

CHAPTER 32
OCCUPATIONAL THERAPY PRACTICE
SUBCHAPTER 1
GENERAL LICENSING PROVISIONS

§2271. Declaration of purpose

(REPEALED)

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1997, c. 294, §1 (AMD). PL 2019, c. 287, §1 (RP).

§2272. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 294, §2 (RPR).]

1. ACOTE. "ACOTE" means the Accreditation Council for Occupational Therapy Education, a nationally recognized accrediting agency for professional programs in the field of occupational therapy. [PL 1997, c. 294, §2 (RPR).]

2. AOTA. "AOTA" means the American Occupational Therapy Association. [PL 1997, c. 294, §2 (RPR).]

3. Board. "Board" means the Board of Occupational Therapy Practice established under this chapter. [PL 1997, c. 294, §2 (RPR).]

4. Certification examination. "Certification examination" means the certification examination for an occupational therapist or the certification examination for an occupational therapy assistant, both of which are administered by NBCOT. [PL 2019, c. 287, §2 (AMD).]

5. Certified occupational therapy assistant.
[PL 2019, c. 287, §3 (RP).]

6. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation. [PL 1997, c. 294, §2 (RPR).]

7. Department. "Department" means the Department of Professional and Financial Regulation. [PL 1997, c. 294, §2 (RPR).]

7-A. Occupational therapy practitioner.
[PL 1997, c. 683, Pt. B, §18 (RAL).]

8. Developing programs.
[PL 2019, c. 287, §4 (RP).]

8-A. Director. "Director" means the Director of the Office of Professional and Occupational Regulation within the department. [PL 2019, c. 287, §5 (NEW).]

9. Level II fieldwork. "Level II fieldwork" means the experience required to prepare occupational therapy and occupational therapy assistant students to carry out professional responsibilities under appropriate supervision and professional role modeling.
[PL 2019, c. 287, §6 (AMD).]

10. NBCOT. "NBCOT" means the National Board for Certification in Occupational Therapy, formerly the AOTCB, or American Occupational Therapy Certification Board.
[PL 1997, c. 294, §2 (NEW).]

11. Occupational therapist. "Occupational therapist" means an individual who has passed the certification examination of the National Board for Certification in Occupational Therapy for an occupational therapist or meets the requirements of section 2279, subsection 6 and who is licensed to practice occupational therapy under this chapter in the State.
[PL 1997, c. 294, §2 (NEW).]

12. Occupational therapy.
[PL 2021, c. 278, §1 (RP).]

12-A. Occupational therapy practitioner.
[PL 2019, c. 287, §7 (RP).]

12-B. Occupational therapy assistant. "Occupational therapy assistant" means an individual who has passed the certification examination of the NBCOT for an occupational therapy assistant or who was certified as an occupational therapy assistant prior to June 1977 and who is licensed to practice occupational therapy under this chapter in the State under the supervision of a licensed occupational therapist.
[PL 2019, c. 287, §8 (NEW).]

12-C. Occupational therapy practitioner. "Occupational therapy practitioner" means an individual who is licensed as an occupational therapist or an occupational therapy assistant.
[PL 2019, c. 287, §8 (NEW).]

12-D. Occupational therapy. "Occupational therapy" means the therapeutic use of everyday life activities and occupations with individuals or groups to enhance or enable participation, performance or function in roles and situations in home, school, workplace, community and other settings for the purpose of promoting health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory and other aspects of performance in a variety of contexts to support engagement in everyday occupations that affect physical and mental health, well-being and quality of life. "Occupational therapy" includes:

A. Methods and strategies selected to direct the process of interventions such as:

- (1) Facilitating establishment, remediation or restoration of a skill or ability that has not yet developed, is impaired or is in decline;
- (2) Compensation, modification or adaptation of an activity or environment to enhance performance or to prevent injuries, disorders or other conditions;
- (3) Maintenance and enhancement of capabilities without which performance of everyday life activities would decline;
- (4) Health promotion and wellness to enable or enhance performance in everyday life activities; and
- (5) Prevention or remediation of barriers to performance, including disability prevention; [PL 2021, c. 278, §2 (NEW).]

B. Evaluation of client factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:

- (1) Body functions such as neuromuscular, sensory, visual, perceptual, mental and cognitive functions; pain factors; bodily systems such as cardiovascular, digestive, integumentary and genitourinary systems; and structures related to movement;
- (2) Habits, routines, roles and behavior patterns;
- (3) Cultural, physical, environmental, social and spiritual contexts and activity demands that affect performance; and
- (4) Performance skills, including motor, process, emotional regulation, cognitive, sensory perceptual, communication and social interaction skills; and [PL 2021, c. 278, §2 (NEW).]

C. Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:

- (1) Therapeutic use of occupations, exercises and activities;
- (2) Training in self-care, self-management, home management, community and work integration and reintegration, school activities and work performance;
- (3) Development, remediation or compensation of physical, mental and cognitive functions, neuromuscular and sensory functions, pain tolerance and management, developmental skills and behavioral skills;
- (4) Therapeutic use of self, including one's personality, insights, perceptions and judgments, as part of the therapeutic process;
- (5) Education and training of other individuals, including family members and caregivers;
- (6) Care coordination, case management and transition services;
- (7) Consultative services to groups, programs, organizations and communities;
- (8) Modification of environments such as home, school, workplace and community settings and adaptation of processes, including the application of ergonomic principles;
- (9) Assessment, design, fabrication, application, fitting and training in assistive technology, adaptive devices and orthotic devices and training in the use of prosthetic devices;
- (10) Assessment, recommendation and training in techniques to enhance functional mobility, including seating and positioning and wheelchair management;
- (11) Driver rehabilitation and community mobility;
- (12) Management of feeding, eating and swallowing to enable eating and feeding performance; and
- (13) Application of physical agent modalities and use of a range of specific therapeutic procedures to enhance performance skills; techniques to enhance sensory, perceptual and cognitive processing; and manual therapy techniques. [PL 2021, c. 278, §2 (NEW).]

