

By: Representatives Mims, Williamson, Brown
(20th), Hopkins

To: Public Health and Human
Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 478

1 AN ACT TO ENACT INTO LAW THE OCCUPATIONAL THERAPY LICENSURE
2 COMPACT AND PROVIDE THAT THE STATE OF MISSISSIPPI ENTERS THE
3 COMPACT WITH OTHER STATES THAT JOIN IN THE COMPACT; TO AMEND
4 SECTIONS 73-24-3, 73-24-7, 73-24-9, 73-24-15, 73-24-17, 73-24-19,
5 73-24-23, 73-24-24, 73-24-25, 73-24-27 AND 73-24-29, MISSISSIPPI
6 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** The Occupational Therapy Licensure Compact is
10 enacted into law and entered into by this state with any and all
11 states legally joining in the Compact in accordance with its
12 terms, in the form substantially as follows:

13 **OCCUPATIONAL THERAPY LICENSURE COMPACT**

14 **SECTION 1.**

15 **PURPOSE**

16 The purpose of this Compact is to facilitate interstate
17 practice of occupational therapy with the goal of improving public
18 access to occupational therapy services. The practice of
19 occupational therapy occurs in the state where the patient/client
20 is located at the time of the patient/client encounter. The



21 Compact preserves the regulatory authority of states to protect
22 public health and safety through the current system of state
23 licensure.

24 This Compact is designed to achieve the following objectives:

25 1. Increase public access to occupational therapy
26 services by providing for the mutual recognition of other member
27 state licenses;

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

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

32 4. Support spouses of relocating military members;

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

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

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

40 **SECTION 2.**

41 **DEFINITIONS**

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

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



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

48 2. "Adverse action" means any administrative, civil,
49 equitable, or criminal action permitted by a state's laws which is
50 imposed by a licensing board or other authority against an
51 occupational therapist or occupational therapy assistant,
52 including actions against an individual's license or compact
53 privilege such as censure, revocation, suspension, probation,
54 monitoring of the licensee, or restriction on the licensee's
55 practice.

56 3. "Alternative program" means a non-disciplinary
57 monitoring process approved by an occupational therapy licensing
58 board.

59 4. "Compact privilege" means the authorization, which
60 is equivalent to a license, granted by a remote state to allow a
61 licensee from another member state to practice as an occupational
62 therapist or practice as an occupational therapy assistant in the
63 remote state under its laws and rules. The practice of
64 occupational therapy occurs in the member state where the
65 patient/client is located at the time of the patient/client
66 encounter.

67 5. "Continuing competence/education" means a
68 requirement, as a condition of license renewal, to provide
69 evidence of participation in, and/or completion of, educational
70 and professional activities relevant to practice or area of work.



71 6. "Current significant investigative information"
72 means investigative information that a licensing board, after an
73 inquiry or investigation that includes notification and an
74 opportunity for the occupational therapist or occupational therapy
75 assistant to respond, if required by state law, has reason to
76 believe is not groundless and, if proved true, would indicate more
77 than a minor infraction.

78 7. "Data system" means a repository of information
79 about licensees, including, but not limited to, license status,
80 investigative information, compact privileges, and adverse
81 actions.

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

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

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

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



94 12. "Investigative information" means information,
95 records, and/or documents received or generated by an occupational
96 therapy licensing board pursuant to an investigation.

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

100 14. "Licensee" means an individual who currently holds
101 an authorization from the state to practice as an occupational
102 therapist or as an occupational therapy assistant.

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

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

107 17. "Occupational therapy assistant" means an
108 individual who is licensed by a state to assist in the practice of
109 occupational therapy.

110 18. "Occupational therapy," "occupational therapy
111 practice," and the "practice of occupational therapy" mean the
112 care and services provided by an occupational therapist or an
113 occupational therapy assistant as set forth in the member state's
114 statutes and regulations.

115 19. "Occupational Therapy Compact Commission" or
116 "Commission" means the national administrative body whose
117 membership consists of all states that have enacted the Compact.



118 20. "Occupational therapy licensing board" or
119 "licensing board" means the agency of a state that is authorized
120 to license and regulate occupational therapists and occupational
121 therapy assistants.

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

129 22. "Remote state" means a member state other than the
130 home state, where a licensee is exercising or seeking to exercise
131 the compact privilege.

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

134 24. "State" means any state, commonwealth, district, or
135 territory of the United States of America that regulates the
136 practice of occupational therapy.

137 25. "Single-state license" means an occupational
138 therapist or occupational therapy assistant license issued by a
139 member state that authorizes practice only within the issuing
140 state and does not include a compact privilege in any other member
141 state.



166 a. A member state shall, within a time frame
167 established by the Commission, require a criminal background check
168 for a licensee seeking/applying for a compact privilege whose
169 primary state of residence is that member state, by receiving the
170 results of the Federal Bureau of Investigation criminal record
171 search, and shall use the results in making licensure decisions.

172 b. Communication between a member state, the
173 Commission and among member states regarding the verification of
174 eligibility for licensure through the Compact shall not include
175 any information received from the Federal Bureau of Investigation
176 relating to a federal criminal records check performed by a member
177 state under Public Law 92-544.

178 6. Comply with the rules of the Commission;

179 7. Use only a recognized national examination as a
180 requirement for licensure pursuant to the rules of the Commission;
181 and

182 8. Have continuing competence/education requirements as
183 a condition for license renewal.

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

187 C. Member states may charge a fee for granting a compact
188 privilege.

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



191 E. Individuals not residing in a member state shall continue
192 to be able to apply for a member state's single-state license as
193 provided under the laws of each member state. However, the
194 single-state license granted to these individuals shall not be
195 recognized as granting the compact privilege in any other member
196 state.

197 F. Nothing in this Compact shall affect the requirements
198 established by a member state for the issuance of a single-state
199 license.

200 **SECTION 4.**

201 **COMPACT PRIVILEGE**

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

- 204 1. Hold a license in the home state;
- 205 2. Have a valid United States Social Security Number or
206 National Practitioner Identification number;
- 207 3. Have no encumbrance on any state license;
- 208 4. Be eligible for a compact privilege in any member
209 state in accordance with subsections D, F, G, and H of this
210 section;
- 211 5. Have paid all fines and completed all requirements
212 resulting from any adverse action against any license or compact
213 privilege, and two (2) years have elapsed from the date of such
214 completion;



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

217 7. Pay any applicable fees, including any state fee,
218 for the compact privilege;

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

221 a. The licensee shall be responsible for the
222 payment of any fee associated with the completion of a criminal
223 background check.

