



**VIRTUAL/TELECONFERENCE  
OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD**

**Virtual, 4822 Madison Yards Way, Madison**

**Contact: Valerie Payne (608) 266-2112**

**September 15, 2020**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Board.*

**AGENDA**

**9:30 A.M.**

**OPEN SESSION – CALL TO ORDER – ROLL CALL**

- A. Adoption of Agenda (1-3)**
- B. Approval of Minutes of June 9, 2020 (4-6)**
- C. Conflicts of Interest
- D. Administrative Matters – Discussion and Consideration**
  - 1) Department, Staff and Board Updates
  - 2) Board Members – Term Expiration Dates
  - 3) Wis. Stat. s. 15.085(3)(b) – Biannual Meeting with the Medical Examining Board
- E. Legislative and Policy Matters – Discussion and Consideration
- F. Administrative Rule Matters – Discussion and Consideration (7)**
  - 1) Proposals for OT 1 to 6 – Telehealth **(8-21)**
  - 2) Preliminary Rule Draft – OT 2 – Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses **(22-25)**
  - 3) Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108
    - a. Review of 2019 Report **(26-28)**
    - b. Proposals for 2021 Report
  - 4) Pending and Possible Rulemaking Projects
- G. AOTA/NBCOT Occupational Therapy Licensure Compact Initiative – Discussion and Consideration (29-52)**
- H. COVID-19 – Discussion and Consideration**
- I. Discussion and Consideration of Items Added After Preparation of Agenda:
  - 1) Introductions, Announcements and Recognition
  - 2) Administrative Matters

- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters
- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) Administrative Rule Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decisions and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

J. Public Comments

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 448.02(8), Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).**

K. Open Cases

L. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) DLSC Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Order
- 9) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders
- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training

- 16) Petitions for Assessments and Evaluations
- 17) Petitions to Vacate Orders
- 18) Remedial Education Cases
- 19) Motions
- 20) Petitions for Re-Hearing
- 21) Appearances from Requests Received or Renewed

M. Consulting with Legal Counsel

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

- N. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate
- O. Open Session Items Noticed Above Not Completed in the Initial Open Session
- P. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

**ADJOURNMENT**

**ORAL EXAMINATION OF CANDIDATES FOR LICENSURE**

**VIRTUAL/TELECONFERENCE**

**10:00 A.M. OR IMMEDIATELY FOLLOWING FULL BOARD MEETING**

**CLOSED SESSION** – Reviewing Applications and Conducting Oral Examinations of **Zero (0)** (at the time of agenda publication) Candidate for Licensure and Any Additional Examinations Added After Agenda Preparation –Laura O’Brien & Teresa Black

**NEXT DATE: NOVEMBER 17, 2020**

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 MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board’s agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**OCCUPATIONAL THERAPISTS AFFILIATED CREDENTIALING BOARD  
MEETING MINUTES  
JUNE 9, 2020**

**PRESENT:** Teresa Black, Terry Erickson, Randi Hanson, Laura O'Brien

**EXCUSED:** Amy Summers

**STAFF:** Valerie Payne, Executive Director; Yolanda McGowan, Legal Counsel; Dale Kleven, Rules Coordinator; Megan Glaeser, Bureau Assistant; and other Department staff

**CALL TO ORDER**

Laura O'Brien, Chairperson, called the meeting to order at 9:37 a.m. A quorum was confirmed with four (4) board members present.

**ADOPTION OF AGENDA**

**MOTION:** Terry Erickson moved, seconded by Randi Hanson, to adopt the Agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES**

**MOTION:** Teresa Black moved, seconded by Terry Erickson, to approve the Minutes of March 10, 2020 as published. Motion carried unanimously.

**PUBLIC HEARING: CR 20-016 – OT 3- BIENNIAL REGISTRATION – DISCUSSION AND CONSIDERATION**

**MOTION:** Randi Hanson moved, seconded by Terry Erickson, to accept all Clearinghouse comments for Clearinghouse Rule CR 20-016, relating to biennial registration. Motion carried unanimously.

**MOTION:** Terry Erickson moved, seconded by Teresa Black, to accept the Medical Examining Board's recommendation for Clearinghouse Rule CR 20-016, relating to biennial registration. Motion carried unanimously.

**MOTION:** Teresa Black moved, seconded by Terry Erickson, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule CR 20-016, relating to biennial registration, for submission to the Governor's Office and Legislature. Motion carried unanimously.

**ADMINISTRATIVE RULE MATTERS**

**Scope Statement – OT 1 to 6 - Telehealth**

**MOTION:** Terry Erickson moved, seconded by Randi Hanson, to approve the Scope Statement revising OT Chapters 1 to 6 relating to Telehealth, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope

Statement for implementation no less than 10 days after publication. Motion carried unanimously. Motion carried unanimously.

**MOTION:** Teresa Black moved, seconded by Terry Erickson, that if the Board is directed under s. 227.136 (1), Stats., to hold a preliminary public hearing and comment period on the Scope Statement revising OT 1 to 6, relating to telehealth, the Chairperson is authorized to approve the notice required under s. 227.136 (2), Stats. Motion carried unanimously.

**Scope Statement – OT 2 – Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses**

**MOTION:** Terry Erickson moved, seconded by Teresa Black, to approve the Scope Statement revising OT Chapter 2 relating to Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses, for submission to the Department of Administration and Governor’s Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. Motion carried unanimously. Motion carried unanimously.

**MOTION:** Randi Hanson moved, seconded by Terry Erickson, that if the Board is directed under s. 227.136 (1), Stats., to hold a preliminary public hearing and comment period on the Scope Statement revising OT 2, relating to reciprocal credentials for service members, former service members, and their spouses, the Chairperson is authorized to approve the notice required under s. 227.136 (2), Stats. Motion carried unanimously.

**AOTA/NBCOT OCCUPATIONAL THERAPY LICENSURE COMPACT INITIATIVE**

**MOTION:** Teresa Black moved, seconded by Terry Erickson, to authorize the Chairperson or Vice Chairperson to work with the Executive Director to compile and convey any comments relative to AOTA/NBCOT Occupational Therapy Licensure Compact Initiative to NBCOT. Motion carried unanimously.

**CLOSED SESSION**

**MOTION:** Terry Erickson moved, seconded by Randi Hanson, to convene to Closed Session to deliberate on cases following hearing (§ 19.85(1) (a), Stats.); to consider licensure or certification of individuals (§ 19.85 (1) (b), Stats.); to consider closing disciplinary investigations with administrative warnings (§ 19.85 (1) (b), Stats. and § 448.02(8), Stats.); to consider individual histories or disciplinary data (§ 19.85 (1) (f), Stats.); and to confer with legal counsel (§ 19.85 (1) (g), Stats.). Laura O’Brien, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Teresa Black-yes; Terry Erickson-yes; Randi Hanson-yes; and Laura O’Brien-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:54 a.m.

## **FULL BOARD ORAL REVIEW**

*Thomas Rothery*

**MOTION:** Terry Erickson moved, seconded by Randi Hanson, to delegate authority to act on this application to the Board Credentialing Liaisons. Motion carried unanimously.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Teresa Black moved, seconded by Terry Erickson, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened to Open Session at 12:22 p.m.

### **VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE**

**MOTION:** Terry Erickson moved, seconded by Randi Hanson, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

*(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)*

### **DELEGATION OF RATIFICATION OF LICENSES AND CERTIFICATES**

**MOTION:** Teresa Black moved, seconded by Randi Hanson, to delegate ratification of examination results to DSPS staff and to ratify all licenses and certificates as issued. Motion carried unanimously.

### **ADJOURNMENT**

**MOTION:** Terry Erickson moved, seconded by Teresa Black, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:25 p.m.

**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  <b>Dale Kleven</b> <b>Administrative Rules Coordinator</b>		2) Date When Request Submitted:  <b>9/2/20</b> Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: <b>Occupational Therapists Affiliated Credentialing Board</b>			
4) Meeting Date:  <b>9/15/20</b>	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? <b>Administrative Rule Matters – Discussion and Consideration</b> <b>1. Proposals for OT 1 to 6 – Telehealth</b> <b>2. Preliminary Rule Draft – OT 2 – Reciprocal Credentials for Service Members, Former Service Members, and Their Spouses</b> <b>3. Administrative Rules Reporting Requirement Under 2017 Wisconsin Act 108</b> <b>a. Review of 2019 Report</b> <b>b. Proposals for 2021 Report</b> <b>4. Pending or Possible Rulemaking Projects</b>	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled?  <input type="checkbox"/> Yes ( <a href="#">Fill out Board Appearance Request</a> ) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request <b><i>Dale Kleven</i></b>		Date <b><i>September 2, 2020</i></b>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

# STATEMENT OF SCOPE

## Occupational Therapists Affiliated Credentialing Board

**Rule No.:** Chapters OT 1 to 6

**Relating to:** Telehealth

**Rule Type:** Permanent

**1. Finding/nature of emergency (Emergency Rule only):**

N/A

**2. Detailed description of the objective of the proposed rule:**

The objective of the proposed rule is to establish standards of practice and conduct for providing occupational therapy services using telehealth. This may include revisions to chs. OT 1 to 5, creation of a ch. OT 6, or both.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Current administrative rules of the Occupational Therapy Affiliated Credentialing Board do not address telehealth practice. As described above, the proposed rule will establish standards of practice and conduct for providing occupational therapy services using telehealth. The alternative of not updating the rules would be less beneficial to affected entities.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 15.085 (5) (b), Stats., provides that an affiliated credentialing board, such as the Occupational Therapists Affiliated Credentialing Board, “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 448.965 (1) (c), Stats., provides the Occupational Therapists Affiliated Credentialing Board may promulgate rules that establish “[s]tandards of practice for occupational therapy, including a code of ethics and criteria for referral.”

Section 448.965 (2), Stats., provides “[t]he affiliated credentialing board may promulgate rules that define the scope of practice of occupational therapy or the scope of assisting in the practice of occupational therapy.”

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

90 hours

**6. List with description of all entities that may be affected by the proposed rule:**

Occupational therapists and occupational therapy assistants who provide occupational therapy services in Wisconsin.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

None.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

**Contact Person:** Dale Kleven, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov, (608) 261-4472

Approved for publication:

Approved for implementation:

  
\_\_\_\_\_  
Authorized Signature

  
\_\_\_\_\_  
Authorized Signature

6/22/2020  
\_\_\_\_\_  
Date Submitted

7/30/2020  
\_\_\_\_\_  
Date Submitted

**645—208.3(147) Telehealth visits.** A licensee may provide occupational therapy services to a patient utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this chapter.

**208.3(1)** “Telehealth visit” means the provision of occupational therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the occupational therapy session.

**208.3(2)** A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.

**208.3(3)** A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.

**208.3(4)** Any occupational therapist or occupational therapist assistant who provides an occupational therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

**208.3(5)** Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the occupational therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

- a. The risks and limitations of the use of technology to provide occupational therapy services;
- b. The potential for unauthorized access to protected health information; and
- c. The potential for disruption of technology during a telehealth visit.

**208.3(6)** A licensee shall only provide occupational therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

**208.3(7)** A licensee shall identify in the clinical record when occupational therapy services are provided utilizing a telehealth visit.

[ARC 3590C, IAB 1/17/18, effective 2/21/18]

## Chapter Med 24

## TELEMEDICINE

Med 24.01	Authority and scope.
Med 24.02	Definition of telemedicine.
Med 24.03	Physician–patient relationship.
Med 24.04	Wisconsin medical license required.

Med 24.05	Standards of practice and conduct.
Med 24.06	Equipment and technology.
Med 24.07	Internet diagnosis and treatment.

**Med 24.01 Authority and scope.** The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5), 227.11, and 448.40, Stats., and govern the standards of the practice of medicine using telemedicine. The rules in this chapter may not be construed to prohibit any of the following:

(1) Consultations between physicians or the transmission and review of digital images, pathology specimens, test results, or other medical data by physicians related to the care of patients in this state.

(2) Patient care in consultation with another physician who has an established physician–patient relationship with the patient.

(3) Patient care in on–call or cross–coverage situations in which the physician has access to patient records.

(4) Treating a patient with an emergency medical condition. In this subsection, “emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention will result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.

(5) Use of telemedicine by a physician assistant licensed by the medical examining board to provide patient care, treatment, or services within the licensee’s scope of practice under s. Med 8.07.

History: CR 15–087: cr. Register May 2017 No. 737, eff. 6–1–17.

**Med 24.02 Definition of telemedicine.** In this chapter, “telemedicine” means the practice of medicine when patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications. Telemedicine does not include the provision of health care services only through an audio–only telephone, email messages, text messages, facsimile transmission, mail or parcel service, or any combination thereof.

