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H.247

An act relating to Vermont’s adoption of the Occupational Therapy
Licensure Compact

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 26 V.S.A. chapter 71 is amended to read:

CHAPTER 71. OCCUPATIONAL THERAPISTS AND OCCUPATIONAL
THERAPY ASSISTANTS

Subchapter 1. Vermont Single-State License

* * *

Sec. 2. 26 V.S.A. chapter 71, subchapter 2 is added to read:

Subchapter 2. Occupational Therapy Licensure Compact

§ 3365. OCCUPATIONAL THERAPY LICENSURE COMPACT;

ADOPTION

This subchapter is the Vermont adoption of the Occupational Therapy
Licensure Compact. The form, format, and text of the Compact have been
conformed to the conventions of the Vermont Statutes Annotated. It is the
intent of the General Assembly that this subchapter be interpreted as
substantively the same as the Occupational Therapy Licensure Compact that is
enacted by other Compact party states.

1 § 3366. PURPOSE

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

8 This Compact is designed to achieve the following objectives:

9 (1) increase public access to Occupational Therapy services by
10 providing for the mutual recognition of other member state licenses;

11 (2) enhance the states' ability to protect the public's health and safety;

12 (3) encourage the cooperation of member states in regulating multistate
13 Occupational Therapy Practice;

14 (4) support spouses of relocating military members;

15 (5) enhance the exchange of licensure, investigative, and disciplinary
16 information between member states;

17 (6) allow a remote state to hold a provider of services with a compact
18 privilege in that state accountable to that state's practice standards; and

19 (7) facilitate the use of telehealth technology in order to increase access
20 to Occupational Therapy services.

1 § 3367. DEFINITIONS

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

4 (1) “Active duty military” means full-time duty status in the active
5 uniformed service of the United States, including members of the National
6 Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209
7 and 10 U.S.C. Chapter 1211.

8 (2) “Adverse action” means any administrative, civil, equitable, or
9 criminal action permitted by a state’s laws that is imposed by a licensing board
10 or other authority against an occupational therapist or occupational therapy
11 assistant, including actions against an individual’s license or compact
12 privilege, such as censure, revocation, suspension, probation, monitoring of the
13 licensee, or restriction on the licensee’s practice.

14 (3) “Alternative program” means a non-disciplinary monitoring process
15 approved by an occupational therapy licensing board.

16 (4) “Compact privilege” means the authorization, which is equivalent to
17 a license, granted by a remote state to allow a licensee from another member
18 state to practice as an occupational therapist or practice as an occupational
19 therapy assistant in the remote state under its laws and rules. The practice of
20 occupational therapy occurs in the member state where the patient/client is
21 located at the time of the patient/client encounter.

1 (5) “Continuing competence/education” means a requirement, as a
2 condition of license renewal, to provide evidence of participation in, and/or
3 completion of, educational and professional activities relevant to practice or
4 area of work.

5 (6) “Current significant investigative information” means investigative
6 information that a licensing board, after an inquiry or investigation that
7 includes notification and an opportunity for the occupational therapist or
8 occupational therapy assistant to respond, if required by state law, has reason
9 to believe is not groundless and, if proved true, would indicate more than a
10 minor infraction.

11 (7) “Data system” means a repository of information about licensees,
12 including but not limited to license status, investigative information, compact
13 privileges, and adverse actions.

14 (8) “Encumbered license” means a license in which an adverse action
15 restricts the Practice of Occupational Therapy by the licensee or said adverse
16 action has been reported to the National Practitioners Data Bank (NPDB).

17 (9) “Executive Committee” means a group of directors elected or
18 appointed to act on behalf of, and within the powers granted to them by, the
19 Commission.

20 (10) “Home state” means the member state that is the licensee’s primary
21 state of residence.

1 (11) “Impaired practitioner” means individuals whose professional
2 practice is adversely affected by substance abuse, addiction, or other health-
3 related conditions.

4 (12) “Investigative information” means information, records, and/or
5 documents received or generated by an occupational therapy licensing board
6 pursuant to an investigation.

7 (13) “Jurisprudence requirement” means the assessment of an
8 individual’s knowledge of the laws and rules governing the practice of
9 occupational therapy in a state.

10 (14) “Licensee” means an individual who currently holds an
11 authorization from the state to practice as an occupational therapist or as an
12 occupational therapy assistant.

13 (15) “Member state” means a state that has enacted the Compact.

14 (16) “Occupational therapist” means an individual who is licensed by a
15 state to practice occupational therapy.

16 (17) “Occupational therapy,” “occupational therapy practice,” and the
17 “practice of occupational therapy” mean the care and services provided by an
18 occupational therapist or an occupational therapy assistant as set forth in the
19 member state’s statutes and regulations.

20 (18) “Occupational therapy assistant” means an individual who is
21 licensed by a state to assist in the practice of occupational therapy.

1 (19) “Occupational Therapy Compact Commission” or “Commission”
2 means the national administrative body whose membership consists of all
3 states that have enacted the Compact.

4 (20) “Occupational therapy licensing board” or “licensing board” means
5 the agency of a state that is authorized to license and regulate occupational
6 therapists and occupational therapy assistants.