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

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

230 B. The compact privilege is valid until the expiration date
231 of the home state license. The licensee must comply with the
232 requirements of subsection A of this section to maintain the
233 compact privilege in the remote state.

234 C. A licensee providing occupational therapy in a remote
235 state under the compact privilege shall function within the laws
236 and regulations of the remote state.

237 D. Occupational therapy assistants practicing in a remote
238 state shall be supervised by an occupational therapist licensed or
239 holding a compact privilege in that remote state.



240 E. A licensee providing occupational therapy in a remote
241 state is subject to that state's regulatory authority. A remote
242 state may, in accordance with due process and that state's laws,
243 remove a licensee's compact privilege in the remote state for a
244 specific period of time, impose fines, and/or take any other
245 necessary actions to protect the health and safety of its
246 citizens. The licensee may be ineligible for a compact privilege
247 in any state until the specific time for removal has passed and
248 all fines are paid.

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

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

256 G. Once an encumbered license in the home state is restored
257 to good standing, the licensee must meet the requirements of
258 subsection A of this section to obtain a compact privilege in any
259 remote state.

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

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



290 1. The occupational therapist or occupational therapy
291 assistant shall file an application for obtaining a new home state
292 license by virtue of a compact privilege, pay all applicable fees,
293 and notify the current and new home state in accordance with
294 applicable rules adopted by the Commission.

295 2. Upon receipt of an application for obtaining a new
296 home state license by virtue of compact privilege, the new home
297 state shall verify that the occupational therapist or occupational
298 therapy assistant meets the pertinent criteria outlined in Section
299 4 of this Compact via the data system, without need for primary
300 source verification except for:

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

305 b. Other criminal background check as required by
306 the new home state; and

307 c. Submission of any requisite Jurisprudence
308 Requirements of the new home state.

309 3. The former home state shall convert the former home
310 state license into a compact privilege once the new home state has
311 activated the new home state license in accordance with applicable
312 rules adopted by the Commission.

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



340 shall only change their home state through application for
341 licensure in the new state or through the process described in
342 Section 5 of this Compact.

343 **SECTION 7**

344 **ADVERSE ACTIONS**

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

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

351 1. Take adverse action against an occupational
352 therapist's or occupational therapy assistant's compact privilege
353 within that member state.

354 2. Issue subpoenas for both hearings and investigations
355 that require the attendance and testimony of witnesses as well as
356 the production of evidence. Subpoenas issued by a licensing board
357 in a member state for the attendance and testimony of witnesses or
358 the production of evidence from another member state shall be
359 enforced in the latter state by any court of competent
360 jurisdiction, according to the practice and procedure of that
361 court applicable to subpoenas issued in proceedings pending before
362 it. The issuing authority shall pay any witness fees, travel
363 expenses, mileage and other fees required by the service statutes
364 of the state in which the witnesses or evidence are located.



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

370 D. The home state shall complete any pending investigations
371 of an occupational therapist or occupational therapy assistant who
372 changes primary state of residence during the course of the
373 investigations. The home state, where the investigations were
374 initiated, shall also have the authority to take appropriate
375 action(s) and shall promptly report the conclusions of the
376 investigations to the compact data system. The administrator of
377 the data system shall promptly notify the new home state of any
378 adverse actions.

379 E. A member state, if otherwise permitted by state law, may
380 recover from the affected occupational therapist or occupational
381 therapy assistant the costs of investigations and disposition of
382 cases resulting from any adverse action taken against that
383 occupational therapist or occupational therapy assistant.

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

387 G. Joint investigations.

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



415 **ESTABLISHMENT OF THE OCCUPATIONAL THERAPY**
416 **COMPACT COMMISSION.**

417 A. The compact member states hereby create and establish a
418 joint public agency known as the Occupational Therapy Compact
419 Commission:

420 1. The Commission is an instrumentality of the compact
421 member states.

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

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

430 B. Membership, voting, and meetings.

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

433 2. The delegate shall be either:

434 a. A current member of the licensing board, who is
435 an occupational therapist, occupational therapy assistant, or
436 public member; or

437 b. An administrator of the licensing board.



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

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

443 5. Each delegate shall be entitled to one (1) vote with
444 regard to the promulgation of rules and creation of bylaws and
445 shall otherwise have an opportunity to participate in the business
446 and affairs of the Commission. A delegate shall vote in person or
447 by such other means as provided in the bylaws. The bylaws may
448 provide for delegates' participation in meetings by telephone or
449 other means of communication.

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

453 7. The Commission shall establish by rule a term of
454 office for delegates.

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

- 457 1. Establish a Code of Ethics for the Commission;
- 458 2. Establish the fiscal year of the Commission;
- 459 3. Establish bylaws;
- 460 4. Maintain its financial records in accordance with
461 the bylaws;



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

464 6. Promulgate uniform rules to facilitate and
465 coordinate implementation and administration of this Compact. The
466 rules shall have the force and effect of law and shall be binding
467 in all member states;

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

472 8. Purchase and maintain insurance and bonds;

473 9. Borrow, accept, or contract for services of
474 personnel, including, but not limited to, employees of a member
475 state;

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

482 11. Accept any and all appropriate donations and grants
483 of money, equipment, supplies, materials and services, and
484 receive, use and dispose of the same; provided that at all times
485 the Commission shall avoid any appearance of impropriety and/or
486 conflict of interest;



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

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

494 14. Establish a budget and make expenditures;

495 15. Borrow money;

496 16. Appoint committees, including standing committees
497 composed of members, state regulators, state legislators or their
498 representatives, and consumer representatives, and such other
499 interested persons as may be designated in this Compact and the
500 bylaws;

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

503 18. Establish and elect an Executive Committee; and

504 19. Perform such other functions as may be necessary or
505 appropriate to achieve the purposes of this Compact consistent
506 with the state regulation of occupational therapy licensure and
507 practice.

508 D. The Executive Committee.

509 1. The Executive Committee shall have the power to act
510 on behalf of the Commission according to the terms of this
511 Compact.



512 2. The Executive Committee shall be composed of nine
513 (9) members:

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

516 b. One (1) ex-officio, nonvoting member from a
517 recognized national occupational therapy professional association;
518 and

519 c. One (1) ex-officio, nonvoting member from a
520 recognized national occupational therapy certification
521 organization.

522 3. The ex-officio members will be selected by their
523 respective organizations.

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

526 5. The Executive Committee shall meet at least
527 annually.