History: CR 15–087: cr. Register May 2017 No. 737, eff. 6–1–17.

**Med 24.03 Physician–patient relationship.** A physician–patient relationship may be established through telemedicine.

History: CR 15–087: cr. Register May 2017 No. 737, eff. 6–1–17.

**Med 24.04 Wisconsin medical license required.** A physician who uses telemedicine in the diagnosis and treatment of a patient located in this state shall be licensed to practice medicine and surgery by the medical examining board.

History: CR 15–087: cr. Register May 2017 No. 737, eff. 6–1–17.

**Med 24.05 Standards of practice and conduct.** A physician licensed to practice medicine and surgery by the medical examining board shall be held to the same standards of practice and conduct, including patient confidentiality and recordkeeping, regardless of whether health care services are provided in person or by telemedicine.

History: CR 15–087: cr. Register May 2017 No. 737, eff. 6–1–17.

**Med 24.06 Equipment and technology.** A physician licensed to practice medicine and surgery by the medical examining board who provides health care services by telemedicine is responsible for the quality and safe use of equipment and technology that is integral to patient diagnosis and treatment. The equipment and technology used by the physician to provide health care services by telemedicine shall provide, at a minimum, information that will enable the physician to meet or exceed the standard of minimally competent medical practice.

History: CR 15–087: cr. Register May 2017 No. 737, eff. 6–1–17.

**Med 24.07 Internet diagnosis and treatment.**

(1) When a physician uses a website to communicate to a patient located in this state, the physician may not provide treatment recommendations, including issuing a prescription, unless the following requirements are met:

(a) The physician shall be licensed to practice medicine and surgery by the medical examining board as required under s. Med 24.04.

(b) The physician’s name and contact information have been made available to the patient.

(c) Informed consent as required under s. 448.30, Stats., and ch. Med 18.

(d) A documented patient evaluation has been performed. A patient evaluation shall include a medical history and, to the extent required to meet or exceed the standard of minimally competent medical practice, an examination or evaluation, or both, and diagnostic tests.

(e) A patient health care record is prepared and maintained as required under ch. Med 21.

(2) Providing treatment recommendations, including issuing a prescription, based only on a static electronic questionnaire does not meet the standard of minimally competent medical practice.

History: CR 15–087: cr. Register May 2017 No. 737, eff. 6–1–17.

## Chapter OT 1

### DEFINITIONS

OT 1.01

Authority and purpose.

OT 1.02

Definitions.

**OT 1.01 Authority and purpose.** The rules in this chapter are adopted by the occupational therapists affiliated credentialing board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

**History:** CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03.

**OT 1.02 Definitions.** As used in chs. OT 1 to 5:

(1) “Activity demands” means the specific features of an activity that influence the type and amount of the effort required to perform the activity. Activity demands include the specific objects, space demands, social demands, sequence and timing, actions and skills, body functions, and body structures required to carry out the activity.

(2) “Assessment” is a component part of the evaluation process, and means the process of determining the need for, nature of, and estimated time of treatment at different intervals during the treatment, determining needed coordination with or referrals to other disciplines, and documenting these activities.

(3) “Board” means the occupational therapists affiliated credentialing board.

(4) “Body functions” means the physiological functions of body systems, including mental, sensory, pain, neuromusculoskeletal, movement, cardiovascular, hematological, immunological, respiratory, voice, speech, digestive, metabolic, endocrine, genitourinary, reproductive, lymphatic, integumentary, and related structures.

(5) “Body structures” means anatomical parts of the body, such as organs, limbs, and their components that support body functions.

(6) “Client factors” means values, beliefs, spirituality, body functions, and body structures of the client that may affect performance of occupation and activities.

(7) “Consultation” means a work-centered, problem-solving helping relationship in which knowledge, experience, abilities, and skills are shared with client, family, caregivers, and other professionals, including physicians, in the process of helping to habilitate or rehabilitate through the use of occupational therapy.

(8) “Entry-level” means the person has no demonstrated experience in a specific position, such as a new graduate, a person new to the position, or a person in a new setting with no previous experience in that area of practice.

(9) “Evaluation” means the process of obtaining and interpreting data necessary for understanding the individual system or situation. This includes planning for and documenting the evaluation process, results, and recommendations, including the need for intervention and potential change in the intervention plan.

(10) “Experienced” means demonstrated competence in the performance of duties in a given area of practice.

(11) “Habilitation” means an occupational therapy intervention designed for the education, training or support services provided to individuals to assist them in acquiring and maintaining skills not yet gained or learned, thus enabling them to learn, practice, and refine skills needed for independent living, productive employment, activity, and community participation.

(12) “Level I fieldwork” means an integral part of didactic courses and includes varied learning experiences. Students are

supervised in observation and assistance with clients during short term contacts.

(13) “Level II fieldwork” means extended fieldwork which emphasizes the application and integration of academically acquired knowledge and skills in the supervised delivery of occupational therapy services to clients.

(14) “Occupation” means the functional abilities that occupational therapy addresses in the areas of activities of daily living, instrumental activities of daily living, rest and sleep, education, work and vocational activities, play, leisure, and social participation.

(15) “Occupational therapist educational program” means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the Accreditation Council for Occupational Therapy Education or a program approved by the World Federation of Occupational Therapy.

(16) “Occupational therapy assistant educational program” means an educational program and supervised internships in occupational therapy recognized by the board and accredited by the Accreditation Council for Occupational Therapy Education or a program approved by the World Federation of Occupational Therapy.

(18) “Performance contexts and environments” means a variety of interrelated conditions within and surrounding the client that influence an individual’s engagement in desired or required occupational performance including: personal, cultural, temporal, physical, virtual, and social.

(19) “Performance patterns” means patterns of behavior related to an individual’s daily life activities that are habitual or routine.

(20) “Performance skills” means the skills and abilities that an individual demonstrates in the actions they perform including sensorimotor, sensory-perceptual, emotional regulation, cognition, communication, and social skills.

(21) “Prevention” means the fostering of normal development, promoting health and wellness, sustaining and protecting existing functions and abilities, preventing disability, or supporting levels of restoration or change to enable individuals to maintain maximum independence.

(22) “Referral” means the practice of requesting occupational therapy services.

(23) “Rehabilitation” means the process of treatment and education to restore a person’s ability to live and work as independently as possible after a disabling injury or illness.

(24) “Screening” means the review of occupational performance skills in natural environments or educational, or clinical settings to determine the significance of any discrepancy between current performance and expected level of performance, which may be done in consultation with a physician.

(25) “Service competence” means the determination made by various methods that 2 people performing the same or equivalent procedures will obtain the same or equivalent results.

(26) “Supervision” is a cooperative process in which 2 or more people participate in a joint effort to establish, maintain, and elevate a level of competence and performance. One of the participants, the supervisor, possesses skill, competence, experience,

education, credentials, or authority in excess of those possessed by the other participant, the supervisee.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: r. and recr. Register September 2014 No. 705, eff. 10-1-14; corrections to (intro.) under s. 35.17, Stats. Register September 2014 No. 705; CR 15-053: r. (17) Register August 2016 No. 728, eff. 9-1-16.

## Chapter OT 2

### LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

OT 2.01	Authority and purpose.	OT 2.05	Examination review by applicant.
OT 2.02	Applications and credentials.	OT 2.06	Board review of examination error claim.
OT 2.03	Examinations, panel review of applications.	OT 2.07	Temporary license.
OT 2.04	Exemption from written examination for certain occupational therapy assistant applicants.		

**OT 2.01 Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the licensure and regulation of occupational therapists and occupational therapy assistants.

**History:** CR 02-026; cr. Register December 2002 No. 564, eff. 1-1-03.

**OT 2.02 Applications and credentials. (1)** Every applicant for initial licensure as an occupational therapist or occupational therapy assistant shall submit all of the following:

(a) A completed application form.

**Note:** Application forms are available upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

(b) Evidence that the applicant is certified as an occupational therapist or occupational therapy assistant by the national board for certification in occupational therapy; and that the applicant has completed an occupational therapist educational program, or an occupational therapy assistant educational program.

(c) Written verification from the national board for certification in occupational therapy that the applicant has passed the examination required by this chapter.

(2) Requests for verification from the national board for certification in occupational therapy shall be made by the applicant.

(3) An application for licensure is not complete until the board has received both a completed application form and verification of initial certification from the national board for certification in occupational therapy.

**History:** CR 02-026; cr. Register December 2002 No. 564, eff. 1-1-03.

**OT 2.03 Examinations, panel review of applications. (1)** Applicants for licensure as an occupational therapist or occupational therapy assistant shall pass the certification examination for occupational therapist or the certification examination for occupational therapy assistant of the national board for certification in occupational therapy, and shall complete an open book examination on statutes and rules governing the practice of occupational therapy in Wisconsin.

(2) An applicant may be required to complete an oral examination if the applicant meets any of the following criteria:

(a) Has a medical condition which in any way impairs or limits the applicant's ability to practice occupational therapy with reasonable skill and safety.

(b) Uses chemical substances so as to impair in any way the applicant's ability to practice occupational therapy with reasonable skill and safety.

(c) Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

(d) Has been convicted of a crime the circumstances of which substantially relate to the practice of occupational therapy.

(e) Has not practiced occupational therapy for a period of 5 years prior to application, unless the applicant has graduated from a school of occupational therapy within that period. Practice for the purposes of this paragraph includes direct client treatment and

education, occupational therapy instruction in an occupational therapy academic program recognized by the board, occupational therapy research, and service in administrative positions for health care providers or governmental bodies with responsibility relating to occupational therapy.

(f) Has been found negligent in the practice of occupational therapy or has been a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of occupational therapy.

(g) Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

(h) Has within the past 2 years engaged in the illegal use of controlled substances.

(i) Has been subject to adverse formal action during the course of occupational therapy education, postgraduate training, hospital practice, or other occupational therapy employment.

(j) Has graduated from an occupational therapy school not approved by the board.

(3) An application filed under s. OT 2.01 shall be reviewed by an application review panel of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a license without completing an oral examination.

(4) All written or oral examinations shall be conducted in the English language.

(5) If both written and oral examinations are required they shall be scored separately and the applicant shall achieve a passing grade on all examinations to qualify for a license.

(6) The board shall notify each applicant eligible for examination of the time and place scheduled for that applicant's examinations. Failure of an applicant to appear for examinations as scheduled will void that applicant's application and require the applicant to reapply for licensure, unless prior scheduling arrangements have been made with the board by the applicant.

(7) If after receipt of additional information from applicants who have been treated for alcohol or drug abuse or impairment or from applicants who have been treated for an acute or chronic psychological impairment the board decides that an oral examination shall be administered, the examination shall be limited to a determination whether at the time of application the applicant's disability appears to pose an actual risk to the health, safety or welfare of client or public arising from the applicant's demonstrated inability to safely carry out necessary duties and responsibilities inherent to the practice of occupational therapy.

**History:** CR 02-026; cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109; am. (2) (e), (j) Register September 2014 No. 705, eff. 10-1-14.

**OT 2.04 Exemption from written examination for certain occupational therapy assistant applicants.** An applicant for licensure as an occupational therapy assistant who graduated from an occupational therapy assistant educational pro-

gram prior to 1977 is exempt from the requirements for a written licensure examination for occupational therapy assistant.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

**OT 2.05 Examination review by applicant.** (1) An applicant who fails the oral or statutes and rules examination may request a review of that examination by filing a written request and the fee required under s. 440.07 (3), Stats., with the board within 30 days of the date on which examination results are mailed.

(2) Examination reviews are by appointment only.

(3) An applicant may review the statutes and rules examination for not more than one hour.

(4) An applicant may review a tape of the oral examination for not more than 2 hours.

(5) The applicant may not be accompanied during the review by any person other than the proctor.

(6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.

(7) The applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. Applicants shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

**OT 2.06 Board review of examination error claim.**

(1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed by the applicant. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial following its review, the applicant may request a hearing under s. SPS 1.05.

**Note:** The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

**OT 2.07 Temporary license.** (1) An applicant for licensure may apply to the board for a temporary license to practice as an occupational therapist or occupational therapy assistant if the applicant does all of the following:

(a) Remits the fee specified in s. 440.05 (6), Stats.

(b) Is a graduate of an approved school and is scheduled to take the national certification examination for occupational therapist or occupational therapist assistant or has taken the national certification examination and is awaiting results.

(2) Practice during the period of the temporary license shall be in consultation, at least monthly, with an occupational therapist who shall at least once each month endorse the activities of the person holding the temporary license.

(3) An applicant with a temporary license may practice at no more than 2 separate employment locations.

