

§10–101. Definitions

- **(a) In general.** -- In this title the following words have the meanings indicated.
- **(b) ACOTE.** -- “ACOTE” means the Accreditation Council for Occupational Therapy Education.
- **(c) Aide.** -- “Aide” means any individual who:
 - (1) Is not licensed by the Board to perform occupational therapy or limited occupational therapy; and
 - (2) Provides supportive services to the occupational therapist or occupational therapy assistant under direct supervision.
- **(d) Board.** -- “Board” means the State Board of Occupational Therapy Practice.
- **(e) Direct supervision.** -- “Direct supervision” means supervision provided on a face-to-face basis by a supervising therapist when delegated client-related tasks are performed.
- **(f) License.** -- “License” means, unless the context requires otherwise, a license issued by the Board to practice:
 - (1) Occupational therapy; or
 - (2) Limited occupational therapy.
- **(g) Licensed occupational therapist.** -- “Licensed occupational therapist” means, unless the context requires otherwise, an occupational therapist who is licensed by the Board to practice occupational therapy.
- **(h) Licensed occupational therapy assistant.** -- “Licensed occupational therapy assistant” means, unless the context requires otherwise, an occupational therapy assistant who is licensed by the Board to practice limited occupational therapy.
- **(i) Limited occupational therapy. –**
 - (1) “Limited occupational therapy” means participation, while under the periodic supervision of a licensed occupational therapist, in:
 - (i) An initial screening and evaluation that applies the principles and procedures of occupational therapy; and
 - (ii) A treatment program that applies the principles and procedures of occupational therapy.
 - (2) “Limited occupational therapy” does not include:
 - (i) Initiation and interpretation of evaluation data; and
 - (ii) Initiation of a treatment program before the client has been evaluated and a licensed occupational therapist has rendered a treatment plan.
- **(j) NBCOT.** -- “NBCOT” means the National Board for Certification in Occupational Therapy.
- **(k) Occupational therapist.** -- “Occupational therapist” means an individual who practices occupational therapy.

- **(l) Occupational therapy.** -- “Occupational therapy” means the therapeutic use of purposeful and meaningful goal-directed activities to evaluate, consult, and treat individuals who:
 - (1) Have a disease or disorder, impairment, activity limitation, or participation restriction that interferes with their ability to function independently in daily life roles; or
 - (2) Benefit from the prevention of impairments and activity limitations.
- **(m) Occupational therapy assistant.** -- “Occupational therapy assistant” means an individual who practices limited occupational therapy.
- **(n) Occupational therapy practice; limited occupational therapy practice.** -- “Occupational therapy practice” or “limited occupational therapy practice” means to carry out a treatment program that applies the principles and procedures of occupational therapy.
- **(o) Occupational therapy principles.** -- “Occupational therapy principles” include:
 - (1) The use of therapeutic activities that promote independence in daily life roles;
 - (2) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes;
 - (3) In order to enhance performance, the adaption of task, process, or the environment, or the teaching of compensatory techniques;
 - (4) Methods and techniques for preventing disability that facilitate the development or safe application of performance skills;
 - (5) Health promotion strategies and practices that enhance performance abilities; and
 - (6) Education, instruction, and research in the practice of occupational therapy.
- **(p) Occupational therapy procedures. –**
 - (1) Occupational therapy procedures” include:
 - (i) Developing, improving, sustaining, or restoring skills in activities of daily living, work, or productive activities, including:
 1. Instrumental activities of daily activity; and
 2. Play and leisure activities;
 - (ii) Developing, remediating, or restoring sensorimotor, perceptual, cognitive, or psychological components of performance;
 - (iii) Designing, fabricating, applying, or training in the use of assistive technology, splinting, or orthotic devices, including training in the use of prosthetic devices;
 - (iv) Adapting environments and processes, including the application of ergonomic principles to enhance performance and safety in daily life roles;

- (v) Applying physical agent modalities as adjuncts to or in preparation for purposeful activity with appropriate training, as specified by the Board in regulations;
 - (vi) Promoting safe, functional mobility in daily life tasks;
 - (vii) Providing intervention in collaboration with the client, the client's family, the client's caregiver, or others;
 - (viii) Educating the client, the client's family, the client's caregiver, or others in carrying out appropriate nonskilled interventions; and
 - (ix) Consulting with groups, programs, organizations, and communities to provide population-based services.
- (2) Occupational therapy procedures" do not include the adjustment or manipulation of any of the osseous structures of the body or spine.
- **(q) On-site supervision.** -- "On-site supervision" means supervision in which a supervisor is immediately available on a face-to-face basis when client procedures are performed or as otherwise necessary.
 - **(r) Periodic supervision.** --
 - (1) "Periodic supervision" means supervision by a licensed occupational therapist on a face-to-face basis, occurring the earlier of at least:
 - (i) Once every 10 therapy visits; or
 - (ii) Once every 30 calendar days.
 - (2) "Periodic supervision" includes:
 - (i) Chart review; and
 - (ii) Meetings to discuss client treatment plans, client response, or observation of treatment.
 - **(s) Supervision.** -- "Supervision" means aid, direction, and instruction provided by an occupational therapist to adequately ensure the safety and welfare of clients during the course of occupational therapy.
 - **(t) Temporary license.** -- "Temporary license" means a license issued by the Board under and as limited by § 10-313 of this title to practice:
 - (1) Occupational therapy; or
 - (2) Limited occupational therapy.