528 6. The Executive Committee shall have the following
529 duties and responsibilities:

530 a. Recommend to the entire Commission changes to
531 the rules or bylaws, changes to this Compact legislation, fees
532 paid by compact member states such as annual dues, and any
533 Commission Compact fee charged to licensees for the compact
534 privilege;

535 b. Ensure compact administration services are
536 appropriately provided, contractual or otherwise;



- 537 c. Prepare and recommend the budget;
- 538 d. Maintain financial records on behalf of the
- 539 Commission;
- 540 e. Monitor compact compliance of member states and
- 541 provide compliance reports to the Commission;
- 542 f. Establish additional committees as necessary;
- 543 and
- 544 g. Perform other duties as provided in rules or
- 545 bylaws.

546 E. Meetings of the Commission.

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

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

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

550 2. The Commission or the Executive Committee or other

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

552 meeting if the Commission or Executive Committee or other

553 committees of the Commission must discuss:

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

555 obligations under the Compact;

556 b. The employment, compensation, discipline or

557 other matters, practices or procedures related to specific

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

559 personnel practices and procedures;

560 c. Current, threatened, or reasonably anticipated

561 litigation;



- 562 d. Negotiation of contracts for the purchase,
563 lease, or sale of goods, services, or real estate;
- 564 e. Accusing any person of a crime or formally
565 censuring any person;
- 566 f. Disclosure of trade secrets or commercial or
567 financial information that is privileged or confidential;
- 568 g. Disclosure of information of a personal nature
569 where disclosure would constitute a clearly unwarranted invasion
570 of personal privacy;
- 571 h. Disclosure of investigative records compiled
572 for law enforcement purposes;
- 573 i. Disclosure of information related to any
574 investigative reports prepared by or on behalf of or for use of
575 the Commission or other committee charged with responsibility of
576 investigation or determination of compliance issues pursuant to
577 the Compact; or
- 578 j. Matters specifically exempted from disclosure
579 by federal or member state statute.

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

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



586 provide a full and accurate summary of actions taken, and the
587 reasons therefore, including a description of the views expressed.
588 All documents considered in connection with an action shall be
589 identified in such minutes. All minutes and documents of a closed
590 meeting shall remain under seal, subject to release by a majority
591 vote of the Commission or order of a court of competent
592 jurisdiction.

593 F. Financing of the Commission.

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

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

600 3. The Commission may levy on and collect an annual
601 assessment from each member state or impose fees on other parties
602 to cover the cost of the operations and activities of the
603 Commission and its staff, which must be in a total amount
604 sufficient to cover its annual budget as approved by the
605 Commission each year for which revenue is not provided by other
606 sources. The aggregate annual assessment amount shall be
607 allocated based upon a formula to be determined by the Commission,
608 which shall promulgate a rule binding upon all member states.

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



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

613 5. The Commission shall keep accurate accounts of all
614 receipts and disbursements. The receipts and disbursements of the
615 Commission shall be subject to the audit and accounting procedures
616 established under its bylaws. However, all receipts and
617 disbursements of funds handled by the Commission shall be audited
618 yearly by a certified or licensed public accountant, and the
619 report of the audit shall be included in and become part of the
620 annual report of the Commission.

621 G. Qualified immunity, defense, and indemnification.

622 1. The members, officers, executive director, employees
623 and representatives of the Commission shall be immune from suit
624 and liability, either personally or in their official capacity,
625 for any claim for damage to or loss of property or personal injury
626 or other civil liability caused by or arising out of any actual or
627 alleged act, error or omission that occurred, or that the person
628 against whom the claim is made had a reasonable basis for
629 believing occurred within the scope of Commission employment,
630 duties or responsibilities; provided that nothing in this
631 paragraph shall be construed to protect any such person from suit
632 and/or liability for any damage, loss, injury, or liability caused
633 by the intentional or willful or wanton misconduct of that person.

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



636 in any civil action seeking to impose liability arising out of any
637 actual or alleged act, error, or omission that occurred within the
638 scope of Commission employment, duties, or responsibilities, or
639 that the person against whom the claim is made had a reasonable
640 basis for believing occurred within the scope of Commission
641 employment, duties, or responsibilities; provided that nothing
642 herein shall be construed to prohibit that person from retaining
643 his or her own counsel; and provided further, that the actual or
644 alleged act, error, or omission did not result from that person's
645 intentional or willful or wanton misconduct.

646 3. The Commission shall indemnify and hold harmless any
647 member, officer, executive director, employee, or representative
648 of the Commission for the amount of any settlement or judgment
649 obtained against that person arising out of any actual or alleged
650 act, error or omission that occurred within the scope of
651 Commission employment, duties, or responsibilities, or that such
652 person had a reasonable basis for believing occurred within the
653 scope of Commission employment, duties, or responsibilities,
654 provided that the actual or alleged act, error, or omission did
655 not result from the intentional or willful or wanton misconduct of
656 that person.

657 **SECTION 9.**

658 **DATA SYSTEM**

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



661 reporting system containing licensure, adverse action, and
662 investigative information on all licensed individuals in member
663 states.

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

- 668 1. Identifying information;
- 669 2. Licensure data;
- 670 3. Adverse actions against a license or compact
671 privilege;
- 672 4. Non-confidential information related to alternative
673 program participation;
- 674 5. Any denial of application for licensure, and the
675 reason(s) for such denial;
- 676 6. Other information that may facilitate the
677 administration of this Compact, as determined by the rules of the
678 Commission; and
- 679 7. Current significant investigative information.

680 C. Current significant investigative information and other
681 investigative information pertaining to a licensee in any member
682 state will only be available to other member states.

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



686 a licensee in any member state will be available to any other
687 member state.

688 E. Member states contributing information to the data system
689 may designate information that may not be shared with the public
690 without the express permission of the contributing state.

691 F. Any information submitted to the data system that is
692 subsequently required to be expunged by the laws of the member
693 state contributing the information shall be removed from the data
694 system.

695 **SECTION 10.**

696 **RULEMAKING**

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

701 B. The Commission shall promulgate reasonable rules in order
702 to effectively and efficiently achieve the purposes of the
703 Compact. Notwithstanding the foregoing, if the Commission
704 exercises its rulemaking authority in a manner that is beyond the
705 scope of the purposes of the Compact, or the powers granted under
706 the Compact, then such an action by the Commission shall be
707 invalid and have no force and effect.

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



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

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

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

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

721 2. On the website of each member state occupational
722 therapy licensing board or other publicly accessible platform or
723 the publication in which each state would otherwise publish
724 proposed rules.

725 F. The Notice of Proposed Rulemaking shall include:

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

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

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

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



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

738 H. The Commission shall grant an opportunity for a public
739 hearing before it adopts a rule or amendment if a hearing is
740 requested by:

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

742 2. A state or federal governmental subdivision or
743 agency; or

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

746 I. If a hearing is held on the proposed rule or amendment,
747 the Commission shall publish the place, time, and date of the
748 scheduled public hearing. If the hearing is held via electronic
749 means, the Commission shall publish the mechanism for access to
750 the electronic hearing.