(4) A temporary license expires on the date the applicant is notified that he or she has failed the national certification examination for permanent licensure or on the date the board grants or denies an applicant permanent licensure, whichever is later.

(6) A temporary license shall remain in effect for 6 months and may not be renewed.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: am. (4), r. (5), am. (6) Register September 2014 No. 705, eff. 10-1-14.

## Chapter OT 3

## BIENNIAL REGISTRATION

OT 3.01	Authority and purpose.	OT 3.04	Registration prohibited.
OT 3.02	Registration required; method of registration.	OT 3.05	Late renewal and reinstatement.
OT 3.03	Initial registration.	OT 3.06	Continuing education.

**OT 3.01 Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern biennial registration requirements for occupational therapists and occupational therapy assistants.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

**OT 3.02 Registration required; method of registration.** Each licensee shall register biennially with the board. Prior to June 1 of each odd numbered year the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for registration. Each licensee shall complete the application form and return it with the required fee to the department.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: am. Register September 2014 No. 705, eff. 10-1-14.

**OT 3.03 Initial registration.** Any licensee who is initially granted and issued a license during a given calendar year shall register for that biennium. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

**OT 3.04 Registration prohibited.** Any occupational therapist or occupational therapy assistant required to comply with the provisions of s. OT 3.06, and s. 448.967, (2), Stats., and who has not so complied, will not be permitted to register.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03.

**OT 3.05 Late renewal and reinstatement.** Failure to renew a license by June 1 of an odd numbered year shall cause the license to expire. A licensee who allows the license to expire may apply to the board for late renewal or reinstatement of the license by completing one of the following:

(1) **LATE RENEWAL BEFORE 5 YEARS.** If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the continuing education requirements.

(2) **LATE RENEWAL AFTER 5 YEARS.** If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make such inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on the

renewal of the license, including oral examination, as the board deems appropriate. All applicants under this section shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants. This subsection does not apply to licensees who have unmet disciplinary requirements or whose licenses have been surrendered or revoked.

(3) **REINSTATEMENT.** A licensee who has unmet disciplinary requirements and failed to renew within 5 years of the renewal date or whose license has been surrendered or revoked, may apply to have the license reinstated in accordance with all of the following:

(a) Evidence of the completion of the requirements under sub. (2).

(b) Evidence of completion of disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances warranting reinstatement of the license.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: am. (intro.) Register September 2014 No. 705, eff. 10-1-14; correction in (intro.) under s. 35.17, Stats. Register September 2014 No. 705; CR 15-053: am. (title), (intro.), cr. (1) (title), am. (2), cr. (3) Register August 2016 No. 728, eff. 9-1-16.

**OT 3.06 Continuing education.** The purpose and intent of continuing education in occupational therapy is to assure the public of the expectation and obligation that practitioners maintain currency, knowledge levels and professional competence. Occupational therapists and occupational therapy assistants shall complete continuing education as follows:

(1) Each holder of a license as an occupational therapist shall, at the time of applying for renewal of a license of registration under s. 448.967, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 24 points of acceptable continuing education.

(2) Each holder of a license as an occupational therapy assistant shall, at the time of applying for renewal of a license of registration under s. 448.967, Stats., certify that he or she has, in the 2 years preceding the renewal application, completed at least 24 points of acceptable continuing education.

(3) At least 12 of the points shall be accumulated through professional development activities related to occupational therapy in the following categories set forth in the following table.

PROFESSIONAL DEVELOPMENT ACTIVITIES	PROFESSIONAL DEVELOPMENT POINTS
(a) Attendance at academic credit courses.	4 points per academic credit.
(b) Attendance at seminars, workshops, lectures, professional conferences, interactive online courses and video courses.	1 point per contact hour of attendance.
(c) Satisfactory completion of a self-study course approved by the American occupational therapy association (AOTA) or other related recognized professional associations.	4 points per continuing education unit.
(d) Satisfactory completion of an AOTA continuing education article (review and examination).	1 point per article.
(e) Attendance at employer-provided continuing education, including video and non-interactive online courses.	1 point per contact hour of attendance.
(f) Initial completion of specialty board certification in occupational therapy, including but not limited to certification in neurorehabilitation, pediatrics, hand therapy, gerontology, driver rehabilitation, advanced practice, neuro-developmental treatment, case management, and rehabilitation counseling.	12 points.
(g) Authorship of a book in occupational therapy or a related professional area.	12 points.
(h) Publication of one or more chapters of a book in occupational therapy or a related professional area.	6 points.
(i) Publication of an article in a non-peer-reviewed publication, such as OT Practice, SIS Quarterly, and Advance.	4 points.
(j) Publication of an article in peer-reviewed professional publications, including journals, book chapters, and research papers.	6 points.
(k) Development of alternative media materials, including computer software, programs and video instructional material.	6 points.
(L) Development of a quality assurance study for clinical program improvement.	6 points.
(m) Clinical or theoretical research as the principal researcher where an abstract is prepared.	12 points.
(n) Professional presentations. <b>Note:</b> No additional points are given for subsequent presentations of the same content.	2 points per contact hour.
(o) Providing or pursuing professional mentoring for skill advancement in occupational therapy.	1 point for each 2 contact hours.
(p) Student fieldwork supervision – Level I	2 points.
(q) Student fieldwork supervision – Level II	8 points.
(r) Reimbursement or ethics courses.	1 point per contact hour.

**Note:** "Contact hour" as used in the table means not less than 50 minutes of actual professional activity.

(4) Evidence of compliance with this section such as certificates of completion shall be retained by each license holder through the biennium following the biennium for which credit is required for renewal of license.

(5) The board may require any license holder to submit evidence of compliance with this section to the board for an audit at any time during the biennium following the biennium for which credit is required for license renewal.

(6) During the time between initial licensure and commencement of a full 2-year licensure period, new licensees shall not be

required to meet continuing education requirements.

(7) A licensee may apply to the board for a postponement or waiver of the requirements of this section on the grounds of prolonged illness, disability, or other grounds constituting hardship. The board shall consider each request individually on its merits and may grant a postponement, partial waiver, or total waiver of the requirements.

**History:** CR 02-026; cr. Register December 2002 No. 564, eff. 1-1-03; CR 06-115; cr. (6) and (7) Register May 2007 No. 617, eff. 6-1-07; CR 13-109; cr. (r) Table Register September 2014 No. 705, eff. 10-1-14; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register August 2016 No. 728.

## Chapter OT 4

### PRACTICE AND SUPERVISION

OT 4.01 Authority and purpose.  
OT 4.02 Scope of practice.  
OT 4.03 Standards of practice.

OT 4.04 Supervision and practice of occupational therapy assistants.  
OT 4.05 Supervision of non–licensed personnel and therapy aides.

**OT 4.01 Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to govern the standards of practice and supervision requirements for occupational therapists and occupational therapy assistants.

**History:** CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03.

**OT 4.02 Scope of practice. (1)** “Occupational therapy,” as defined at s. 448.96 (5), Stats., may include the following interventions:

- (a) Remediation or restitution of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological processes.
- (b) Adaptation of task, process or environment, or the teaching of compensatory techniques, in order to enhance performance.
- (c) Disability prevention methods and techniques which facilitate the development or safe application of performance skills.
- (d) Health promotion strategies and practices which enhance performance abilities.

**(2)** Occupational therapy interventions include the following:

**Note:** A comprehensive list of occupational therapy interventions can be found in the Model Practice Act of the American Occupational Therapy Association (AOTA). The AOTA may be contacted on the web at [www.aota.org](http://www.aota.org) or by mail at American occupational therapy association, P.O. Box 31220, Bethesda, MD 20824–1220.

- (a) Screening, evaluating, developing, improving, sustaining, or restoring skills in activities of daily living, work or productive activities, instrumental activities of daily living, play, leisure activities, rest and sleep, education and social participation.
- (b) Evaluating, developing, remediating, or restoring sensorimotor, sensoriperceptual neuromusculoskeletal, emotional regulation, cognition, communication, social skills, or psychosocial components of performance.
- (c) Designing, fabricating or training in the use of assistive technology, upper extremity orthotic devices and lower extremity positioning orthotic devices.
- (d) Training in the use of prosthetic devices, excluding gait training.
- (e) Adaptation of environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles.
- (f) Application of physical agent modalities. Application is performed by an experienced therapist with demonstrated and documented evidence of theoretical background, technical skill and competence.
 

**Note:** An example of standards for evaluating theoretical background, technical skill and competence is the position paper on physical agent modalities issued by the American occupational therapy association (AOTA). AOTA may be contacted on the web at [www.aota.org](http://www.aota.org), and by mail at American Occupational Therapy Association, P.O. Box 31220, Bethesda, MD 20824–1220.
- (g) Evaluating and providing intervention and case management in collaboration with the client, family, caregiver or other involved individuals or professionals.
- (h) Educating the client, family, caregiver, or others in carrying out appropriate nonskilled interventions.
- (i) Consulting with groups, programs, organizations, or communities to provide population–based services.

- (j) Therapeutic use of occupations, exercises, and activities.
- (k) Training in self–care, self–management, health management and maintenance, home management, community work reintegration, and school activities and work performance.

(L) Therapeutic use of self, including one’s personality, insights, perceptions and judgments, as part of the therapeutic process.

- (m) Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchair and other mobility devices.
- (n) Vision and low vision rehabilitation.
- (o) Driver rehabilitation and community mobility.
- (p) Management of feeding, eating, and swallowing to enable eating and feeding performance.
- (q) Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and adaptation processes.

(r) Use of a range of specific therapeutic procedures, including wound care management; techniques to enhance sensory, perceptual, and cognitive processing; and pain management, lymphedema management, and manual therapy techniques, to enhance performance skills.

**History:** CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03; CR 13–109: am. (2) (intro.), (a), (b), cr. (2) (j) to (r) Register September 2014 No. 705 eff. 10–1–14; CR 15–053: am. (2) (f) Register August 2016 No. 728, eff. 9–1–16.

**OT 4.03 Standards of practice.** Occupational therapists and occupational therapy assistants shall adhere to the minimum standards of practice of occupational therapy that have become established in the profession, including but not limited to the following areas:

- (1) SCREENING.** (a) An occupational therapist, alone or in collaboration with an occupational therapy assistant, when practicing either independently or as a member of a treatment team, shall identify individuals who present deficits or declines in performance of their occupations including occupational performance skills and performance patterns.
  - (b) Screening methods shall take into consideration the occupational performance contexts relevant to the individual.
  - (c) Screening methods may include interviews, observations, testing and records review to determine the need for further evaluation and intervention.
  - (d) The occupational therapist or occupational therapy assistant shall transmit screening results and recommendations to all appropriate persons.
- (2) REFERRALS.** Referrals may be accepted from advanced practice nurses, chiropractors, dentists, optometrists, physical therapists, physicians, physician assistants, podiatrists, psychologists, or other health care professionals.
- (3) EVALUATION.** (a) The occupational therapist directs the evaluation process. An occupational therapist alone or in collaboration with the occupational therapy assistant shall prepare an occupational therapy evaluation for each individual referred for occupational therapy services. The occupational therapist interprets the information gathered in the evaluation process.

(b) The evaluation shall consider the individual's medical, vocational, social, educational, family status, and personal and family goals, and shall include an assessment of how performance skills, and performance patterns and their contexts and environments influence the individual's functional abilities and deficits in the performance of their occupations.

(c) Evaluation methods may include observation, interviews, records review, and the use of structured or standardized evaluative tools or techniques.

(d) When standardized evaluation tools are used, the tests shall have normative data for the individual's characteristics. If normative data are not available, the results shall be expressed in a descriptive report. Collected evaluation data shall be analyzed and summarized to indicate the individual's current status.

(e) Evaluation results shall be documented in the individual's record and shall indicate the specific evaluation tools and methods used.

(f) Evaluation results shall be communicated to the referring health care professional, if any, and to the appropriate persons in the facility and community.

(g) If the results of the evaluation indicate areas that require intervention by other health care professionals, the individual shall be appropriately referred or an appropriate consultation shall be requested.

(h) Initial evaluation shall be completed and results documented within the time frames established by the applicable facility, community, regulatory, or funding body.

**(4) PROGRAM PLANNING.** (a) The occupational therapist is responsible for the development of the occupational therapy intervention plan. The occupational therapist develops the plan collaboratively with the client, and may include the occupational therapy assistant and team working with the client, including the physician — as indicated.

(b) The program shall be stated in measurable and reasonable terms appropriate to the individual's needs, functional goals and prognosis and shall identify short and long term goals.

(c) The program shall be consistent with current principles and concepts of occupational therapy theory and practice.

