances have been removed from the  
649 state license. All home state disciplinary orders that impose  
650 adverse action against an occupational therapist's or occupational  
651 therapy assistant's license shall include a statement that the  
652 occupational therapist's or occupational therapy assistant's  
653 compact privilege is deactivated in all member states during the  
654 pendency of the order.

655           I. If a member state takes adverse action, it shall promptly  
656 notify the administrator of the data system. The administrator of  
657 the data system shall promptly notify the home state of any  
658 adverse actions by remote states.

659           J. Nothing in this Compact shall override a member state's  
660 decision that participation in an alternative program may be used  
661 in lieu of adverse action.

662                                 **SECTION 8.**



663                   **ESTABLISHMENT OF THE OCCUPATIONAL THERAPY**  
664                   **COMPACT COMMISSION.**

665           A. The compact member states hereby create and establish a  
666 joint public agency known as the Occupational Therapy Compact  
667 Commission:

668               1. The Commission is an instrumentality of the compact  
669 member states.

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

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

678           B. Membership, voting, and meetings.

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

681               2. The delegate shall be either:

682                   a. A current member of the licensing board, who is  
683 an occupational therapist, occupational therapy assistant, or  
684 public member; or

685                   b. An administrator of the licensing board.



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

689           4. The member state board shall fill any vacancy  
690 occurring in the Commission within ninety (90) days.

691           5. Each delegate shall be entitled to one (1) vote with  
692 regard to the promulgation of rules and creation of bylaws and  
693 shall otherwise have an opportunity to participate in the business  
694 and affairs of the Commission. A delegate shall vote in person or  
695 by such other means as provided in the bylaws. The bylaws may  
696 provide for delegates' participation in meetings by telephone or  
697 other means of communication.

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

701           7. The Commission shall establish by rule a term of  
702 office for delegates.

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

- 705           1. Establish a Code of Ethics for the Commission;
- 706           2. Establish the fiscal year of the Commission;
- 707           3. Establish bylaws;
- 708           4. Maintain its financial records in accordance with  
709 the bylaws;



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

712           6. Promulgate uniform rules to facilitate and  
713 coordinate implementation and administration of this Compact. The  
714 rules shall have the force and effect of law and shall be binding  
715 in all member states;

716           7. Bring and prosecute legal proceedings or actions in  
717 the name of the Commission, provided that the standing of any  
718 state occupational therapy licensing board to sue or be sued under  
719 applicable law shall not be affected;

720           8. Purchase and maintain insurance and bonds;

721           9. Borrow, accept, or contract for services of  
722 personnel, including, but not limited to, employees of a member  
723 state;

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

730           11. Accept any and all appropriate donations and grants  
731 of money, equipment, supplies, materials and services, and  
732 receive, use and dispose of the same; provided that at all times  
733 the Commission shall avoid any appearance of impropriety and/or  
734 conflict of interest;



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

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

742           14. Establish a budget and make expenditures;

743           15. Borrow money;

744           16. Appoint committees, including standing committees  
745 composed of members, state regulators, state legislators or their  
746 representatives, and consumer representatives, and such other  
747 interested persons as may be designated in this Compact and the  
748 bylaws;

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

751           18. Establish and elect an Executive Committee; and

752           19. Perform such other functions as may be necessary or  
753 appropriate to achieve the purposes of this Compact consistent  
754 with the state regulation of occupational therapy licensure and  
755 practice.

756           D. The Executive Committee.

757           1. The Executive Committee shall have the power to act  
758 on behalf of the Commission according to the terms of this  
759 Compact.



760           2. The Executive Committee shall be composed of nine  
761 (9) members:

762           a. Seven (7) voting members who are elected by the  
763 Commission from the current membership of the Commission;

764           b. One (1) ex-officio, nonvoting member from a  
765 recognized national occupational therapy professional association;  
766 and

767           c. One (1) ex-officio, nonvoting member from a  
768 recognized national occupational therapy certification  
769 organization.

770           3. The ex-officio members will be selected by their  
771 respective organizations.

772           4. The Commission may remove any member of the  
773 Executive Committee as provided in bylaws.

774           5. The Executive Committee shall meet at least  
775 annually.

776           6. The Executive Committee shall have the following  
777 duties and responsibilities:

778           a. Recommend to the entire Commission changes to  
779 the rules or bylaws, changes to this Compact legislation, fees  
780 paid by compact member states such as annual dues, and any  
781 Commission Compact fee charged to licensees for the compact  
782 privilege;

783           b. Ensure compact administration services are  
784 appropriately provided, contractual or otherwise;





- 785 c. Prepare and recommend the budget;
- 786 d. Maintain financial records on behalf of the
- 787 Commission;
- 788 e. Monitor compact compliance of member states and
- 789 provide compliance reports to the Commission;
- 790 f. Establish additional committees as necessary;
- 791 and
- 792 g. Perform other duties as provided in rules or
- 793 bylaws.

794 E. Meetings of the Commission.

795 1. All meetings shall be open to the public, and public

796 notice of meetings shall be given in the same manner as required

797 under the rulemaking provisions in Section 10 of this Compact.

798 2. The Commission or the Executive Committee or other

799 committees of the Commission may convene in a closed, non-public

800 meeting if the Commission or Executive Committee or other

801 committees of the Commission must discuss:

802 a. Non-compliance of a member state with its

803 obligations under the Compact;

804 b. The employment, compensation, discipline or

805 other matters, practices or procedures related to specific

806 employees or other matters related to the Commission's internal

807 personnel practices and procedures;

808 c. Current, threatened, or reasonably anticipated

809 litigation;



- 810                   d. Negotiation of contracts for the purchase,  
811 lease, or sale of goods, services, or real estate;
- 812                   e. Accusing any person of a crime or formally  
813 censuring any person;
- 814                   f. Disclosure of trade secrets or commercial or  
815 financial information that is privileged or confidential;
- 816                   g. Disclosure of information of a personal nature  
817 where disclosure would constitute a clearly unwarranted invasion  
818 of personal privacy;
- 819                   h. Disclosure of investigative records compiled  
820 for law enforcement purposes;
- 821                   i. Disclosure of information related to any  
822 investigative reports prepared by or on behalf of or for use of  
823 the Commission or other committee charged with responsibility of  
824 investigation or determination of compliance issues pursuant to  
825 the Compact; or
- 826                   j. Matters specifically exempted from disclosure  
827 by federal or member state statute.

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

832                   4. The Commission shall keep minutes that fully and  
833 clearly describe all matters discussed in a meeting and shall



834 provide a full and accurate summary of actions taken, and the  
835 reasons therefore, including a description of the views expressed.  
836 All documents considered in connection with an action shall be  
837 identified in such minutes. All minutes and documents of a closed  
838 meeting shall remain under seal, subject to release by a majority  
839 vote of the Commission or order of a court of competent  
840 jurisdiction.