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

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



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

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

765 J. Following the scheduled hearing date, or by the close of
766 business on the scheduled hearing date if the hearing was not
767 held, the Commission shall consider all written and oral comments
768 received.

769 K. If no written notice of intent to attend the public
770 hearing by interested parties is received, the Commission may
771 proceed with promulgation of the proposed rule without a public
772 hearing.

773 L. The Commission shall, by majority vote of all members,
774 take final action on the proposed rule and shall determine the
775 effective date of the rule, if any, based on the rulemaking record
776 and the full text of the rule.

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



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

- 786 1. Meet an imminent threat to public health, safety, or
787 welfare;
- 788 2. Prevent a loss of commission or member state funds;
- 789 3. Meet a deadline for the promulgation of an
790 administrative rule that is established by federal law or rule; or
- 791 4. Protect public health and safety.

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

806 **SECTION 11.**

807 **OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

808 A. Oversight.



809 1. The executive, legislative, and judicial branches of
810 state government in each member state shall enforce this Compact
811 and take all actions necessary and appropriate to effectuate the
812 Compact's purposes and intent. The provisions of this Compact and
813 the rules promulgated under this Compact shall have standing as
814 statutory law.

815 2. All courts shall take judicial notice of the Compact
816 and the rules in any judicial or administrative proceeding in a
817 member state pertaining to the subject matter of this Compact
818 which may affect the powers, responsibilities, or actions of the
819 Commission.

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

826 B. Default, technical assistance, and termination.

827 1. If the Commission determines that a member state has
828 defaulted in the performance of its obligations or
829 responsibilities under this Compact or the promulgated rules, the
830 Commission shall:

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



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

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

837 2. If a state in default fails to cure the default, the
838 defaulting state may be terminated from the Compact upon an
839 affirmative vote of a majority of the member states, and all
840 rights, privileges and benefits conferred by this Compact may be
841 terminated on the effective date of termination. A cure of the
842 default does not relieve the offending state of obligations or
843 liabilities incurred during the period of default.

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

850 4. A state that has been terminated is responsible for
851 all assessments, obligations, and liabilities incurred through the
852 effective date of termination, including obligations that extend
853 beyond the effective date of termination.

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



858 6. The defaulting state may appeal the action of the
859 Commission by petitioning the United States District Court for the
860 District of Columbia or the federal district where the Commission
861 has its principal offices. The prevailing member shall be awarded
862 all costs of such litigation, including reasonable attorney's
863 fees.

864 C. Dispute resolution.

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

868 2. The Commission shall promulgate a rule providing for
869 both mediation and binding dispute resolution for disputes as
870 appropriate.

871 D. Enforcement.

872 1. The Commission, in the reasonable exercise of its
873 discretion, shall enforce the provisions and rules of this
874 Compact.

875 2. By majority vote, the Commission may initiate legal
876 action in the United States District Court for the District of
877 Columbia or the federal district where the Commission has its
878 principal offices against a member state in default to enforce
879 compliance with the provisions of the Compact and its promulgated
880 rules and bylaws. The relief sought may include both injunctive
881 relief and damages. If judicial enforcement is necessary, the



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

884 3. The remedies herein shall not be the exclusive
885 remedies of the Commission. The Commission may pursue any other
886 remedies available under federal or state law.

887 **SECTION 12.**

888 **DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR**
889 **OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED**
890 **RULES, WITHDRAWAL, AND AMENDMENT**

891 A. The Compact shall come into effect on the date on which
892 the compact statute is enacted into law in the tenth member state.
893 The provisions, which become effective at that time, shall be
894 limited to the powers granted to the Commission relating to
895 assembly and the promulgation of rules. Thereafter, the
896 Commission shall meet and exercise rulemaking powers necessary to
897 the implementation and administration of the Compact.

898 B. Any state that joins the Compact subsequent to the
899 Commission's initial adoption of the rules shall be subject to the
900 rules as they exist on the date on which the Compact becomes law
901 in that state. Any rule that has been previously adopted by the
902 Commission shall have the full force and effect of law on the day
903 the Compact becomes law in that state.

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



931 applicability thereof to any government, agency, person, or
932 circumstance shall not be affected thereby. If this Compact shall
933 be held contrary to the constitution of any member state, the
934 Compact shall remain in full force and effect as to the remaining
935 member states and in full force and effect as to the member state
936 affected as to all severable matters.

937 **SECTION 14.**

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

939 A. A licensee providing occupational therapy in a remote
940 state under the compact privilege shall function within the laws
941 and regulations of the remote state.

942 B. Nothing in this Compact prevents the enforcement of any
943 other law of a member state that is not inconsistent with the
944 Compact.

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

947 D. Any lawful actions of the Commission, including all rules
948 and bylaws promulgated by the Commission, are binding upon the
949 member states.

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

952 F. If any provision of the Compact exceeds the
953 constitutional limits imposed on the legislature of any member
954 state, the provision shall be ineffective to the extent of the



955 conflict with the constitutional provision in question in that
956 member state.

957 **SECTION 2.** Section 73-24-3, Mississippi Code of 1972, is
958 amended as follows:

959 73-24-3. The following words and phrases shall have the
960 following meanings, unless the context requires otherwise:

961 (a) "Association" shall mean the Mississippi
962 Occupational Therapy Association.

963 (b) "Board" shall mean the Mississippi State Board of
964 Health.

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

972 (d) "Occupational therapy intervention" includes:

973 (i) Remediation or restoration of performance
974 abilities that are limited due to impairment in biological,
975 physiological, psychological or neurological processes;

976 (ii) Adaptation of task, process or the
977 environment, or the teaching of compensatory techniques in order
978 to enhance functional performance;



979 (iii) Disability prevention methods and techniques
980 which facilitate the development or safe application of functional
981 performance skills; or

982 (iv) Health promotion strategies and practices
983 which enhance functional performance abilities.