(d) In developing the program, the occupational therapist alone or in collaboration with the occupational therapy assistant shall also collaborate, as appropriate, with the individual, family, other health care professionals and community resources; shall select the media, methods, environment, and personnel needed to accomplish the goals; and shall determine the frequency and duration of occupational therapy interventions provided.

(e) The program shall be prepared and documented within the time frames established by the applicable facility, community, regulatory, or funding body.

**(5) PROGRAM IMPLEMENTATION.** (a) The occupational therapy program shall be implemented according to the program plan previously developed. The occupational therapist may delegate aspects of intervention to the occupational therapy assistant dependent on the occupational therapy assistant's demonstrated and documented service competency.

(b) The individual's occupations, occupational performance, skills, occupational performance patterns, and occupational performance contexts and environments shall be routinely and systematically evaluated and documented.

(c) Program modifications shall be formulated and implemented consistent with the changes in the individual's occupational performance skills, occupational performance patterns and occupational performance contexts and environments.

(d) All aspects of the occupational therapy program shall be routinely and systematically reviewed for effectiveness and efficacy.

**(6) DISCONTINUATION OF SERVICES.** (a) Occupational therapy services shall be discontinued when the individual has achieved the program goals or has achieved maximum benefit from occupational therapy.

(b) A comparison of the initial and current state of functional abilities and deficits in occupational performance skills, and occupational performance patterns, affecting performance in the individual's occupations shall be made and documented.

(c) A discharge plan shall be prepared, consistent with the interventions provided, the individual's goals, and the expected prognosis. Consideration shall be given to the individual's occupational performance contexts and environments including appropriate community resources for referral, and environmental factors or barriers that may need modification.

(d) Sufficient time shall be allowed for the coordination and effective implementation of the discharge plan.

(e) Recommendations for follow-up or reevaluation shall be documented.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; correction in (2) (e) made under s. 13.92 (4) (b) 6., Stats., Register November 2011 No. 671; CR 13-109: am. (1) (a), (2) (title), (a), (c) to (e), (3) (a), (b), (f), (4) (d), (5) (b), (c), (6) (b), (c) Register September 2014 No. 705, eff. 10-1-14; CR 15-053: am. (2) (title), r. (2) (a), am. (2) (b), r. (2) (c) to (e), am. (3) (a), (f) Register August 2016 No. 728, eff. 9-1-16; renum. (2) (b) to (2) under s. 13.92 (4) (b) 1., Stats., Register August 2016 No. 728.

#### **OT 4.04 Supervision and practice of occupational therapy assistants.** (1) An occupational therapy assistant must practice under the supervision of an occupational therapist.

Supervision is an interactive process that requires both the occupational therapist and the occupational therapy assistant to share responsibility for communication between the supervisor and the supervisee. The occupational therapist is responsible for the overall delivery of occupational therapy services and shall determine which occupational therapy services to delegate to the occupational therapy assistant or non-licensed personnel based on the establishment of service competence between supervisor and supervisee, and is accountable for the safety and effectiveness of the services provided.

**(2)** Supervision of an occupational therapy assistant by an occupational therapist shall be either close or general. The supervising occupational therapist shall have responsibility for the outcome of the performed service.

**(3)** When close supervision is required, the supervising occupational therapist shall have daily contact on the premises with the occupational therapy assistant. The occupational therapist shall provide direction in developing the plan of treatment and shall periodically inspect the actual implementation of the plan. The occupational therapist shall cosign evaluation contributions and intervention documents prepared by the occupational therapy assistant.

**(4)** (ad) In this subsection, "direct contact" means face-to-face communication or communication by means of telephone, electronic communication, or group conference.

(ah) When general supervision is allowed, the supervising occupational therapist shall, except as provided under par. (ap), have direct contact with the occupational therapy assistant and face-to-face contact with the client by every tenth session of occupational therapy and no less than once per calendar month.

(ap) When general supervision is allowed, and occupational therapy services are provided to a client once per calendar month or less frequently than once per calendar month, the supervising occupational therapist shall have direct contact with the occupational therapy assistant and face-to-face contact with the client no less than every other session of occupational therapy.

(at) Direct contact with the occupational therapy assistant under pars. (ah) and (ap) shall include reviewing the progress and

effectiveness of treatment, and may occur simultaneously or separately from face-to-face contact with the client.

(b) The occupational therapist shall record in writing a specific description of the supervisory activities undertaken for each occupational therapy assistant. The written record shall include client name, status and plan for each client discussed.

(5) Close supervision is required for all rehabilitation, neonate, early intervention, and school system services provided by an entry level occupational therapy assistant. All other occupational therapy services provided by an occupational therapy assistant may be performed under general supervision, if the supervising occupational therapist determines, under the facts of the individual situation, that general supervision is appropriate using established professional guidelines.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 08-050: am. (3), renum. (4) to be (4) (a) and am., cr. (4) (b) and (c) Register January 2009 No. 637, eff. 2-1-09; CR 19-108: renum.(4) (a) to (4) (ah) and am., cr. (4) (ap), (at), renum. (4) (c) to (4) (ad) and am. Register February 2020 No. 770, eff. 3-1-20.

**OT 4.05 Supervision of non-licensed personnel and therapy aides.** (1) An occupational therapist or occupational therapy assistant must provide direct supervision of non-licensed personnel at all times. Direct supervision requires that the supervising occupational therapist or occupational therapy assistant be on premises and available to assist.

(2) When an occupational therapist or occupational therapy assistant delegates to non-licensed personnel maintenance or restorative services to clients, the occupational therapist or occupational therapy assistant must be in the immediate area and within audible and visual range of the client and the non-licensed personnel.

(3) An occupational therapist or occupational therapy assistant may delegate to non-licensed personnel only non-skilled, specific tasks which are neither evaluative, assessive, task selective nor recommending in nature, and only after ensuring that the non-licensed person has been appropriately trained for the performance of the task.

(4) Occupational therapists and occupational therapy assistants must exercise their professional judgment when determining the number of non-licensed persons they can safely and effectively supervise to ensure that quality care is provided at all times. A limit of 2 is recommended.

(5) Any duties assigned to non-licensed personnel must be determined and appropriately supervised by an occupational therapist or occupational therapy assistant and must not exceed the level of training, knowledge, skill and competence of the individual being supervised. The licensed occupational therapist or occupational therapy assistant is responsible for the acts or actions performed by any non-licensed person functioning in the occupational therapy setting.

(6) An occupational therapist or occupational therapy assistant may delegate to non-licensed personnel duties or functions, including the following services:

- (a) Transportation of clients.
- (b) Preparation or setting up of treatment equipment and work area.
- (c) Attending to clients' personal needs during treatment.
- (d) Clerical, secretarial or administrative duties.

(7) Duties or functions that an occupational therapist or occupational therapy assistant may not delegate to non-licensed personnel include, but are not limited to, the following:

- (a) Interpretation of referrals or orders for occupational therapy services.
- (b) Evaluative procedures.
- (c) Development, planning, adjusting or modification of treatment procedures.
- (d) Acting on behalf of the occupational therapist or occupational therapy assistant in any matter related to direct client care which requires judgment or decision making.

**History:** CR 02-026: cr. Register December 2002 No. 564, eff. 1-1-03; CR 13-109: am. (6) (intro.), (7) (a) Register September 2014 No. 705, eff. 10-1-14.

## Chapter OT 5

### UNPROFESSIONAL CONDUCT

OT 5.01 Authority and purpose.

OT 5.02 Unprofessional conduct defined.

**OT 5.01 Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.965, Stats., to establish the rules of conduct for occupational therapists and occupational therapy assistants.

**History:** CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03.

**OT 5.02 Unprofessional conduct defined.** “Unprofessional conduct” means doing, or aiding or abetting, any of the following:

(1) Violating or attempting to violate any provision or term of ss. 448.96 to 448.970, Stats., or of any rule of the board.

(2) Violating or attempting to violate any term, provision, or condition of any order of the board.

(3) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other item in connection with any application for license.

(4) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(5) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.

(6) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

(7) Any practice or conduct which may constitute a danger to the health, welfare, or safety of client or public.

(8) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to clients.

(9) Practicing or attempting to practice under any license beyond the scope of that license.

(10) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(11) Representing that a manifestly incurable disease or condition may be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if this is not the fact.

(12) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtain-

ing or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(13) Willfully divulging a privileged communication or confidence entrusted by a client or deficiencies in the character of clients observed in the course of professional attendance, unless lawfully required to do so.

(14) Engaging in uninvited, in-person solicitation of actual or potential clients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.

(15) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice occupational therapy, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government including the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(16) Conviction of any crime the circumstances of which substantially relate to the circumstances of the practice of occupational therapy. A certified copy of a judgment of a court record showing such conviction, within this state or without, shall be presumptive evidence.

(17) Aiding or abetting the unlicensed practice of occupational therapy.

(18) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of occupational therapy.

(19) Failing to report to the board or to institutional supervisory personnel any violation of the rules of this chapter by a licensee.

(20) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client. For the purposes of this subsection, an adult receiving treatment shall continue to be a client for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a client for the purposes of this subsection for 2 years after termination of services, or for 2 years after the client reaches 18 years of age, whichever is longer.

**History:** CR 02–026: cr. Register December 2002 No. 564, eff. 1–1–03.

STATE OF WISCONSIN  
OCCUPATIONAL THERAPISTS  
AFFILIATED CREDENTIALING BOARD

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IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : OCCUPATIONAL THERAPISTS  
OCCUPATIONAL THERAPISTS : AFFILIATED CREDENTIALING  
AFFILIATED CREDENTIALING : BOARD  
BOARD : ADOPTING RULES  
 : (CLEARINGHOUSE RULE )

---

PROPOSED ORDER

An order of the Occupational Therapists Affiliated Credentialing Board to **repeal** OT 2.06 (3) (Note); to **amend** OT 2.02 (1) (intro.) and (a) (Note); and to **create** OT 2.08, relating to reciprocal credentials for service members, former service members, and their spouses.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Section 440.09, Stats.

**Statutory authority:**

Sections 15.085 (5) (b) and 440.09 (5), Stats.

**Explanation of agency authority:**

Section 15.085 (5) (b), Stats., provides an affiliated credentialing board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 440.09 (5), Stats., provides that “[t]he department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.”

**Related statute or rule:**

Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

**Plain language analysis:**

The proposed rule creates a provision to implement s. 440.09, Stats., as created by 2019 Wisconsin Act 143. Section 440.09, Stats., specifies the requirements for issuing reciprocal credentials to service members, former service members, and the spouses of service members and former service members.

**Summary of, and comparison with, existing or proposed federal regulation:**

None.

**Comparison with rules in adjacent states:**

**Illinois:**

The Illinois Statutes provide for the expedited licensure of service members and their spouses (20 ILCS 5/5-715). “Service member” includes a person whose active duty service concluded within the 2 years preceding application for licensure. A license issued to a service member or the spouse of a service member may be renewed.

**Iowa:**

Rules of the Professional Licensure Division of the Iowa Department of Public Health provide for the expedited reciprocal licensure of a veteran or a spouse of an active duty service member (645 IAC 645.20.3). A reciprocal license issued to a veteran or a spouse of an active duty service member may be renewed.

**Michigan:**

The Michigan Statutes provide for temporary licensure of the spouse of an active duty service member (MCL 339.213). A temporary license is valid for 6 months and may be renewed for one additional 6-month term if it is determined the licensee continues to meet the requirements for temporary licensure and needs additional time to fulfill the requirements for initial licensure.

**Minnesota:**

The Minnesota Statutes provide for temporary licensure of an individual who is an active duty military member, the spouse of an active duty military member, or a veteran who has left service in the 2 years preceding the date of license application (2019 Minnesota Statutes, Section 197.4552). A temporary license allows a qualified individual to perform regulated professional services for a limited length of time as determined by the applicable licensing board. During the temporary license period, the individual must complete the full application procedure as required by applicable law.

**Summary of factual data and analytical methodologies:**

The proposed rules were developed by reviewing the provisions of s. 440.09, Stats., as created by 2019 Wisconsin Act 143, and obtaining input and feedback from the Occupational Therapists Affiliated Credentialing Board.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:**

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone 608-261-4472; email at DSPSAdminRules@wisconsin.gov.

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TEXT OF RULE

SECTION 1. OT 2.02 (1) (intro.) and (a) (Note) are amended to read:

**OT 2.02 (1) (intro.)** ~~Every~~ Except as provided under s. OT 2.08, every applicant for initial licensure as an occupational therapist or occupational therapy assistant shall submit all of the following:

**(a) (Note)** Application forms are available ~~upon request to the board office at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708~~ from the department of safety and professional services’ website at [www.dsps.wi.gov](http://www.dsps.wi.gov).

SECTION 2. OT 2.06 (3) (Note) is repealed.