841 F. Financing of the Commission.

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

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

848 3. The Commission may levy on and collect an annual  
849 assessment from each member state or impose fees on other parties  
850 to cover the cost of the operations and activities of the  
851 Commission and its staff, which must be in a total amount  
852 sufficient to cover its annual budget as approved by the  
853 Commission each year for which revenue is not provided by other  
854 sources. The aggregate annual assessment amount shall be  
855 allocated based upon a formula to be determined by the Commission,  
856 which shall promulgate a rule binding upon all member states.

857 4. The Commission shall not incur obligations of any  
858 kind prior to securing the funds adequate to meet the same; nor



859 shall the Commission pledge the credit of any of the member  
860 states, except by and with the authority of the member state.

861           5. The Commission shall keep accurate accounts of all  
862 receipts and disbursements. The receipts and disbursements of the  
863 Commission shall be subject to the audit and accounting procedures  
864 established under its bylaws. However, all receipts and  
865 disbursements of funds handled by the Commission shall be audited  
866 yearly by a certified or licensed public accountant, and the  
867 report of the audit shall be included in and become part of the  
868 annual report of the Commission.

869           G. Qualified immunity, defense, and indemnification.

870           1. The members, officers, executive director, employees  
871 and representatives of the Commission shall be immune from suit  
872 and liability, either personally or in their official capacity,  
873 for any claim for damage to or loss of property or personal injury  
874 or other civil liability caused by or arising out of any actual or  
875 alleged act, error or omission that occurred, or that the person  
876 against whom the claim is made had a reasonable basis for  
877 believing occurred within the scope of Commission employment,  
878 duties or responsibilities; provided that nothing in this  
879 paragraph shall be construed to protect any such person from suit  
880 and/or liability for any damage, loss, injury, or liability caused  
881 by the intentional or willful or wanton misconduct of that person.

882           2. The Commission shall defend any member, officer,  
883 executive director, employee, or representative of the Commission



884 in any civil action seeking to impose liability arising out of any  
885 actual or alleged act, error, or omission that occurred within the  
886 scope of Commission employment, duties, or responsibilities, or  
887 that the person against whom the claim is made had a reasonable  
888 basis for believing occurred within the scope of Commission  
889 employment, duties, or responsibilities; provided that nothing  
890 herein shall be construed to prohibit that person from retaining  
891 his or her own counsel; and provided further, that the actual or  
892 alleged act, error, or omission did not result from that person's  
893 intentional or willful or wanton misconduct.

894           3. The Commission shall indemnify and hold harmless any  
895 member, officer, executive director, employee, or representative  
896 of the Commission for the amount of any settlement or judgment  
897 obtained against that person arising out of any actual or alleged  
898 act, error or omission that occurred within the scope of  
899 Commission employment, duties, or responsibilities, or that such  
900 person had a reasonable basis for believing occurred within the  
901 scope of Commission employment, duties, or responsibilities,  
902 provided that the actual or alleged act, error, or omission did  
903 not result from the intentional or willful or wanton misconduct of  
904 that person.

905   **SECTION 9.**

906   **DATA SYSTEM**

907           A. The Commission shall provide for the development,  
908 maintenance, and utilization of a coordinated database and



909 reporting system containing licensure, adverse action, and  
910 investigative information on all licensed individuals in member  
911 states.

912 B. A member state shall submit a uniform data set to the  
913 data system on all individuals to whom this Compact is applicable  
914 (utilizing a unique identifier) as required by the rules of the  
915 Commission, including:

916 1. Identifying information;

917 2. Licensure data;

918 3. Adverse actions against a license or compact  
919 privilege;

920 4. Non-confidential information related to alternative  
921 program participation;

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

924 6. Other information that may facilitate the  
925 administration of this Compact, as determined by the rules of the  
926 Commission; and

927 7. Current significant investigative information.

928 C. Current significant investigative information and other  
929 investigative information pertaining to a licensee in any member  
930 state will only be available to other member states.

931 D. The Commission shall promptly notify all member states of  
932 any adverse action taken against a licensee or an individual  
933 applying for a license. Adverse action information pertaining to



934 a licensee in any member state will be available to any other  
935 member state.

936 E. Member states contributing information to the data system  
937 may designate information that may not be shared with the public  
938 without the express permission of the contributing state.

939 F. Any information submitted to the data system that is  
940 subsequently required to be expunged by the laws of the member  
941 state contributing the information shall be removed from the data  
942 system.

943 **SECTION 10.**

944 **RULEMAKING**

945 A. The Commission shall exercise its rulemaking powers  
946 pursuant to the criteria set forth in this section and the rules  
947 adopted under this section. Rules and amendments shall become  
948 binding as of the date specified in each rule or amendment.

949 B. The Commission shall promulgate reasonable rules in order  
950 to effectively and efficiently achieve the purposes of the  
951 Compact. Notwithstanding the foregoing, if the Commission  
952 exercises its rulemaking authority in a manner that is beyond the  
953 scope of the purposes of the Compact, or the powers granted under  
954 the Compact, then such an action by the Commission shall be  
955 invalid and have no force and effect.

956 C. If a majority of the legislatures of the member states  
957 rejects a rule, by enactment of a statute or resolution in the  
958 same manner used to adopt the Compact within four (4) years of the



959 date of adoption of the rule, then such rule shall have no further  
960 force and effect in any member state.

961 D. Rules or amendments to the rules shall be adopted at a  
962 regular or special meeting of the Commission.

963 E. Prior to promulgation and adoption of a final rule or  
964 rules by the Commission, and at least thirty (30) days in advance  
965 of the meeting at which the rule will be considered and voted  
966 upon, the Commission shall file a Notice of Proposed Rulemaking:

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

969 2. On the website of each member state occupational  
970 therapy licensing board or other publicly accessible platform or  
971 the publication in which each state would otherwise publish  
972 proposed rules.

973 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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





983 G. Prior to adoption of a proposed rule, the Commission  
984 shall allow persons to submit written data, facts, opinions, and  
985 arguments, which shall be made available to the public.

986 H. The Commission shall grant an opportunity for a public  
987 hearing before it adopts a rule or amendment if a hearing is  
988 requested by:

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

990 2. A state or federal governmental subdivision or  
991 agency; or

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

994 I. If a hearing is held on the proposed rule or amendment,  
995 the Commission shall publish the place, time, and date of the  
996 scheduled public hearing. If the hearing is held via electronic  
997 means, the Commission shall publish the mechanism for access to  
998 the electronic hearing.