984 (e) "Occupational therapy service" includes, but is not
985 limited to:

986 (i) Evaluating, developing, improving, sustaining
987 or restoring skill in activities of daily living (ADLS), work or
988 productive activities, including instrumental activities of daily
989 living (IADLS), play and leisure activities;

990 (ii) Evaluating, developing, remediating or
991 restoring physical, sensorimotor, cognitive or psychosocial
992 components of performance;

993 (iii) Designing, fabricating, applying or training
994 in the use of assistive technology or orthotic devices, and
995 training in the use of prosthetic devices;

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

999 (v) Application of physical agent modalities as an
1000 adjunct to or in preparation for engagement in an occupation or
1001 functional activity;



1002 (vi) Evaluating and providing intervention in
1003 collaboration with the client, family, caregiver or other person
1004 responsible for the client;

1005 (vii) Educating the client, family, caregiver or
1006 others in carrying out appropriate nonskilled interventions;

1007 (viii) Consulting with groups, programs,
1008 organizations or communities to provide population-based services;
1009 or

1010 (ix) Participation in administration, education
1011 and research, including both clinical and academic environments.

1012 (f) "Occupational therapist" means a person who is
1013 licensed or holds a compact privilege to practice occupational
1014 therapy as defined in this chapter, and whose license or compact
1015 privilege is in good standing.

1016 (g) "Occupational therapy assistant" means a person who
1017 is licensed or holds a compact privilege to assist in the practice
1018 of occupational therapy under the supervision of or with the
1019 consultation of the licensed occupational therapist or
1020 occupational therapist who holds a compact privilege, and whose
1021 license or compact privilege is in good standing.

1022 (h) "Occupational therapy aide" means a person not
1023 licensed in the field of occupational therapy who assists
1024 occupational therapists and occupational therapy assistants in the
1025 practice of occupational therapy, is under the direct supervision
1026 of the licensed occupational therapist or licensed occupational



1027 therapy assistant or occupational therapist or occupational
1028 therapy assistant who holds a compact privilege, and whose
1029 activities require an understanding of occupational therapy.

1030 (i) "Person" means any individual, partnership,
1031 unincorporated organization or corporate body, except that only an
1032 individual may be licensed or hold a compact privilege under this
1033 chapter.

1034 (j) "Council" means the Mississippi Advisory Council in
1035 Occupational Therapy.

1036 (k) "Compact privilege" means the authorization to
1037 practice as an occupational therapist or occupational therapy
1038 assistant under the Occupational Therapy Licensure Compact
1039 provided for in Section 1 of this act.

1040 (l) "Licensee" means a person who has been issued a
1041 license to practice as an occupational therapist or occupational
1042 therapy assistant in this state, or a person who holds a compact
1043 privilege to practice as an occupational therapist or occupational
1044 therapy assistant in this state.

1045 **SECTION 3.** Section 73-24-7, Mississippi Code of 1972, is
1046 amended as follows:

1047 73-24-7. (1) It is unlawful for any person who is not
1048 licensed or does not hold a compact privilege under this chapter
1049 as an occupational therapist or as an occupational therapy
1050 assistant, or whose license or compact privilege has been
1051 suspended or revoked, to:



1052 (a) In any manner represent himself or herself as
1053 someone who provides occupational therapy services, or use in
1054 connection with his or her name or place of business the words
1055 "occupational therapist," "licensed occupational therapy
1056 assistant" or the letters "O.T.," "L.O.T.," "O.T.L.," "O.T.A." or
1057 "O.T.A.L." or any other words, letters, abbreviations or insignia
1058 indicating or implying that he or she is an occupational therapist
1059 or an occupational therapy assistant or that he or she provides
1060 occupational therapy services; or

1061 (b) To show in any way, orally, in writing, in print or
1062 by sign, directly or by implication, or to represent himself or
1063 herself as an occupational therapist or an occupational therapy
1064 assistant or someone who provides occupational therapy services.

1065 (2) Any person who violates any provision of this section,
1066 upon conviction, shall be guilty of a misdemeanor and shall be
1067 fined not more than One Thousand Dollars (\$1,000.00) for each
1068 violation.

1069 (3) Any person who knowingly shall make a material false
1070 statement in his or her application for a license or compact
1071 privilege under this chapter or in response to any inquiry by the
1072 department or the board shall be fined not less than One Hundred
1073 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or
1074 imprisoned for not less than ten (10) days nor more than sixty
1075 (60) days, or both such fine and imprisonment.



1076 **SECTION 4.** Section 73-24-9, Mississippi Code of 1972, is
1077 amended as follows:

1078 73-24-9. Nothing in this chapter shall be construed as
1079 preventing or restricting the practice, services or activities of:

1080 (a) Any person, licensed in this state by any other
1081 law, from engaging in the profession or occupation for which he or
1082 she is licensed;

1083 (b) Any person who is employed as an occupational
1084 therapist or occupational therapy assistant by the United States
1085 Armed Services, the United States Public Health Service, the
1086 Veteran's Administration or other federal agencies, if such person
1087 provides occupational therapy solely under the direction or
1088 control of the organization by which he or she is employed;

1089 (c) Any person pursuing a course of study leading to a
1090 degree or certificate in occupational therapy in an accredited,
1091 recognized or approved educational program, or advanced training
1092 in a specialty area, if such activities and services constitute a
1093 part of the supervised course of study, and if such person is
1094 designated by a title which clearly indicates his or her status as
1095 a trainee or student;

1096 (d) Any person fulfilling the supervised fieldwork
1097 experience requirements of Section 73-24-19, if such activities
1098 and services constitute a part of the experience necessary to meet
1099 the requirements of that section;



1100 (e) Any person employed as an occupational therapy aide
1101 or who works under the supervision of a licensed occupational
1102 therapist or occupational therapist who holds a compact privilege;

1103 (f) Any person performing occupational therapy services
1104 in the state, if these services are performed for no more than
1105 thirty (30) days in a calendar year under the supervision of an
1106 occupational therapist who is licensed or holds a compact
1107 privilege under this chapter, if:

1108 (i) The person is licensed under the law of
1109 another state which has licensure requirements at least as
1110 stringent as the requirements of this chapter, or

1111 (ii) The person is certified as an Occupational
1112 Therapist Registered (OTR) or a Certified Occupational Therapy
1113 Assistant (COTA), established by the National Board for
1114 Certification in Occupational Therapy, Inc. (NBCOT), or its
1115 successor organization; or

1116 (g) Any person certified by the American Board of
1117 Certification in Orthotics and Prosthetics as a Certified
1118 Orthotist, C.O., Certified Prosthetist, C.P., Certified
1119 Prosthetist/Orthotist, C.P.O., or anyone working under their
1120 direct supervision.

1121 **SECTION 5.** Section 73-24-15, Mississippi Code of 1972, is
1122 amended as follows:

1123 73-24-15. (1) The administration of the provisions of this
1124 chapter shall be financed from income accruing from fees,



1125 licenses, compact privileges and charges assessed and collected by
1126 the board and from such other funds available to the board. In
1127 addition, the board shall receive and account for all funds
1128 received and shall keep such funds in a separate fund which is
1129 hereby created within the State Treasury. Funds collected under
1130 the provisions of this chapter shall be used solely for the
1131 expenses incurred in the administration of the provisions of this
1132 chapter, which may include full or partial financing of continuing
1133 professional education programs promulgated by the council under
1134 Section 73-24-29. Such funds shall be subject to audit by the
1135 State Auditor.