[PL 2021, c. 278, §2 (NEW).]

13. Person. "Person" means any individual, partnership, unincorporated organization or corporation.

[PL 1997, c. 294, §2 (NEW).]

14. Supervision of OTA. "Supervision of OTA" means initial directions and periodic inspection of the service delivery and provision of relevant in-service training. The supervising licensed

occupational therapist shall determine the frequency and nature of the supervision to be provided based on the clients' required level of care and the OTA's caseload, experience and competency.

[PL 2019, c. 287, §9 (AMD).]

15. Supervision of temporary licensees. "Supervision of temporary licensees" includes initial and periodic inspection or written assessments, written treatment plans, patient notes and periodic evaluation of performance. The reviews and evaluations must be conducted in person by a licensed occupational therapist.

[PL 1997, c. 294, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §9 (AMD). RR 1993, c. 1, §87 (COR). PL 1997, c. 212, §1 (AMD). PL 1997, c. 294, §2 (RPR). PL 1997, c. 683, §B18 (AMD). PL 1999, c. 386, §I1 (AMD). PL 2019, c. 287, §§2-9 (AMD). PL 2021, c. 278, §§1, 2 (AMD).

§2273. Board of Occupational Therapy Practice; establishment; compensation

1. Establishment and membership. There is established within the department, in accordance with Title 5, section 12004-A, subsection 26, a Board of Occupational Therapy Practice. The board consists of 5 members appointed by the Governor. Appointments of members must comply with Title 10, section 8009. The persons appointed to the board, other than the public member, must have been engaged in rendering occupational therapy services to the public, teaching or research in occupational therapy for at least 2 years immediately preceding their appointments. At least 3 board members must be occupational therapists. The 4th member must be either an occupational therapist or an occupational therapy assistant, if available. The remaining member must be a public member as defined in Title 5, section 12004-A. A member of the board may be removed from office for cause by the Governor.

[PL 2007, c. 402, Pt. L, §1 (AMD).]

2. Terms of appointment.

[PL 2007, c. 402, Pt. L, §1 (RP).]

3. Meetings; chair. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary and may be convened at the call of the chair or a majority of the members of the board.

[PL 2013, c. 246, Pt. B, §8 (AMD).]

4. Compensation.

[PL 1995, c. 397, §43 (RP).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1983, c. 862, §§76,77 (AMD). PL 1989, c. 503, §B134 (AMD). PL 1993, c. 600, §A139 (AMD). PL 1995, c. 397, §43 (AMD). PL 2007, c. 402, Pt. L, §1 (AMD). PL 2013, c. 246, Pt. B, §8 (AMD).

§2274. Board of occupational therapy practice; powers and duties

1. Powers. The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure.

[PL 2007, c. 402, Pt. L, §2 (AMD).]

2. Rules. The board may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this State.

[PL 2007, c. 402, Pt. L, §2 (AMD).]

3. Hearings.

[PL 2007, c. 402, Pt. L, §2 (RP).]

4. Records.

[PL 2007, c. 402, Pt. L, §2 (RP).]

5. Contracts.

[PL 1995, c. 397, §44 (RP).]

6. Reports.

[PL 2007, c. 402, Pt. L, §2 (RP).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1995, c. 397, §44 (AMD). PL 2007, c. 402, Pt. L, §2 (AMD).

§2275. Board of occupational therapy practice; administrative provisions

(REPEALED)

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1985, c. 785, §B134 (AMD). PL 1995, c. 397, §§45,46 (AMD). PL 2007, c. 402, Pt. L, §3 (RP).

§2276. License required

1. License required.

[PL 1997, c. 294, §3 (RP).]

1-A. License required. A person may not practice, or profess to be authorized to practice occupational therapy, as an occupational therapist or occupational therapy assistant in this State or use the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant" or "licensed occupational therapy assistant" or the letters "O.T.," "O.T.A.," or other words or letters to indicate that the person using the words or letters is a licensed occupational therapist or licensed occupational therapy assistant, or that may misrepresent to the public that the person has received formalized training in the field of occupational therapy, unless that person is licensed in accordance with this chapter.

This subsection is not intended to prohibit occupational therapy students and occupational therapy assistant students completing fieldwork from using the letters "O.T.S." and "O.T.A.S." respectively.

[PL 2019, c. 287, §10 (AMD).]

2. Individual license. Only an individual may be licensed under this chapter.

[PL 1983, c. 746, §2 (NEW).]

3. Unlicensed practice. A person who violates this section is subject to the provisions of Title 10, section 8003-C.

[PL 2007, c. 402, Pt. L, §4 (AMD).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1987, c. 597, §4 (AMD). PL 1997, c. 294, §3 (AMD). PL 1999, c. 386, §I2 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 452, §R4 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2007, c. 402, Pt. L, §4 (AMD). PL 2019, c. 287, §10 (AMD).

§2276-A. Telehealth services

(REALLOCATED FROM TITLE 32, SECTION 2287)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter. [PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

B. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter. [PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider. [PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring. [PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

E. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous. [PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]
[PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

2. Telehealth services permitted. A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.
[PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

3. Confidentiality. When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.
[PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

4. Professional responsibility. All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.
[PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

5. Rulemaking. The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 291, Pt. B, §5 (NEW); RR 2021, c. 1, Pt. A, §26 (RAL).]

SECTION HISTORY

PL 2021, c. 291, Pt. B, §5 (NEW). RR 2021, c. 1, Pt. A, §26 (RAL).

§2277. Persons and practices exempt

Nothing in this chapter may be construed as preventing or restricting the practice, services or activities of: [PL 1983, c. 746, §2 (NEW).]

1. Licensed persons. Any person licensed in this State by any other law from engaging in the profession or occupation for which the person is licensed;
[PL 1997, c. 294, §4 (AMD).]

2. Students or trainees. Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at a developing or an accredited or approved educational program, if the person is designated by a title that clearly indicates that person's status as a student or trainee. At the discretion of the supervising occupational therapist, the student or trainee may be assigned duties or functions commensurate with the student's or trainee's education and training.