999 1. All persons wishing to be heard at the hearing shall  
1000 notify the executive director of the Commission or other  
1001 designated member in writing of their desire to appear and testify  
1002 at the hearing not less than five (5) business days before the  
1003 scheduled date of the hearing.

1004 2. Hearings shall be conducted in a manner providing  
1005 each person who wishes to comment a fair and reasonable  
1006 opportunity to comment orally or in writing.



1007           3. All hearings will be recorded. A copy of the  
1008 recording will be made available on request.

1009           4. Nothing in this section shall be construed as  
1010 requiring a separate hearing on each rule. Rules may be grouped  
1011 for the convenience of the Commission at hearings required by this  
1012 section.

1013           J. Following the scheduled hearing date, or by the close of  
1014 business on the scheduled hearing date if the hearing was not  
1015 held, the Commission shall consider all written and oral comments  
1016 received.

1017           K. If no written notice of intent to attend the public  
1018 hearing by interested parties is received, the Commission may  
1019 proceed with promulgation of the proposed rule without a public  
1020 hearing.

1021           L. The Commission shall, by majority vote of all members,  
1022 take final action on the proposed rule and shall determine the  
1023 effective date of the rule, if any, based on the rulemaking record  
1024 and the full text of the rule.

1025           M. Upon determination that an emergency exists, the  
1026 Commission may consider and adopt an emergency rule without prior  
1027 notice, opportunity for comment, or hearing, provided that the  
1028 usual rulemaking procedures provided in the Compact and in this  
1029 section shall be retroactively applied to the rule as soon as  
1030 reasonably possible, in no event later than ninety (90) days after  
1031 the effective date of the rule. For the purposes of this



1032 provision, an emergency rule is one that must be adopted  
1033 immediately in order to:

- 1034 1. Meet an imminent threat to public health, safety, or  
1035 welfare;
- 1036 2. Prevent a loss of commission or member state funds;
- 1037 3. Meet a deadline for the promulgation of an  
1038 administrative rule that is established by federal law or rule; or
- 1039 4. Protect public health and safety.

1040 N. The Commission or an authorized committee of the  
1041 Commission may direct revisions to a previously adopted rule or  
1042 amendment for purposes of correcting typographical errors, errors  
1043 in format, errors in consistency, or grammatical errors. Public  
1044 notice of any revisions shall be posted on the website of the  
1045 Commission. The revision shall be subject to challenge by any  
1046 person for a period of thirty (30) days after posting. The  
1047 revision may be challenged only on grounds that the revision  
1048 results in a material change to a rule. A challenge shall be made  
1049 in writing and delivered to the chair of the Commission prior to  
1050 the end of the notice period. If no challenge is made, the  
1051 revision will take effect without further action. If the revision  
1052 is challenged, the revision may not take effect without the  
1053 approval of the Commission.

1054 **SECTION 11.**

1055 **OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

1056 A. Oversight.



1057           1. The executive, legislative, and judicial branches of  
1058 state government in each member state shall enforce this Compact  
1059 and take all actions necessary and appropriate to effectuate the  
1060 Compact's purposes and intent. The provisions of this Compact and  
1061 the rules promulgated under this Compact shall have standing as  
1062 statutory law.

1063           2. All courts shall take judicial notice of the Compact  
1064 and the rules in any judicial or administrative proceeding in a  
1065 member state pertaining to the subject matter of this Compact  
1066 which may affect the powers, responsibilities, or actions of the  
1067 Commission.

1068           3. The Commission shall be entitled to receive service  
1069 of process in any such proceeding, and shall have standing to  
1070 intervene in such a proceeding for all purposes. Failure to  
1071 provide service of process to the Commission shall render a  
1072 judgment or order void as to the Commission, this Compact, or  
1073 promulgated rules.

1074           B. Default, technical assistance, and termination.

1075           1. If the Commission determines that a member state has  
1076 defaulted in the performance of its obligations or  
1077 responsibilities under this Compact or the promulgated rules, the  
1078 Commission shall:

1079           a. Provide written notice to the defaulting state  
1080 and other member states of the nature of the default, the proposed



1081 means of curing the default and/or any other action to be taken by  
1082 the Commission; and

1083           b. Provide remedial training and specific  
1084 technical assistance regarding the default.

1085           2. If a state in default fails to cure the default, the  
1086 defaulting state may be terminated from the Compact upon an  
1087 affirmative vote of a majority of the member states, and all  
1088 rights, privileges and benefits conferred by this Compact may be  
1089 terminated on the effective date of termination. A cure of the  
1090 default does not relieve the offending state of obligations or  
1091 liabilities incurred during the period of default.

1092           3. Termination of membership in the Compact shall be  
1093 imposed only after all other means of securing compliance have  
1094 been exhausted. Notice of intent to suspend or terminate shall be  
1095 given by the Commission to the governor, the majority and minority  
1096 leaders of the defaulting state's legislature, and each of the  
1097 member states.

1098           4. A state that has been terminated is responsible for  
1099 all assessments, obligations, and liabilities incurred through the  
1100 effective date of termination, including obligations that extend  
1101 beyond the effective date of termination.

1102           5. The Commission shall not bear any costs related to a  
1103 state that is found to be in default or that has been terminated  
1104 from the Compact, unless agreed upon in writing between the  
1105 Commission and the defaulting state.



1106           6. The defaulting state may appeal the action of the  
1107 Commission by petitioning the United States District Court for the  
1108 District of Columbia or the federal district where the Commission  
1109 has its principal offices. The prevailing member shall be awarded  
1110 all costs of such litigation, including reasonable attorney's  
1111 fees.

1112           C. Dispute resolution.

1113           1. Upon request by a member state, the Commission shall  
1114 attempt to resolve disputes related to the Compact that arise  
1115 among member states and between member and non-member states.

1116           2. The Commission shall promulgate a rule providing for  
1117 both mediation and binding dispute resolution for disputes as  
1118 appropriate.

1119           D. Enforcement.

1120           1. The Commission, in the reasonable exercise of its  
1121 discretion, shall enforce the provisions and rules of this  
1122 Compact.

1123           2. By majority vote, the Commission may initiate legal  
1124 action in the United States District Court for the District of  
1125 Columbia or the federal district where the Commission has its  
1126 principal offices against a member state in default to enforce  
1127 compliance with the provisions of the Compact and its promulgated  
1128 rules and bylaws. The relief sought may include both injunctive  
1129 relief and damages. If judicial enforcement is necessary, the



1130 prevailing member shall be awarded all costs of such litigation,  
1131 including reasonable attorney's fees.