1136 (2) Members of the council shall receive no compensation for
1137 their services, but shall be reimbursed for their expenses
1138 actually incurred in the execution of their powers and duties,
1139 including mileage, as provided in Section 25-3-41 * * *.

1140 **SECTION 6.** Section 73-24-17, Mississippi Code of 1972, is
1141 amended as follows:

1142 73-24-17. (1) The board shall issue licenses and compact
1143 privileges and notices of renewal, revocation, suspension or
1144 reinstatement, and shall publish annually the names of persons who
1145 are licensed or hold a compact privilege under this chapter and
1146 the names of the persons whose licenses or compact privileges have
1147 been subjected to disciplinary action under this chapter.

1148 (2) The board shall publish and disseminate to all
1149 licensees, in an appropriate manner, the license standards



1150 prescribed by this chapter, any amendments thereto, and such rules
1151 and regulations as the board may adopt under the authority of
1152 Section 73-24-13 within sixty (60) days of their adoption.

1153 (3) The board shall administer the compact privilege in
1154 accordance with the Occupational Therapy Licensure Compact
1155 provided for in Section 1 of this act.

1156 **SECTION 7.** Section 73-24-19, Mississippi Code of 1972, is
1157 amended as follows:

1158 73-24-19. (1) An applicant applying for a license as an
1159 occupational therapist or as an occupational therapy assistant
1160 shall file a written application on forms provided by the board,
1161 showing to the satisfaction of the board that he or she meets the
1162 following requirements:

1163 (a) Is of good moral character;

1164 (b) Has been awarded a degree from an education program
1165 in occupational therapy recognized by the board, with a
1166 concentration of instruction in basic human sciences, the human
1167 development process, occupational tasks and activities, the
1168 health-illness-health continuum, and occupational therapy theory
1169 and practice:

1170 (i) For an occupational therapist, such program
1171 shall be accredited by the Accreditation Council for Occupational
1172 Therapy Education of the American Occupational Therapy Association
1173 or the board-recognized accrediting body;



1174 (ii) For an occupational therapy assistant, such a
1175 program shall be accredited by the Accreditation Council for
1176 Occupational Therapy Education of the American Occupational
1177 Therapy Association or the board-recognized accrediting body;

1178 (c) Has successfully completed a period of supervised
1179 fieldwork experience at a recognized educational institution or a
1180 training program approved by the educational institution where he
1181 or she met the academic requirements:

1182 (i) For an occupational therapist, the required
1183 supervised fieldwork experience shall meet current national
1184 standards that are published annually by the board;

1185 (ii) For an occupational therapy assistant, the
1186 required supervised fieldwork experience shall meet national
1187 standards that are published annually by the board.

1188 (2) The board shall approve an examination for occupational
1189 therapists and an examination for occupational therapy assistants
1190 that will be used as the examination for licensure.

1191 (3) Any person applying for licensure shall, in addition to
1192 demonstrating his or her eligibility in accordance with the
1193 requirements of this section, make application to the board for
1194 review of proof of his or her eligibility for certification by the
1195 National Board for Certification in Occupational Therapy, Inc.
1196 (NBCOT), or its successor organization, on a form and in such a
1197 manner as the board shall prescribe. The application shall be
1198 accompanied by the fee fixed in accordance with the provisions of



1199 Section 73-24-29. The board shall establish standards for
1200 acceptable performance on the examination. A person who fails an
1201 examination may apply for reexamination upon payment of the
1202 prescribed fee.

1203 (4) Applicants for licensure shall be examined at a time and
1204 place and under such supervision as the board may require. The
1205 board shall give reasonable public notice of these examinations in
1206 accordance with its rules and regulations.

1207 (5) An applicant may be licensed as an occupational
1208 therapist if he or she: (a) has practiced as an occupational
1209 therapy assistant for four (4) years, (b) has completed the
1210 requirements of a period of six (6) months of supervised fieldwork
1211 experience at a recognized educational institution or a training
1212 program approved by a recognized accredited educational
1213 institution before January 1, 1988, and (c) has passed the
1214 examination for occupational therapists.

1215 (6) An applicant applying for a compact privilege to
1216 practice as an occupational therapist or as an occupational
1217 therapy assistant must meet the requirements set out in the
1218 Occupational Therapy Licensure Compact provided for in Section 1
1219 of this act.

1220 (* * *7) Each application or filing made under this section
1221 shall include the social security number(s) of the applicant in
1222 accordance with Section 93-11-64 * * *.



1223 **SECTION 8.** Section 73-24-23, Mississippi Code of 1972, is
1224 amended as follows:

1225 73-24-23. (1) The board shall issue a license or a compact
1226 privilege to any person who meets the requirements of this chapter
1227 and upon payment of the license fee.

1228 (2) The board shall issue a limited permit to persons who
1229 have completed the education and experience requirements of this
1230 chapter upon payment of the limited permit fee. This permit shall
1231 allow the person to practice occupational therapy or assist in the
1232 practice of occupational therapy, as the case may be, under the
1233 supervision of an occupational therapist who holds a current
1234 license in this state and shall be valid until the date on which
1235 the results of the next qualifying examination have been made
1236 public. The limited permit can be renewed one (1) time if the
1237 applicant has failed the examination.

1238 (3) Any person who is issued a license as an occupational
1239 therapist under this chapter may use the words "licensed
1240 occupational therapist," "occupational therapist licensed,"
1241 "occupational therapist," or he or she may use the letters
1242 "L.O.T.," "O.T.L." or "O.T." in connection with his or her name or
1243 place of business to denote licensure under this chapter.

1244 (4) Any person who is issued a license as an occupational
1245 therapy assistant under this chapter may use the words
1246 "occupational therapy assistant," "licensed occupational therapy
1247 assistant" or "occupational therapy assistant licensed," or may



1248 use the letters "O.T.A.," "L.O.T.A." or "O.T.A.L.," in connection
1249 with his or her name or place of business to denote licensure
1250 under this chapter.