Occupational therapy students and occupational therapy assistant students completing fieldwork may use the letters "O.T.S." and "O.T.A.S." respectively.

[PL 1997, c. 294, §4 (AMD).]

3. Supervised fieldworkers.

[PL 1997, c. 294, §4 (RP).]

4. Associates; reciprocity.

[PL 1991, c. 509, §11 (RP).]

5. Occupational therapy aides.

[PL 1991, c. 509, §11 (RP).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §§10,11 (AMD). PL 1997, c. 294, §4 (AMD).

§2278. Temporary license

A temporary license may be granted to a person who has completed the education and level II fieldwork requirements of this chapter and who has also received NBCOT approval to sit for the appropriate certification examination. This temporary license allows the holder to practice occupational therapy under the supervision of a licensed occupational therapist. Temporary licensees shall take the first available national examination for which they become eligible. [PL 1997, c. 294, §5 (RPR).]

A temporary license may not be renewed more than once. [PL 1997, c. 294, §5 (NEW).]

Foreign trained applicants must receive approval to sit for the examination from NBCOT in order to be eligible for a temporary license. [PL 1997, c. 294, §5 (NEW).]

No more than one temporary license may be granted to a person who has completed the education requirements of this chapter. This license allows the holder to practice occupational therapy under the supervision of a licensed occupational therapist. This license must be issued for a term of 6 months and may be renewed for an additional 6 months at the discretion of the board. [PL 2011, c. 286, Pt. G, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §12 (AMD). PL 1997, c. 294, §5 (RPR). PL 2011, c. 286, Pt. G, §1 (AMD).

§2279. Qualifications

An applicant applying for a license as an occupational therapy practitioner must file a written application showing that the applicant meets the following requirements. [PL 2007, c. 402, Pt. L, §5 (AMD).]

1. Residence.

[PL 2019, c. 287, §11 (RP).]

2. Character.

[PL 1997, c. 294, §6 (RP).]

2-A. Character references.

[PL 2013, c. 217, Pt. J, §2 (RP).]

3. Education. An applicant must present evidence satisfactory to the board of having successfully completed the academic and fieldwork requirements of an educational program in occupational therapy or occupational therapy assisting.

A. The occupational therapy or occupational therapy assisting educational program must be accredited by ACOTE. [PL 1997, c. 294, §6 (AMD).]

B. [PL 1997, c. 294, §6 (RP).]
[PL 1997, c. 294, §6 (AMD).]

4. Experience.
[PL 1997, c. 294, §6 (RP).]

5. Examination. An applicant for licensure as an occupational therapy practitioner must pass an examination as provided for in section 2280-A.
[PL 1997, c. 683, Pt. B, §20 (RPR).]

6. Licensure. An applicant may be licensed as an occupational therapist if the applicant has practiced as an occupational therapy assistant for 4 years, has completed the level II fieldwork requirements for an occupational therapist before January 1, 1988, and has passed the examination for occupational therapists.

Notwithstanding any provision of this chapter to the contrary, the board, in accordance with Title 10, section 8003-H and any applicable rules adopted pursuant to that section, shall establish a process to issue a license by endorsement for each license authorized under this chapter that the board determines is appropriate for licensure by endorsement. An applicant may submit an application under the process established under this section or any other licensure process authorized in this chapter.
[PL 2021, c. 642, §13 (AMD).]

7. Certification. An applicant must submit a verification of certification form from NBCOT. The form must be completed and signed by NBCOT. An applicant applying within 3 months of having taken the certification examination who has the examination scores sent directly to the board is exempt from this requirement.
[PL 1997, c. 294, §6 (NEW).]

8. Fee. An applicant must pay an application fee and license fee as set under section 2285.
[PL 2007, c. 402, Pt. L, §5 (AMD).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §13 (AMD). PL 1997, c. 212, §§2,3 (AMD). PL 1997, c. 294, §6 (AMD). PL 1997, c. 683, §§B19,20 (AMD). PL 2007, c. 402, Pt. L, §5 (AMD). PL 2013, c. 217, Pt. J, §2 (AMD). PL 2019, c. 287, §11 (AMD). PL 2021, c. 642, §13 (AMD).

§2280. Examination for licensure of occupational therapists and occupational therapy assistants (REPEALED)

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §14 (AMD). PL 1997, c. 294, §7 (RP).

§2280-A. National examination for licensure of occupational therapists and occupational therapy assistants

The certification examination of NBCOT for the occupational therapist or occupational therapy assistant satisfies examination requirements of the board. [PL 2007, c. 402, Pt. L, §6 (AMD).]

The certification examination for the occupational therapy assistant may be waived for any person who was certified as an occupational therapy assistant by the American Occupational Therapy Association prior to June 1977. [PL 1997, c. 294, §8 (NEW).]

SECTION HISTORY

PL 1997, c. 294, §8 (NEW). PL 2007, c. 402, Pt. L, §6 (AMD).

§2281. Waiver of requirements for licensure

The board shall grant a license to any person who, prior to July 25, 1984, successfully completed an examination administered by the Psychological Corporation under contract with the American Occupational Therapy Certification Board if that person meets the requirements of section 2279, subsection 3. [PL 2019, c. 287, §12 (AMD).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §15 (AMD). PL 1997, c. 294, §9 (AMD). PL 2013, c. 217, Pt. J, §3 (AMD). PL 2019, c. 287, §12 (AMD).

§2282. Issuance of license

(REPEALED)

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 2007, c. 402, Pt. L, §7 (AMD). PL 2019, c. 287, §13 (RP).

§2283. Renewal of license

1. Renewal. A license renewal fee as set under section 2285 must be paid by the licensee. Licenses issued under this chapter are subject to renewal and expire on the stated expiration date as determined by the commissioner. Any license not renewed by the designated renewal date automatically expires. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 2285. Any person who submits an application for renewal more than 90 days after the date of expiration is subject to all requirements governing new applicants under this chapter, except that the board, giving due consideration to the protection of the public, may waive examination if that renewal application is received, together with the late fee and renewal fee, within 2 years from the date of the expiration.

