

AGENDA ITEM 8

REGULATORY UPDATE.

Rulemaking Files In Progress as of April 28, 2026

Title and Code Sections	Brief Description	Date Text Approved by Board	Rulemaking Docs Approved by Reg Affairs	Initial Filing Dates	Published in Notice Register and on Board Website	Modified Text (if applicable)	Final Filing Dates	Final Approval
Fees, 4130	Increase renewal fees for OTs from \$270 to \$300 and for OTAs from \$210 to \$300.	06.13.2025	Legal: 01.22.2026 Budget: 01.22.2026	Director: 01.22.2026 Agency: 03.04.2026 OAL: 04.06.2026	Published: 04.10.2026 45-Day Comment Period Ends: 05.26.2026 Final Filing Deadline: 04.10.2027	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:
Disciplinary Guidelines, 4147	Modifies the cost recovery term of the disciplinary guidelines to specify the amount of cost recovery ordered.	11.06.2025	Legal: Budget:	Director: Agency: OAL:	Published: 45-Day Comment Period Ends: Filing Deadline:	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:
Definitions, 4180 Supervision Parameters, 4181	Clarifies definitions for fieldwork, doctoral capstone students, accredited. Sets supervision limits for OTs and OTAs.	11.14.2024 02.27.2026	Legal: Budget:	Director: Agency: OAL:	Published: 45-Day Comment Period Ends: Filing Deadline:	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:

Rulemaking Files In Progress as of April 28, 2026

Title and Code Sections	Brief Description	Date Text Approved by Board	Rulemaking Docs Approved by Reg Affairs	Initial Filing Dates	Published in Notice Register and on Board Website	Modified Text (if applicable)	Final Filing Dates	Final Approval
Delegation of Certain Functions, 4101 Mental or Physical Examination of Fitness for Licensure, 4148	Delegates the Board's authority to order a mental or physical examination of an applicant to the executive officer.	11.15.2024 02.26.2026	Legal: Budget:	Director: Agency: OAL:	Published: 45-Day Comment Period Ends: Filing Deadline:	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:
Application Attestation, 4110.1 Renewal Attestation, 4122	Requires applicant and licensees to attest to having read and understood the laws and regs when accepting initial license or renewing.	08.18.2022 02.26.2026	Legal: Budget:	Director: Agency: OAL:	Published: 45-Day Comment Period Ends: Filing Deadline:	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:
Filing of Addresses and Changes of Name, 4102	Clarifies Address of Record vs, Residence Address, clarifies name change process, requires email to be reported.	08.24.2023 02.26.2026	Legal: Budget:	Director: Agency: OAL:	Published: 45-Day Comment Period Ends: Filing Deadline:	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:

Rulemaking Files In Progress as of April 28, 2026

Title and Code Sections	Brief Description	Date Text Approved by Board	Rulemaking Docs Approved by Reg Affairs	Initial Filing Dates	Published in Notice Register and on Board Website	Modified Text (if applicable)	Final Filing Dates	Final Approval
Continuing Competency, 4161	Implements additional subject requirements, acknowledges doctoral capstone supervision, exempts certain Board meetings from earning PDUs, implements 12-unit requirement for an initial license period greater than one year.	08.24.2023 06.13.2025	Legal: Budget:	Director: Agency: OAL:	Published: 45-Day Comment Period Ends: Filing Deadline:	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:
Completion and Reporting Requirements, 4162	Sets requirements for reporting structured mentoring, establishes certain rules for PDU audit process.	08.24.2023 02.26.2026	Legal: Budget:	Director: Agency: OAL:	Published: 45-Day Comment Period Ends: Filing Deadline:	Approved: Published: 15-Day Comment Period Ends:	Director: Agency: OAL:	OAL Adoption: Effective Date:

Rulemaking Files In Progress as of April 28, 2026

Title and Code Sections	Brief Description	Date Text Approved by Board	Rulemaking Docs Approved by Reg Affairs	Initial Filing Dates	Published in Notice Register and on Board Website	Modified Text (if applicable)	Final Filing Dates	Final Approval
<p>Enforcement Reform –</p> <p>AMEND 4101, 4110, 4141, 4146, 4147, 4148, 4148.5, 4149.1</p> <p>ADD 4146.1, 4146.7, 4146.8, 4147.7, 4149.6, 4149.7</p>	<p>Implements AB 2138, updates disciplinary guidelines, makes other various clarifying changes.</p>		<p>Legal:</p> <p>Budget:</p>	<p>Director:</p> <p>Agency:</p> <p>OAL:</p>	<p>Published:</p> <p>45-Day Comment Period Ends:</p> <p>Filing Deadline:</p>	<p>Approved:</p> <p>Published:</p> <p>15-Day Comment Period Ends:</p>	<p>Director:</p> <p>Agency:</p> <p>OAL:</p>	<p>OAL Adoption:</p> <p>Effective Date:</p>