7 (21) “Primary state of residence” means the state (also known as the
8 home state) in which an occupational therapist or occupational therapy
9 assistant who is not active duty military declares a primary residence for legal
10 purposes as verified by: driver’s license, federal income tax return, lease,
11 deed, mortgage, or voter registration or other verifying documentation as
12 further defined by Commission rules.

13 (22) “Remote state” means a member state other than the home state,
14 where a licensee is exercising or seeking to exercise the compact privilege.

15 (23) “Rule” means a regulation promulgated by the Commission that
16 has the force of law.

17 (24) “Single-state license” means an occupational therapist or
18 occupational therapy assistant license issued by a member state that authorizes
19 practice only within the issuing state and does not include a compact privilege
20 in any other member state.

1 (25) “State” means any state, commonwealth, district, or territory of the
2 United States of America that regulates the practice of occupational therapy.

3 (26) “Telehealth” means the application of telecommunication
4 technology to deliver Occupational Therapy services for assessment,
5 intervention, and/or consultation.

6 § 3368. STATE PARTICIPATION IN THE COMPACT

7 (a) To participate in the Compact, a member state shall:

8 (1) License occupational therapists and occupational therapy assistants.

9 (2) Participate fully in the Commission’s data system, including but not
10 limited to using the Commission’s unique identifier as defined in rules of the
11 Commission.

12 (3) Have a mechanism in place for receiving and investigating
13 complaints about licensees.

14 (4) Notify the Commission, in compliance with the terms of the
15 Compact and rules, of any adverse action or the availability of investigative
16 information regarding a licensee.

17 (5) Implement or utilize procedures for considering the criminal history
18 records of applicants for an initial compact privilege. These procedures shall
19 include the submission of fingerprints or other biometric-based information by
20 applicants for the purpose of obtaining an applicant’s criminal history record

1 information from the Federal Bureau of Investigation and the agency
2 responsible for retaining that state's criminal records.

3 (A) A member state shall, within a time frame established by the
4 Commission, require a criminal background check for a licensee
5 seeking/applying for a compact privilege whose primary state of residence is
6 that member state, by receiving the results of the Federal Bureau of
7 Investigation criminal record search, and shall use the results in making
8 licensure decisions.

9 (B) Communication between a member state, the Commission, and
10 among member states regarding the verification of eligibility for licensure
11 through the Compact shall not include any information received from the
12 Federal Bureau of Investigation relating to a federal criminal records check
13 performed by a member state under Public Law 92-544.

14 (6) Comply with the rules of the Commission.

15 (7) Utilize only a recognized national examination as a requirement for
16 licensure pursuant to the rules of the Commission.

17 (8) Have continuing competence/education requirements as a condition
18 for license renewal.

19 (b) A member state shall grant the compact privilege to a licensee holding a
20 valid unencumbered license in another member state in accordance with the
21 terms of the Compact and rules.

1 (c) Member states may charge a fee for granting a compact privilege.

2 (d) A member state shall provide for the state's delegate to attend all
3 Occupational Therapy Compact Commission meetings.

4 (e) Individuals not residing in a member state shall continue to be able to
5 apply for a member state's single-state license as provided under the laws of
6 each member state. However, the single-state license granted to these
7 individuals shall not be recognized as granting the compact privilege in any
8 other member state.

9 (f) Nothing in this Compact shall affect the requirements established by a
10 member state for the issuance of a single-state license.

11 § 3369. COMPACT PRIVILEGE

12 (a) To exercise the compact privilege under the terms and provisions of the
13 Compact, the licensee shall:

14 (1) Hold a license in the home state.

15 (2) Have a valid United States Social Security Number or National
16 Practitioner Identification number.

17 (3) Have no encumbrance on any state license;

18 (4) Be eligible for a compact privilege in any member state in
19 accordance with subsections (d), (f), (g), and (h) of this section.

1 (5) Have paid all fines and completed all requirements resulting from
2 any adverse action against any license or compact privilege, and two years
3 have elapsed from the date of such completion.

4 (6) Notify the Commission that the licensee is seeking the compact
5 privilege within a remote state(s).

6 (7) Pay any applicable fees, including any state fee, for the compact
7 privilege.

8 (8) Complete a criminal background check in accordance with
9 subdivision 3368(a)(5) of this title. The licensee shall be responsible for the
10 payment of any fee associated with the completion of a criminal background
11 check.

12 (9) Meet any jurisprudence requirements established by the remote
13 state(s) in which the licensee is seeking a compact privilege.

14 (10) Report to the Commission adverse action taken by any nonmember
15 state within 30 days from the date the adverse action is taken.

16 (b) The compact privilege is valid until the expiration date of the home
17 state license. The licensee must comply with the requirements of subsection
18 (a) of this section to maintain the compact privilege in the remote state.

19 (c) A licensee providing Occupational Therapy in a remote state under the
20 compact privilege shall function within the laws and regulations of the remote
21 state.

1 (d) Occupational therapy assistants practicing in a remote state shall be
2 supervised by an occupational therapist licensed or holding a compact
3 privilege in that remote state.

4 (e) A licensee providing Occupational Therapy in a remote state is subject
5 to that state’s regulatory authority. A remote state may, in accordance with
6 due process and that state’s laws, remove a licensee’s compact privilege in the
7 remote state for a specific period of time, impose fines, and/or take any other
8 necessary actions to protect the health and safety of its citizens. The licensee
9 may be ineligible for a compact privilege in any state until the specific time for
10 removal has passed and all fines are paid.