SECTION 3. OT 2.08 is created to read:

**OT 2.08 Reciprocal credentials for service members, former service members, and their spouses.** A reciprocal license to practice as an occupational therapist or occupational therapy assistant shall be granted to a service member, former service member, or the spouse of a service member or former service member who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)  
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(c) For purposes of par. (b), the period shall be the period beginning on March 12, 2020, and ending on the 60th day after the end of the period covered by the public health emergency declared on March 12, 2020, by executive order 72.

(d) A renewal that occurs subsequent to the period described in par. (c) is not subject to the late renewal fee under sub. (3) (a) if the application to renew the credential is received before the next applicable renewal date. Notwithstanding the applicable provisions in chs. 440 to 480, the applicable credentialing board may, for that next applicable renewal date, provide an exemption from or reduction of continuing education or other conditions for renewal.

**History:** 1991 a. 39 ss. 3305, 3313; 1991 a. 78, 160, 167, 269, 278, 315; 1993 a. 3, 16, 102, 105, 107, 443, 463, 465; 1993 a. 490 ss. 228 to 230, 274, 275; 1995 a. 27, 233, 321, 322, 461; 1997 a. 27, 75, 81, 96, 156, 191, 237, 261, 300; 1999 a. 9, 32; 2001 a. 16, 70, 74, 80, 89; 2003 a. 150, 270, 285, 327; 2005 a. 25, 31, 242, 292, 297, 407; 2007 a. 20, 174, 189; 2009 a. 28, 29, 106, 130, 174, 282, 355, 360; 2011 a. 160, 190, 258; 2013 a. 20, 240, 244, 358; 2015 a. 3, 16, 55, 116; 2015 a. 195 s. 83; 2015 a. 258; 2017 a. 82, 113, 329, 364; 2019 a. 49 s. 1; 2019 a. 185.

**440.09 Reciprocal credentials for service members, former service members, and their spouses.** (1) In this section:

(a) “Former service member” means a person who was discharged from the U.S. armed forces under conditions other than dishonorable within 4 years of the date on which the service member or the spouse of the service member applies for a reciprocal credential under this section.

(b) “Service member” means a member of the U.S. armed forces, a reserve unit of the U.S. armed forces, or the national guard of any state.

(c) “Spouse” includes the spouse of a person who died while in service in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces.

(2) The department and each credentialing board shall grant a reciprocal credential to an individual who the department or credentialing board determines meets all of the following requirements:

(a) The individual applies for a reciprocal credential under this section on a form prescribed by the department or credentialing board.

(b) The individual is a service member, a former service member, or the spouse of a service member or former service member and resides in this state.

(c) The individual holds a license, certification, registration, or permit that was granted by a governmental authority in a jurisdiction outside this state that qualifies the individual to perform the acts authorized under the appropriate credential granted by the department or credentialing board.

(d) The individual pays the fee specified under s. 440.05 (2).

(f) The individual is in good standing with the governmental authorities in every jurisdiction outside this state that have granted the individual a license, certification, registration, or permit that qualifies the individual to perform acts authorized under the appropriate credential granted by the department or credentialing board.

(2m) If an individual is unable to provide documentation that the individual is a service member, former service member, or the spouse of a service member or former service member, the individual may submit an affidavit to the department or credentialing board, as appropriate, stating that the individual is a service member, former service member, or the spouse of a service member or former service member.

(3) (a) A reciprocal credential granted under this section expires on the applicable renewal date specified in s. 440.08 (2) (a), except that if the first renewal date specified in s. 440.08 (2) (a) after the date on which the credential is granted is within 180 days of the date on which the credential is granted, the credential expires on the 2nd renewal date specified in s. 440.08 (2) (a) after the date on which the credential is granted.

(b) The department or credentialing board, as appropriate, shall grant a renewed reciprocal credential to an applicant who pays the renewal fee specified under s. 440.05 (2) and satisfies the requirements that apply for renewing that credential.

(4) The department or credentialing board, as appropriate, shall expedite the issuance of a reciprocal credential granted under this section.

(5) The department or credentialing board, as appropriate, may promulgate rules necessary to implement this section.

**History:** 2011 a. 210; 2019 a. 143.

**440.11 Change of name or address.** (1) An applicant for or recipient of a credential who changes his or her name or moves from the last address provided to the department shall notify the department of his or her new name or address within 30 days of the change in writing or in accordance with other notification procedures approved by the department.

(2) The department or any examining board, affiliated credentialing board or board in the department may serve any process, notice or demand on the holder of any credential by mailing it to the last-known address of the holder as indicated in the records of the department, examining board, affiliated credentialing board or board.

**History:** 1987 a. 27; 1991 a. 39; 1993 a. 107; 1997 a. 27; 2017 a. 329.

**440.12 Credential denial, nonrenewal and revocation based on tax or unemployment insurance contribution delinquency.** Notwithstanding any other provision of chs. 440 to 480 relating to issuance or renewal of a credential, the department shall deny an application for an initial credential or credential renewal or revoke a credential if any of the following applies:

(1) The department of revenue certifies under s. 73.0301 that the applicant or credential holder is liable for delinquent taxes.

(2) The department of workforce development certifies under s. 108.227 that the applicant or credential holder is liable for delinquent unemployment insurance contributions.

**History:** 1997 a. 237; 2013 a. 36.

**Cross-reference:** See also ch. SPS 9, Wis. adm. code.

**440.121 Credential denial, nonrenewal, and revocation based on incompetency.** Notwithstanding any other provision of chs. 440 to 480 relating to issuance or renewal of a credential, the department shall deny an application for an initial credential or credential renewal or revoke a credential issued to an individual for whom the department receives a record of a declaration under s. 54.25 (2) (c) 1. d. stating that the individual is incompetent to apply for a credential under chs. 440 to 480.

**History:** 2005 a. 387.

**440.13 Delinquency in support payments; failure to comply with subpoena or warrant.** (1) In this section:

(b) “Memorandum of understanding” means a memorandum of understanding entered into by the department of safety and professional services and the department of children and families under s. 49.857.

(c) “Support” has the meaning given in s. 49.857 (1) (g).

(2) Notwithstanding any other provision of chs. 440 to 480 relating to issuance of an initial credential or credential renewal, as provided in the memorandum of understanding:

(a) With respect to a credential granted by the department, the department shall restrict, limit, or suspend a credential or deny an application for an initial credential if the credential holder or applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. 59.53 (5) and related to support or paternity proceedings.

(b) With respect to credential renewal, the department shall deny an application for renewal if the applicant is delinquent in paying support or fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and

**Brian B. Holmquist**  
Chairperson

**OCCUPATIONAL THERAPISTS AFFILIATED  
CREDENTIALING BOARD**



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March 26, 2019

Senator Stephen Nass, Senate Co-Chairperson  
Joint Committee for Review of Administrative Rules  
Room 10 South, State Capitol  
Madison, WI 53702

Representative Joan Ballweg, Assembly Co-Chairperson  
Joint Committee for Review of Administrative Rules  
Room 210 North, State Capitol  
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

**I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:**

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are unauthorized.

**II. Rules for which the authority to promulgate has been restricted:**

Rule	Description of the legislation that restricted the authority	Action taken to address or reason for not taking an action
OT 3.06 (5)	The Board's authority to request verification of compliance with continuing education requirements has been restricted by 2017 Act 59, s. 1929.	A scope statement has been approved by the Governor's Office and was published on March 4, 2019.

**III. Rules that are obsolete or that have been rendered unnecessary:**

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are obsolete or have been rendered unnecessary.

**IV. Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:**

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction.

**V. Rules that are economically burdensome:**

After careful review of the Board's administrative rules, the Board has determined that no promulgated rules are economically burdensome.

Thank you.

Sincerely,

Brian B. Holmquist  
Chairperson  
Occupational Therapists Affiliated Credentialing Board

on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

a. Approve the agency's petition if the committee determines that the proposed rule would repeal an unauthorized rule.

b. Deny the agency's petition.

c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b) 3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under s. 227.20, together with a copy of the committee's decision.

**SECTION 7.** 227.29 of the statutes is created to read:

**227.29 Agency review of rules and enactments. (1)**

By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

(2) The report under sub. (1) shall also include all of the following:

(a) A description of the agency's actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year's report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

(3) If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

(4) (a) In this subsection, "enactment" means an act or a portion of an act that is required to be published under s. 35.095 (3) (a).

(b) Each agency shall review enactments to determine whether any part of an enactment does any of the following:

1. Eliminates or restricts the agency's authority to promulgate any rules promulgated or otherwise administered by that agency.

2. Renders any rules promulgated or otherwise administered by that agency obsolete or unnecessary.

3. Renders, for any reason, any rules promulgated or otherwise administered by that agency not in conformity with or superseded by a state statute, including due to statutory numbering or terminology changes in the enactment.

4. Requires or otherwise necessitates rule making by the agency.

(c) If an agency determines that any consequence specified in par. (b) 1. to 4. results from an enactment or part of an enactment, within 6 months after the applicable effective date for the enactment or part of the enactment, the agency shall do one or more of the following, as applicable, to address the consequence identified by the agency and notify the joint committee for review of administrative rules of its action:

1. Submit a statement of the scope of a proposed rule under s. 227.135 (2), unless the enactment requires otherwise or unless the agency submits a notice to the committee explaining why it is unable to submit the statement of scope within that time period and an estimate of when the agency plans to submit the statement of scope.

2. In the case of an affected rule that the agency determines is an unauthorized rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff under s. 227.26 (4) (b) 1.

3. In the case of a consequence specified under par. (b) 3. that can be addressed by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit a request to the legislative reference bureau to use that authority.

**SECTION 8. Initial applicability.**

(1) The treatment of section 227.29 (4) of the statutes first applies to enactments published by the legislative

## OT Compact – Summary of Key Provisions

### Section 1: Purpose

The purpose of the compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services while preserving the regulatory authority of states to protect public health and safety through the current system of state licensure.

- Provides for the mutual recognition of other member state licenses.
- Enhances states' abilities to protect public health and safety.
- Encourages cooperation of member states in regulating multi-state OT practice.
- Supports spouses of relocating military members and their spouses.
- Enhances the exchange of licensure, investigative, and disciplinary information between member states.
- Allows a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.
- Facilitates the use of telehealth technology.

### Section 2: Definitions

Establishes the definitions of key terms as used throughout the compact, to alleviate confusion on the part of practitioners and jurisdictions. Defined terms are capitalized throughout the document.

### Section 3: State Participation in the Compact

This section establishes the parameters of state participation in the compact.

A member state must:

- License occupational therapists and occupational therapy assistants.
- Participate in the compact commission's data collection system.
- Have a mechanism in place for receiving and investigating complaints against licensees.
- Notify the commission of any adverse action or investigation against a licensee.
- Conduct criminal background checks of initial applicants for compact privilege.
- Comply with the rules of the compact commission.
- Utilize only a recognized national exam as a requirement for an occupational therapist's and occupational therapy assistant's licensure.
- Require continuing education for license renewal.
- Grant the compact privilege to a holder of a valid license in another member state.
- Provide for the state's delegate to attend all compact commission meetings.

States may charge a fee for granting the compact privilege.

A single state license issued to an individual *not residing* in that state does *not* confer the ability of a licensee to obtain a compact privilege.

A state's requirements for issuance of a single-state license are not affected.

## Section 4: Compact Privilege

Section 4 establishes the requirements for exercising the compact privilege.

To exercise the compact privilege, a licensee must:

- Have a social security number or NPI.
- Hold a license in their home state that is a member of the compact.
- Have no active encumbrance on any state license, and no adverse actions against any license or compact privilege within the previous 2 years.
- Notify the compact commission of their intent to seek the compact privilege in a remote state.
- Meet any jurisprudence requirements in the remote state and pay any fees.
- Report to the commission any adverse action taken by a non-member state within 30 days after the action is taken.

The compact privilege is valid until the date of expiration of the home state license.

A licensee providing occupational therapy services in a remote is subject to the laws and regulations of the remote state.

A licensee loses the compact privilege in all member states if their home state license is encumbered or if their compact privilege is revoked in a remote state. The licensee remains ineligible for compact privilege for two years from the date of adverse action.

## Section 5: Converting Compact Privileges

This section addresses licensees who change their primary state of residence to another compact member state in which they hold a compact privilege. This section establishes requirements for licensees to convert their compact privilege to a license in their new primary state of residence in accordance with rules established by the compact commission, as well as requirements of the member states to facilitate the conversion.

Nothing in the compacts prohibits a licensee from holding multiple single-state licenses

Nothing in the compact affects a member state's ability to issue a single-state license.