Foreseeable Regulatory Action

Subject	Affected Sections	Priority	Status
Reduction of Advanced Practice Requirements	4151, 4152, 4153, 4155	1	The Board has approved language to reduce requirements for PAMs and Hand Therapy. The Practice committee will meet to make recommendations for Swallowing before the Boards votes to initiate a package that address all advanced practice areas.
Text for OTs to request more than three OTAs	TBD	2	Practice Committee to review and make recommendations to the Board.
Client record retention requirements when a business is closed/sold/inherited or if a practitioner is no longer in private practice	TBD	3	Practice Committee to review and make recommendations to the Board.

AGENDA ITEM 9

DISCUSSION AND POSSIBLE ACTION TO MODIFY THE EFFECTIVE DATE IN THE PENDING RULEMAKING TO AMEND SECTION 4130 (FEES) OF TITLE 16 OF THE CALIFORNIA CODE OF REGULATIONS (CCR).



MEMORANDUM

DATE	May 12, 2026
TO	Members of the Board of Occupational Therapy
FROM	Austin Porter, Executive Officer Board of Occupational Therapy
SUBJECT	Agenda Item 9: Discussion and possible action to modify the effective date in the pending rulemaking to amend Section 4130 (Fees) of title 16 of the California Code of Regulations (CCR).

Background

In June of 2025, the Board voted to initiate a rulemaking to amend Section 4130 (Fees) of title 16 of the CCR. The rulemaking makes changes to the renewal fees for occupational therapist and occupational therapy assistant licenses, effective July 1, 2026. The initial filing for the rulemaking was noticed by the Office of Administrative Law (OAL) and the Board on April 10, 2026, which marked the beginning of the mandatory 45-day public comment period. The comment period ends on May 26, 2026, and board staff have not received any comments as of the time of writing.

Before the rulemaking can be adopted, the Board must submit a final filing to OAL. OAL has 30 days to complete their review of the final rulemaking before adoption. Hence, to achieve an effective date of July 1, the final filing must be submitted by May 31, 2026.

As the outcome of the public comment period is not yet determined, it is possible that the final filing may not be submitted by May 31. Pursuant to Government Code Section 11343.4, rulemakings become effective on a quarterly basis. Therefore, if the final filing is not submitted by May 31, the next possible effective date for the fee increase would be October 1, 2026.

Action Requested

Staff requests that the Board authorize the Executive Officer to modify the effective date of the pending rulemaking on fees to October 1, 2026, in the event that a final filing is not submitted in time for a July 1, 2026, effective date.

Included Materials

- Proposed text with modified effective date.

Suggested Motion

“I move to authorize the Executive Officer, in the event that timely submission of a final filing for a July 1, 2026, effective date is not possible, to modify the effective date of the pending rulemaking to amend Section 4130 of title 16 of the CCR from July 1, 2026, to October 1, 2026, and take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 4130 of Title 16, California Code of Regulations as noticed, with the authority to make any technical or nonsubstantive changes.”

BOARD OF OCCUPATIONAL THERAPY

Title 16, Division 39, California Code of Regulations. California Board of Occupational Therapy

PROPOSED REGULATORY LANGUAGE

Fees

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
----------------	---

Amend section 4130 of Division 39, Title 16 of the California Code of Regulations to read as follows:

§ 4130. Fees

Fees are fixed by the board as follows:

- (a) The fee for processing an Initial Application for Licensure (Form ILA, Revised 7/2016) shall be fifty dollars (\$50).
- (b) The initial license fee for occupational therapists shall be prorated pursuant to Section 4120(a)(1) and based on the biennial renewal fee set forth below.
- (c) The initial license fee for occupational therapy assistants shall be prorated pursuant to Section 4120(a)(1) and based on the biennial renewal fee set forth below.
- (d) The fee for a limited permit shall be one hundred dollars (\$100).
- (e) The biennial renewal fee for an occupational therapists license that expires before October 1, 2026, shall be two hundred twentyseven dollars (\$~~220~~70). For licenses that expire on or after ~~January 1, 2021~~ October 1, 2026, the biennial renewal fee shall be ~~two hundred seventythree~~ three hundred dollars (\$~~270~~300).
- (f) The biennial renewal fee for an occupational therapy assistants license that expires before October 1, 2026, shall be one hundred eightytwo hundred ten dollars (\$~~180~~210). For licenses that expire on or after ~~January 1, 2021~~ October 1, 2026, the biennial renewal fee shall be ~~two hundred ten~~ three hundred dollars (\$~~210~~300).
- (g) The delinquency fee is one-half of the renewal fee.
- (h) The biennial renewal fee for an inactive license shall be the same as the biennial renewal fee for an active license.
- (i) The fee for an Application for Retired Status (Form ARS, New 7/2012), shall be twenty-five dollars (\$25).
- (j) The fee for a duplicate license shall be twenty five dollars (\$25).
- (k) The fees for fingerprint services are those charged by the California Department of Justice and the Federal Bureau of Investigation.

Note: Authority cited: Sections 122, 144, 163.5, and 2570.20, Business and Professions Code.

Reference: Sections 134, 144, 161, 462, 703, 2570.5, 2570.9, 2570.10, 2570.11, 2570.16, and 2570.17, Business and Professions Code.

AGENDA ITEM 10

DISCUSSION AND POSSIBLE ACTION TO CONSIDER INITIATION OF A RULEMAKING TO AMEND SECTIONS 4180 (DEFINITIONS) AND 4181 (SUPERVISION PARAMETERS) OF TITLE 16 OF THE CCR.



MEMORANDUM

DATE	May 13, 2026
TO	Members of the Board of Occupational Therapy
FROM	Austin Porter, Executive Officer Board of Occupational Therapy
SUBJECT	Agenda Item 10: Discussion and possible action to consider initiation of a rulemaking to amend Sections 4180 (<i>Definitions</i>) and 4181 (<i>Supervision Parameters</i>) of title 16 of the CCR

Background

On February 27, 2026, the Board was presented with and discussed proposed language to amend CCR sections 4180 (Definitions) and 4181 (Supervision Parameters). Discussion focused on finding clarification of the phrase “at any one time”, and whether it applied to all groups of supervisees in subsections (d) and (g). It was determined that the phrase should apply to all types of supervisees.

It was also brought the Board’s attention, through public comment, that “aides” had been omitted from the categories that an occupational therapist may supervise, and that the text was missing a clarification on direct supervision as it pertains to level II fieldwork. The Board agreed that “aides” would be added back to subsection (g). The Board, with input from Regulatory Counsel, decided that further work was needed to provide a definition of direct supervision as it pertained to level II fieldwork.

The Board’s Executive Officer and Regulatory Counsel agreed to collaborate on new language that would address these concerns. That text is provided in the materials, with those additional changes highlighted.

Action Requested

Board staff asks that the Board consider the above along with the included materials and vote to initiate a rulemaking to amend Sections 4180 and 4181 of title 16 of the CCR.

Included Materials

- Proposed language to amend Sections 4180 and 4181 of title 16 of the CCR for Board vote.
- Business and Professions Code Section 2570.4 and 2570.6.

Suggested Motion

“I move to approve the proposed regulatory text for Sections 4180 and 4181 [*as amended during the meeting or as presented*], direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the executive officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section 4102 of Title 16, California Code of Regulations as noticed, with the authority to make any technical or nonsubstantive changes.”

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 39.
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

PROPOSED REGULATORY LANGUAGE

Definitions, Supervision Parameters

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout . Changes since February text are highlighted.
----------------	---

Amend section 4180 of Division 39 of Title 16 of the California Code of Regulations to read as follows:

§ 4180. Definitions

In addition to the definitions found in Business and Professions Code sections 2570.2 and 2570.3 the following terms are used and defined herein:

- (a) "~~Client related tasks~~" means ~~tasks performed as part of occupational therapy services rendered directly to the client.~~ "Accredited" means an entry-level occupational therapy degree program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE), or an entry-level degree program with candidacy status or pre-accreditation status with ACOTE.
- (b) "Student" means an individual enrolled in an accredited entry-level occupational therapy or occupational therapy assistant degree program.
- (c) "Direct supervision" means that there is a direct line of sight between the supervising occupational therapy practitioner and the student.
- ~~(b)~~(d) "Level I fieldwork student" means an occupational therapy or occupational therapy assistant student participating participation in activities designed to introduce him or her the student to fieldwork experiences, apply knowledge to practice, and develop an understanding of the needs of clients.
- ~~(c)~~(e) "Level II fieldwork student" means an occupational therapy or occupational therapy assistant student participating participation in delivering occupational therapy services, under direct supervision of a licensee, to clients with the goal of developing competent, entry-level practitioners. Supervision of Level II fieldwork shall be direct and then decrease to less direct supervision as appropriate for the setting, the severity of the client's condition, and the ability of the student, to support progression toward entry-level competence.
- (f) "Entry-level doctoral capstone student" means an occupational therapy student completing a doctoral capstone project and experience.

(g) "Faculty-led fieldwork" means a fieldwork completed under **direct supervision** of a licensed occupational therapist or occupational therapy assistant employed by an accredited California educational institution.

(h) "Client related tasks" means tasks performed as part of occupational therapy services rendered directly to the client.

(d)(i) "Non-client related tasks" means clerical, secretarial and administrative activities; transportation of patients/clients; preparation or maintenance of treatment equipment and work area; taking care of patient/client personal needs during treatments; and assisting in the construction of adaptive equipment and splints.

(e)(i) "Periodic" means at least once every 30 days.

Note: Authority cited: Sections 2570.13 and 2570.20, Business and Professions Code.
Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

Amend section 4181 of Division 39 of Title 16 of the California Code of Regulations to read as follows:

§ 4181. Supervision Parameters

(a) Appropriate **supervision by a supervising occupational therapist** of an occupational therapy assistant includes, at a minimum:

(1) The weekly review of the occupational therapy plan and implementation, and periodic onsite review by the supervising occupational therapist. The weekly review shall encompass all aspects of occupational therapy services and be completed by telecommunication or onsite.

(2) Documentation of the supervision, which shall include either documentation of direct client care **provided** by the supervising occupational therapist, documentation of review of the client's medical and/or treatment record and the occupational therapy services provided by the occupational therapy assistant, or co-signature of the occupational therapy assistant's documentation.

(3) The supervising occupational therapist shall be readily available in person or by telecommunication to the occupational therapy assistant at all times while the occupational therapy assistant is providing occupational therapy services.

(4) The supervising occupational therapist shall provide periodic **on-site** supervision and observation of client care rendered by the occupational therapy assistant.

(b) The supervising occupational therapist shall at all times be responsible for all occupational therapy services provided by an occupational therapy assistant, a limited permit holder, a student **or, and** an aide. The supervising occupational therapist ~~has continuing responsibility to follow~~ shall ensure that an occupational therapist follows the progress of each client, and provides direct care to the client, and assure The supervising occupational therapist shall ensure that the occupational therapy assistant, limited permit holder, student or aide does not function autonomously.

(c) The level of supervision for all personnel is determined by the supervising occupational therapist whose responsibility it is to ensure that the amount, degree, and pattern of supervision are consistent with the knowledge, skill and ability of the person

being supervised.

~~(d) Occupational therapy assistants may supervise:~~

- ~~(1) Level I occupational therapy students;~~
- ~~(2) Level I and Level II occupational therapy assistant students; and~~
- ~~(3) Aides providing non-client related tasks.~~

(d) Occupational therapy assistants may supervise no more than a total of three individuals from the following categories, in any combination, at any one time:

- (1) Aides performing client related tasks;
- (2) Level I fieldwork students directly engaged in client-related tasks or patient/client care;
- (3) Level II fieldwork occupational therapy assistant students; and
- (4) Occupational therapy assistant limited permit holders;

(e) Occupational therapy assistants may supervise no more than 20 Level I fieldwork students in a faculty-led fieldwork. Supervision under this subsection shall also comply with subsection (d).

(f) Without limitation, occupational therapy assistants may supervise:

- (1) Entry-level doctoral capstone students completing an experience in research skills, administration, leadership, program and policy development, advocacy, or education, as required by an accredited educational program; and
- (2) Level I fieldwork students exclusively in an observational role or performing non-client related tasks.