1251 **SECTION 9.** Section 73-24-24, Mississippi Code of 1972, is
1252 amended as follows:

1253 73-24-24. (1) Licensees subject to this chapter shall
1254 conduct their activities, services and practice in accordance with
1255 this chapter and any rules promulgated pursuant hereto. Licenses
1256 and compact privileges may be subject to the exercise of the
1257 disciplinary sanction enumerated in Section 73-24-25 if the board
1258 finds that a licensee is guilty of any of the following:

1259 (a) Negligence in the practice or performance of
1260 professional services or activities;

1261 (b) Engaging in dishonorable, unethical or
1262 unprofessional conduct of a character likely to deceive, defraud
1263 or harm the public in the course of professional services or
1264 activities;

1265 (c) Perpetrating or cooperating in fraud or material
1266 deception in obtaining or renewing a license or compact privilege
1267 or attempting the same;

1268 (d) Being convicted of any crime which has a
1269 substantial relationship to the licensee's activities and services
1270 or an essential element of which is misstatement, fraud or
1271 dishonesty;



1272 (e) Being convicted of any crime which is a felony
1273 under the laws of this state or the United States;

1274 (f) Engaging in or permitting the performance of
1275 unacceptable services personally or by others working under the
1276 licensee's supervision due to the licensee's deliberate or
1277 negligent act or acts or failure to act, regardless of whether
1278 actual damage or damages to the public is established;

1279 (g) Continued practice although the licensee has become
1280 unfit to practice as an occupational therapist or occupational
1281 therapist assistant due to: (i) failure to keep abreast of
1282 current professional theory or practice; or (ii) physical or
1283 mental disability; the entry of an order or judgment by a court of
1284 competent jurisdiction that a licensee is in need of mental
1285 treatment or is incompetent shall constitute mental disability; or
1286 (iii) addiction or severe dependency upon alcohol or other drugs
1287 which may endanger the public by impairing the licensee's ability
1288 to practice;

1289 (h) Having disciplinary action taken against the
1290 licensee's license or compact privilege in another state;

1291 (i) Making differential, detrimental treatment against
1292 any person because of race, color, creed, sex, religion or
1293 national origin;

1294 (j) Engaging in lewd conduct in connection with
1295 professional services or activities;

1296 (k) Engaging in false or misleading advertising;



1297 (l) Contracting, assisting or permitting unlicensed
1298 persons to perform services for which a license or compact
1299 privilege is required under this chapter;

1300 (m) Violation of any probation requirements placed on a
1301 license or compact privilege by the board;

1302 (n) Revealing confidential information except as may be
1303 required by law;

1304 (o) Failing to inform clients of the fact that the
1305 client no longer needs the services or professional assistance of
1306 the licensee;

1307 (p) Charging excessive or unreasonable fees or engaging
1308 in unreasonable collection practices;

1309 (q) For treating or attempting to treat ailments or
1310 other health conditions of human beings other than by occupational
1311 therapy as authorized by this chapter;

1312 (r) For practice or activities considered to be
1313 unprofessional conduct as defined by the rules and regulations;

1314 (s) Violations of the current codes of conduct for
1315 occupational therapists and occupational therapy assistants
1316 adopted by the American Occupational Therapy Association;

1317 (t) Violations of any rules or regulations promulgated
1318 pursuant to this chapter.

1319 (2) The board may order a licensee to submit to a reasonable
1320 physical or mental examination if the licensee's physical or



1321 mental capacity to practice safely is at issue in a disciplinary
1322 proceeding.

1323 (3) Failure to comply with a board order to submit to a
1324 physical or mental examination shall render a licensee subject to
1325 the summary suspension procedures described in Section 73-24-25.

1326 **SECTION 10.** Section 73-24-25, Mississippi Code of 1972, is
1327 amended as follows:

1328 73-24-25. (1) Any person whose application for a license or
1329 compact privilege is denied shall be entitled to a hearing before
1330 the board if he or she submits a written request to the board.
1331 Such hearing shall be conducted at the earliest possible date. A
1332 subcommittee of the council shall attend and may offer relevant
1333 evidence at any such hearing. The board shall fix a time and
1334 place for the hearing and shall cause a written copy of the reason
1335 for denial of the license or compact privilege, together with a
1336 notice of the time and place fixed for the hearing, to be served
1337 on the applicant requesting the hearing and shall serve notice of
1338 such hearing on the council. Service of and notice of the hearing
1339 may be given by United States certified mail, return receipt
1340 requested, to the last known address of the licensee or applicant.
1341 For purposes of the hearing, the board, acting by and through the
1342 Executive Director of the State Board of Health, shall have the
1343 power to subpoena persons and compel the production of records,
1344 papers and other documents.



1345 (2) (a) All complaints concerning a licensee's business or
1346 professional practice shall be received by the board. Each
1347 complaint received shall be registered, recording at a minimum the
1348 following information: (i) licensee's name; (ii) name of the
1349 complaining party, if known; (iii) date of complaint; (iv) brief
1350 statement of complaint; and (v) disposition.

1351 (b) Following the investigative process, the board may
1352 file formal charges against the licensee. Such formal complaint,
1353 at a minimum, shall inform the licensee of the facts which are the
1354 basis of the charge and which are specific enough to enable the
1355 licensee to defend against the charges.

1356 (c) Each licensee whose conduct is the subject of a
1357 formal charge which seeks to impose disciplinary action against
1358 the licensee shall be served notice of the formal charge at least
1359 thirty (30) days before the date of the hearing, which hearing
1360 shall be presided over by the board or the board's designee.
1361 Service shall be considered to have been given if the notice was
1362 personally received by the licensee or if the notice was sent by
1363 United States certified mail, return receipt requested, to the
1364 licensee at the licensee's last known address as listed with the
1365 state agency.

1366 (d) The notice of the formal charge shall consist, at a
1367 minimum, of the following information:

1368 (i) The time, place and date of the hearing;



1369 (ii) Notification that the licensee shall appear
1370 personally at the hearing and may be represented by counsel;

1371 (iii) Notification that the licensee shall have
1372 the right to produce witnesses and evidence in his or her behalf
1373 and shall have the right to cross-examine adverse witnesses and
1374 evidence;

1375 (iv) Notification that the hearing could result in
1376 disciplinary action being taken against the licensee;

1377 (v) Notification that rules for the conduct of the
1378 hearing exist, and it may be in the licensee's best interest to
1379 obtain a copy;

1380 (vi) Notification that the board or its designee
1381 shall preside at the hearing, and following the conclusion of the
1382 hearing, shall make findings of facts, conclusions of law and
1383 recommendations, separately stated, to the board as to what
1384 disciplinary action, if any, should be imposed on the licensee;

1385 (vii) The board or its designee shall hear
1386 evidence produced in support of the formal charges and contrary
1387 evidence produced by the licensee. At the conclusion of the
1388 hearing, the board shall issue an order; and

1389 (viii) All proceedings under this section are
1390 matters of public record and shall be preserved in accordance with
1391 state law.