[PL 2007, c. 402, Pt. L, §8 (RPR).]

2. Inactive status.

[PL 1991, c. 509, §16 (RP).]

3. Continuing education.

[PL 2019, c. 287, §14 (RP).]

4. Continuing education requirements for license renewal. As a condition of renewal of a license, the board shall prescribe by rule continuing education requirements as authorized under Title 10, section 8003, subsection 5-A, paragraph D.

[PL 2021, c. 278, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §§16,17 (AMD). PL 1997, c. 294, §10 (AMD). PL 2007, c. 402, Pt. L, §8 (AMD). PL 2019, c. 287, §14 (AMD). PL 2021, c. 278, §3 (AMD).

§2284. Foreign-trained applicants

Foreign-trained applicants are subject to the provisions of this section. [PL 1997, c. 294, §11 (RPR).]

1. Approval. Applicants must receive approval for their educational programs, supervised fieldwork and English language proficiency, based on standards set by NBCOT.

[PL 1997, c. 294, §11 (NEW).]

2. Character references.

[PL 2019, c. 287, §15 (RP).]

3. Examination. Applicants for licensure as occupational therapists or occupational therapy assistants must pass an examination as provided for in section 2280-A.

[PL 1997, c. 294, §11 (NEW).]

4. Certification. Applicants, except those applying within 3 months of having taken the certification examination who have their examination scores sent directly to the board, must submit a verification of certification form, provided by either the board or NBCOT. All forms must be completed and signed by NBCOT.

[PL 1997, c. 294, §11 (NEW).]

5. Fee. Applicants must pay the application and license fees as set under section 2285.

[PL 2007, c. 402, Pt. L, §9 (AMD).]

6. Temporary license. Foreign-trained applicants must receive approval to sit for the examination from NBCOT in order to be eligible for a temporary license.

[PL 1997, c. 294, §11 (NEW).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1997, c. 294, §11 (RPR). PL 2007, c. 402, Pt. L, §9 (AMD). PL 2019, c. 287, §15 (AMD).

§2285. Fees

The director may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$120. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2019, c. 287, §16 (AMD).]

1. Amount.

[PL 2007, c. 402, Pt. L, §10 (RP).]

2. Disposal of fees.

[PL 2007, c. 402, Pt. L, §10 (RP).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1991, c. 509, §18 (AMD). PL 1995, c. 502, §H30 (AMD). PL 1997, c. 294, §13 (AMD). PL 2007, c. 402, Pt. L, §10 (RPR). PL 2011, c. 286, Pt. B, §5 (REV). PL 2019, c. 287, §16 (AMD).

§2286. Disciplinary actions

1. Complaints.

[PL 2007, c. 402, Pt. L, §11 (RP).]

2. Disciplinary action. The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

A. [PL 2007, c. 402, Pt. L, §12 (RP).]

B. [PL 2007, c. 402, Pt. L, §12 (RP).]

C. [PL 2007, c. 402, Pt. L, §12 (RP).]

D. [PL 2007, c. 402, Pt. L, §12 (RP).]

[PL 2007, c. 402, Pt. L, §12 (RPR).]

3. Reinstatement. An application for reinstatement may be made to the board one year from the date of revocation of a license. The board may accept or reject an application for reinstatement and hold a hearing to consider the reinstatement.

[PL 1983, c. 746, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 746, §2 (NEW). PL 1997, c. 294, §14 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. L, §§11, 12 (AMD).

SUBCHAPTER 2

OCCUPATIONAL THERAPY LICENSURE COMPACT

(TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

§2287. Short title; findings and declaration of purpose

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Short title. This chapter may be known and cited as "the Occupational Therapy Licensure Compact" or "compact."

[PL 2021, c. 324, §2 (NEW).]

2. Legislative intent. This compact is the Maine enactment of the Occupational Therapy Licensure Compact. The form, format and text of the compact have been changed minimally so as to conform to Maine statutory conventions. The changes are technical in nature, and it is the intent of the Legislature that this Act be interpreted as substantively the same as the Occupational Therapy Licensure Compact that is enacted by other compact states.

[PL 2021, c. 324, §2 (NEW).]

3. Purposes. The general purposes of this compact are to:

A. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses; [PL 2021, c. 324, §2 (NEW).]

B. Enhance the member states' ability to protect the public's health and safety; [PL 2021, c. 324, §2 (NEW).]

C. Encourage the cooperation of member states in regulating multistate occupational therapy practice; [PL 2021, c. 324, §2 (NEW).]

D. Support spouses of relocating military members; [PL 2021, c. 324, §2 (NEW).]

E. Enhance the exchange of licensure, investigative and disciplinary information among member states; [PL 2021, c. 324, §2 (NEW).]

F. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and [PL 2021, c. 324, §2 (NEW).]

G. Facilitate the use of telehealth technology in order to increase access to occupational therapy services. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

REVISOR'S NOTE: §2287. Telehealth services (As enacted by PL 2021, c. 291, Pt. B, §5 is REALLOCATED TO TITLE 32, SECTION 2276-A)

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2288. Definitions

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

As used in this compact, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 324, §2 (NEW).]

1. Active duty military. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 United States Code, Chapter 1209 and 10 United States Code, Chapter 1211. [PL 2021, c. 324, §2 (NEW).]

2. Adverse action. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee or restriction on the licensee's practice. [PL 2021, c. 324, §2 (NEW).]

3. Alternative program. "Alternative program" means a nondisciplinary monitoring process approved by an occupational therapy licensing board. [PL 2021, c. 324, §2 (NEW).]

4. Compact privilege. "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient is located at the time of the patient encounter. [PL 2021, c. 324, §2 (NEW).]

5. Continuing education. "Continuing education" means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work. [PL 2021, c. 324, §2 (NEW).]

6. Current significant investigative information. "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction. [PL 2021, c. 324, §2 (NEW).]