11 (f) If a home state license is encumbered, the licensee shall lose the
12 compact privilege in any remote state until the following occur:

13 (1) the home state license is no longer encumbered; and

14 (2) two years have elapsed from the date on which the home state
15 license is no longer encumbered in accordance with subdivision (1) of this
16 subsection.

17 (g) Once an encumbered license in the home state is restored to good
18 standing, the licensee must meet the requirements of subsection (a) of this
19 section to obtain a compact privilege in any remote state.

1 (h) If a licensee’s compact privilege in any remote state is removed, the
2 individual may lose the compact privilege in any other remote state until the
3 following occur:

4 (1) the specific period of time for which the compact privilege was
5 removed has ended;

6 (2) all fines have been paid and all conditions have been met;

7 (3) two years have elapsed from the date of completing requirements for
8 subdivisions (1) and (2) of this subsection; and

9 (4) the compact privileges are reinstated by the Commission, and the
10 compact data system is updated to reflect reinstatement.

11 (i) If a licensee’s compact privilege in any remote state is removed due to
12 an erroneous charge, privileges shall be restored through the compact data
13 system.

14 (j) Once the requirements of subsection (h) of this section have been met,
15 the licensee must meet the requirements in subsection (a) of this section to
16 obtain a compact privilege in a remote state.

17 § 3370. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF

18 COMPACT PRIVILEGE

19 (a) An occupational therapist or occupational therapy assistant may hold a
20 home state license, which allows for compact privileges in member states, in
21 only one member state at a time.

1 (b) If an occupational therapist or occupational therapy assistant changes
2 primary state of residence by moving between two member states:

3 (1) The occupational therapist or occupational therapy assistant shall file
4 an application for obtaining a new home state license by virtue of a compact
5 privilege, pay all applicable fees, and notify the current and new home state in
6 accordance with applicable rules adopted by the Commission.

7 (2) Upon receipt of an application for obtaining a new home state
8 license by virtue of compact privilege, the new home state shall verify that the
9 occupational therapist or occupational therapy assistant meets the pertinent
10 criteria outlined in section 3369 of this title via the data system, without need
11 for primary source verification except for:

12 (A) an FBI fingerprint based criminal background check if not
13 previously performed or updated pursuant to applicable rules adopted by the
14 Commission in accordance with Public Law 92-544;

15 (B) other criminal background check as required by the new home
16 state; and

17 (C) submission of any requisite jurisprudence requirements of the
18 new home state.

19 (3) The former home state shall convert the former home state license
20 into a compact privilege once the new home state has activated the new home
21 state license in accordance with applicable rules adopted by the Commission.

1 (4) Notwithstanding any other provision of this Compact, if the
2 occupational therapist or occupational therapy assistant cannot meet the criteria
3 in section 3369 of this title, the new home state shall apply its requirements for
4 issuing a new single-state license.

5 (5) The occupational therapist or the occupational therapy assistant shall
6 pay all applicable fees to the new home state in order to be issued a new home
7 state license.

8 (c) If an occupational therapist or occupational therapy assistant changes
9 primary state of residence by moving from a member state to a nonmember
10 state, or from a nonmember state to a member state, the state criteria shall
11 apply for issuance of a single-state license in the new state.

12 (d) Nothing in this compact shall interfere with a licensee's ability to hold a
13 single-state license in multiple states; however, for the purposes of this
14 Compact, a licensee shall have only one home state license.

15 (e) Nothing in this Compact shall affect the requirements established by a
16 member state for the issuance of a single-state license.

17 § 3371. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

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

1 individual shall only change the individual's home state through application
2 for licensure in the new state or through the process described in section 3370
3 of this title.

4 § 3372. ADVERSE ACTIONS

5 (a) A home state shall have exclusive power to impose adverse action
6 against an occupational therapist's or occupational therapy assistant's license
7 issued by the home state.

8 (b) In addition to the other powers conferred by state law, a remote state
9 shall have the authority, in accordance with existing state due process law, to:

10 (1) Take adverse action against an occupational therapist's or
11 occupational therapy assistant's compact privilege within that member state.

12 (2) Issue subpoenas for both hearings and investigations that require the
13 attendance and testimony of witnesses as well as the production of evidence.
14 Subpoenas issued by a licensing board in a member state for the attendance
15 and testimony of witnesses or the production of evidence from another member
16 state shall be enforced in the latter state by any court of competent jurisdiction,
17 according to the practice and procedure of that court applicable to subpoenas
18 issued in proceedings pending before it. The issuing authority shall pay any
19 witness fees, travel expenses, mileage, and other fees required by the service
20 statutes of the state in which the witnesses or evidence are located.

1 (c) For purposes of taking adverse action, the home state shall give the
2 same priority and effect to reported conduct received from a member state as it
3 would if the conduct had occurred within the home state. In so doing, the
4 home state shall apply its own state laws to determine appropriate action.

5 (d) The home state shall complete any pending investigations of an
6 occupational therapist or occupational therapy assistant who changes primary
7 state of residence during the course of the investigations. The home state,
8 where the investigations were initiated, shall also have the authority to take
9 appropriate action(s) and shall promptly report the conclusions of the
10 investigations to the Occupational Therapy Compact Commission Data
11 System. The Occupational Therapy Compact Commission Data System
12 administrator shall promptly notify the new home state of any adverse actions.