1132 3. The remedies herein shall not be the exclusive  
1133 remedies of the Commission. The Commission may pursue any other  
1134 remedies available under federal or state law.

1135 **SECTION 12.**

1136 **DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR**  
1137 **OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED**  
1138 **RULES, WITHDRAWAL, AND AMENDMENT**

1139 A. The Compact shall come into effect on the date on which  
1140 the compact statute is enacted into law in the tenth member state.  
1141 The provisions, which become effective at that time, shall be  
1142 limited to the powers granted to the Commission relating to  
1143 assembly and the promulgation of rules. Thereafter, the  
1144 Commission shall meet and exercise rulemaking powers necessary to  
1145 the implementation and administration of the Compact.

1146 B. Any state that joins the Compact subsequent to the  
1147 Commission's initial adoption of the rules shall be subject to the  
1148 rules as they exist on the date on which the Compact becomes law  
1149 in that state. Any rule that has been previously adopted by the  
1150 Commission shall have the full force and effect of law on the day  
1151 the Compact becomes law in that state.

1152 C. Any member state may withdraw from this Compact by  
1153 enacting a statute repealing the same.



1154 1. A member state's withdrawal shall not take effect  
1155 until six (6) months after enactment of the repealing statute.

1156 2. Withdrawal shall not affect the continuing  
1157 requirement of the withdrawing state's occupational therapy  
1158 licensing board to comply with the investigative and adverse  
1159 action reporting requirements of this act prior to the effective  
1160 date of withdrawal.

1161 D. Nothing contained in this Compact shall be construed to  
1162 invalidate or prevent any occupational therapy licensure agreement  
1163 or other cooperative arrangement between a member state and a  
1164 non-member state that does not conflict with the provisions of  
1165 this Compact.

1166 E. This Compact may be amended by the member states. No  
1167 amendment to this Compact shall become effective and binding upon  
1168 any member state until it is enacted into the laws of all member  
1169 states.

1170 **SECTION 13.**

1171 **CONSTRUCTION AND SEVERABILITY**

1172 This Compact shall be liberally construed so as to effectuate  
1173 the purposes thereof. The provisions of this Compact shall be  
1174 severable and if any phrase, clause, sentence or provision of this  
1175 Compact is declared to be contrary to the constitution of any  
1176 member state or of the United States or the applicability thereof  
1177 to any government, agency, person, or circumstance is held  
1178 invalid, the validity of the remainder of this Compact and the





1179 applicability thereof to any government, agency, person, or  
1180 circumstance shall not be affected thereby. If this Compact shall  
1181 be held contrary to the constitution of any member state, the  
1182 Compact shall remain in full force and effect as to the remaining  
1183 member states and in full force and effect as to the member state  
1184 affected as to all severable matters.

1185 **SECTION 14.**

1186 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

1187 A. A licensee providing occupational therapy in a remote  
1188 state under the compact privilege shall function within the laws  
1189 and regulations of the remote state.

1190 B. Nothing in this Compact prevents the enforcement of any  
1191 other law of a member state that is not inconsistent with the  
1192 Compact.

1193 C. Any laws in a member state in conflict with the Compact  
1194 are superseded to the extent of the conflict.

1195 D. Any lawful actions of the Commission, including all rules  
1196 and bylaws promulgated by the Commission, are binding upon the  
1197 member states.

1198 E. All agreements between the Commission and the member  
1199 states are binding in accordance with their terms.

1200 F. If any provision of the Compact exceeds the  
1201 constitutional limits imposed on the legislature of any member  
1202 state, the provision shall be ineffective to the extent of the



1203 conflict with the constitutional provision in question in that  
1204 member state.

1205         **SECTION 5.** Section 73-24-3, Mississippi Code of 1972, is  
1206 amended as follows:

1207         73-24-3. The following words and phrases shall have the  
1208 following meanings, unless the context requires otherwise:

1209             (a) "Association" shall mean the Mississippi  
1210 Occupational Therapy Association.

1211             (b) "Board" shall mean the Mississippi State Board of  
1212 Health.

1213             (c) "Occupational therapy" means the therapeutic use of  
1214 purposeful and meaningful (goal-directed) activities and/or  
1215 exercises to evaluate and treat an individual who has, or is at  
1216 risk for, a disease or disorder, impairment, activity limitation  
1217 or participation restriction which interferes with his or her  
1218 ability to function independently in daily life roles and to  
1219 promote health and wellness across his or her lifespan.

1220             (d) "Occupational therapy intervention" includes:

1221                 (i) Remediation or restoration of performance  
1222 abilities that are limited due to impairment in biological,  
1223 physiological, psychological or neurological processes;

1224                 (ii) Adaptation of task, process or the  
1225 environment, or the teaching of compensatory techniques in order  
1226 to enhance functional performance;



1227 (iii) Disability prevention methods and techniques  
1228 which facilitate the development or safe application of functional  
1229 performance skills; or

1230 (iv) Health promotion strategies and practices  
1231 which enhance functional performance abilities.

1232 (e) "Occupational therapy service" includes, but is not  
1233 limited to:

1234 (i) Evaluating, developing, improving, sustaining  
1235 or restoring skill in activities of daily living (ADLS), work or  
1236 productive activities, including instrumental activities of daily  
1237 living (IADLS), play and leisure activities;

1238 (ii) Evaluating, developing, remediating or  
1239 restoring physical, sensorimotor, cognitive or psychosocial  
1240 components of performance;

1241 (iii) Designing, fabricating, applying or training  
1242 in the use of assistive technology or orthotic devices, and  
1243 training in the use of prosthetic devices;

1244 (iv) Adaptation of environments and processes,  
1245 including the application of ergonomic principles, to enhance  
1246 functional performance and safety in daily life roles;

1247 (v) Application of physical agent modalities as an  
1248 adjunct to or in preparation for engagement in an occupation or  
1249 functional activity;



1250 (vi) Evaluating and providing intervention in  
1251 collaboration with the client, family, caregiver or other person  
1252 responsible for the client;

1253 (vii) Educating the client, family, caregiver or  
1254 others in carrying out appropriate nonskilled interventions;

1255 (viii) Consulting with groups, programs,  
1256 organizations or communities to provide population-based services;  
1257 or

1258 (ix) Participation in administration, education  
1259 and research, including both clinical and academic environments.

1260 (f) "Occupational therapist" means a person who is  
1261 licensed or holds a compact privilege to practice occupational  
1262 therapy as defined in this chapter, and whose license or compact  
1263 privilege is in good standing.