7. Data system. "Data system" means a repository of information about licensees, including, but not limited to, license status, investigative information, compact privileges and adverse actions. [PL 2021, c. 324, §2 (NEW).]

8. Encumbered license. "Encumbered license" means a license with respect to which an adverse action restricts the practice of occupational therapy by the licensee or the adverse action has been reported to the National Practitioner Data Bank operated by the United States Department of Health and Human Services. [PL 2021, c. 324, §2 (NEW).]

9. Executive committee. "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission. [PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

11. Investigative information. "Investigative information" means information, records and documents received or generated by an occupational therapy licensing board pursuant to an investigation.

[PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

13. Licensee. "Licensee" means an individual who currently holds an authorization from the State to practice as an occupational therapist or as an occupational therapy assistant.

[PL 2021, c. 324, §2 (NEW).]

14. Member state. "Member state" means a state that has enacted the compact.

[PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

17. Occupational therapy; occupational therapy practice; practice of occupational therapy.

"Occupational therapy," "occupational therapy practice" or "practice of occupational therapy" means the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the member state's statutes and regulations.

[PL 2021, c. 324, §2 (NEW).]

18. Occupational therapy compact commission; commission. "Occupational therapy compact commission" or "commission" means the Occupational Therapy Compact Commission established in section 2294, whose membership consists of all states that have enacted the compact.

[PL 2021, c. 324, §2 (NEW).]

19. Occupational therapy licensing board; licensing board. "Occupational therapy licensing board" or "licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants.

[PL 2021, c. 324, §2 (NEW).]

20. Primary state of residence. "Primary state of residence" means the state, also known as the home state, in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by a driver's license, federal income tax return, lease, deed, mortgage, voter registration or other verifying documentation as further defined by commission rules.

[PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

22. Rule. "Rule" means a regulation promulgated by the commission that has the force of law.

[PL 2021, c. 324, §2 (NEW).]

23. Single-state license. "Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact privilege in any other member state. [PL 2021, c. 324, §2 (NEW).]

24. State. "State" means any state, commonwealth, district or territory of the United States that regulates the practice of occupational therapy. [PL 2021, c. 324, §2 (NEW).]

25. Telehealth. "Telehealth" means the application of telecommunications technology to deliver occupational therapy services for assessment, intervention or consultation. [PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2289. State participation in compact

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Participation in compact. To participate in the compact, a member state shall:

A. License occupational therapists and occupational therapy assistants; [PL 2021, c. 324, §2 (NEW).]

B. Participate fully in the commission's data system, including, but not limited to, using the commission's unique identifier as defined in rules of the commission; [PL 2021, c. 324, §2 (NEW).]

C. Have a mechanism in place for receiving and investigating complaints about licensees; [PL 2021, c. 324, §2 (NEW).]

D. Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee; [PL 2021, c. 324, §2 (NEW).]

E. Implement or use procedures for considering the criminal history records of applicants for an initial compact privilege. These procedures must include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(1) A member state shall within a time frame established by the commission require a criminal background check for a licensee applying for a compact privilege whose primary state of residence is that member state, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions.

(2) Communication with the commission and among member states regarding the verification of eligibility for licensure through the compact may not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973, Title II, Public Law 92-544 (1972); [PL 2021, c. 324, §2 (NEW).]

F. Comply with the rules of the commission; [PL 2021, c. 324, §2 (NEW).]

G. Use only a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and [PL 2021, c. 324, §2 (NEW).]

H. Have continuing education requirements as a condition for license renewal. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

3. Fee. A member state may charge a fee for granting a compact privilege.

[PL 2021, c. 324, §2 (NEW).]

4. Delegate to commission. A member state shall provide for the state's delegate to attend all occupational therapy compact commission meetings.

[PL 2021, c. 324, §2 (NEW).]

5. Nonresidents. An individual not residing in a member state is able to apply for a member state's single-state license as provided under the laws of that member state. However, the single-state license granted to these individuals may not be recognized as granting the compact privilege in any other member state.

[PL 2021, c. 324, §2 (NEW).]

6. No effect on single-state license authority. Nothing in this compact affects the requirements established by a member state for the issuance of a single-state license.

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2290. Compact privilege

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Exercise of compact privilege. To exercise the compact privilege under the terms and provisions of the compact, a licensee:

A. Must hold a license in the home state; [PL 2021, c. 324, §2 (NEW).]

B. Must have a valid United States social security number or National Practitioner Data Bank identification number; [PL 2021, c. 324, §2 (NEW).]

C. May not have an encumbrance on any state license; [PL 2021, c. 324, §2 (NEW).]

D. Must be eligible for a compact privilege in any member state in accordance with subsections 4, 6, 7 and 8; [PL 2021, c. 324, §2 (NEW).]

E. Must have paid all fines and completed all requirements resulting from any adverse action against any license or compact privilege and 2 years must have elapsed from the date of completion; [PL 2021, c. 324, §2 (NEW).]

F. Must notify the commission that the licensee is seeking the compact privilege within a remote state; [PL 2021, c. 324, §2 (NEW).]

G. Must pay any applicable fees, including any state fee for the compact privilege; [PL 2021, c. 324, §2 (NEW).]

H. Must complete a criminal background check in accordance with section 2289, subsection 1, paragraph E. The licensee is responsible for the payment of any fee associated with the completion of a criminal background check; [PL 2021, c. 324, §2 (NEW).]

I. Must meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and [PL 2021, c. 324, §2 (NEW).]

J. Must report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

2. Validity of compact privilege. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection 1 to maintain the compact privilege in the remote state.
[PL 2021, c. 324, §2 (NEW).]

3. Exercising compact privilege in remote state. A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.
[PL 2021, c. 324, §2 (NEW).]

4. Supervision of occupational therapy assistant. An occupational therapy assistant practicing in a remote state must be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.
[PL 2021, c. 324, §2 (NEW).]

5. Regulatory authority of remote state. A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.
[PL 2021, c. 324, §2 (NEW).]