13 (e) A member state, if otherwise permitted by state law, may recover from
14 the affected occupational therapist or occupational therapy assistant the costs
15 of investigations and disposition of cases resulting from any adverse action
16 taken against that occupational therapist or occupational therapy assistant.

17 (f) A member state may take adverse action based on the factual findings of
18 the remote state, provided that the member state follows its own procedures for
19 taking the adverse action.

20 (g) Joint investigations

1 (1) In addition to the authority granted to a member state by its
2 respective state Occupational Therapy laws and regulations or other applicable
3 state law, any member state may participate with other member states in joint
4 investigations of licensees.

5 (2) member states shall share any investigative, litigation, or compliance
6 materials in furtherance of any joint or individual investigation initiated under
7 the Compact.

8 (h) If an adverse action is taken by the home state against an occupational
9 therapist's or occupational therapy assistant's license, the occupational
10 therapist's or occupational therapy assistant's compact privilege in all other
11 member states shall be deactivated until all encumbrances have been removed
12 from the state license. All home state disciplinary orders that impose adverse
13 action against an occupational therapist's or occupational therapy assistant's
14 license shall include a statement that the occupational therapist's or
15 occupational therapy assistant's compact privilege is deactivated in all member
16 states during the pendency of the order.

17 (i) If a member state takes adverse action, it shall promptly notify the
18 administrator of the data system. The administrator of the data system shall
19 promptly notify the home state of any adverse actions by remote states.

20 (j) Nothing in this Compact shall override a member state's decision that
21 participation in an alternative program may be used in lieu of adverse action.

1 § 3373. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY

2 COMPACT COMMISSION

3 (a) The Compact member states hereby create and establish a joint public
4 agency known as the Occupational Therapy Compact Commission:

5 (1) The Commission is an instrumentality of the Compact states.

6 (2) Venue is proper and judicial proceedings by or against the
7 Commission shall be brought solely and exclusively in a court of competent
8 jurisdiction where the principal office of the Commission is located. The
9 Commission may waive venue and jurisdictional defenses to the extent it
10 adopts or consents to participate in alternative dispute resolution proceedings.

11 (3) Nothing in this Compact shall be construed to be a waiver of
12 sovereign immunity.

13 (b) Membership, voting, and meetings.

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

16 (2) The delegate shall be either:

17 (A) a current member of the licensing board, who is an occupational
18 therapist, occupational therapy assistant, or public member; or

19 (B) an administrator of the licensing board.

20 (3) Any delegate may be removed or suspended from office as provided
21 by the law of the state from which the delegate is appointed.

1 (4) The member state board shall fill any vacancy occurring in the
2 Commission within 90 days.

3 (5) Each delegate shall be entitled to one vote with regard to the
4 promulgation of rules and creation of bylaws and shall otherwise have an
5 opportunity to participate in the business and affairs of the Commission. A
6 delegate shall vote in person or by such other means as provided in the bylaws.
7 The bylaws may provide for delegates' participation in meetings by telephone
8 or other means of communication.

9 (6) The Commission shall meet at least once during each calendar year.
10 Additional meetings shall be held as set forth in the bylaws.

11 (7) The Commission shall establish by rule a term of office for
12 delegates.

13 (c) The Commission shall have the following powers and duties:

14 (1) Establish a Code of Ethics for the Commission.

15 (2) Establish the fiscal year of the Commission.

16 (3) Establish bylaws.

17 (4) Maintain its financial records in accordance with the bylaws.

18 (5) Meet and take such actions as are consistent with the provisions of
19 this Compact and the bylaws.

1 (6) Promulgate uniform rules to facilitate and coordinate
2 implementation and administration of this Compact. The rules shall have the
3 force and effect of law and shall be binding in all member states.

4 (7) Bring and prosecute legal proceedings or actions in the name of the
5 Commission, provided that the standing of any state occupational therapy
6 licensing board to sue or be sued under applicable law shall not be affected.

7 (8) Purchase and maintain insurance and bonds.

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

10 (10) Hire employees, elect or appoint officers, fix compensation, define
11 duties, grant such individuals appropriate authority to carry out the purposes of
12 the Compact, and establish the Commission's personnel policies and programs
13 relating to conflicts of interest, qualifications of personnel, and other related
14 personnel matters.

15 (11) Accept any and all appropriate donations and grants of money,
16 equipment, supplies, materials, and services and receive, utilize, and dispose of
17 the same, provided that at all times the Commission shall avoid any appearance
18 of impropriety and/or conflict of interest.

19 (12) Lease, purchase, accept appropriate gifts or donations of, or
20 otherwise own, hold, improve, or use, any property, real, personal or mixed,

1 provided that at all times the Commission shall avoid any appearance of
2 impropriety.

3 (13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or
4 otherwise dispose of any property real, personal, or mixed.

5 (14) Establish a budget and make expenditures.

6 (15) Borrow money.

7 (16) Appoint committees, including standing committees composed of
8 members, state regulators, state legislators or their representatives, and
9 consumer representatives, and such other interested persons as may be
10 designated in this Compact and the bylaws.

11 (17) Provide and receive information from, and cooperate with, law
12 enforcement agencies.