1392 (3) In addition to other remedies provided by law or in
1393 equity, any applicant or licensee aggrieved by any action of the



1394 board may appeal the action of the board to the chancery court of
1395 the county of his or her residence if he or she be a resident of
1396 this state, or to the Chancery Court of the First Judicial
1397 District of Hinds County, Mississippi, if he or she be a
1398 nonresident of this state. An appeal shall be filed within thirty
1399 (30) days immediately following the mailing or delivery to the
1400 applicant or licensee of a copy of the order of judgment of the
1401 board, unless the court, for good cause shown, extends the time.
1402 The court after a hearing may modify, affirm or reverse the
1403 judgment of the board or may remand the case to the board for
1404 further proceedings. An appeal from the chancery court may be had
1405 to the Supreme Court of the State of Mississippi as provided by
1406 law for any final judgment of the chancery court. If the board
1407 appeals a judgment of the chancery court, no bond shall be
1408 required of it in order to perfect its appeal.

1409 (4) The board may impose any of the following sanctions,
1410 singly or in combination, when it finds that a licensee is guilty
1411 of any such offense:

1412 (a) Revoke the license or compact privilege;

1413 (b) Suspend the license or compact privilege, for any
1414 period of time;

1415 (c) Censure the licensee;

1416 (d) Impose a monetary penalty of not more than Two
1417 Hundred Dollars (\$200.00);



1418 (e) Place a licensee on probationary status and
1419 requiring the licensee to submit to any of the following: (i)
1420 report regularly to the board, or its designee, upon matters which
1421 are the basis of probation; (ii) continue to renew professional
1422 education until a satisfactory degree of skill has been attained
1423 in those areas which are the basis of probation; or (iii) such
1424 other reasonable requirement or restrictions as the board deems
1425 proper;

1426 (f) Refuse to renew a license or compact privilege; or

1427 (g) Revoke probation which has been granted and impose
1428 any other disciplinary action under this subsection when the
1429 requirements of probation have not been fulfilled or have been
1430 violated.

1431 (5) The board summarily may suspend a license or compact
1432 privilege under this chapter without the filing of a formal
1433 complaint, notice or a hearing, if the board finds that the
1434 continued practice in the profession by the licensee would
1435 constitute an immediate danger to the public. If the board
1436 summarily suspends a license or compact privilege under the
1437 provisions of this subsection a hearing must be held within twenty
1438 (20) days after suspension begins, unless the hearing date is
1439 continued at the request of the licensee.

1440 (6) Disposition of any formal complaint may be made by
1441 consent order or stipulation between the board and the licensee.



1442 (7) The board may reinstate any licensee to good standing
1443 under this chapter if, after hearing, the board is satisfied that
1444 the applicant's renewed practice is in the public interest.

1445 (8) The board may seek the counsel of the Occupational
1446 Therapy Advisory Council regarding disciplinary actions.

1447 (9) The board shall seek to achieve consistency in the
1448 application of the foregoing sanctions, and significant departure
1449 from prior decisions involving similar conduct shall be explained
1450 by the board.

1451 (10) In addition, the board shall be authorized to suspend
1452 the license of any licensee for being out of compliance with an
1453 order for support, as defined in Section 93-11-153. The procedure
1454 for suspension of a license for being out of compliance with an
1455 order for support, and the procedure for reissuance or
1456 reinstatement of a license suspended for that purpose, and the
1457 payment of any fees for the reissuance or reinstatement of a
1458 license suspended for that purpose, shall be governed by Section
1459 93-11-157 or 93-11-163, as the case may be. If there is any
1460 conflict between any provision of Section 93-11-157 or 93-11-163
1461 and any provision of this chapter, the provisions of Section
1462 93-11-157 or 93-11-163, as the case may be, shall control.

1463 **SECTION 11.** Section 73-24-27, Mississippi Code of 1972, is
1464 amended as follows:

1465 73-24-27. (1) Except as provided in Section 33-1-39, any
1466 license or compact privilege issued under this chapter shall be



1467 subject to renewal and shall expire unless renewed in the manner
1468 prescribed by the rules and regulations of the board, upon the
1469 payment of a renewal fee and demonstration of completion of
1470 continuing professional education. A person's compact privilege
1471 in this state shall be valid until the expiration date of that
1472 person's home state license. The board may provide for the late
1473 renewal of a license or compact privilege upon the payment of a
1474 late fee in accordance with its rules and regulations, but no late
1475 renewal of a license or compact privilege may be granted more than
1476 two (2) years after its expiration.

1477 (2) Upon request and payment of the license fee required,
1478 the board shall grant inactive status to a licensee who: (a) does
1479 not practice as an occupational therapist or an occupational
1480 therapy assistant, (b) does not hold himself or herself out as an
1481 occupational therapist or an occupational therapy assistant, and
1482 (c) does not maintain any continuing education requirements.

1483 (3) A suspended license or compact privilege is subject to
1484 expiration and may be renewed as provided in this section, but
1485 such renewal shall not entitle the suspended licensee to engage in
1486 the licensed activity or in any other conduct or activity in
1487 violation of the order of judgment by which the license or compact
1488 privilege was suspended. If a license or compact privilege
1489 revoked on disciplinary grounds is reinstated, the licensee, as a
1490 condition of reinstatement, shall pay the renewal fee and any late
1491 fee that may be applicable. The procedure for the reinstatement



1492 of a license that is suspended for being out of compliance with an
1493 order for support, as defined in Section 93-11-153, shall be
1494 governed by Section 93-11-157 or 93-11-163, as the case may be.

1495 **SECTION 12.** Section 73-24-29, Mississippi Code of 1972, is
1496 amended as follows:

1497 73-24-29. (1) The board is empowered to prescribe and
1498 publish reasonable fees for the following purposes:

- 1499 (a) Application fee which is nonrefundable;
- 1500 (b) Initial license or compact privilege fee;
- 1501 (c) Renewal of license or compact privilege fee;
- 1502 (d) Late renewal fee;
- 1503 (e) Limited permit fee;
- 1504 (f) Reinstatement of license or compact privilege fee;
- 1505 (g) Inactive license fee.

1506 (2) Such fees shall be commensurate to the extent feasible
1507 with the cost of fulfilling the duties of the board and council as
1508 defined by this chapter; however, no individual fee shall exceed
1509 One Hundred Fifty Dollars (\$150.00).

1510 (3) Any increase in the fees charged by the board under this
1511 section shall be in accordance with the provisions of Section
1512 41-3-65.

1513 **SECTION 13.** This act shall take effect and be in force from
1514 and after July 1, 2023.