## Section 6: Active Duty Military Personnel or their Spouses

This section allows an active duty servicemember, or their spouse, to designate a home state where the individual has a current license in good standing for purposes of utilizing the compact privilege. This state then serves as the individual's home state for as long as the servicemember is on active duty.

## Section 7: Adverse Actions

This section clarifies that *only* a licensee's home state may take adverse action against a *home* license.

However, remote states may take adverse action against a licensee's compact privilege and may issue enforceable subpoenas for witnesses and evidence from other member states.

Home states must take reported adverse action from any member state into account, in accordance with the home state's laws.

If an occupational therapist or occupational therapy assistant changes their home state during an active investigation by their former home state, the former home state completes the investigation, takes appropriate action under its laws, and then reports its findings to the compact commission's data system. The data system administrator then notifies the licensee's new home state of any adverse action taken by the former home state.

Member states may initiate joint investigations of licensees and are required to share investigative materials in furtherance of any joint *or* single-state investigation of a licensee.

Member states must report any adverse action to the compact data system, which then promptly alerts the home state of this adverse action. Any member state may take adverse action based on the factual findings of a remote state.

Member states retain the right to require a licensee to participate in an alternative program in lieu of adverse action.

## Section 8: Establishment of the Occupational Therapy Compact Commission

This section outlines the composition and powers of the compact commission and executive committee.

- Each member state is entitled to one (1) delegate, who is selected by the member state's licensing board.
- Delegates must be a current member of the Licensing Board, who is an Occupational Therapist, Occupational Therapy Assistant, a public member, or the board administrator
- Delegate terms are three (3) years, with a limit of two (2) terms.
- The commission may establish and maintain a code of ethics, bylaws, rules, a budget and financial records in order to carry out the compact.
- The commission shall elect an executive committee composed of nine members: seven members of the commission, one member of a recognized national occupational therapy professional organization and one member of a recognized national occupational therapy certification organization.
- All commission meetings shall be open to the public unless confidential or privileged information must be discussed.
- The compact is not a waiver of sovereign immunity.

## Section 9: Data System

This section requires the sharing of licensee information by all compact states. A compact state shall submit a uniform dataset to the data system on all occupational therapists and occupational therapy assistants to whom this compact is applicable as required by the rules of the commission. This database will allow for the expedited sharing of disciplinary related information.

Information pertaining to a licensee in any member state will be available to any other member state, except that any submitted information that subsequently must be expunged from the submitting state's records will also be removed from the data system.

## Section 10: Rulemaking

- Rules carry the force of law in all member states.
- A simple majority of member state legislatures may veto a rule of the commission.
- Changes to rules require a 30-day notice of proposed rulemaking, with an opportunity for a public hearing if one is requested by twenty-five (25) people or by a government agency.

## Section 11: Oversight, Dispute Resolution, and Enforcement

Ensures compliance with the compact by member states. The procedures to be followed in the event of a failure by a member state to comply with the compact include:

- A period of technical assistance in remedying the situation
- Improved dispute resolution processes; and
- Termination from the compact in the event no other means of compliance has been successful.

The commission shall attempt to resolve any compact-related disputes that may arise between states.

## Section 12: Date of Implementation, Withdrawal, and Amendment

The compact takes effect on the date of enactment by the tenth (10<sup>th</sup>) state.

States that join after this date are subject to the rules of the commission as they exist on the date when the compact becomes law in that state.

Member states may enact a law to repeal their membership in the compact. A state's withdrawal takes effect 6 months after enactment of such law.

## Section 13: Construction and Severability

The compact is to be liberally construed to effectuate the purposes thereof.

The compact's provisions are severable, meaning that:

- If a provision of the compact is declared to conflict with the United States Constitution, all other provisions remain valid for all member states, and
- If a provision is held contrary to a member state's constitution, the compact retains its full force in all other states, and all other provisions remain valid in the affected state.

## Section 14: Binding Effect of Compact and Other Laws

This section reiterates that occupational therapists and occupational therapy assistants are subject to the scope of practice in states where they are utilizing a compact privilege.

Compact commission rules and bylaws are binding on member states.

In the event of a conflict between a law of a member state and the compact, the state law is superseded to the extent of the conflict.

# **\*DRAFT OT COMPACT\***

## **1 SECTION 1. PURPOSE**

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

7 This Compact is designed to achieve the following objectives:

- 8 A. Increase public access to Occupational Therapy services by providing for the mutual  
9 recognition of other Member State licenses;
- 10 B. Enhance the States' ability to protect the public's health and safety;
- 11 C. Encourage the cooperation of Member States in regulating multi-State Occupational  
12 Therapy Practice;
- 13 D. Support spouses of relocating military members;
- 14 E. Enhance the exchange of licensure, investigative, and disciplinary information between  
15 Member States; and
- 16 F. Allow a Remote State to hold a provider of services with a Compact Privilege in that State  
17 accountable to that State's practice standards.
- 18 G. Facilitate the use of Telehealth technology in order to increase access to Occupational  
19 Therapy services.

## **20 SECTION 2. DEFINITIONS**

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

- 22 A. "Active Duty Military" means full-time duty status in the active uniformed service of the  
23 United States, including members of the National Guard and Reserve on active duty orders  
24 pursuant to 10 U.S.C. Chapter 1209 and Section 1211.
- 25 B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a  
26 State's laws which is imposed by a Licensing Board or other authority against an  
27 Occupational Therapist or Occupational Therapy Assistant, including actions against an  
28 individual's license or Compact Privilege such as revocation, suspension, probation,  
29 monitoring of the Licensee, or restriction on the Licensee's practice.
- 30 C. "Alternative Program" means a non-disciplinary monitoring process approved by an  
31 Occupational Therapy Licensing Board to address Impaired Practitioners.

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- 32 D. "Compact Privilege" means the authorization, which is equivalent to a license, granted by a  
33 Remote State to allow a Licensee from another Member State to practice as an  
34 Occupational Therapist or practice as an Occupational Therapy Assistant in the Remote  
35 State under its laws and rules. The Practice of Occupational Therapy occurs in the Member  
36 State where the patient/client is located at the time of the patient/client encounter.
- 37 E. "Continuing Competence/Education" means a requirement, as a condition of license  
38 renewal, to provide evidence of participation in, and/or completion of, educational and  
39 professional activities relevant to practice or area of work.
- 40 F. "Current Significant Investigative Information" means Investigative Information that a  
41 Licensing Board, after an inquiry or investigation that includes notification and an opportunity  
42 for the Occupational Therapist or Occupational Therapy Assistant to respond, if required by  
43 State law, has reason to believe is not groundless and, if proved true, would indicate more  
44 than a minor infraction.
- 45 G. "Data System" means a repository of information about Licensees, including but not limited  
46 to, licensure, Investigative Information, Compact Privilege, and Adverse Action.
- 47 H. "Encumbered License" means a license in which an Adverse Action restricts the Practice of  
48 Occupational Therapy by the Licensee and said Adverse Action has been reported to the  
49 National Practitioners Data Bank (NPDB).
- 50 I. "Executive Committee" means a group of directors elected or appointed to act on behalf of,  
51 and within the powers granted to them by, the Commission.
- 52 J. "Home State" means the Member State that is the Licensee's primary State of residence.
- 53 K. "Impaired Practitioner" means individuals whose professional practice is adversely affected  
54 by substance abuse, addiction, or other health-related conditions.
- 55 L. "Investigative Information" means information, records, and/or documents received or  
56 generated by an Occupational Therapy Licensing Board pursuant to an investigation.
- 57 M. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the  
58 laws and rules governing the Practice of Occupational Therapy in a State.
- 59 N. "Licensee" means an individual who currently holds an authorization from the State to  
60 practice as an Occupational Therapist or as an Occupational Therapy Assistant.
- 61 O. "Member State" means a State that has enacted the Compact.
- 62 P. "Occupational Therapist" means an individual who is licensed by a State to practice  
63 Occupational Therapy.

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- 64 Q. "Occupational Therapy Assistant" means an individual who is licensed by a State to assist in  
65 the Practice of Occupational Therapy.
- 66 R. "Occupational Therapy," "Occupational Therapy Practice," and the "Practice of Occupational  
67 Therapy" mean the care and services provided by an Occupational Therapist or an  
68 Occupational Therapy Assistant as set forth in the Member State's statutes and regulations.
- 69 S. "Occupational Therapy Compact Commission" or "Commission" means the national  
70 administrative body whose membership consists of all States that have enacted the  
71 Compact.
- 72 T. "Occupational Therapy Licensing Board" or "Licensing Board" means the agency of a State  
73 that is responsible for the licensing and regulation of Occupational Therapists and  
74 Occupational Therapy Assistants.
- 75 U. "Remote State" means a Member State other than the Home State, where a Licensee is  
76 exercising or seeking to exercise the Compact Privilege.
- 77 V. "Rule" means a regulation promulgated by the Commission that has the force of law.
- 78 W. "State" means any state, commonwealth, district, or territory of the United States of America  
79 that regulates the Practice of Occupational Therapy.
- 80 X. "Single-State License" means an Occupational Therapist or Occupational Therapy Assistant  
81 license issued by a Member State that authorizes practice only within the issuing State and  
82 does not include a Compact Privilege in any other Member State.
- 83 Y. "Telehealth" means the application of telecommunication technology to deliver Occupational  
84 Therapy services for assessment, intervention and/or consultation.

## 85 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 86 A. To participate in the Compact, a Member State shall:
- 87 1. License Occupational Therapists and Occupational Therapy Assistants
  - 88 2. Participate fully in the Commission's Data System, including using the Commission's  
89 unique identifier as defined in Rules;
  - 90 3. Have a mechanism in place for receiving and investigating complaints about Licensees;
  - 91 4. Notify the Commission, in compliance with the terms of the Compact and Rules, of any  
92 Adverse Action or the availability of Investigative Information regarding a Licensee;
  - 93 5. Implement or utilize procedures for considering the criminal history records of applicants  
94 for an initial Compact Privilege. These procedures shall include the submission of  
95 fingerprints or other biometric-based information by applicants for the purpose of

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96 obtaining an applicant's criminal history record information from the Federal Bureau of  
97 Investigation and the agency responsible for retaining that State's criminal records.

98 a. A Member State shall fully implement a criminal background check  
99 requirement, within a time frame established by Rule, by receiving the results of  
100 the Federal Bureau of Investigation record search on criminal background checks  
101 and use the results in making licensure decisions.

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

107 6. Comply with the Rules of the Commission;

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

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

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

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

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

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

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

## 124 **SECTION 4. COMPACT PRIVILEGE**

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

127 1. Have a valid United States Social Security or National Practitioner Identification number;

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- 128 2. Hold a license in the Home State;
- 129 3. Have no encumbrance on any State license;
- 130 4. Be eligible for a Compact Privilege in any Member State in accordance with Section 4D,  
131 G and H;
- 132 5. Have not had any Adverse Action against any license or Compact Privilege within the  
133 previous 2 years;
- 134 6. Notify the Commission that the Licensee is seeking the Compact Privilege within a  
135 Remote State(s);
- 136 7. Pay any applicable fees, including any State fee, for the Compact Privilege;
- 137 8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the  
138 Licensee is seeking a Compact Privilege; and
- 139 9. Report to the Commission Adverse Action taken by any non-Member State within 30  
140 days from the date the Adverse Action is taken.
- 141 B. The Compact Privilege is valid until the expiration date of the Home State license. The  
142 Licensee must comply with the requirements of Section 4A to maintain the Compact  
143 Privilege in the Remote State.
- 144 C. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege  
145 shall function within the laws and regulations of the Remote State.
- 146 D. Occupational Therapy Assistants practicing in a Remote State shall be supervised by an  
147 Occupational Therapist licensed or holding a Compact Privilege in that Remote State.
- 148 E. A Licensee providing Occupational Therapy in a Remote State is subject to that State's  
149 regulatory authority. A Remote State may, in accordance with due process and that State's  
150 laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of  
151 time, impose fines, and/or take any other necessary actions to protect the health and safety  
152 of its citizens. The Licensee is not eligible for a Compact Privilege in any State until the  
153 specific time for removal has passed and all fines are paid.
- 154 F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege in any  
155 Remote State until the following occur:
  - 156 1. The Home State license is no longer encumbered; and
  - 157 2. Two years have elapsed from the date of the Adverse Action.

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- 158 G. Once an Encumbered License in the Home State is restored to good standing, the Licensee  
159 must meet the requirements of Section 4A to obtain a Compact Privilege in any Remote  
160 State.
- 161 H. If a Licensee's Compact Privilege in any Remote State is removed, the individual shall lose  
162 the Compact Privilege in any other Remote State until the following occur:
- 163 1. The specific period of time for which the Compact Privilege was removed has ended;  
164 2. All fines have been paid;  
165 3. Two years have elapsed from the date of the Adverse Action; and  
166 4. The Compact Privileges are reinstated or restored through a revision to the compact  
167 Data System.
- 168 I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous  
169 charge, privileges shall be restored through a revision to the compact Data System.
- 170 J. Once the requirements of Section 4H have been met, the license must meet the  
171 requirements in Section 4A to obtain a Compact Privilege in a Remote State.