1264 (g) "Occupational therapy assistant" means a person who  
1265 is licensed or holds a compact privilege to assist in the practice  
1266 of occupational therapy under the supervision of or with the  
1267 consultation of the licensed occupational therapist or  
1268 occupational therapist who holds a compact privilege, and whose  
1269 license or compact privilege is in good standing.

1270 (h) "Occupational therapy aide" means a person not  
1271 licensed in the field of occupational therapy who assists  
1272 occupational therapists and occupational therapy assistants in the  
1273 practice of occupational therapy, is under the direct supervision  
1274 of the licensed occupational therapist or licensed occupational



1275 therapy assistant or occupational therapist or occupational  
1276 therapy assistant who holds a compact privilege, and whose  
1277 activities require an understanding of occupational therapy.

1278 (i) "Person" means any individual, partnership,  
1279 unincorporated organization or corporate body, except that only an  
1280 individual may be licensed or hold a compact privilege under this  
1281 chapter.

1282 (j) "Council" means the Mississippi Advisory Council in  
1283 Occupational Therapy.

1284 (k) "Compact privilege" means the authorization to  
1285 practice as an occupational therapist or occupational therapy  
1286 assistant under the Occupational Therapy Licensure Compact  
1287 provided for in Section 1 of this act.

1288 (l) "Licensee" means a person who has been issued a  
1289 license to practice as an occupational therapist or occupational  
1290 therapy assistant in this state, or a person who holds a compact  
1291 privilege to practice as an occupational therapist or occupational  
1292 therapy assistant in this state.

1293 **SECTION 6.** Section 73-24-7, Mississippi Code of 1972, is  
1294 amended as follows:

1295 73-24-7. (1) It is unlawful for any person who is not  
1296 licensed or does not hold a compact privilege under this chapter  
1297 as an occupational therapist or as an occupational therapy  
1298 assistant, or whose license or compact privilege has been  
1299 suspended or revoked, to:



1300 (a) In any manner represent himself or herself as  
1301 someone who provides occupational therapy services, or use in  
1302 connection with his or her name or place of business the words  
1303 "occupational therapist," "licensed occupational therapy  
1304 assistant" or the letters "O.T.," "L.O.T.," "O.T.L.," "O.T.A." or  
1305 "O.T.A.L." or any other words, letters, abbreviations or insignia  
1306 indicating or implying that he or she is an occupational therapist  
1307 or an occupational therapy assistant or that he or she provides  
1308 occupational therapy services; or

1309 (b) To show in any way, orally, in writing, in print or  
1310 by sign, directly or by implication, or to represent himself or  
1311 herself as an occupational therapist or an occupational therapy  
1312 assistant or someone who provides occupational therapy services.

1313 (2) Any person who violates any provision of this section,  
1314 upon conviction, shall be guilty of a misdemeanor and shall be  
1315 fined not more than One Thousand Dollars (\$1,000.00) for each  
1316 violation.

1317 (3) Any person who knowingly shall make a material false  
1318 statement in his or her application for a license or compact  
1319 privilege under this chapter or in response to any inquiry by the  
1320 department or the board shall be fined not less than One Hundred  
1321 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or  
1322 imprisoned for not less than ten (10) days nor more than sixty  
1323 (60) days, or both such fine and imprisonment.



1324           **SECTION 7.** Section 73-24-9, Mississippi Code of 1972, is  
1325 amended as follows:

1326           73-24-9. Nothing in this chapter shall be construed as  
1327 preventing or restricting the practice, services or activities of:

1328                   (a) Any person, licensed in this state by any other  
1329 law, from engaging in the profession or occupation for which he or  
1330 she is licensed;

1331                   (b) Any person who is employed as an occupational  
1332 therapist or occupational therapy assistant by the United States  
1333 Armed Services, the United States Public Health Service, the  
1334 Veteran's Administration or other federal agencies, if such person  
1335 provides occupational therapy solely under the direction or  
1336 control of the organization by which he or she is employed;

1337                   (c) Any person pursuing a course of study leading to a  
1338 degree or certificate in occupational therapy in an accredited,  
1339 recognized or approved educational program, or advanced training  
1340 in a specialty area, if such activities and services constitute a  
1341 part of the supervised course of study, and if such person is  
1342 designated by a title which clearly indicates his or her status as  
1343 a trainee or student;

1344                   (d) Any person fulfilling the supervised fieldwork  
1345 experience requirements of Section 73-24-19, if such activities  
1346 and services constitute a part of the experience necessary to meet  
1347 the requirements of that section;



1348 (e) Any person employed as an occupational therapy aide  
1349 or who works under the supervision of a licensed occupational  
1350 therapist or occupational therapist who holds a compact privilege;

1351 (f) Any person performing occupational therapy services  
1352 in the state, if these services are performed for no more than  
1353 thirty (30) days in a calendar year under the supervision of an  
1354 occupational therapist who is licensed or holds a compact  
1355 privilege under this chapter, if:

1356 (i) The person is licensed under the law of  
1357 another state which has licensure requirements at least as  
1358 stringent as the requirements of this chapter, or

1359 (ii) The person is certified as an Occupational  
1360 Therapist Registered (OTR) or a Certified Occupational Therapy  
1361 Assistant (COTA), established by the National Board for  
1362 Certification in Occupational Therapy, Inc. (NBCOT), or its  
1363 successor organization; or

1364 (g) Any person certified by the American Board of  
1365 Certification in Orthotics and Prosthetics as a Certified  
1366 Orthotist, C.O., Certified Prosthetist, C.P., Certified  
1367 Prosthetist/Orthotist, C.P.O., or anyone working under their  
1368 direct supervision.

1369 **SECTION 8.** Section 73-24-15, Mississippi Code of 1972, is  
1370 amended as follows:

1371 73-24-15. (1) The administration of the provisions of this  
1372 chapter shall be financed from income accruing from fees,





1373 licenses, compact privileges and charges assessed and collected by  
1374 the board and from such other funds available to the board. In  
1375 addition, the board shall receive and account for all funds  
1376 received and shall keep such funds in a separate fund which is  
1377 hereby created within the State Treasury. Funds collected under  
1378 the provisions of this chapter shall be used solely for the  
1379 expenses incurred in the administration of the provisions of this  
1380 chapter, which may include full or partial financing of continuing  
1381 professional education programs promulgated by the council under  
1382 Section 73-24-29. Such funds shall be subject to audit by the  
1383 State Auditor.

1384 (2) Members of the council shall receive no compensation for  
1385 their services, but shall be reimbursed for their expenses  
1386 actually incurred in the execution of their powers and duties,  
1387 including mileage, as provided in Section 25-3-41 \* \* \*.