§10–102. Scope of title

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

§10–201. Board established

There is a State Board of Occupational Therapy Practice in the Department.

§10–202. Board membership

- **(a) Composition; appointment of members. –**
 - (1) The Board consists of seven members.
 - (2) Of the seven Board members:
 - (i) Four shall be licensed occupational therapists;
 - (ii) One shall be a licensed occupational therapy assistant; and
 - (iii) Two shall be consumer members.
 - (3) The Governor shall appoint the occupational therapist members and the occupational therapy assistant member, with the advice of the Secretary, from a list of names submitted to the Secretary and the Governor by the Maryland Occupational Therapy Association.
 - (4) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.
- **(b) Qualifications of occupational therapist members and occupational therapy assistant member. --** Each member who is an occupational therapist or an occupational therapy assistant shall:
 - (1) Be a resident of this State at the time of nomination and appointment and for the duration of the term of the member; and
 - (2) For at least 3 of the 5 years immediately before appointment have been engaged in:
 - (i) Practicing occupational therapy or limited occupational therapy;
 - (ii) Teaching occupational therapy; or
 - (iii) Performing research in occupational therapy.
- **(c) Qualifications of consumer member – In general. --** Each consumer member of the Board:
 - (1) Shall be a member of the general public;
 - (2) May not be or ever have been an occupational therapist or occupational therapy assistant or in training to become an occupational therapist or occupational therapy assistant;
 - (3) May not have a household member who is an occupational therapist or occupational therapy assistant or in training to become an occupational therapist or occupational therapy assistant;
 - (4) May not participate or ever have participated in a commercial or professional field related to occupational therapy;
 - (5) May not have a household member who participates in a commercial or professional field related to occupational therapy; and
 - (6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.
- **(d) Qualifications of consumer member – Restriction. --** While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.
- **(e) Oath. --** Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

- **(f) Tenure; vacancies. –**
 - (1) The term of a member is 4 years.
 - (2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1994.
 - (3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
 - (4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
 - (5) A member may not serve more than two consecutive full terms.
 - (6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.
- **(g) Removal. –**
 - (1) The Governor may remove a member for incompetence or misconduct.
 - (2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from two successive Board meetings without adequate reason.

§10–203. Chairpersons

- **(a) In general. --** From among its members, the Board shall annually elect one or more chairpersons.
- **(b) Elections; terms; duties. --** The Board shall determine:
 - (1) The manner of election of the chairpersons;
 - (2) The term of office of the chairpersons; and
 - (3) The duties of the chairpersons.

§10–204. Quorum; meetings; compensation; Executive Director; staff

- **(a) Quorum. --** A majority of the full authorized membership of the Board is a quorum.
- **(b) Meetings. --** The Board shall meet at least once every 2 months, at the times and places that it determines.
- **(c) Compensation and reimbursement for expenses. --** Each member of the Board is entitled to:
 - (1) Compensation in accordance with the budget of the Board; and
 - (2) Reimbursement for expenses at a rate determined by the Board.
- **(d) Executive Director; staff. –**
 - (1) The Board shall appoint an Executive Director of the Board that serves at the pleasure of the Board as its executive officer.
 - (2) In accordance with the budget of the Board, the Board may employ:
 - (i) A staff; and
 - (ii) Any experts and consultants necessary to obtain information and advice that relate to occupational therapy.

§10–205. Miscellaneous powers and duties

(a) Powers. -- In addition to the powers set forth elsewhere in this title, the Board may adopt:

- (1) Rules and regulations to carry out the provisions of this title;
- (2) A code of ethics for licensees; and
- (3) In consultation with the State Board of Physical Therapy Examiners and the Board of Chiropractic Examiners, regulations that recognize occupational therapists and occupational therapy assistants who have acquired advanced practice skills.

(b) Duties. -- In addition to the duties set forth elsewhere in this title, the Board shall:

- (1) Keep records and minutes necessary for the orderly conduct of business;
- (2) Keep a list of each currently licensed occupational therapist and occupational therapy assistant; and
- (3) Investigate an alleged violation of this title.

§10–206. State Board of Occupational Therapy Practice Fund – Establishment of fees; disposition of funds

(a) State Board of Occupational Therapy Practice Fund established. -- There is a State Board of Occupational Therapy Practice Fund.

(b) Establishment of fees. –

(1) The Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board.

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) Disposition of funds. –

(1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Occupational Therapy Practice Fund.

(d) Fund – Uses; nature; reversion; funding. –

(1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

(2) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this article.

(4) No other State money may be used to support the Fund.