### 172 **SECTION 5: CONVERTING COMPACT PRIVILEGES**

- 173 A. An Occupational and an Occupational Therapy Assistant may hold a license, issued by the  
174 Home State which allows for Compact Privileges, in only one Member State at a time.
- 175 B. If an Occupational Therapist or Occupational Therapy Assistant changes primary State of  
176 residence by moving between two Member States:
- 177 1. The Occupational Therapist or Occupational Therapy Assistant shall notify the current  
178 and new Member States in accordance with applicable Rules adopted by the  
179 Commission.
- 180 2. The current Home State shall deactivate the current license and the new Home State  
181 shall activate the new license in accordance with applicable Rules adopted by the  
182 Commission.
- 183 3. The activation of the license in the new Home State shall be based upon the same  
184 criteria as in Section 4, which allows an Occupational Therapist or an Occupational  
185 Therapy Assistant to have Compact Privileges to work in a Member State.
- 186 4. If the Occupational Therapist or Occupational Therapy Assistant cannot meet the criteria  
187 in Section 4, the new Home State shall apply its requirements for issuing a new Single-  
188 State License.

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

191 C. If an Occupational Therapist or Occupational Therapy Assistant changes primary State of  
192 residence by moving from a Member State to a non-Member State, or from a non-Member  
193 State to a Member State, the State criteria shall apply for issuance of a Single-State License  
194 in the new State.

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

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

### 200 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

201 Active Duty Military personnel, or their spouse, shall designate a Home State where the  
202 individual has a current license in good standing. The individual may retain the Home State  
203 designation during the period the service member is on active duty. Subsequent to  
204 designating a Home State, the individual shall only change their Home State through  
205 application for licensure in the new State.

### 206 **SECTION 7. ADVERSE ACTIONS**

207 A. A Home State shall have exclusive power to impose Adverse Action against a license  
208 issued by the Home State.

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

211 1. Take Adverse Action against an Occupational Therapist's or Occupational Therapy  
212 Assistant's Compact Privilege within that Member State.

213 2. Issue subpoenas for both hearings and investigations that require the attendance and  
214 testimony of witnesses as well as the production of evidence. Subpoenas issued by a  
215 Licensing Board in a Member State for the attendance and testimony of witnesses or the  
216 production of evidence from another Member State shall be enforced in the latter State  
217 by any court of competent jurisdiction, according to the practice and procedure of that  
218 court applicable to subpoenas issued in proceedings pending before it. The issuing  
219 authority shall pay any witness fees, travel expenses, mileage and other fees required  
220 by the service statutes of the State in which the witnesses or evidence are located.

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- 221 3. Only the Home State shall have the power to take Adverse Action against an  
222 Occupational Therapist's or Occupational Therapy Assistant's license issued by the  
223 Home State.
- 224 C. For purposes of taking Adverse Action, the Home State shall give the same priority and  
225 effect to reported conduct received from a Member State as it would if the conduct had  
226 occurred within the Home State. In so doing, the Home State shall apply its own State laws  
227 to determine appropriate action.
- 228 D. The Home State shall complete any pending investigations of an Occupational Therapist or  
229 Occupational Therapy Assistant who changes primary State of residence during the course  
230 of the investigations. The Home State, where the investigations were initiated, shall also  
231 have the authority to take appropriate action(s) and shall promptly report the conclusions of  
232 the investigations to the OT Compact Commission Data System. The Occupational Therapy  
233 Compact Commission Data System administrator of the coordinated licensure information  
234 system shall promptly notify the new Home State of any Adverse Actions.
- 235 E. A Member State, if otherwise permitted by State law, may recover from the affected  
236 Occupational Therapist or Occupational Therapy Assistant the costs of investigations and  
237 disposition of cases resulting from any Adverse Action taken against that Occupational  
238 Therapist or Occupational Therapy Assistant.
- 239 F. A Member State may take Adverse Action based on the factual findings of the Remote  
240 State, provided that the Member State follows its own procedures for taking the Adverse  
241 Action.
- 242 G. Joint Investigations
- 243 1. In addition to the authority granted to a Member State by its respective State  
244 Occupational Therapy laws and regulations or other applicable State law, any Member  
245 State may participate with other Member States in joint investigations of Licensees.
- 246 2. Member States shall share any investigative, litigation, or compliance materials in  
247 furtherance of any joint or individual investigation initiated under the Compact.
- 248 H. If an Adverse Action is taken by the Home State against an Occupational Therapist's or  
249 Occupational Therapy Assistant's license, the Occupational Therapist's or Occupational  
250 Therapy Assistant's Compact Privilege in all other Member States shall be deactivated until  
251 all encumbrances have been removed from the State license. All Home State disciplinary  
252 orders that impose Adverse Action against an Occupational Therapist's or Occupational  
253 Therapy Assistant's license shall include a Statement that the Occupational Therapist's or  
254 Occupational Therapy Assistant's Compact Privilege is deactivated in all Member States  
255 during the pendency of the order.

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256 I. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data  
257 System. The administrator of the Data System shall promptly notify the Home State of any  
258 Adverse Actions by Remote States.

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

## 261 **SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT** 262 **COMMISSION.**

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

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

266 2. Venue is proper and judicial proceedings by or against the Commission shall be brought  
267 solely and exclusively in a court of competent jurisdiction where the principal office of the  
268 Commission is located. The Commission may waive venue and jurisdictional defenses to  
269 the extent it adopts or consents to participate in alternative dispute resolution  
270 proceedings.

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

272 B. Membership, Voting, and Meetings

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

275 2. The delegate shall be a current member of the Licensing Board, who is an Occupational  
276 Therapist, Occupational Therapy Assistant, public member, or the board administrator.

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

279 4. The Member State board shall fill any vacancy occurring in the Commission within 60  
280 days.

281 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules  
282 and creation of bylaws and shall otherwise have an opportunity to participate in the  
283 business and affairs of the Commission. A delegate shall vote in person or by such other  
284 means as provided in the bylaws. The bylaws may provide for delegates' participation in  
285 meetings by telephone or other means of communication.

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

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- 288 7. Terms for delegates shall be three (3) years. Delegates shall not serve more than two  
289 (2) terms.
- 290 C. The Commission shall have the following powers and duties:
- 291 1. Establish a Code of Ethics for the Commission
- 292 2. Establish the fiscal year of the Commission;
- 293 3. Establish bylaws;
- 294 4. Maintain its financial records in accordance with the bylaws;
- 295 5. Meet and take such actions as are consistent with the provisions of this Compact and  
296 the bylaws;
- 297 6. Promulgate uniform Rules to facilitate and coordinate implementation and administration  
298 of this Compact. The Rules shall have the force and effect of law and shall be binding in  
299 all Member States;
- 300 7. Bring and prosecute legal proceedings or actions in the name of the Commission,  
301 provided that the standing of any State Occupational Therapy Licensing Board to sue or  
302 be sued under applicable law shall not be affected;
- 303 8. Purchase and maintain insurance and bonds;
- 304 9. Borrow, accept, or contract for services of personnel, including, but not limited to,  
305 employees of a Member State;
- 306 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such  
307 individuals appropriate authority to carry out the purposes of the Compact, and to  
308 establish the Commission's personnel policies and programs relating to conflicts of  
309 interest, qualifications of personnel, and other related personnel matters;
- 310 11. Accept any and all appropriate donations and grants of money, equipment, supplies,  
311 materials and services, and to receive, utilize and dispose of the same; provided that at  
312 all times the Commission shall avoid any appearance of impropriety and/or conflict of  
313 interest;
- 314 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold,  
315 improve or use, any property, real, personal or mixed; provided that at all times the  
316 Commission shall avoid any appearance of impropriety;
- 317 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
318 property real, personal, or mixed;
- 319 14. Establish a budget and make expenditures;

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- 320 15. Borrow money;
- 321 16. Appoint committees, including standing committees composed of members, State  
322 regulators, State legislators or their representatives, and consumer representatives, and  
323 such other interested persons as may be designated in this Compact and the bylaws;
- 324 17. Provide and receive information from, and cooperate with, law enforcement agencies;
- 325 18. Establish and elect an Executive Committee; and
- 326 19. Perform such other functions as may be necessary or appropriate to achieve the  
327 purposes of this Compact consistent with the State regulation of Occupational Therapy  
328 licensure and practice.

### 329 D. The Executive Committee

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

- 332 1. The Executive Committee shall be composed of nine members:
- 333 a. Seven voting members who are elected by the Commission from the current  
334 membership of the Commission;
- 335 b. One ex-officio, nonvoting member from a recognized national Occupational Therapy  
336 professional association; and
- 337 c. One ex-officio, nonvoting member from a recognized national Occupational Therapy  
338 certification organization
- 339 2. The ex-officio members will be selected by their respective organizations.
- 340 3. The Commission may remove any member of the Executive Committee as provided in  
341 bylaws.
- 342 4. The Executive Committee shall meet at least annually.
- 343 5. The Executive Committee shall have the following Duties and responsibilities:
- 344 a. Recommend to the entire Commission changes to the Rules or bylaws, changes to  
345 this Compact legislation, fees paid by Compact Member States such as annual dues,  
346 and any Commission Compact fee charged to Licensees for the Compact Privilege;
- 347 b. Ensure Compact administration services are appropriately provided, contractual or  
348 otherwise;
- 349 c. Prepare and recommend the budget;

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- 350 d. Maintain financial records on behalf of the Commission;
- 351 e. Monitor Compact compliance of Member States and provide compliance reports to  
352 the Commission;
- 353 f. Establish additional committees as necessary; and
- 354 g. Other duties as provided in Rules or bylaws.
- 355 E. Meetings of the Commission
- 356 1. All meetings shall be open to the public, and public notice of meetings shall be given in  
357 the same manner as required under the Rulemaking provisions in Section 10.
- 358 2. The Commission or the Executive Committee or other committees of the Commission  
359 may convene in a closed, non-public meeting if the Commission or Executive Committee  
360 or other committees of the Commission must discuss:
- 361 a. Non-compliance of a Member State with its obligations under the Compact;
- 362 b. The employment, compensation, discipline or other matters, practices or procedures  
363 related to specific employees or other matters related to the Commission's internal  
364 personnel practices and procedures;
- 365 c. Current, threatened, or reasonably anticipated litigation;
- 366 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real  
367 estate;
- 368 e. Accusing any person of a crime or formally censuring any person;
- 369 f. Disclosure of trade secrets or commercial or financial information that is privileged or  
370 confidential;
- 371 g. Disclosure of information of a personal nature where disclosure would constitute a  
372 clearly unwarranted invasion of personal privacy;
- 373 h. Disclosure of investigative records compiled for law enforcement purposes;
- 374 i. Disclosure of information related to any investigative reports prepared by or on  
375 behalf of or for use of the Commission or other committee charged with responsibility  
376 of investigation or determination of compliance issues pursuant to the Compact; or
- 377 j. Matters specifically exempted from disclosure by federal or Member State statute.
- 378 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the  
379 Commission's legal counsel or designee shall certify that the meeting may be closed and  
380 shall reference each relevant exempting provision.

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

### 387 F. Financing of the Commission

- 388 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its  
389 establishment, organization, and ongoing activities.
- 390 2. The Commission may accept any and all appropriate revenue sources, donations, and  
391 grants of money, equipment, supplies, materials, and services.
- 392 3. The Commission may levy on and collect an annual assessment from each Member  
393 State or impose fees on other parties to cover the cost of the operations and activities of  
394 the Commission and its staff, which must be in a total amount sufficient to cover its  
395 annual budget as approved by the Commission each year for which revenue is not  
396 provided by other sources. The aggregate annual assessment amount shall be allocated  
397 based upon a formula to be determined by the Commission, which shall promulgate a  
398 Rule binding upon all Member States.
- 399 4. The Commission shall not incur obligations of any kind prior to securing the funds  
400 adequate to meet the same; nor shall the Commission pledge the credit of any of the  
401 Member States, except by and with the authority of the Member State.
- 402 5. The Commission shall keep accurate accounts of all receipts and disbursements. The  
403 receipts and disbursements of the Commission shall be subject to the audit and  
404 accounting procedures established under its bylaws. However, all receipts and  
405 disbursements of funds handled by the Commission shall be audited yearly by a certified  
406 or licensed public accountant, and the report of the audit shall be included in and  
407 become part of the annual report of the Commission.