1388 **SECTION 9.** Section 73-24-17, Mississippi Code of 1972, is  
1389 amended as follows:

1390 73-24-17. (1) The board shall issue licenses and compact  
1391 privileges and notices of renewal, revocation, suspension or  
1392 reinstatement, and shall publish annually the names of persons who  
1393 are licensed or hold a compact privilege under this chapter and  
1394 the names of the persons whose licenses or compact privileges have  
1395 been subjected to disciplinary action under this chapter.

1396 (2) The board shall publish and disseminate to all  
1397 licensees, in an appropriate manner, the license standards



1398 prescribed by this chapter, any amendments thereto, and such rules  
1399 and regulations as the board may adopt under the authority of  
1400 Section 73-24-13 within sixty (60) days of their adoption.

1401 (3) The board shall administer the compact privilege in  
1402 accordance with the Occupational Therapy Licensure Compact  
1403 provided for in Section 1 of this act.

1404 **SECTION 10.** Section 73-24-19, Mississippi Code of 1972, is  
1405 amended as follows:

1406 73-24-19. (1) An applicant applying for a license as an  
1407 occupational therapist or as an occupational therapy assistant  
1408 shall file a written application on forms provided by the board,  
1409 showing to the satisfaction of the board that he or she meets the  
1410 following requirements:

1411 (a) Is of good moral character;

1412 (b) Has been awarded a degree from an education program  
1413 in occupational therapy recognized by the board, with a  
1414 concentration of instruction in basic human sciences, the human  
1415 development process, occupational tasks and activities, the  
1416 health-illness-health continuum, and occupational therapy theory  
1417 and practice:

1418 (i) For an occupational therapist, such program  
1419 shall be accredited by the Accreditation Council for Occupational  
1420 Therapy Education of the American Occupational Therapy Association  
1421 or the board-recognized accrediting body;



1422                   (ii) For an occupational therapy assistant, such a  
1423 program shall be accredited by the Accreditation Council for  
1424 Occupational Therapy Education of the American Occupational  
1425 Therapy Association or the board-recognized accrediting body;

1426                   (c) Has successfully completed a period of supervised  
1427 fieldwork experience at a recognized educational institution or a  
1428 training program approved by the educational institution where he  
1429 or she met the academic requirements:

1430                   (i) For an occupational therapist, the required  
1431 supervised fieldwork experience shall meet current national  
1432 standards that are published annually by the board;

1433                   (ii) For an occupational therapy assistant, the  
1434 required supervised fieldwork experience shall meet national  
1435 standards that are published annually by the board.

1436           (2) The board shall approve an examination for occupational  
1437 therapists and an examination for occupational therapy assistants  
1438 that will be used as the examination for licensure.

1439           (3) Any person applying for licensure shall, in addition to  
1440 demonstrating his or her eligibility in accordance with the  
1441 requirements of this section, make application to the board for  
1442 review of proof of his or her eligibility for certification by the  
1443 National Board for Certification in Occupational Therapy, Inc.  
1444 (NBCOT), or its successor organization, on a form and in such a  
1445 manner as the board shall prescribe. The application shall be  
1446 accompanied by the fee fixed in accordance with the provisions of



1447 Section 73-24-29. The board shall establish standards for  
1448 acceptable performance on the examination. A person who fails an  
1449 examination may apply for reexamination upon payment of the  
1450 prescribed fee.

1451 (4) Applicants for licensure shall be examined at a time and  
1452 place and under such supervision as the board may require. The  
1453 board shall give reasonable public notice of these examinations in  
1454 accordance with its rules and regulations.

1455 (5) An applicant may be licensed as an occupational  
1456 therapist if he or she: (a) has practiced as an occupational  
1457 therapy assistant for four (4) years, (b) has completed the  
1458 requirements of a period of six (6) months of supervised fieldwork  
1459 experience at a recognized educational institution or a training  
1460 program approved by a recognized accredited educational  
1461 institution before January 1, 1988, and (c) has passed the  
1462 examination for occupational therapists.

1463 (6) An applicant applying for a compact privilege to  
1464 practice as an occupational therapist or as an occupational  
1465 therapy assistant must meet the requirements set out in the  
1466 Occupational Therapy Licensure Compact provided for in Section 1  
1467 of this act.

1468 ( \* \* \*7) Each application or filing made under this section  
1469 shall include the social security number(s) of the applicant in  
1470 accordance with Section 93-11-64 \* \* \*.



1471           **SECTION 11.** Section 73-24-23, Mississippi Code of 1972, is  
1472 amended as follows:

1473           73-24-23. (1) The board shall issue a license or a compact  
1474 privilege to any person who meets the requirements of this chapter  
1475 and upon payment of the license fee.

1476           (2) The board shall issue a limited permit to persons who  
1477 have completed the education and experience requirements of this  
1478 chapter upon payment of the limited permit fee. This permit shall  
1479 allow the person to practice occupational therapy or assist in the  
1480 practice of occupational therapy, as the case may be, under the  
1481 supervision of an occupational therapist who holds a current  
1482 license in this state and shall be valid until the date on which  
1483 the results of the next qualifying examination have been made  
1484 public. The limited permit can be renewed one (1) time if the  
1485 applicant has failed the examination.

1486           (3) Any person who is issued a license as an occupational  
1487 therapist under this chapter may use the words "licensed  
1488 occupational therapist," "occupational therapist licensed,"  
1489 "occupational therapist," or he or she may use the letters  
1490 "L.O.T.," "O.T.L." or "O.T." in connection with his or her name or  
1491 place of business to denote licensure under this chapter.

1492           (4) Any person who is issued a license as an occupational  
1493 therapy assistant under this chapter may use the words  
1494 "occupational therapy assistant," "licensed occupational therapy  
1495 assistant" or "occupational therapy assistant licensed," or may



1496 use the letters "O.T.A.," "L.O.T.A." or "O.T.A.L.," in connection  
1497 with his or her name or place of business to denote licensure  
1498 under this chapter.