(g) Occupational therapists may supervise no more than a total of three individuals from the following categories, in any combination, at any one time:

- (1) Aides performing client related tasks;
- (2) Level I fieldwork students directly engaged in client-related tasks or patient/client care;
- (2) Level II fieldwork students;
- (3) Entry-level doctoral capstone students completing a clinical, direct patient/client care experience;
- (4) Occupational therapist limited permit holders; and
- (5) Occupational therapy assistant limited permit holders.

(h) In addition to the supervision limits specified in subsection (g), occupational therapists may supervise no more than three occupational therapy assistants.

(i) Occupational therapists may supervise no more than 20 Level I fieldwork students in a faculty-led fieldwork, at any one time. Supervision under this subsection shall also comply with subsection (g).

(j) Without limitation, occupational therapists may supervise:

- (1) Entry-level doctoral capstone students completing an experience in research skills, administration, leadership, program and policy development, advocacy, and education, as required by an accredited educational program; and
- (2) Level I fieldwork students exclusively in an observational role or performing non-client related tasks.

~~(e)~~(k) The supervising occupational therapist shall determine that the occupational therapy practitioner possesses a current license or permit to practice occupational therapy prior to allowing the person to practice or to provide occupational therapy services, education, or supervision.

Note: Authority cited: Sections 2570.13 and 2570.20, Business and Professions Code.
Reference: Sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6, and 2570.13, Business and Professions Code.

Business and Professions Code Section 2570.4 and 2570.6

2570.4.

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

(a) Any person licensed or otherwise recognized in this state by any other law or regulation when that person is engaged in the profession or occupation for which he or she is licensed or otherwise recognized.

(b) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee.

(c) Any person fulfilling the supervised fieldwork experience requirements of subdivision (c) of Section 2570.6, if the experience constitutes a part of the experience necessary to meet the requirement of that provision.

(d) Any person performing occupational therapy services in the state if all of the following apply:

(1) An application for licensure as an occupational therapist or an occupational therapy assistant has been filed with the board pursuant to Section 2570.6 and an application for a license in this state has not been previously denied.

(2) The person possesses a current, active, and nonrestricted license to practice occupational therapy under the laws of another state that the board determines has licensure requirements at least as stringent as the requirements of this chapter.

(3) Occupational therapy services are performed in association with an occupational therapist licensed under this chapter, and for no more than 60 days from the date on which the application for licensure was filed with the board.

(e) Any person employed as an aide subject to the supervision requirements of this section.
(Amended by Stats. 2009, Ch. 307, Sec. 14. (SB 821) Effective January 1, 2010.)

2570.6.

An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the satisfaction of the board that he or she meets all of the following requirements:

(a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.

(2) The curriculum of an educational program for occupational therapists shall contain the content required by the ACOTE accreditation standards, or as approved by AOTA's predecessor organization, or as approved by AOTA's Career Mobility Program.

(c) (1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraph (2) of subdivision (b).

(2) For an applicant who completed AOTA's Career Mobility Program, he or she shall demonstrate participation in the program and passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraphs (1) and (2) of subdivision (b).

(d) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or (c) or arranged by a nationally recognized professional association. The fieldwork requirements for applicants applying for licensure as an occupational therapist or certification as an occupational therapy assistant shall be consistent with the requirements of the ACOTE accreditation standards, or AOTA's predecessor organization, or AOTA's Career Mobility Program, that were in effect when the applicant completed his or her educational program.

(e) That the applicant has passed an examination as provided in Section 2570.7.

(f) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(Amended by Stats. 2018, Ch. 490, Sec. 3. (AB 2221) Effective January 1, 2019.)

AGENDA ITEM 11

**DISCUSSION AND POSSIBLE ACTION REGARDING THE
OCCUPATIONAL THERAPY LICENSURE COMPACT.**

OT Licensure Compact Member States

Legislation Filed (6 States)

Michigan
Pennsylvania
Illinois

New York
Massachusetts
Alaska

Legislation Enacted – Compact Member (28 States)

Washington
Wyoming
Colorado
North Dakota
Nebraska
Oklahoma
Missouri
Arkansas
Kentucky
Mississippi
Georgia
South Carolina
Vermont
Rhode Island

Montana
Utah
Arizona
South Dakota
Kansas
Iowa
Louisiana
Wisconsin
Tennessee
Alabama
North Carolina
Delaware
Maine
New Hampshire

Compact Member – Issuing Privileges (6 States)

Minnesota
Ohio
Virginia

Indiana
West Virginia
Maryland



Occupational Therapy Licensure Compact Model Legislation

Revised February 4, 2021

The following language must be enacted into law by a state to officially join the Occupational Therapy Licensure Compact.