6. Loss of compact privilege. If a home state license is encumbered, the licensee loses the compact privilege in any remote state until the following occur:

A. The home state license is no longer encumbered; and [PL 2021, c. 324, §2 (NEW).]

B. Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with paragraph A. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

7. Restoration of compact privilege. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection 1 to obtain a compact privilege in any remote state.
[PL 2021, c. 324, §2 (NEW).]

8. Removal of compact privilege in remote state. If a licensee's compact privilege in any remote state is removed, the individual may lose the compact privilege in any other remote state until the following occur:

A. The specific period of time for which the compact privilege was removed has ended; [PL 2021, c. 324, §2 (NEW).]

B. All fines have been paid and all conditions have been met; [PL 2021, c. 324, §2 (NEW).]

C. Two years have elapsed from the date of completing requirements for paragraphs A and B; and [PL 2021, c. 324, §2 (NEW).]

D. The compact privileges are reinstated by the commission and the compact data system is updated to reflect reinstatement. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

9. Error. If a licensee's compact privilege in any remote state is removed due to an erroneous charge, privileges must be restored through the compact data system.

[PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2291. Obtaining new home state license by virtue of compact privilege

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Home state license. An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.

[PL 2021, c. 324, §2 (NEW).]

2. Change of residence. If an occupational therapist or occupational therapy assistant changes the therapist's or the assistant's primary state of residence by moving between 2 member states, the following requirements apply.

A. The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees and notify the current and the new home state in accordance with applicable rules adopted by the commission. [PL 2021, c. 324, §2 (NEW).]

B. Upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in section 2290 via the data system, without need for primary source verification except for:

(1) A Federal Bureau of Investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973, Title II, Public Law 92-544 (1972);

(2) Any other criminal background check as required by the new home state; and

(3) Submission of any requisite jurisprudence requirements of the new home state. [PL 2021, c. 324, §2 (NEW).]

C. The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission. [PL 2021, c. 324, §2 (NEW).]

D. Notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in section 2290, the new home state shall apply its requirements for issuing a new single-state license. [PL 2021, c. 324, §2 (NEW).]

E. The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

3. Criteria for single-state license. If an occupational therapist or occupational therapy assistant changes the therapist's or the assistant's primary state of residence by moving from a member state to a

nonmember state, or from a nonmember state to a member state, the state criteria apply for issuance of a single-state license in the new state.

[PL 2021, c. 324, §2 (NEW).]

4. Ability to hold single-state license in more than one state. This compact does not interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee may have only one home state license.

[PL 2021, c. 324, §2 (NEW).]

5. Requirements for single-state license. This compact does not affect the requirements established by a member state for the issuance of a single-state license.

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2292. Active duty military personnel or military spouses

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

An active duty military member or the military member's spouse shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual may change the individual's home state only through application for licensure in the new state or through the process described in section 2291. [PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2293. Adverse actions

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Authority of home state. A home state has exclusive power to impose adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state.

[PL 2021, c. 324, §2 (NEW).]

2. Authority of remote state. In addition to the other powers conferred by state law, a remote state has the authority, in accordance with existing state due process law, to:

A. Take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state; and [PL 2021, c. 324, §2 (NEW).]

B. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. A subpoena issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state may be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

[PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

3. Application of law in home state. For the purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if

the conduct had occurred within the home state and shall apply its own state laws to determine appropriate action.

[PL 2021, c. 324, §2 (NEW).]

4. Investigations. The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes the therapist's or the assistant's primary state of residence during the course of the investigations. The home state where the investigations were initiated also has the authority to take appropriate action and shall promptly report the conclusions of the investigations to the data system. The data system administrator shall promptly notify the new home state of any adverse action.

[PL 2021, c. 324, §2 (NEW).]

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

[PL 2021, c. 324, §2 (NEW).]

6. Factual findings. A member state may take adverse action based on the factual findings of a remote state, as long as the member state follows its own procedures for taking the adverse action.

[PL 2021, c. 324, §2 (NEW).]

7. Joint investigations. The following requirements apply to joint investigations.

A. In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees. [PL 2021, c. 324, §2 (NEW).]

B. Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

8. Deactivation of compact privilege. If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege in all other member states must be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license must include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

[PL 2021, c. 324, §2 (NEW).]

9. Notice of adverse action. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

[PL 2021, c. 324, §2 (NEW).]

10. Alternative program. This compact does not override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2294. Establishment of Occupational Therapy Compact Commission

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Commission established. The member states hereby create and establish a joint public agency known as the Occupational Therapy Compact Commission as follows.

A. The commission is an instrumentality of the compact states. [PL 2021, c. 324, §2 (NEW).]

B. Venue is proper, and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. [PL 2021, c. 324, §2 (NEW).]

C. This compact may not be construed to be a waiver of sovereign immunity. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

2. Membership, voting and meetings. This subsection governs the membership, voting and meetings of the commission.

A. Each member state is limited to one delegate selected by that member state's licensing board. [PL 2021, c. 324, §2 (NEW).]

B. The delegate must be either:

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

(2) An administrator of the licensing board. [PL 2021, c. 324, §2 (NEW).]

C. A member state's delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. [PL 2021, c. 324, §2 (NEW).]

D. The member state's licensing board shall fill any vacancy occurring in the commission within 90 days. [PL 2021, c. 324, §2 (NEW).]

E. Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication. [PL 2021, c. 324, §2 (NEW).]

F. The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. [PL 2021, c. 324, §2 (NEW).]

G. The commission shall establish by rule a term of office for delegates. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

3. Powers and duties of commission. The commission has the following powers and duties:

A. Establish a code of ethics for the commission; [PL 2021, c. 324, §2 (NEW).]

B. Establish the fiscal year of the commission; [PL 2021, c. 324, §2 (NEW).]

C. Establish bylaws; [PL 2021, c. 324, §2 (NEW).]

D. Maintain the commission's financial records in accordance with the bylaws; [PL 2021, c. 324, §2 (NEW).]

E. Meet and take such actions as are consistent with the provisions of this compact and the bylaws; [PL 2021, c. 324, §2 (NEW).]