(e) Fund – Administration; expenditures. –

(1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

(f) Fund – Audits. -- The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

§10–207. Good faith exemption from civil liability

A person shall have the immunity from liability described under § 5-711 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

§10–301. License required; exceptions

(a) In general. -- Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice occupational therapy or limited occupational therapy in this State.

(b) Exceptions. -- This section does not apply to:

- (1) An individual employed by the federal government as an occupational therapist or an occupational therapy assistant, while practicing within the scope of that employment;
- (2) A student or trainee who is designated as a student or trainee, while:
 - (i) Fulfilling a field work requirement under § 10-302 of this subtitle; or
 - (ii) Pursuing a supervised course of study in an accredited or approved educational program leading to a degree or certificate in:
 1. Occupational therapy; or
 2. Occupational therapy assistant;
- (3) Subject to the regulations adopted by the Board, an aide who supports the practice of occupational therapy or the practice of limited occupational therapy, if the aide:
 - (i) Works only under the direct supervision of a licensed occupational therapist or occupational therapy assistant and subject to the occupational therapist's responsibility for supervision, as provided by this subtitle; and
 - (ii) Performs only support activities that do not require training in the basic anatomical, biological, psychological, and social sciences used in the practice of occupational therapy;
- (4) An occupational therapist who is authorized to practice occupational therapy in any other jurisdiction, if the occupational therapist practices occupational therapy in this State for the purpose of educating, consulting, and training, for the duration of the purpose, as preapproved by the Board; or

- (5) An occupational therapy assistant who is authorized to practice limited occupational therapy in any other jurisdiction, if the occupational therapy assistant practices limited occupational therapy in this State for the purpose of educating, consulting, and training, for the duration of the purpose, as preapproved by the Board.

§10–302. Qualifications of applicants

- (a) **In general.** -- To qualify for a license, an applicant shall be an individual who meets the requirements of this section.
- (b) **Moral character.** -- The applicant shall be of good moral character.
- (c) **Age.** -- The applicant shall be at least 18 years old.
- (d) **Education and experience – Occupational therapist license.** -- An applicant for an occupational therapist license shall have successfully:
- (1) Graduated from an educational program in occupational therapy that is recognized by the Board and accredited by ACOTE or any other nationally recognized programmatic accrediting agency; and
 - (2) Completed the equivalent of at least 6 months of supervised, full–time field work experience at a recognized educational institution or in a training program approved by the educational institution where the applicant met the academic requirements.
- (e) **Education and experience – Occupational therapy assistant license.** -- An applicant for an occupational therapy assistant license shall have successfully:
- (1) Graduated from an educational program for occupational therapy assistants that is recognized by the Board and accredited by ACOTE or any other nationally recognized programmatic accrediting agency; and
 - (2) Completed the equivalent of at least 4 months of supervised, full–time field work experience at a recognized educational institution or in a training program approved by the educational institution where the applicant met the academic requirements.
- (f) **Examination.** -- The applicant shall pass the appropriate examination given by NBCOT or any other national credentialing organization approved by the Board.
- (g) **Criminal history records check.** -- The applicant shall submit to a criminal history records check in accordance with § 10–302.1 of this subtitle.

§10–302.1. Information to be submitted to Central Repository; confidentiality

- (a) **“Central Repository defined.** -- In this section, “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.
- (b) **Required submissions.** -- As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

- (1) One complete set of legible fingerprints taken in a manner approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;
- (2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and
- (3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) Central Repository to forward information to Board and applicant. -- In accordance with §§ 10–201 through 10–229 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) Revised information. -- If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide to the Board a revised printed statement of the individual's State criminal history record.

(e) Confidentiality and use of information. -- Information obtained from the Central Repository under this section:

- (1) Is confidential;
- (2) May not be disseminated; and
- (3) Shall be used only for the licensing purpose authorized by this title.

(f) Contest by subject. -- The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

§10–303. Waiver of education and experience requirements

(a) Occupational therapist license. –

- (1) The Board shall waive the education and experience requirements of § 10-302(d) of this subtitle for an applicant for an occupational therapist license:
 - (i) Who applied for a license before July 1, 1979;
 - (ii) Whose principal residence is in this State;
 - (iii) Who presents to the Board satisfactory evidence that the applicant practiced occupational therapy in this State for at least 2 years before July 1, 1979; and
 - (iv) Who has a baccalaureate degree in a health science from an accredited college or university.
- (2) Except for an applicant who was licensed as an occupational therapy assistant under subsection (b) of this section, the Board shall waive the education requirements of § 10-302(d) of this subtitle for an applicant for an occupational therapist license who has:

- (i) Practiced limited occupational therapy for at least 4 years either as a licensed occupational therapy assistant or as an occupational therapy assistant certified by the American Occupational Therapy Association; and

- (ii) Had at least 6 months full-time supervised field work experience.

(b) Occupational therapy assistant license. -- The Board shall waive the requirements of § 10-302(e) of this subtitle for an applicant for an occupational therapy assistant license:

- (1) Who applied for a license before July 1, 1979;
- (2) Whose principal residence is in this State;
- (3) Who presents to the Board satisfactory evidence that the applicant has practiced limited occupational therapy in this State for at least 2 years before July 1, 1979; and
- (4) Who has a high school diploma or has completed successfully a high school equivalency examination or program.