13 (18) Establish and elect the Executive Committee.

14 (19) Perform such other functions as may be necessary or appropriate to
15 achieve the purposes of this Compact consistent with the state regulation of
16 Occupational Therapy licensure and practice.

17 (d) The Executive Committee. The Executive Committee shall have the
18 power to act on behalf of the Commission according to the terms of this
19 Compact.

20 (1) The Executive Committee shall be composed of nine members:

1 (A) seven voting members who are elected by the Commission from
2 the current membership of the Commission;

3 (B) one ex-officio, nonvoting member from a recognized national
4 Occupational Therapy professional association; and

5 (C) one ex-officio, nonvoting member from a recognized national
6 Occupational Therapy certification organization.

7 (2) The ex-officio members will be selected by their respective
8 organizations.

9 (3) The Commission may remove any member of the Executive
10 Committee as provided in bylaws.

11 (4) The Executive Committee shall meet at least annually.

12 (5) The Executive Committee shall have the following duties and
13 responsibilities:

14 (A) recommend to the entire Commission changes to the rules or
15 bylaws, changes to this Compact legislation, fees paid by Compact member
16 states such as annual dues, and any Commission Compact fee charged to
17 licensees for the compact privilege;

18 (B) ensure Compact administration services are appropriately
19 provided, contractual or otherwise;

20 (C) prepare and recommend the budget;

21 (D) maintain financial records on behalf of the Commission;

1 (E) monitor Compact compliance of member states and provide
2 compliance reports to the Commission;

3 (F) establish additional committees as necessary; and

4 (G) perform other duties as provided in rules or bylaws.

5 (e) Meetings of the Commission.

6 (1) All meetings shall be open to the public, and public notice of
7 meetings shall be given in the same manner as required under the rulemaking
8 provisions in section 3375 of this title.

9 (2) The Commission or the Executive Committee or other committees of
10 the Commission may convene in a closed, nonpublic meeting if the
11 Commission or Executive Committee or other committees of the Commission
12 must discuss:

13 (A) noncompliance of a member state with its obligations under the
14 Compact;

15 (B) the employment, compensation, discipline, or other matters,
16 practices, or procedures related to specific employees or other matters related
17 to the Commission's internal personnel practices and procedures;

18 (C) current, threatened, or reasonably anticipated litigation;

19 (D) negotiation of contracts for the purchase, lease, or sale of goods,
20 services, or real estate;

21 (E) accusing any person of a crime or formally censuring any person;

1 (F) disclosure of trade secrets or commercial or financial information
2 that is privileged or confidential;

3 (G) disclosure of information of a personal nature where disclosure
4 would constitute a clearly unwarranted invasion of personal privacy;

5 (H) disclosure of investigative records compiled for law enforcement
6 purposes;

7 (I) disclosure of information related to any investigative reports
8 prepared by or on behalf of or for use of the Commission or other committee
9 charged with responsibility of investigation or determination of compliance
10 issues pursuant to the Compact; or

11 (J) matters specifically exempted from disclosure by federal or
12 member state statute.

13 (3) If a meeting, or portion of a meeting, is closed pursuant to this
14 provision, the Commission's legal counsel or designee shall certify that the
15 meeting may be closed and shall reference each relevant exempting provision.

16 (4) The Commission shall keep minutes that fully and clearly describe
17 all matters discussed in a meeting and shall provide a full and accurate
18 summary of actions taken, and the reasons therefore, including a description of
19 the views expressed. All documents considered in connection with an action
20 shall be identified in such minutes. All minutes and documents of a closed

1 meeting shall remain under seal, subject to release by a majority vote of the
2 Commission or order of a court of competent jurisdiction.

3 (f) Financing of the Commission.

4 (1) The Commission shall pay, or provide for the payment of, the
5 reasonable expenses of its establishment, organization, and ongoing activities.

6 (2) The Commission may accept any and all appropriate revenue
7 sources, donations, and grants of money, equipment, supplies, materials, and
8 services.

9 (3) The Commission may levy on and collect an annual assessment from
10 each member state or impose fees on other parties to cover the cost of the
11 operations and activities of the Commission and its staff, which must be in a
12 total amount sufficient to cover its annual budget as approved by the
13 Commission each year for which revenue is not provided by other sources.

14 The aggregate annual assessment amount shall be allocated based upon a
15 formula to be determined by the Commission, which shall promulgate a rule
16 binding upon all member states.

17 (4) The Commission shall not incur obligations of any kind prior to
18 securing the funds adequate to meet the same, nor shall the Commission pledge
19 the credit of any of the member states, except by and with the authority of the
20 member state.

1 (5) The Commission shall keep accurate accounts of all receipts and
2 disbursements. The receipts and disbursements of the Commission shall be
3 subject to the audit and accounting procedures established under its bylaws.
4 However, all receipts and disbursements of funds handled by the Commission
5 shall be audited yearly by a certified or licensed public accountant, and the
6 report of the audit shall be included in and become part of the annual report of
7 the Commission.

8 (g) Qualified immunity, defense, and indemnification.