- F. Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all member states; [PL 2021, c. 324, §2 (NEW).]
- G. Bring and prosecute legal proceedings or actions in the name of the commission, except that the standing of any occupational therapy licensing board to sue or be sued under applicable law is not affected; [PL 2021, c. 324, §2 (NEW).]
- H. Purchase and maintain insurance and bonds; [PL 2021, c. 324, §2 (NEW).]
- I. Borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state; [PL 2021, c. 324, §2 (NEW).]
- J. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters; [PL 2021, c. 324, §2 (NEW).]
- K. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and receive, use and dispose of the same, as long as at all times the commission avoids any appearance of impropriety or conflict of interest; [PL 2021, c. 324, §2 (NEW).]
- L. Lease, purchase, accept appropriate gifts or donations of or otherwise own, hold, improve or use any property, real, personal or mixed, as long as at all times the commission avoids any appearance of impropriety; [PL 2021, c. 324, §2 (NEW).]
- M. Sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed; [PL 2021, c. 324, §2 (NEW).]
- N. Establish a budget and make expenditures; [PL 2021, c. 324, §2 (NEW).]
- O. Borrow money; [PL 2021, c. 324, §2 (NEW).]
- P. Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives and consumer representatives and such other interested persons as may be designated in this compact and the bylaws; [PL 2021, c. 324, §2 (NEW).]
- Q. Provide and receive information from, and cooperate with, law enforcement agencies; [PL 2021, c. 324, §2 (NEW).]
- R. Establish and elect an executive committee; and [PL 2021, c. 324, §2 (NEW).]
- S. Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of occupational therapy licensure and practice. [PL 2021, c. 324, §2 (NEW).]
- [PL 2021, c. 324, §2 (NEW).]

4. Executive committee. The executive committee has the power to act on behalf of the commission according to the terms of this compact in accordance with this subsection.

A. The executive committee is composed of the following 9 members:

- (1) Seven voting members who are elected by the commission from the current membership of the commission;
- (2) One ex officio, nonvoting member from a recognized national occupational therapy professional association; and
- (3) One ex officio, nonvoting member from a recognized national occupational therapy certification organization. [PL 2021, c. 324, §2 (NEW).]

B. The ex officio members under paragraph A must be selected by their respective organizations. [PL 2021, c. 324, §2 (NEW).]

C. The commission may remove any member of the executive committee as provided in the bylaws. [PL 2021, c. 324, §2 (NEW).]

D. The executive committee shall meet at least annually. [PL 2021, c. 324, §2 (NEW).]

E. The executive committee shall:

(1) Recommend to the entire commission changes to the rules or bylaws, changes to this compact, fees paid by member states such as annual dues and any commission compact fee charged to licensees for the compact privilege;

(2) Ensure compact administration services are appropriately provided, contractually or otherwise;

(3) Prepare and recommend the budget;

(4) Maintain financial records on behalf of the commission;

(5) Monitor compact compliance of member states and provide compliance reports to the commission;

(6) Establish additional committees as necessary; and

(7) Perform other duties as provided in the rules or bylaws. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

5. Public and nonpublic meetings. This subsection governs the requirements for public and nonpublic meetings of the commission.

A. All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 2296. [PL 2021, c. 324, §2 (NEW).]

B. The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(1) Noncompliance of a member state with its obligations under the compact;

(2) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(3) Current, threatened or reasonably anticipated litigation;

(4) Negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(5) Accusing any person of a crime or formally censuring any person;

(6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(7) Disclosure of information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Disclosure of investigative records compiled for law enforcement purposes;

(9) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(10) Matters specifically exempted from disclosure by federal or member state statute. [PL 2021, c. 324, §2 (NEW).]

C. If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission's legal counsel or legal counsel's designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. [PL 2021, c. 324, §2 (NEW).]

D. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for those actions, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

6. Financing of commission. This subsection governs the financial operations of the commission.

A. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities. [PL 2021, c. 324, §2 (NEW).]

B. The commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services. [PL 2021, c. 324, §2 (NEW).]

C. The commission may levy on and collect from each member state an annual assessment or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states. [PL 2021, c. 324, §2 (NEW).]

D. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the obligations, and the commission may not pledge the credit of any of the member states, except by and with the authority of the member state. [PL 2021, c. 324, §2 (NEW).]

E. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

7. Qualified immunity, defense and indemnification. This subsection governs immunity provisions and defense and indemnification requirements of the commission.

A. The members, officers, executive director, employees and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities, except that nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person. [PL 2021, c. 324, §2 (NEW).]

B. The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any

actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct and except that nothing in this paragraph may be construed to prohibit that person from retaining that person's own counsel. [PL 2021, c. 324, §2 (NEW).]

C. The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2295. Data system

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

This subsection governs the requirements for the data system used by the commission. [PL 2021, c. 324, §2 (NEW).]

1. Data system. The commission shall provide for the development, maintenance and utilization of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.

[PL 2021, c. 324, §2 (NEW).]

2. Uniform data set. A member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable using a unique identifier as required by the rules of the commission, including:

A. Identifying information; [PL 2021, c. 324, §2 (NEW).]

B. Licensure data; [PL 2021, c. 324, §2 (NEW).]

C. Adverse actions against a license or compact privilege; [PL 2021, c. 324, §2 (NEW).]

D. Nonconfidential information related to alternative program participation; [PL 2021, c. 324, §2 (NEW).]

E. Any denial of application for licensure and the reason for the denial; [PL 2021, c. 324, §2 (NEW).]

F. Other information that may facilitate the administration of this compact, as determined by the rules of the commission; and [PL 2021, c. 324, §2 (NEW).]

G. Current significant investigative information. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

3. Availability of investigative information. Current significant investigative information and other investigative information pertaining to a licensee in any member state may be available only to other member states.

[PL 2021, c. 324, §2 (NEW).]

4. Notification of adverse action. The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state must be available to any other member state. [PL 2021, c. 324, §2 (NEW).]