§10–304. Applications for licenses

(a) In general. -- To apply for a license, an applicant shall:

- (1) Submit an application to the Board in the form required by the Board;
- (2) Pay to the Board the application fee set by the Board; and
- (3) Submit to a State and national criminal history records check in accordance with § 10–302.1 of this subtitle.

(b) Deadline for application if examination required. -- If an applicant is required under this title to take an examination, the applicant shall submit the application and fee at least 30 days before the date of the examination that the applicant is required to take.

§10–305. Examinations

(a) Right to examination. -- An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) Time and place of examination. -- The Board shall give examinations at least twice a year, at the times and places that the Board determines, to applicants for:

- (1) An occupational therapist license; and
- (2) An occupational therapy assistant license.

(c) Notice of examination. -- The Board shall notify each qualified applicant of the time and place of examination.

(d) Subjects and method of examination. --

- (1) The Board shall determine the subjects, scope, form, and standards for acceptable performance for examinations given under this subtitle.
- (2) The subjects examined shall include:
 - (i) The basic and clinical sciences that relate to occupational therapy;
 - (ii) The theory and practice of occupational therapy;
 - (iii) The professional skills used in the practice of occupational therapy or limited occupational therapy; and

(iv) Judgment in using occupational therapy techniques and methods.

(e) **Rights of applicant.** In accordance with the rules and regulations of the Board, an applicant may obtain the applicant's score and review the applicant's examination papers.

§10–306. Waiver of examination requirement

(a) **In general.** -- Subject to the provisions of this section, the Board may waive any examination requirement of this subtitle for an applicant who is licensed in any other state to practice:

- (1) Occupational therapy; or
- (2) Limited occupational therapy or its equivalent.

(b) **Conditions.** -- The Board may grant a waiver under this section only if the applicant:

- (1) Pays the application fee set by the Board under § 10-304 of this subtitle; and
- (2) Provides adequate evidence that the applicant:
 - (i) Meets the qualifications otherwise required by this title; and
 - (ii) Became licensed in the other state after meeting requirements in that or any other state that are at least equivalent to the requirements of this State.

§10–307. Waiver – Nationally certified applicants

(a) **Mandatory waiver.** -- Subject to the provisions of this subsection, the Board shall waive the appropriate examination requirement of this title for an applicant who:

- (1) Pays the application fee set by the Board under § 10-304 of this subtitle; and
- (2)
 - (i) If applying for an occupational therapist license, was certified by the American Occupational Therapy Certification Board as an occupational therapist registered (O.T.R.) at any time before July 1, 1979; or
 - (ii) If applying for an occupational therapy assistant license, was certified by the American Occupational Therapy Certification Board as a certified occupational therapy assistant (C.O.T.A.) at any time before July 1, 1979.

(b) **Discretionary waiver.** -- The Board may grant a waiver of the appropriate examination requirement of this subtitle to an applicant for an occupational therapist license who, on or after July 1, 1979, is certified by the American Occupational Therapy Certification Board as an occupational therapist registered (O.T.R.), or to an applicant for an occupational therapy assistant license who, on or after July 1, 1979, is certified by the American Occupational Therapy Certification Board as a certified occupational therapy assistant (C.O.T.A.), only if the applicant:

- (1) Pays the application fee set by the Board under § 10-304 of this subtitle; and
- (2) Provides adequate evidence that the applicant became certified after meeting requirements that are at least equivalent to the licensing requirements of this State.

§10–308. Issuance of license

(a) In general. -- Subject to subsection (d) of this section, the Board shall license an applicant who meets the requirements of this title for that license.

(b)

(1) The Board shall maintain an electronic roster of each individual licensed by the Board.

(2) The roster shall be available for the purpose of electronically verifying licensure through the Board's website or a mobile application issued by the Board.

(3) Individuals without access to the Board's website or the mobile application may contact the Board to verify a license.

(c) Proof of licensing required-- Licensees shall present evidence of licensure to:

(1) An employer as part of the employment process; and

(2) A client at the request of the client or the client's designated decision maker.

(d) Consideration of criminal history record information; receipt required. –

(1) On receipt of the criminal history record information of an applicant for licensure forwarded to the Board in accordance with § 10–302.1 of this subtitle, in determining whether to grant a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The nature of the crime;

(iii) The circumstances surrounding the crime;

(iv) The length of time that has passed since the crime;

(v) Subsequent work history;

(vi) Employment and character references; and

(vii) Any other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not license an applicant if the criminal history record information required under § 10–302.1 of this subtitle has not been received.

§10–309. Scope of occupational therapist license

An occupational therapist license authorizes the licensee to practice occupational therapy while the license is effective.

§10–310. Scope of occupational therapist license

(a) In general. -- Subject to subsection (b) of this section, an occupational therapy assistant license authorizes the licensee to practice limited occupational therapy while the license is effective.