9 (1) The members, officers, executive director, employees, and
10 representatives of the Commission shall be immune from suit and liability,
11 either personally or in their official capacity, for any claim for damage to or
12 loss of property or personal injury or other civil liability caused by or arising
13 out of any actual or alleged act, error, or omission that occurred, or that the
14 person against whom the claim is made had a reasonable basis for believing
15 occurred within the scope of Commission employment, duties, or
16 responsibilities, provided that nothing in this subdivision shall be construed to
17 protect any such person from suit and/or liability for any damage, loss, injury,
18 or liability caused by the intentional or willful or wanton misconduct of that
19 person.

20 (2) The Commission shall defend any member, officer, executive
21 director, employee, or representative of the Commission in any civil action

1 seeking to impose liability arising out of any actual or alleged act, error, or
2 omission that occurred within the scope of Commission employment, duties, or
3 responsibilities, or that the person against whom the claim is made had a
4 reasonable basis for believing occurred within the scope of Commission
5 employment, duties, or responsibilities, provided that nothing herein shall be
6 construed to prohibit that person from retaining the person's own counsel, and
7 provided further that the actual or alleged act, error, or omission did not result
8 from that person's intentional or willful or wanton misconduct.

9 (3) The Commission shall indemnify and hold harmless any member,
10 officer, executive director, employee, or representative of the Commission for
11 the amount of any settlement or judgment obtained against that person arising
12 out of any actual or alleged act, error, or omission that occurred within the
13 scope of Commission employment, duties, or responsibilities, or that such
14 person had a reasonable basis for believing occurred within the scope of
15 Commission employment, duties, or responsibilities, provided that the actual
16 or alleged act, error, or omission did not result from the intentional or willful
17 or wanton misconduct of that person.

18 § 3374. DATA SYSTEM

19 (a) The Commission shall provide for the development, maintenance, and
20 utilization of a coordinated database and reporting system containing licensure,

1 adverse action, and investigative information on all licensed individuals in
2 member states.

3 (b) A member state shall submit a uniform data set to the data system on all
4 individuals to whom this Compact is applicable (utilizing a unique identifier)
5 as required by the rules of the Commission, including:

6 (1) identifying information;

7 (2) licensure data;

8 (3) adverse actions against a license or compact privilege;

9 (4) nonconfidential information related to alternative program
10 participation;

11 (5) any denial of application for licensure, and the reason(s) for such
12 denial;

13 (6) other information that may facilitate the administration of this
14 Compact, as determined by the rules of the Commission; and

15 (7) current significant investigative information.

16 (c) Current significant investigative information and other investigative
17 information pertaining to a licensee in any member state will only be available
18 to other member states.

19 (d) The Commission shall promptly notify all member states of any adverse
20 action taken against a licensee or an individual applying for a license. Adverse

1 action information pertaining to a licensee in any member state will be
2 available to any other member state.

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

6 (f) Any information submitted to the data system that is subsequently
7 required to be expunged by the laws of the member state contributing the
8 information shall be removed from the data system.

9 § 3375. RULEMAKING

10 (a) The Commission shall exercise its rulemaking powers pursuant to the
11 criteria set forth in this section and the rules adopted thereunder. Rules and
12 amendments shall become binding as of the date specified in each rule or
13 amendment.

14 (b) The Commission shall promulgate reasonable rules in order to
15 effectively and efficiently achieve the purposes of the Compact.

16 Notwithstanding the foregoing, in the event the Commission exercises its
17 rulemaking authority in a manner that is beyond the scope of the purposes of
18 the Compact, or the powers granted hereunder, then such an action by the
19 Commission shall be invalid and have no force and effect.

20 (c) If a majority of the legislatures of the member states rejects a rule, by
21 enactment of a statute or resolution in the same manner used to adopt the

1 Compact within four years of the date of adoption of the rule, then such rule
2 shall have no further force and effect in any member state.

3 (d) Rules or amendments to the rules shall be adopted at a regular or
4 special meeting of the Commission.

5 (e) Prior to promulgation and adoption of a final rule or rules by the
6 Commission, and at least 30 days in advance of the meeting at which the rule
7 will be considered and voted upon, the Commission shall file a Notice of
8 Proposed Rulemaking:

9 (1) on the website of the Commission or other publicly accessible
10 platform; and

11 (2) on the website of each member state occupational therapy licensing
12 board or other publicly accessible platform or the publication in which each
13 state would otherwise publish proposed rules.

14 (f) The Notice of Proposed Rulemaking shall include:

15 (1) the proposed time, date, and location of the meeting in which the
16 rule will be considered and voted upon;

17 (2) the text of the proposed rule or amendment and the reason for the
18 proposed rule;

19 (3) a request for comments on the proposed rule from any interested
20 person; and

1 (4) the manner in which interested persons may submit notice to the
2 Commission of their intention to attend the public hearing and any written
3 comments.

4 (g) Prior to adoption of a proposed rule, the Commission shall allow
5 persons to submit written data, facts, opinions, and arguments, which shall be
6 made available to the public.

7 (h) The Commission shall grant an opportunity for a public hearing before
8 it adopts a rule or amendment if a hearing is requested by:

9 (1) at least 25 persons;

10 (2) a state or federal governmental subdivision or agency; or

11 (3) an association or organization having at least 25 members.

12 (i) If a hearing is held on the proposed rule or amendment, the Commission
13 shall publish the place, time, and date of the scheduled public hearing. If the
14 hearing is held via electronic means, the Commission shall publish the
15 mechanism for access to the electronic hearing.