No substantive changes should be made to the model language. Any substantive changes may jeopardize the enacting state's participation in the Compact.

The Council of State Governments National Center for Interstate Compacts reviews state Compact legislation to ensure consistency with the model language. Please direct inquiries to Isabel Eliassen at ieliassen@csg.org.

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

- 63 P. "Occupational Therapist" means an individual who is licensed by a State to practice
64 Occupational Therapy.
- 65 Q. "Occupational Therapy Assistant" means an individual who is licensed by a State to assist in
66 the Practice of Occupational Therapy.
- 67 R. "Occupational Therapy," "Occupational Therapy Practice," and the "Practice of Occupational
68 Therapy" mean the care and services provided by an Occupational Therapist or an
69 Occupational Therapy Assistant as set forth in the Member State's statutes and regulations.
- 70 S. "Occupational Therapy Compact Commission" or "Commission" means the national
71 administrative body whose membership consists of all States that have enacted the
72 Compact.
- 73 T. "Occupational Therapy Licensing Board" or "Licensing Board" means the agency of a State
74 that is authorized to license and regulate Occupational Therapists and Occupational
75 Therapy Assistants.
- 76 U. "Primary State of Residence" means the state (also known as the Home State) in which an
77 Occupational Therapist or Occupational Therapy Assistant who is not Active Duty Military
78 declares a primary residence for legal purposes as verified by: driver's license, federal
79 income tax return, lease, deed, mortgage or voter registration or other verifying
80 documentation as further defined by Commission Rules.
- 81 V. "Remote State" means a Member State other than the Home State, where a Licensee is
82 exercising or seeking to exercise the Compact Privilege.
- 83 W. "Rule" means a regulation promulgated by the Commission that has the force of law.
- 84 X. "State" means any state, commonwealth, district, or territory of the United States of America
85 that regulates the Practice of Occupational Therapy.
- 86 Y. "Single-State License" means an Occupational Therapist or Occupational Therapy Assistant
87 license issued by a Member State that authorizes practice only within the issuing State and
88 does not include a Compact Privilege in any other Member State.
- 89 Z. "Telehealth" means the application of telecommunication technology to deliver Occupational
90 Therapy services for assessment, intervention and/or consultation.

91 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

- 92 A. To participate in the Compact, a Member State shall:
- 93 1. License Occupational Therapists and Occupational Therapy Assistants

- 94 2. Participate fully in the Commission's Data System, including but not limited to using the
95 Commission's unique identifier as defined in Rules of the Commission;
- 96 3. Have a mechanism in place for receiving and investigating complaints about Licensees;
- 97 4. Notify the Commission, in compliance with the terms of the Compact and Rules, of any
98 Adverse Action or the availability of Investigative Information regarding a Licensee;
- 99 5. Implement or utilize procedures for considering the criminal history records of applicants
100 for an initial Compact Privilege. These procedures shall include the submission of
101 fingerprints or other biometric-based information by applicants for the purpose of
102 obtaining an applicant's criminal history record information from the Federal Bureau of
103 Investigation and the agency responsible for retaining that State's criminal records;
- 104 a. A Member State shall, within a time frame established by the Commission,
105 require a criminal background check for a Licensee seeking/applying for a
106 Compact Privilege whose Primary State of Residence is that Member State, by
107 receiving the results of the Federal Bureau of Investigation criminal record
108 search, and shall use the results in making licensure decisions.
- 109 b. Communication between a Member State, the Commission and among
110 Member States regarding the verification of eligibility for licensure through the
111 Compact shall not include any information received from the Federal Bureau of
112 Investigation relating to a federal criminal records check performed by a Member
113 State under Public Law 92-544.
- 114 6. Comply with the Rules of the Commission;
- 115 7. Utilize only a recognized national examination as a requirement for licensure
116 pursuant to the Rules of the Commission; and
- 117 8. Have Continuing Competence/Education requirements as a condition for license
118 renewal.
- 119 B. A Member State shall grant the Compact Privilege to a Licensee holding a valid
120 unencumbered license in another Member State in accordance with the terms of the
121 Compact and Rules.
- 122 C. Member States may charge a fee for granting a Compact Privilege.
- 123 D. A Member State shall provide for the State's delegate to attend all Occupational Therapy
124 Compact Commission meetings.
- 125 E. Individuals not residing in a Member State shall continue to be able to apply for a Member
126 State's Single-State License as provided under the laws of each Member State. However,

127 the Single-State License granted to these individuals shall not be recognized as granting the
128 Compact Privilege in any other Member State.