(b) Supervision required, -- A licensed occupational therapy assistant may practice limited occupational therapy only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this State.

§10–311. Term and renewal of licenses

(a) **Term of license.** A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) **Renewal notice.** -- At least 1 month before the license expires, the Board shall send to the licensee, by electronic means or first-class mail to the last known electronic or physical address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and
- (3) The amount of the renewal fee.

(c) **Application for renewal.** -- Except as otherwise provided in this title, before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

- (1) Otherwise is entitled to be licensed;
- (2) Pays to the Board a renewal fee set by the Board; and
- (3) Submits to the Board:
 - (i) A renewal application on the form that the Board requires;
 - (ii) Satisfactory evidence of compliance with any continuing competency requirements and other qualifications and requirements set under this section for license renewal; and
 - (iii) Satisfactory evidence of having completed a State and national criminal history records check in accordance with § 10–302.1 of this subtitle.

(d) **Continuing competency.**-- In addition to any other qualifications and requirements established by the Board, the Board may establish continuing competency requirements as a condition to the renewal of licenses under this section

(e) **Issuance of renewal.** -- Subject to subsection (g) of this section, the Board shall renew the license of each licensee who meets the requirements of this section.

(f) **Grace period.** -- The Board shall renew the license of an occupational therapist or an occupational therapy assistant who has failed to renew the license for any reason if the occupational therapist or occupational therapy assistant:

- (1) Applies for renewal within 30 days after the deadline for renewal;
- (2) Meets the renewal requirements of this section;
- (3) Pays to the Board the renewal fee set by the Board; and
- (4) Pays to the Board the late fee set by the Board.

(g) **Consideration of criminal history record information; receipt required; resubmission not required.** –

(1) On receipt of the criminal history record information of an applicant for licensure forwarded to the Board in accordance with § 10–302.1 of this subtitle, in determining whether to grant a license, the Board shall consider:

- (i) The age at which the crime was committed;
- (ii) The nature of the crime;
- (iii) The circumstances surrounding the crime;
- (iv) The length of time that has passed since the crime;
- (v) Subsequent work history;

(vi) Employment and character references; and
(vii) Any other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

(2) The Board may not renew a license if the criminal history record information required under § 10–302.1 of this subtitle has not been received.

(3) Unless otherwise required, a renewal applicant who has previously completed the criminal history records check as required for the Board’s application process does not have to submit to a subsequent criminal history records check for license renewal.

§10–312. Reinstatement upon failure to renew

The Board may reinstate the license of an occupational therapist or an occupational therapy assistant who has failed to renew the license for any reason, and who applies for reinstatement more than 30 days after the license renewal deadline, if the occupational therapist or occupational therapy assistant:

- (1) Meets the renewal requirements of § 10-311 of this subtitle;
- (2) Pays to the Board the reinstatement fee set by the Board;
- (3) Provides documentation of successfully completing the continuing education requirements established by the Board; and
- (4) Completes any other requirements established by regulation.

§10–313. Temporary licenses

(a) **Authority to issue.** -- The Board may issue a temporary license to an applicant who, except for passing an examination otherwise required under this subtitle, has met the appropriate education and experience requirements of this subtitle for an occupational therapist license or an occupational therapy assistant license under § 10-302 of this subtitle.

(b) **Scope –**

(1) A temporary license issued to an occupational therapist authorizes the holder to practice occupational therapy only under the on-site supervision of an occupational therapist who is authorized to practice in this State.

(2) A temporary license issued to an occupational therapy assistant authorizes the holder to practice limited occupational therapy only under the on-site supervision of an occupational therapist or an occupational therapy assistant who is authorized to practice in this State.

(c) **Term.** -- A temporary license is valid until:

(1) Notification of expiration by the Board for the licensee’s failure to successfully complete the exam;

(2) Notification of suspension for the licensee’s failure to submit exam results to the Board; or

(3) Notification of permanent licensure.

(d) **Issuing limitation.** -- The Board may not issue more than two temporary licenses to an individual.

§10–314. Surrender of license

(a) In general. -- Unless the Board agrees to accept the surrender of a license, a licensed occupational therapist, licensed occupational therapy assistant, or holder of a limited or temporary license may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

(b) Conditions. -- The Board may set conditions on its agreement with the licensee under investigation or against whom charges are pending to accept surrender of the license.

§10–315. Denials, reprimands, suspensions, and revocations – Grounds

Subject to the hearing provisions of § 10–316 of this subtitle, the Board may deny a license or temporary license to any applicant, reprimand any licensee or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke a license or temporary license if the applicant, licensee, or holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or temporary license for the applicant, licensee, or holder or for another;
- (2) Fraudulently or deceptively uses a license or temporary license;
- (3) Commits any act of gross negligence, incompetence, or misconduct in the practice of occupational therapy or limited occupational therapy;
- (4) Knowingly violates any provision of this title;
- (5) Violates any rule or regulation of the Board, including any code of ethics adopted by the Board;
- (6) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (7) Aids or abets an unauthorized individual in the practice of occupational therapy or limited occupational therapy;
- (8) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;
- (10) Willfully makes or files a false report or record in the practice of occupational therapy or limited occupational therapy;
- (11) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (12) Submits a false statement to collect a fee;

(13) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive; or

(14) Fails to submit to a criminal history records check in accordance with § 10–302.1 of this subtitle.