16 (1) All persons wishing to be heard at the hearing shall notify the
17 executive director of the Commission or other designated member in writing of
18 their desire to appear and testify at the hearing not less than five business days
19 before the scheduled date of the hearing.

1 (2) Hearings shall be conducted in a manner providing each person who
2 wishes to comment a fair and reasonable opportunity to comment orally or in
3 writing.

4 (3) All hearings will be recorded. A copy of the recording will be made
5 available on request.

6 (4) Nothing in this section shall be construed as requiring a separate
7 hearing on each rule. Rules may be grouped for the convenience of the
8 Commission at hearings required by this section.

9 (j) Following the scheduled hearing date, or by the close of business on the
10 scheduled hearing date if the hearing was not held, the Commission shall
11 consider all written and oral comments received.

12 (k) If no written notice of intent to attend the public hearing by interested
13 parties is received, the Commission may proceed with promulgation of the
14 proposed rule without a public hearing.

15 (l) The Commission shall, by majority vote of all members, take final
16 action on the proposed rule and shall determine the effective date of the rule, if
17 any, based on the rulemaking record and the full text of the rule.

18 (m) Upon determination that an emergency exists, the Commission may
19 consider and adopt an emergency rule without prior notice, opportunity for
20 comment, or hearing, provided that the usual rulemaking procedures provided
21 in the Compact and in this section shall be retroactively applied to the rule as

1 soon as reasonably possible, in no event later than 90 days after the effective
2 date of the rule. For the purposes of this provision, an emergency rule is one
3 that must be adopted immediately in order to:

4 (1) meet an imminent threat to public health, safety, or welfare;

5 (2) prevent a loss of Commission or member state funds;

6 (3) meet a deadline for the promulgation of an administrative rule that is
7 established by federal law or rule; or

8 (4) protect public health and safety.

9 (n) The Commission or an authorized committee of the Commission may
10 direct revisions to a previously adopted rule or amendment for purposes of
11 correcting typographical errors, errors in format, errors in consistency, or
12 grammatical errors. Public notice of any revisions shall be posted on the
13 website of the Commission. The revision shall be subject to challenge by any
14 person for a period of 30 days after posting. The revision may be challenged
15 only on grounds that the revision results in a material change to a rule. A
16 challenge shall be made in writing and delivered to the chair of the
17 Commission prior to the end of the notice period. If no challenge is made, the
18 revision will take effect without further action. If the revision is challenged,
19 the revision may not take effect without the approval of the Commission.

20 § 3376. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

21 (a) Oversight.

1 (1) The executive, legislative, and judicial branches of state government
2 in each member state shall enforce this Compact and take all actions necessary
3 and appropriate to effectuate the Compact’s purposes and intent. The
4 provisions of this Compact and the rules promulgated hereunder shall have
5 standing as statutory law.

6 (2) All courts shall take judicial notice of the Compact and the rules in
7 any judicial or administrative proceeding in a member state pertaining to the
8 subject matter of this Compact that may affect the powers, responsibilities, or
9 actions of the Commission.

10 (3) The Commission shall be entitled to receive service of process in
11 any such proceeding and shall have standing to intervene in such a proceeding
12 for all purposes. Failure to provide service of process to the Commission shall
13 render a judgment or order void as to the Commission, this Compact, or
14 promulgated rules.

15 (b) Default, technical assistance, and termination.

16 (1) If the Commission determines that a member state has defaulted in
17 the performance of its obligations or responsibilities under this Compact or the
18 promulgated rules, the Commission shall:

19 (A) provide written notice to the defaulting state and other member
20 states of the nature of the default, the proposed means of curing the default,
21 and/or any other action to be taken by the Commission; and

1 (B) provide remedial training and specific technical assistance
2 regarding the default.

3 (2) If a state in default fails to cure the default, the defaulting state may
4 be terminated from the Compact upon an affirmative vote of a majority of the
5 member states, and all rights, privileges, and benefits conferred by this
6 Compact may be terminated on the effective date of termination. A cure of the
7 default does not relieve the offending state of obligations or liabilities incurred
8 during the period of default.

9 (3) Termination of membership in the Compact shall be imposed only
10 after all other means of securing compliance have been exhausted. Notice of
11 intent to suspend or terminate shall be given by the Commission to the
12 governor, the majority and minority leaders of the defaulting state's legislature,
13 and each of the member states.

14 (4) A state that has been terminated is responsible for all assessments,
15 obligations, and liabilities incurred through the effective date of termination,
16 including obligations that extend beyond the effective date of termination.

17 (5) The Commission shall not bear any costs related to a state that is
18 found to be in default or that has been terminated from the Compact, unless
19 agreed upon in writing between the Commission and the defaulting state.

20 (6) The defaulting state may appeal the action of the Commission by
21 petitioning the United States District Court for the District of Columbia or the

1 federal district where the Commission has its principal offices. The prevailing
2 member shall be awarded all costs of such litigation, including reasonable
3 attorney's fees.

4 (c) Dispute resolution.

5 (1) Upon request by a member state, the Commission shall attempt to
6 resolve disputes related to the Compact that arise among member states and
7 between member and nonmember states.

8 (2) The Commission shall promulgate a rule providing for both
9 mediation and binding dispute resolution for disputes as appropriate.