### 408 G. Qualified Immunity, Defense, and Indemnification

- 409 1. The members, officers, executive director, employees and representatives of the  
410 Commission shall be immune from suit and liability, either personally or in their official  
411 capacity, for any claim for damage to or loss of property or personal injury or other civil  
412 liability caused by or arising out of any actual or alleged act, error or omission that  
413 occurred, or that the person against whom the claim is made had a reasonable basis for  
414 believing occurred within the scope of Commission employment, duties or  
415 responsibilities; provided that nothing in this paragraph shall be construed to protect any

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416 such person from suit and/or liability for any damage, loss, injury, or liability caused by  
417 the intentional or willful or wanton misconduct of that person.

418 2. The Commission shall defend any member, officer, executive director, employee or  
419 representative of the Commission in any civil action seeking to impose liability arising out  
420 of any actual or alleged act, error, or omission that occurred within the scope of  
421 Commission employment, duties, or responsibilities, or that the person against whom the  
422 claim is made had a reasonable basis for believing occurred within the scope of  
423 Commission employment, duties, or responsibilities; provided that nothing herein shall  
424 be construed to prohibit that person from retaining his or her own counsel; and provided  
425 further, that the actual or alleged act, error, or omission did not result from that person's  
426 intentional or willful or wanton misconduct.

427 3. The Commission shall indemnify and hold harmless any member, officer, executive  
428 director, employee, or representative of the Commission for the amount of any  
429 settlement or judgment obtained against that person arising out of any actual or alleged  
430 act, error or omission that occurred within the scope of Commission employment, duties,  
431 or responsibilities, or that such person had a reasonable basis for believing occurred  
432 within the scope of Commission employment, duties, or responsibilities, provided that  
433 the actual or alleged act, error, or omission did not result from the intentional or willful or  
434 wanton misconduct of that person.

### 435 **SECTION 9. DATA SYSTEM**

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

439 B. A Member State shall submit a uniform data set to the Data System on all individuals to  
440 whom this Compact is applicable as required by the Rules of the Commission, including:

441 1. Identifying information;

442 2. Licensure data;

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

444 4. Non-confidential information related to Alternative Program participation;

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

446 6. Other information that may facilitate the administration of this Compact, as determined  
447 by the Rules of the Commission.

448 7. Current Significant Investigative Information.

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- 449 C. Investigative Information pertaining to a Licensee in any Member State will only be available  
450 to other Member States.
- 451 D. The Commission shall promptly notify all Member States of any Adverse Action taken  
452 against a Licensee or an individual applying for a license. Adverse Action information  
453 pertaining to a Licensee in any Member State will be available to any other Member State.
- 454 E. Member States contributing information to the Data System may designate information that  
455 may not be shared with the public without the express permission of the contributing  
456 State.
- 457 F. Any information submitted to the Data System that is subsequently required to be expunged  
458 by the laws of the Member State contributing the information shall be removed from the  
459 Data System.

### 460 **SECTION 10. RULEMAKING**

- 461 A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in  
462 this Section and the Rules adopted thereunder. Rules and amendments shall become  
463 binding as of the date specified in each Rule or amendment.
- 464 B. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a  
465 statute or resolution in the same manner used to adopt the Compact within 4 years of the  
466 date of adoption of the Rule, then such Rule shall have no further force and effect in any  
467 Member State.
- 468 C. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the  
469 Commission.
- 470 D. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least  
471 thirty (30) days in advance of the meeting at which the Rule will be considered and voted  
472 upon, the Commission shall file a Notice of Proposed Rulemaking:
- 473 1. On the website of the Commission or other publicly accessible platform; and
- 474 2. On the website of each Member State Occupational Therapy Licensing Board or other  
475 publicly accessible platform or the publication in which each State would otherwise  
476 publish proposed Rules.
- 477 E. The Notice of Proposed Rulemaking shall include:
- 478 1. The proposed time, date, and location of the meeting in which the Rule will be  
479 considered and voted upon;
- 480 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

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- 481           3. A request for comments on the proposed Rule from any interested person; and
- 482           4. The manner in which interested persons may submit notice to the Commission of their  
483           intention to attend the public hearing and any written comments.
- 484   F. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written  
485   data, facts, opinions, and arguments, which shall be made available to the public.
- 486   G. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or  
487   amendment if a hearing is requested by:
- 488           1. At least twenty-five (25) persons;
- 489           2. A State or federal governmental subdivision or agency; or
- 490           3. An association or organization having at least twenty-five (25) members.
- 491   H. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the  
492   place, time, and date of the scheduled public hearing. If the hearing is held via electronic  
493   means, the Commission shall publish the mechanism for access to the electronic hearing.
- 494           1. All persons wishing to be heard at the hearing shall notify the executive director of the  
495           Commission or other designated member in writing of their desire to appear and testify  
496           at the hearing not less than five (5) business days before the scheduled date of the  
497           hearing.
- 498           2. Hearings shall be conducted in a manner providing each person who wishes to comment  
499           a fair and reasonable opportunity to comment orally or in writing.
- 500           3. All hearings will be recorded. A copy of the recording will be made available on request.
- 501           4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.  
502           Rules may be grouped for the convenience of the Commission at hearings required by  
503           this section.
- 504   I. Following the scheduled hearing date, or by the close of business on the scheduled hearing  
505   date if the hearing was not held, the Commission shall consider all written and oral  
506   comments received.
- 507   J. If no written notice of intent to attend the public hearing by interested parties is received, the  
508   Commission may proceed with promulgation of the proposed Rule without a public hearing.
- 509   K. The Commission shall, by majority vote of all members, take final action on the proposed  
510   Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking  
511   record and the full text of the Rule.

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- 512 L. Upon determination that an emergency exists, the Commission may consider and adopt an  
513 emergency Rule without prior notice, opportunity for comment, or hearing, provided that the  
514 usual Rulemaking procedures provided in the Compact and in this section shall be  
515 retroactively applied to the Rule as soon as reasonably possible, in no event later than  
516 ninety (90) days after the effective date of the Rule. For the purposes of this provision, an  
517 emergency Rule is one that must be adopted immediately in order to:
- 518 1. Meet an imminent threat to public health, safety, or welfare;
  - 519 2. Prevent a loss of Commission or Member State funds;
  - 520 3. Meet a deadline for the promulgation of an administrative Rule that is established by  
521 federal law or Rule; or
  - 522 4. Protect public health and safety.
- 523 M. The Commission or an authorized committee of the Commission may direct revisions to a  
524 previously adopted Rule or amendment for purposes of correcting typographical errors,  
525 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions  
526 shall be posted on the website of the Commission. The revision shall be subject to challenge  
527 by any person for a period of thirty (30) days after posting. The revision may be challenged  
528 only on grounds that the revision results in a material change to a Rule. A challenge shall be  
529 made in writing and delivered to the chair of the Commission prior to the end of the notice  
530 period. If no challenge is made, the revision will take effect without further action. If the  
531 revision is challenged, the revision may not take effect without the approval of the  
532 Commission.

## 533 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

- 534 A. Oversight
- 535 1. The executive, legislative, and judicial branches of State government in each Member  
536 State shall enforce this Compact and take all actions necessary and appropriate to  
537 effectuate the Compact's purposes and intent. The provisions of this Compact and the  
538 Rules promulgated hereunder shall have standing as statutory law.
  - 539 2. All courts shall take judicial notice of the Compact and the Rules in any judicial or  
540 administrative proceeding in a Member State pertaining to the subject matter of this  
541 Compact which may affect the powers, responsibilities or actions of the Commission.
  - 542 3. The Commission shall be entitled to receive service of process in any such proceeding,  
543 and shall have standing to intervene in such a proceeding for all purposes. Failure to  
544 provide service of process to the Commission shall render a judgment or order void as to  
545 the Commission, this Compact, or promulgated Rules.

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## 546 B. Default, Technical Assistance, and Termination

- 547 1. If the Commission determines that a Member State has defaulted in the performance of  
548 its obligations or responsibilities under this Compact or the promulgated Rules, the  
549 Commission shall:
  - 550 a. Provide written notice to the defaulting State and other Member States of the nature  
551 of the default, the proposed means of curing the default and/or any other action to be  
552 taken by the Commission; and
  - 553 b. Provide remedial training and specific technical assistance regarding the default.
- 554 2. If a State in default fails to cure the default, the defaulting State may be terminated from  
555 the Compact upon an affirmative vote of a majority of the Member States, and all rights,  
556 privileges and benefits conferred by this Compact may be terminated on the effective  
557 date of termination. A cure of the default does not relieve the offending State of  
558 obligations or liabilities incurred during the period of default.
- 559 3. Termination of membership in the Compact shall be imposed only after all other means  
560 of securing compliance have been exhausted. Notice of intent to suspend or terminate  
561 shall be given by the Commission to the governor, the majority and minority leaders of  
562 the defaulting State's legislature, and each of the Member States.
- 563 4. A State that has been terminated is responsible for all assessments, obligations, and  
564 liabilities incurred through the effective date of termination, including obligations that  
565 extend beyond the effective date of termination.
- 566 5. The Commission shall not bear any costs related to a State that is found to be in default  
567 or that has been terminated from the Compact, unless agreed upon in writing between  
568 the Commission and the defaulting State.
- 569 6. The defaulting State may appeal the action of the Commission by petitioning the U.S.  
570 District Court for the District of Columbia or the federal district where the Commission  
571 has its principal offices. The prevailing member shall be awarded all costs of such  
572 litigation, including reasonable attorney's fees.

## 573 C. Dispute Resolution

- 574 1. Upon request by a Member State, the Commission shall attempt to resolve disputes  
575 related to the Compact that arise among Member States and between member and non-  
576 Member States.
- 577 2. The Commission shall promulgate a Rule providing for both mediation and binding  
578 dispute resolution for disputes as appropriate.

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## 579 D. Enforcement

- 580 1. The Commission, in the reasonable exercise of its discretion, shall enforce the  
581 provisions and Rules of this Compact.
- 582 2. By majority vote, the Commission may initiate legal action in the United States District  
583 Court for the District of Columbia or the federal district where the Commission has its  
584 principal offices against a Member State in default to enforce compliance with the  
585 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may  
586 include both injunctive relief and damages. In the event judicial enforcement is  
587 necessary, the prevailing member shall be awarded all costs of such litigation, including  
588 reasonable attorney's fees.
- 589 3. The remedies herein shall not be the exclusive remedies of the Commission. The  
590 Commission may pursue any other remedies available under federal or State law.

## 591 **SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR** 592 **OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND** 593 **AMENDMENT**

- 594 A. The Compact shall come into effect on the date on which the Compact statute is enacted  
595 into law in the tenth Member State. The provisions, which become effective at that time,  
596 shall be limited to the powers granted to the Commission relating to assembly and the  
597 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking  
598 powers necessary to the implementation and administration of the Compact.
- 599 B. Any State that joins the Compact subsequent to the Commission's initial adoption of the  
600 Rules shall be subject to the Rules as they exist on the date on which the Compact  
601 becomes law in that State. Any Rule that has been previously adopted by the Commission  
602 shall have the full force and effect of law on the day the Compact becomes law in that State.
- 603 C. Any Member State may withdraw from this Compact by enacting a statute repealing the  
604 same.
  - 605 1. A Member State's withdrawal shall not take effect until six (6) months after enactment of  
606 the repealing statute.
  - 607 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's  
608 Occupational Therapy Licensing Board to comply with the investigative and Adverse  
609 Action reporting requirements of this act prior to the effective date of withdrawal.
- 610 D. Nothing contained in this Compact shall be construed to invalidate or prevent any  
611 Occupational Therapy licensure agreement or other cooperative arrangement between a

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612 Member State and a non-Member State that does not conflict with the provisions of this  
613 Compact.

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

## 617 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

618 This Compact shall be liberally construed so as to effectuate the purposes thereof. The  
619 provisions of this Compact shall be severable and if any phrase, clause, sentence or  
620 provision of this Compact is declared to be contrary to the constitution of any Member State  
621 or of the United States or the applicability thereof to any government, agency, person or  
622 circumstance is held invalid, the validity of the remainder of this Compact and the  
623 applicability thereof to any government, agency, person or circumstance shall not be  
624 affected thereby. If this Compact shall be held contrary to the constitution of any Member  
625 State, the Compact shall remain in full force and effect as to the remaining Member States  
626 and in full force and effect as to the Member State affected as to all severable matters.

## 627 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

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

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

632 C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the  
633 conflict.

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

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

638 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the  
639 legislature of any Member State, the provision shall be ineffective to the extent of the conflict  
640 with the constitutional provision in question in that Member State.