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

131 **SECTION 4. COMPACT PRIVILEGE**

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

- 134 1. Hold a license in the Home State;
- 135 2. Have a valid United States Social Security Number or National Practitioner Identification
136 number;
- 137 3. Have no encumbrance on any State license;
- 138 4. Be eligible for a Compact Privilege in any Member State in accordance with Section 4D,
139 F, G, and H;
- 140 5. Have paid all fines and completed all requirements resulting from any Adverse Action
141 against any license or Compact Privilege, and two years have elapsed from the date of
142 such completion;
- 143 6. Notify the Commission that the Licensee is seeking the Compact Privilege within a
144 Remote State(s);
- 145 7. Pay any applicable fees, including any State fee, for the Compact Privilege;
- 146 8. Complete a criminal background check in accordance with Section 3A(5);
 - 147 a. The Licensee shall be responsible for the payment of any fee associated with
148 the completion of a criminal background check.
- 149 9. Meet any Jurisprudence Requirements established by the Remote State(s) in which the
150 Licensee is seeking a Compact Privilege; and
- 151 10. Report to the Commission Adverse Action taken by any non-Member State within 30
152 days from the date the Adverse Action is taken.

153 B. The Compact Privilege is valid until the expiration date of the Home State license. The
154 Licensee must comply with the requirements of Section 4A to maintain the Compact
155 Privilege in the Remote State.

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

- 158 D. Occupational Therapy Assistants practicing in a Remote State shall be supervised by an
159 Occupational Therapist licensed or holding a Compact Privilege in that Remote State.
- 160 E. A Licensee providing Occupational Therapy in a Remote State is subject to that State's
161 regulatory authority. A Remote State may, in accordance with due process and that State's
162 laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of
163 time, impose fines, and/or take any other necessary actions to protect the health and safety
164 of its citizens. The Licensee may be ineligible for a Compact Privilege in any State until the
165 specific time for removal has passed and all fines are paid.
- 166 F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege in any
167 Remote State until the following occur:
- 168 1. The Home State license is no longer encumbered; and
 - 169 2. Two years have elapsed from the date on which the Home State license is no longer
170 encumbered in accordance with Section 4(F)(1).
- 171 G. Once an Encumbered License in the Home State is restored to good standing, the Licensee
172 must meet the requirements of Section 4A to obtain a Compact Privilege in any Remote
173 State.
- 174 H. If a Licensee's Compact Privilege in any Remote State is removed, the individual may lose
175 the Compact Privilege in any other Remote State until the following occur:
- 176 1. The specific period of time for which the Compact Privilege was removed has ended;
 - 177 2. All fines have been paid and all conditions have been met;
 - 178 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2);
179 and
 - 180 4. The Compact Privileges are reinstated by the Commission, and the compact Data
181 System is updated to reflect reinstatement.
- 182 I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous
183 charge, privileges shall be restored through the compact Data System.
- 184 J. Once the requirements of Section 4H have been met, the Licensee must meet the
185 requirements in Section 4A to obtain a Compact Privilege in a Remote State.

186 **SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT**
187 **PRIVILEGE**