10 (d) Enforcement.

11 (1) The Commission, in the reasonable exercise of its discretion, shall
12 enforce the provisions and rules of this Compact.

13 (2) By majority vote, the Commission may initiate legal action in the
14 United States District Court for the District of Columbia or the federal district
15 where the Commission has its principal offices against a member state in
16 default to enforce compliance with the provisions of the Compact and its
17 promulgated rules and bylaws. The relief sought may include both injunctive
18 relief and damages. In the event judicial enforcement is necessary, the
19 prevailing member shall be awarded all costs of such litigation, including
20 reasonable attorney's fees.

1 (3) The remedies herein shall not be the exclusive remedies of the
2 Commission. The Commission may pursue any other remedies available under
3 federal or state law.

4 § 3377. DATE OF IMPLEMENTATION OF THE INTERSTATE

5 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE

6 AND ASSOCIATED RULES, WITHDRAWAL, AND

7 AMENDMENT

8 (a) The Compact shall come into effect on the date on which the Compact
9 statute is enacted into law in the tenth member state. The provisions, which
10 become effective at that time, shall be limited to the powers granted to the
11 Commission relating to assembly and the promulgation of rules. Thereafter,
12 the Commission shall meet and exercise rulemaking powers necessary to the
13 implementation and administration of the Compact.

14 (b) Any state that joins the Compact subsequent to the Commission's initial
15 adoption of the rules shall be subject to the rules as they exist on the date on
16 which the Compact becomes law in that state. Any rule that has been
17 previously adopted by the Commission shall have the full force and effect of
18 law on the day the Compact becomes law in that state.

19 (c) Any member state may withdraw from this Compact by enacting a
20 statute repealing the same.

1 (1) A member state’s withdrawal shall not take effect until six months
2 after enactment of the repealing statute.

3 (2) Withdrawal shall not affect the continuing requirement of the
4 withdrawing state’s occupational therapy licensing board to comply with the
5 investigative and adverse action reporting requirements of this Compact prior
6 to the effective date of withdrawal.

7 (d) Nothing contained in this Compact shall be construed to invalidate or
8 prevent any Occupational Therapy licensure agreement or other cooperative
9 arrangement between a member state and a nonmember state that does not
10 conflict with the provisions of this Compact.

11 (e) This Compact may be amended by the member states. No amendment
12 to this Compact shall become effective and binding upon any member state
13 until it is enacted into the laws of all member states.

14 § 3378. CONSTRUCTION AND SEVERABILITY

15 This Compact shall be liberally construed so as to effectuate the purposes
16 thereof. The provisions of this Compact shall be severable and if any phrase,
17 clause, sentence, or provision of this Compact is declared to be contrary to the
18 constitution of any member state or of the United States or the applicability
19 thereof to any government, agency, person, or circumstance is held invalid, the
20 validity of the remainder of this Compact and the applicability thereof to any
21 government, agency, person, or circumstance shall not be affected thereby. If

1 this Compact shall be held contrary to the constitution of any member state, the
2 Compact shall remain in full force and effect as to the remaining member
3 states and in full force and effect as to the member state affected as to all
4 severable matters.

5 § 3379. BINDING EFFECT OF COMPACT AND OTHER LAWS

6 (a) A licensee providing Occupational Therapy in a remote state under the
7 compact privilege shall function within the laws and regulations of the remote
8 state.

9 (b) Nothing herein prevents the enforcement of any other law of a member
10 state that is not inconsistent with the Compact.

11 (c) Any laws in a member state in conflict with the Compact are
12 superseded to the extent of the conflict.

13 (d) Any lawful actions of the Commission, including all rules and bylaws
14 promulgated by the Commission, are binding upon the member states.

15 (e) All agreements between the Commission and the member states are
16 binding in accordance with their terms.

17 (f) In the event any provision of the Compact exceeds the constitutional
18 limits imposed on the legislature of any member state, the provision shall be
19 ineffective to the extent of the conflict with the constitutional provision in
20 question in that member state.

1 Sec. 3. 3 V.S.A. § 123(j)(1) is amended to read:

2 (j)(1) The Office may inquire into the criminal background histories of
3 applicants for initial licensure and for license renewal of any Office-issued
4 credential, including a license, certification, registration, or specialty
5 designation for the following professions:

6 * * *

7 (I) speech-language pathologists licensed under 26 V.S.A. chapter
8 87; ~~and~~

9 (J) occupational therapists licensed under 26 V.S.A. chapter 71; and

10 (K) individuals registered on the roster of psychotherapists who are
11 nonlicensed and noncertified.

12 Sec. 4. 3 V.S.A. § 125(b) is amended to read:

13 (b) Unless otherwise provided by law, the following fees shall apply to all
14 professions regulated by the Director in consultation with advisor appointees
15 under Title 26:

16 * * *

17 (4) Biennial renewal, \$275.00, except biennial renewal for:

18 * * *

19 (B) Occupational therapists and assistants, \$180.00, except that a
20 licensee of a remote state under the Occupational Therapy Licensure Compact

1 established in 26 V.S.A. chapter 71, subchapter 2 shall pay a biennial \$50.00
2 privilege to practice fee.

3 * * *

4 Sec. 5. EFFECTIVE DATE

5 This act shall take effect on July 1, 2025.