1499 **SECTION 12.** Section 73-24-24, Mississippi Code of 1972, is  
1500 amended as follows:

1501 73-24-24. (1) Licensees subject to this chapter shall  
1502 conduct their activities, services and practice in accordance with  
1503 this chapter and any rules promulgated pursuant hereto. Licenses  
1504 and compact privileges may be subject to the exercise of the  
1505 disciplinary sanction enumerated in Section 73-24-25 if the board  
1506 finds that a licensee is guilty of any of the following:

1507 (a) Negligence in the practice or performance of  
1508 professional services or activities;

1509 (b) Engaging in dishonorable, unethical or  
1510 unprofessional conduct of a character likely to deceive, defraud  
1511 or harm the public in the course of professional services or  
1512 activities;

1513 (c) Perpetrating or cooperating in fraud or material  
1514 deception in obtaining or renewing a license or compact privilege  
1515 or attempting the same;

1516 (d) Being convicted of any crime which has a  
1517 substantial relationship to the licensee's activities and services  
1518 or an essential element of which is misstatement, fraud or  
1519 dishonesty;



1520 (e) Being convicted of any crime which is a felony  
1521 under the laws of this state or the United States;

1522 (f) Engaging in or permitting the performance of  
1523 unacceptable services personally or by others working under the  
1524 licensee's supervision due to the licensee's deliberate or  
1525 negligent act or acts or failure to act, regardless of whether  
1526 actual damage or damages to the public is established;

1527 (g) Continued practice although the licensee has become  
1528 unfit to practice as an occupational therapist or occupational  
1529 therapist assistant due to: (i) failure to keep abreast of  
1530 current professional theory or practice; or (ii) physical or  
1531 mental disability; the entry of an order or judgment by a court of  
1532 competent jurisdiction that a licensee is in need of mental  
1533 treatment or is incompetent shall constitute mental disability; or  
1534 (iii) addiction or severe dependency upon alcohol or other drugs  
1535 which may endanger the public by impairing the licensee's ability  
1536 to practice;

1537 (h) Having disciplinary action taken against the  
1538 licensee's license or compact privilege in another state;

1539 (i) Making differential, detrimental treatment against  
1540 any person because of race, color, creed, sex, religion or  
1541 national origin;

1542 (j) Engaging in lewd conduct in connection with  
1543 professional services or activities;

1544 (k) Engaging in false or misleading advertising;



1545 (l) Contracting, assisting or permitting unlicensed  
1546 persons to perform services for which a license or compact  
1547 privilege is required under this chapter;

1548 (m) Violation of any probation requirements placed on a  
1549 license or compact privilege by the board;

1550 (n) Revealing confidential information except as may be  
1551 required by law;

1552 (o) Failing to inform clients of the fact that the  
1553 client no longer needs the services or professional assistance of  
1554 the licensee;

1555 (p) Charging excessive or unreasonable fees or engaging  
1556 in unreasonable collection practices;

1557 (q) For treating or attempting to treat ailments or  
1558 other health conditions of human beings other than by occupational  
1559 therapy as authorized by this chapter;

1560 (r) For practice or activities considered to be  
1561 unprofessional conduct as defined by the rules and regulations;

1562 (s) Violations of the current codes of conduct for  
1563 occupational therapists and occupational therapy assistants  
1564 adopted by the American Occupational Therapy Association;

1565 (t) Violations of any rules or regulations promulgated  
1566 pursuant to this chapter.

1567 (2) The board may order a licensee to submit to a reasonable  
1568 physical or mental examination if the licensee's physical or





1569 mental capacity to practice safely is at issue in a disciplinary  
1570 proceeding.

1571 (3) Failure to comply with a board order to submit to a  
1572 physical or mental examination shall render a licensee subject to  
1573 the summary suspension procedures described in Section 73-24-25.

1574 **SECTION 13.** Section 73-24-25, Mississippi Code of 1972, is  
1575 amended as follows:

1576 73-24-25. (1) Any person whose application for a license or  
1577 compact privilege is denied shall be entitled to a hearing before  
1578 the board if he or she submits a written request to the board.  
1579 Such hearing shall be conducted at the earliest possible date. A  
1580 subcommittee of the council shall attend and may offer relevant  
1581 evidence at any such hearing. The board shall fix a time and  
1582 place for the hearing and shall cause a written copy of the reason  
1583 for denial of the license or compact privilege, together with a  
1584 notice of the time and place fixed for the hearing, to be served  
1585 on the applicant requesting the hearing and shall serve notice of  
1586 such hearing on the council. Service of and notice of the hearing  
1587 may be given by United States certified mail, return receipt  
1588 requested, to the last known address of the licensee or applicant.  
1589 For purposes of the hearing, the board, acting by and through the  
1590 Executive Director of the State Board of Health, shall have the  
1591 power to subpoena persons and compel the production of records,  
1592 papers and other documents.



1593           (2) (a) All complaints concerning a licensee's business or  
1594 professional practice shall be received by the board. Each  
1595 complaint received shall be registered, recording at a minimum the  
1596 following information: (i) licensee's name; (ii) name of the  
1597 complaining party, if known; (iii) date of complaint; (iv) brief  
1598 statement of complaint; and (v) disposition.

1599           (b) Following the investigative process, the board may  
1600 file formal charges against the licensee. Such formal complaint,  
1601 at a minimum, shall inform the licensee of the facts which are the  
1602 basis of the charge and which are specific enough to enable the  
1603 licensee to defend against the charges.

1604           (c) Each licensee whose conduct is the subject of a  
1605 formal charge which seeks to impose disciplinary action against  
1606 the licensee shall be served notice of the formal charge at least  
1607 thirty (30) days before the date of the hearing, which hearing  
1608 shall be presided over by the board or the board's designee.  
1609 Service shall be considered to have been given if the notice was  
1610 personally received by the licensee or if the notice was sent by  
1611 United States certified mail, return receipt requested, to the  
1612 licensee at the licensee's last known address as listed with the  
1613 state agency.

1614           (d) The notice of the formal charge shall consist, at a  
1615 minimum, of the following information:

1616                   (i) The time, place and date of the hearing;



1617 (ii) Notification that the licensee shall appear  
1618 personally at the hearing and may be represented by counsel;

1619 (iii) Notification that the licensee shall have  
1620 the right to produce witnesses and evidence in his or her behalf  
1621 and shall have the right to cross-examine adverse witnesses and  
1622 evidence;

1623 (iv) Notification that the hearing could result in  
1624 disciplinary action being taken against the licensee;

1625 (v) Notification that rules for the conduct of the  
1626 hearing exist, and it may be in the licensee's best interest to  
1627 obtain a copy;

1628 (vi) Notification that the board or its designee  
1629 shall preside at the hearing, and following the conclusion of the  
1630 hearing, shall make findings of facts, conclusions of law and  
1631 recommendations, separately stated, to the board as to what  
1632 disciplinary action, if any, should be imposed on the licensee;

1633 (vii) The board or its designee shall hear  
1634 evidence produced in support of the formal charges and contrary  
1635 evidence produced by the licensee. At the conclusion of the  
1636 hearing, the board shall issue an order; and

1637 (viii) All proceedings under this section are  
1638 matters of public record and shall be preserved in accordance with  
1639 state law.