§10–316. Hearings

(a) Right to hearing. -- Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 10-315 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(b) Hearing by committee. –

(1) The Board chairman may delegate the authority to conduct a hearing to a committee consisting of two or more Board members.

(2) The committee shall:

(i) Hold an evidentiary hearing; and

(ii) Prepare a recommended decision for consideration by a quorum of the Board.

(3) The committee shall give notice to the individual of the opportunity to file exceptions and present argument to the Board regarding the recommended decision.

(c) Application of Administrative Procedure Act. -- The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(d) Specific notice requirements. -- The hearing notice to be given to the individual shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of the individual at least 30 days before the hearing.

(e) Right to counsel. -- The individual may be represented at the hearing by counsel.

(f) Subpoenas and oaths. -- Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(g) Contempt of court. -- If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

(h) Ex parte hearing. -- If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§10–317. Review.

(a) In general. -- Except as provided in this section for an action under § 10–315 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may petition for judicial review as allowed by the Administrative Procedure Act.

(b) Action under §10-315. -- Any person aggrieved by a final decision of the Board under § 10–315 of this subtitle may not appeal to the Secretary but may take a direct judicial appeal as provided in the Administrative Procedure Act.

§10–317.1. Injunctions

(a) Authorized. -- An action may be maintained in the name of the State or the Board to enjoin:

- (1) The unauthorized practice of occupational therapy or limited occupational therapy; or
- (2) Conduct that is grounds for disciplinary action under § 10-315 of this subtitle.

(b) Standing conferred. -- An action under this section may be brought by:

- (1) The Board;
- (2) The Attorney General, in the name of the State; or
- (3) A State’s Attorney in the name of the State.

(c) Venue. -- An action under this section may be brought in the county where:

- (1) The defendant resides; or
- (2) The defendant engaged in the act sought to be enjoined.

(d) Damages not required. -- Proof that damage or possible damage will be incurred if an injunction is not granted is not required for an action under this section.

(e) An action under this section does not preclude a criminal prosecution for the unauthorized practice of occupational therapy under § 10-401 of this title or disciplinary action under § 10-315 of this subtitle.

§10–318. Reinstatement of revoked license

On the application of an individual whose license has been revoked, the Board, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

§10–319. Impaired occupational therapist professionals committees

- **(a) “Impaired occupational therapist professionals committee” defined.** -- In this section, “impaired occupational therapist professionals committee” means a committee that:
 - (1) Is defined in subsection (b) of this section; and
 - (2) Performs any of the functions listed in subsection (d) of this section.
- **(b) In general.** -- For purposes of this section, an impaired occupational therapist professionals committee is a committee of the Board or a committee of the Maryland Occupational Therapy Association that:
 - (1) Is recognized by the Board; and
 - (2) Includes but is not limited to occupational therapists.
- **(c) Scope of authority.** -- An impaired occupational therapist professionals committee of the Board or recognized by the Board may function:
 - (1) Solely for the Board; or

- (2) Jointly with an impaired professionals committee representing another board or boards.
- **(d) Duties.** -- For purposes of this section, an impaired occupational therapist professionals committee evaluates and provides assistance to any occupational therapist or occupational therapy assistant in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.
- **(e) Discoverability and admissibility of proceedings, records and files.** –
 - (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the impaired occupational therapist professionals committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the impaired occupational therapist professionals committee.
 - (2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the impaired occupational therapist professionals committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.
 - (2) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.
 - (3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.
- **(f) Good faith exemption from civil liability.** -- A person who acts in good faith and within the scope of jurisdiction of an impaired occupational therapist professionals committee is not civilly liable for any action as a member of the impaired occupational therapist professionals committee or for giving information to, participating in, or contributing to the function of the impaired occupational therapist professionals committee.

§10–3A–01.

The Interstate Occupational Therapy Licensure Compact is enacted into law and entered into with all other states legally joining in it in the form substantially as it appears in this section as follows:

SECTION 1. PURPOSE.

The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. The Compact is designed to achieve the following objectives:

- (1) Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;
- (2) Enhance the states' ability to protect the public's health and safety;
- (3) Encourage the cooperation of member states in regulating multi–state occupational therapy practice;

- (4) Support spouses of relocating military members;
- (5) Enhance the exchange of licensure, investigative, and disciplinary information between member states;
- (6) 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
- (7) Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

SECTION 2. DEFINITIONS.

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

(1) "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 U.S.C. Chapter 1209 and Section 1211.

(2) "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.

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

(4) "Compact privilege" means the authorization, that 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/client is located at the time of the patient/client encounter.

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

(6) "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.

(7) "Data system" means a repository of information about licensees that includes, but is not limited to, license status, investigative information, compact privileges, and adverse actions.