5. Designation of nonpublic information. A member state contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing member state. [PL 2021, c. 324, §2 (NEW).]

6. Expungement of information. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information must be removed from the data system. [PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2296. Rulemaking

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Rule-making authority. The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted pursuant to this section. Rules and amendments become binding as of the date specified in each rule or amendment. [PL 2021, c. 324, §2 (NEW).]

2. Adoption. The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. If the commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted in the compact, such an action by the commission is invalid and has no force and effect. [PL 2021, c. 324, §2 (NEW).]

3. Rejection of rules. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within 4 years of the date of adoption of the rule, the rule has no further force and effect in any member state. [PL 2021, c. 324, §2 (NEW).]

4. Adoption at meeting. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission. [PL 2021, c. 324, §2 (NEW).]

5. Notice. Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

A. On the website of the commission or other publicly accessible platform; and [PL 2021, c. 324, §2 (NEW).]

B. On the website of each member state occupational therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

6. Notice requirements. The notice of proposed rulemaking under subsection 5 must include:

A. The proposed time, date and location of the meeting at which the rule will be considered and voted upon; [PL 2021, c. 324, §2 (NEW).]

B. The text of the proposed rule and the reason for the proposed rule; [PL 2021, c. 324, §2 (NEW).]

C. A request for comments on the proposed rule from any interested person; and [PL 2021, c. 324, §2 (NEW).]

D. The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

7. Comments. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which must be made available to the public.
[PL 2021, c. 324, §2 (NEW).]

8. Opportunity for public hearing. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

A. At least 25 persons; [PL 2021, c. 324, §2 (NEW).]

B. A state or federal governmental subdivision or agency; or [PL 2021, c. 324, §2 (NEW).]

C. An association or organization having at least 25 members. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

9. Notice of hearing. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

A. A person wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of the person's desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing. [PL 2021, c. 324, §2 (NEW).]

B. A hearing must be conducted in a manner that provides each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. [PL 2021, c. 324, §2 (NEW).]

C. All hearings must be recorded. A copy of the recording must be made available on request.
[PL 2021, c. 324, §2 (NEW).]

D. Nothing in this subsection may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

10. Consideration of comments. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.
[PL 2021, c. 324, §2 (NEW).]

11. No public hearing. If no written notice of intent to attend the public hearing by interested persons is received, the commission may proceed with promulgation of the proposed rule without a public hearing.
[PL 2021, c. 324, §2 (NEW).]

12. Final action. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.
[PL 2021, c. 324, §2 (NEW).]

13. Emergency rules. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, as long as the usual rulemaking procedures provided in the compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is a rule that must be adopted immediately in order to:

- A. Meet an imminent threat to public health, safety or welfare; [PL 2021, c. 324, §2 (NEW).]
- B. Prevent a loss of commission or member state funds; [PL 2021, c. 324, §2 (NEW).]
- C. Meet a deadline for the promulgation of an administrative rule that is established by federal law or regulation; or [PL 2021, c. 324, §2 (NEW).]
- D. Protect public health and safety. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

14. Revisions. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions must be posted on the publicly accessible website of the commission. The revision is subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2297. Oversight, dispute resolution and enforcement

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Oversight. This subsection governs enforcement and proceedings under the compact.

A. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact have standing as statutory law. [PL 2021, c. 324, §2 (NEW).]

B. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the commission. [PL 2021, c. 324, §2 (NEW).]

C. The commission is entitled to receive service of process in any proceeding under paragraph B and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact or promulgated rules. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

2. Default, technical assistance and termination. This subsection governs default, technical assistance and termination under the compact.

A. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(1) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission; and

(2) Provide remedial training and specific technical assistance regarding the default. [PL 2021, c. 324, §2 (NEW).]

B. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default. [PL 2021, c. 324, §2 (NEW).]

C. Termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states. [PL 2021, c. 324, §2 (NEW).]

D. A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination. [PL 2021, c. 324, §2 (NEW).]

E. The commission may not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting or terminating state. [PL 2021, c. 324, §2 (NEW).]

F. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

3. Dispute resolution. This subsection governs dispute resolution under the compact.

A. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states. [PL 2021, c. 324, §2 (NEW).]

B. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

4. Enforcement. This subsection governs enforcement under the compact.

A. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact. [PL 2021, c. 324, §2 (NEW).]

B. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees. [PL 2021, c. 324, §2 (NEW).]

C. The remedies in this chapter are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law. [PL 2021, c. 324, §2 (NEW).]
[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2298. Date of implementation of compact; associated rules; withdrawal; construction; amendments

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

1. Effective date. This compact becomes effective on the date on which the compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, are limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rule-making powers necessary to the implementation and administration of the compact.

[PL 2021, c. 324, §2 (NEW).]

2. Effect of rules adopted by compact on member states. A state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the date the compact becomes law in that state.

[PL 2021, c. 324, §2 (NEW).]

3. Withdrawal. A member state may withdraw from this compact by enacting a statute repealing the compact.

A. A member state's withdrawal does not take effect until 6 months after enactment of the repealing statute. [PL 2021, c. 324, §2 (NEW).]

B. Withdrawal does not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this Act prior to the effective date of withdrawal. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

4. Construction. Nothing in this compact may be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

[PL 2021, c. 324, §2 (NEW).]

5. Amendments. This compact may be amended by the member states. An amendment to this compact does not become effective and binding upon any member state until it is enacted into the statutes of all member states.

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2299. Construction and severability

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

This compact must be liberally construed so as to effectuate its purposes. The provisions of this compact are severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability of this compact to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person or circumstance are not affected. If this compact is held to be contrary to the constitution of any member

state, the compact remains in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters. [PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

§2300. Binding effect of compact and other laws

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 32, §2298, sub-§1)

A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with the compact. Any laws in a member state in conflict with the compact are superseded to the extent of the conflict. Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states. All agreements between the commission and the member states are binding in accordance with their terms. If any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state. [PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

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