1640 (3) In addition to other remedies provided by law or in  
1641 equity, any applicant or licensee aggrieved by any action of the



1642 board may appeal the action of the board to the chancery court of  
1643 the county of his or her residence if he or she be a resident of  
1644 this state, or to the Chancery Court of the First Judicial  
1645 District of Hinds County, Mississippi, if he or she be a  
1646 nonresident of this state. An appeal shall be filed within thirty  
1647 (30) days immediately following the mailing or delivery to the  
1648 applicant or licensee of a copy of the order of judgment of the  
1649 board, unless the court, for good cause shown, extends the time.  
1650 The court after a hearing may modify, affirm or reverse the  
1651 judgment of the board or may remand the case to the board for  
1652 further proceedings. An appeal from the chancery court may be had  
1653 to the Supreme Court of the State of Mississippi as provided by  
1654 law for any final judgment of the chancery court. If the board  
1655 appeals a judgment of the chancery court, no bond shall be  
1656 required of it in order to perfect its appeal.

1657 (4) The board may impose any of the following sanctions,  
1658 singly or in combination, when it finds that a licensee is guilty  
1659 of any such offense:

- 1660 (a) Revoke the license or compact privilege;
- 1661 (b) Suspend the license or compact privilege, for any  
1662 period of time;
- 1663 (c) Censure the licensee;
- 1664 (d) Impose a monetary penalty of not more than Two  
1665 Hundred Dollars (\$200.00);



1666 (e) Place a licensee on probationary status and  
1667 requiring the licensee to submit to any of the following: (i)  
1668 report regularly to the board, or its designee, upon matters which  
1669 are the basis of probation; (ii) continue to renew professional  
1670 education until a satisfactory degree of skill has been attained  
1671 in those areas which are the basis of probation; or (iii) such  
1672 other reasonable requirement or restrictions as the board deems  
1673 proper;

1674 (f) Refuse to renew a license or compact privilege; or

1675 (g) Revoke probation which has been granted and impose  
1676 any other disciplinary action under this subsection when the  
1677 requirements of probation have not been fulfilled or have been  
1678 violated.

1679 (5) The board summarily may suspend a license or compact  
1680 privilege under this chapter without the filing of a formal  
1681 complaint, notice or a hearing, if the board finds that the  
1682 continued practice in the profession by the licensee would  
1683 constitute an immediate danger to the public. If the board  
1684 summarily suspends a license or compact privilege under the  
1685 provisions of this subsection a hearing must be held within twenty  
1686 (20) days after suspension begins, unless the hearing date is  
1687 continued at the request of the licensee.

1688 (6) Disposition of any formal complaint may be made by  
1689 consent order or stipulation between the board and the licensee.



1690 (7) The board may reinstate any licensee to good standing  
1691 under this chapter if, after hearing, the board is satisfied that  
1692 the applicant's renewed practice is in the public interest.

1693 (8) The board may seek the counsel of the Occupational  
1694 Therapy Advisory Council regarding disciplinary actions.

1695 (9) The board shall seek to achieve consistency in the  
1696 application of the foregoing sanctions, and significant departure  
1697 from prior decisions involving similar conduct shall be explained  
1698 by the board.

1699 (10) In addition, the board shall be authorized to suspend  
1700 the license of any licensee for being out of compliance with an  
1701 order for support, as defined in Section 93-11-153. The procedure  
1702 for suspension of a license for being out of compliance with an  
1703 order for support, and the procedure for reissuance or  
1704 reinstatement of a license suspended for that purpose, and the  
1705 payment of any fees for the reissuance or reinstatement of a  
1706 license suspended for that purpose, shall be governed by Section  
1707 93-11-157 or 93-11-163, as the case may be. If there is any  
1708 conflict between any provision of Section 93-11-157 or 93-11-163  
1709 and any provision of this chapter, the provisions of Section  
1710 93-11-157 or 93-11-163, as the case may be, shall control.

1711 **SECTION 14.** Section 73-24-27, Mississippi Code of 1972, is  
1712 amended as follows:

1713 73-24-27. (1) Except as provided in Section 33-1-39, any  
1714 license issued under this chapter shall be subject to renewal and



1715 shall expire unless renewed in the manner prescribed by the rules  
1716 and regulations of the board, upon the payment of a renewal fee  
1717 and demonstration of completion of continuing professional  
1718 education. A person's compact privilege in this state shall be  
1719 valid until the expiration date of that person's home state  
1720 license. The board may provide for the late renewal of a license  
1721 or compact privilege upon the payment of a late fee in accordance  
1722 with its rules and regulations, but no late renewal of a license  
1723 or compact privilege may be granted more than two (2) years after  
1724 its expiration.

1725 (2) Upon request and payment of the license fee required,  
1726 the board shall grant inactive status to a licensee who: (a) does  
1727 not practice as an occupational therapist or an occupational  
1728 therapy assistant, (b) does not hold himself or herself out as an  
1729 occupational therapist or an occupational therapy assistant, and  
1730 (c) does not maintain any continuing education requirements.

1731 (3) A suspended license is subject to expiration and may be  
1732 renewed as provided in this section, but such renewal shall not  
1733 entitle the suspended licensee to engage in the licensed activity  
1734 or in any other conduct or activity in violation of the order of  
1735 judgment by which the license or compact privilege was suspended.  
1736 If a license or compact privilege revoked on disciplinary grounds  
1737 is reinstated, the licensee, as a condition of reinstatement,  
1738 shall pay the renewal fee and any late fee that may be applicable.  
1739 The procedure for the reinstatement of a license that is suspended



1740 for being out of compliance with an order for support, as defined  
1741 in Section 93-11-153, shall be governed by Section 93-11-157 or  
1742 93-11-163, as the case may be.

1743         **SECTION 15.** Section 73-24-29, Mississippi Code of 1972, is  
1744 amended as follows:

1745             73-24-29. (1) The board is empowered to prescribe and  
1746 publish reasonable fees for the following purposes:

- 1747                 (a) Application fee which is nonrefundable;
- 1748                 (b) Initial license or compact privilege fee;
- 1749                 (c) Renewal of license or compact privilege fee;
- 1750                 (d) Late renewal fee;
- 1751                 (e) Limited permit fee;
- 1752                 (f) Reinstatement of license or compact privilege fee;
- 1753                 (g) Inactive license fee.

1754             (2) Such fees shall be commensurate to the extent feasible  
1755 with the cost of fulfilling the duties of the board and council as  
1756 defined by this chapter; however, no individual fee shall exceed  
1757 One Hundred Fifty Dollars (\$150.00).

1758             (3) Any increase in the fees charged by the board under this  
1759 section shall be in accordance with the provisions of Section  
1760 41-3-65.

1761         **SECTION 16.** This act shall take effect and be in force from  
1762 and after July 1, 2023.