(8) "Encumbered license" means a license with respect to which an adverse action restricts the practice of occupational therapy by the licensee or said adverse action has been reported to the National Practitioners Data Bank.

(9) "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.

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

(11) "Impaired practitioner" means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

(12) "Investigative information" means information, records, and/or documents

received or generated by an occupational therapy licensing board pursuant to an investigation.

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

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

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

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

(17) “Occupational therapy,” “occupational therapy practice,” and the “practice of occupational therapy” mean 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.

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

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

(20) “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.

(21) “Primary state of residence” means 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:

(i) A driver’s license;

(ii) A federal income tax return;

(iii) A lease;

(iv) A deed;

(v) A mortgage;

(vi) A voter registration; or

(vii) Other verifying documentation as defined by Commission rules.

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

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

(24) “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.

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

(26) “Telehealth” means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention and/or consultation.

SECTION 3. STATE PARTICIPATION IN THE COMPACT.

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

(1) License occupational therapists and occupational therapy assistants;

(2) Participate fully in the Commission’s data system, including, but not limited to, the use of the Commission’s unique identifier as defined in rules of the Commission;

(3) Have a mechanism in place for receiving and investigating complaints about licensees;

(4) 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;

(5) Implement or utilize procedures for considering the criminal history records of applicants for an initial compact privilege in accordance with subsection (b) of this section;

(6) Comply with the rules of the Commission;

(7) Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and

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

(b) (1) A member state shall, within a time frame established by the Commission, establish a process for requiring a criminal background check for a licensee applying for a compact privilege whose primary state of residence is that member state, that includes:

(i) Submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records; and

(ii) Receiving the results of the Federal Bureau of Investigation criminal record search and using the results in making licensure decisions.

(2) Communication between a member state and the Commission or 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 Public Law 92-544.

(c) 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.

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

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

(f) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each 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.

(g) Nothing in the Compact may affect the requirements established by a member state for the issuance of a single-state license.

SECTION 4. COMPACT PRIVILEGE.

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

(1) Hold a license in the home state;

(2) Have a valid United States Social Security number or national practitioner identification number;

(3) Have no encumbrance on any state license;

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

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

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

(7) Pay any applicable fees, including any state fee, for the compact privilege;
(8) Complete a criminal background check in accordance with subsection (b) of Section 3 and pay any fee associated with the completion of the criminal background check;

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

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

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

(c) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

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

(e) 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, and/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.

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

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

(2) Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with Section 4(f)(1).

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

(h) 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:

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

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

(3) Two years have elapsed from the date of completing requirements in items (1) and (2) of this subsection; and

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

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

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

SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE.

(a) 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.

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

(1) 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 new home state in accordance with applicable rules adopted by the Commission;

(2) 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 4 via the data system, without need for primary source verification except for:

(i) An FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92–544;

(ii) Other criminal background checks as required by the new home state; and

(iii) Submission of any requisite jurisprudence requirements of the new home state;

(3) 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;

(4) Notwithstanding any other provision of the Compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in subsection (a) of Section 4, the new home state shall apply its requirements for issuing a new single–state license; and

(5) 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.

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

(d) Nothing in the Compact shall interfere with a licensee’s ability to hold a single–state license in multiple states. However, for the purposes of this Compact, a licensee shall have only one home state license.

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

SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES.

(a) Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing.

(b) The individual may retain the home state designation during the period the service member is on active duty.

(c) Subsequent to designating a home state, the individual shall only change the individual’s home state through application for licensure in the new state or through the process described in Section 5.

SECTION 7. ADVERSE ACTIONS.

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

(b) In addition to the other powers conferred by state law, a remote state shall have the

authority, in accordance with existing state due process law, to:

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

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas 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 shall 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.

(c) For 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. In so doing, the home state shall apply its own state laws to determine appropriate action.

(d) The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The home state, where the investigations were initiated, shall also have the authority to take appropriate action(s) 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 actions.

(e) 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.

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

(g) (1) 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.

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

(h) 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 shall 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 shall 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.

(i) 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.

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

SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION.

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

(2) The Commission is an instrumentality of the member states.

(3) Venue is proper and judicial proceedings by or against the Commission shall 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.

(4) Nothing in the Compact shall be construed to be a waiver of sovereign immunity.

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

(2) The delegate shall be:

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

(ii) An administrator of the licensing board.

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

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

(5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

(6) 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.

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

(8) The Commission shall establish by rule a term of office for delegates.

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

(1) Establish a code of ethics for the Commission;

(2) Establish the fiscal year of the Commission;

(3) Establish bylaws;

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

(5) Meet and take such actions as are consistent with the provisions of the Compact and the bylaws;

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

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

(8) Purchase and maintain insurance and bonds;

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

(10) 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;

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

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

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

(14) Establish a budget and make expenditures;

(15) Borrow money;

(16) 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 the Compact and the bylaws;

(17) Provide and receive information from, and cooperate with, law enforcement agencies;

(18) Establish and elect an Executive Committee; and

(19) Perform such other functions as may be necessary or appropriate to achieve the purposes of the Compact consistent with the state regulation of occupational therapy licensure and practice.

(d) (1) The Executive Committee shall have the power to act on behalf of the Commission according to the terms of the Compact.

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

(i) Seven voting members who are elected by the Commission from the current membership of the Commission;

(ii) One ex-officio, nonvoting member from a recognized national occupational therapy professional association; and

(iii) One ex-officio, nonvoting member from a recognized national occupational therapy certification organization.

(3) The ex-officio members will be selected by their respective organizations.

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

(5) The Executive Committee shall meet at least annually.

(6) The Executive Committee shall have the following duties and responsibilities:

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

(ii) Ensure Compact administration services are appropriately provided, contractual or otherwise;

(iii) Prepare and recommend the budget;

(iv) Maintain financial records on behalf of the Commission;

(v) Monitor Compact compliance of member states and provide compliance reports to the Commission;

(vi) Establish additional committees as necessary; and

(vii) Perform other duties as provided in rules or bylaws.

(e) (1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 10.

(2) The Commission or the Executive Committee or other committees of the

Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

- (i) Non-compliance of a member state with its obligations under the Compact;
- (ii) 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;
- (iii) Current, threatened, or reasonably anticipated litigation;
- (iv) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- (v) Accusing any person of a crime or formally censuring any person;
- (vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- (vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (viii) Disclosure of investigative records compiled for law enforcement purposes;
- (ix) 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
- (x) Matters specifically exempted from disclosure by federal or member state statute.

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

(4) The Commission shall keep minutes that fully and clearly describe all

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

(g) (1) The members, officers, executive director, employees and representatives of the Commission shall be 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; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) 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; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from

that person's intentional or willful or wanton misconduct.

(3) 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 such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9. DATA SYSTEM.

(a) 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.

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

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

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

(d) 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 will be available to any other member state.

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

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

SECTION 10. RULEMAKING.

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

(b) The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

(c) 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 four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

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

(e) 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:

- (1) On the website of the Commission or other publicly accessible platform; and
- (2) 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.

(f) The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

(h) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by: (1) At least 25 persons; (2) A state or federal governmental subdivision or agency; or (3) An association or organization having at least 25 members.

(i) (1) 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.

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

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

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

(5) Nothing in this section shall 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.

(j) 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.

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

(l) 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 rulemaking record and the full text of the rule.

(m) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be 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 provision, an emergency rule is one that must be adopted immediately in order to:

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

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

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

(4) Protect public health and safety.

(n) 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 shall be posted on the website of the Commission. The revision shall be 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 shall 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 will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.

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

(2) 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 the Compact which may affect the powers, responsibilities, or actions of the Commission.

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

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

(i) 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/or any other action to be taken by the Commission; and

(ii) Provide remedial training and specific technical assistance regarding the default.

(2) 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 the 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.

(3) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall 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.

(4) 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.

(5) 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 state.

(6) The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) (1) 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 non-member states.

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

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

(2) 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. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

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

SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT.

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

(b) Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be 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 shall have the full force and effect of law on the day the Compact becomes law in that state.

(c) (1) Any member state may withdraw from the Compact by enacting a statute repealing the Compact.

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

(3) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in the Compact shall be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of the Compact.

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

SECTION 13. CONSTRUCTION AND SEVERABILITY.

The Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of the Compact shall be 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 thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If the Compact is contrary to the constitution of any member state, the Compact shall remain 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.

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS.

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

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

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

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

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

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

§10–401. Practicing without license

- **(a) Practicing occupational therapy.** -- Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice occupational therapy in this State unless licensed to practice occupational therapy by the Board.
- **(b) Practicing limited occupational therapy.** -- Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice limited occupational therapy in this State unless licensed to practice limited occupational therapy by the Board.

§10–402. Misrepresentation – Occupational therapist

- **(a) In general.** -- Unless authorized to practice occupational therapy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this State.
- **(b) Certain representations prohibited.** -- Unless authorized to practice occupational therapy under this title, a person may not use the credentialing abbreviation “O.T.” or any other words, letters, or symbols with the intent to represent that the person practices occupational therapy.

§10–403. Misrepresentation – Limited occupational therapist

- **(a) In general.** -- Unless authorized to practice limited occupational therapy under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice limited occupational therapy in this State.
- **(b) Certain representations prohibited.** -- Unless authorized to practice limited occupational therapy under this title, a person may not use the credentialing abbreviation “O.T.A.” or any other words, letters, or symbols with the intent to represent that the person practices limited occupational therapy.

§10–404. Providing occupational therapy

A person may not provide, attempt to provide, offer to provide, or represent that the person provides occupational therapy unless the occupational therapy is provided by an individual who is authorized to practice occupational therapy or limited occupational therapy under this title.

§10–405, 10-406.

Reserved

§10–407. Penalties

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

§10–501. Short title

This title may be cited as the “Maryland Occupational Therapy Practice Act”.

§10–502. Termination of title

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2025.