- 188 A. An Occupational Therapist or Occupational Therapy Assistant may hold a Home State
189 license, which allows for Compact Privileges in Member States, in only one Member State at
190 a time.
- 191 B. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State of
192 Residence by moving between two Member States:
- 193 1. The Occupational Therapist or Occupational Therapy Assistant shall file an application
194 for obtaining a new Home State license by virtue of a Compact Privilege, pay all
195 applicable fees, and notify the current and new Home State in accordance with
196 applicable Rules adopted by the Commission.
- 197 2. Upon receipt of an application for obtaining a new Home State license by virtue of
198 compact privilege, the new Home State shall verify that the Occupational Therapist or
199 Occupational Therapy Assistant meets the pertinent criteria outlined in Section 4 via the
200 Data System, without need for primary source verification except for:
- 201 a. an FBI fingerprint based criminal background check if not previously
202 performed or updated pursuant to applicable Rules adopted by the
203 Commission in accordance with Public Law 92-544;
- 204 b. other criminal background check as required by the new Home State; and
- 205 c. submission of any requisite Jurisprudence Requirements of the new
206 Home State.
- 207 3. The former Home State shall convert the former Home State license into a Compact
208 Privilege once the new Home State has activated the new Home State license in
209 accordance with applicable Rules adopted by the Commission.
- 210 4. Notwithstanding any other provision of this Compact, if the Occupational Therapist or
211 Occupational Therapy Assistant cannot meet the criteria in Section 4, the new Home
212 State shall apply its requirements for issuing a new Single-State License.
- 213 5. The Occupational Therapist or the Occupational Therapy Assistant shall pay all
214 applicable fees to the new Home State in order to be issued a new Home State license.
- 215 C. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State of
216 Residence by moving from a Member State to a non-Member State, or from a non-Member
217 State to a Member State, the State criteria shall apply for issuance of a Single-State License
218 in the new State.
- 219 D. Nothing in this compact shall interfere with a Licensee's ability to hold a Single-State
220 License in multiple States; however, for the purposes of this compact, a Licensee shall have
221 only one Home State license.

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

224 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

225 A. Active Duty Military personnel, or their spouses, shall designate a Home State where the
226 individual has a current license in good standing. The individual may retain the Home State
227 designation during the period the service member is on active duty. Subsequent to
228 designating a Home State, the individual shall only change their Home State through
229 application for licensure in the new State or through the process described in Section 5.

230 **SECTION 7. ADVERSE ACTIONS**

231 A. A Home State shall have exclusive power to impose Adverse Action against an
232 Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home
233 State.

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

- 236 1. Take Adverse Action against an Occupational Therapist's or Occupational Therapy
237 Assistant's Compact Privilege within that Member State.
- 238 2. Issue subpoenas for both hearings and investigations that require the attendance and
239 testimony of witnesses as well as the production of evidence. Subpoenas issued by a
240 Licensing Board in a Member State for the attendance and testimony of witnesses or the
241 production of evidence from another Member State shall be enforced in the latter State
242 by any court of competent jurisdiction, according to the practice and procedure of that
243 court applicable to subpoenas issued in proceedings pending before it. The issuing
244 authority shall pay any witness fees, travel expenses, mileage and other fees required
245 by the service statutes of the State in which the witnesses or evidence are located.

246 C. For purposes of taking Adverse Action, the Home State shall give the same priority and
247 effect to reported conduct received from a Member State as it would if the conduct had
248 occurred within the Home State. In so doing, the Home State shall apply its own State laws
249 to determine appropriate action.

250 D. The Home State shall complete any pending investigations of an Occupational Therapist or
251 Occupational Therapy Assistant who changes Primary State of Residence during the course
252 of the investigations. The Home State, where the investigations were initiated, shall also
253 have the authority to take appropriate action(s) and shall promptly report the conclusions of
254 the investigations to the OT Compact Commission Data System. The Occupational Therapy
255 Compact Commission Data System administrator shall promptly notify the new Home State
256 of any Adverse Actions.

- 257 E. A Member State, if otherwise permitted by State law, may recover from the affected
258 Occupational Therapist or Occupational Therapy Assistant the costs of investigations and
259 disposition of cases resulting from any Adverse Action taken against that Occupational
260 Therapist or Occupational Therapy Assistant.
- 261 F. A Member State may take Adverse Action based on the factual findings of the Remote
262 State, provided that the Member State follows its own procedures for taking the Adverse
263 Action.
- 264 G. Joint Investigations
- 265 1. In addition to the authority granted to a Member State by its respective State
266 Occupational Therapy laws and regulations or other applicable State law, any Member
267 State may participate with other Member States in joint investigations of Licensees.
- 268 2. Member States shall share any investigative, litigation, or compliance materials in
269 furtherance of any joint or individual investigation initiated under the Compact.
- 270 H. If an Adverse Action is taken by the Home State against an Occupational Therapist's or
271 Occupational Therapy Assistant's license, the Occupational Therapist's or Occupational
272 Therapy Assistant's Compact Privilege in all other Member States shall be deactivated until
273 all encumbrances have been removed from the State license. All Home State disciplinary
274 orders that impose Adverse Action against an Occupational Therapist's or Occupational
275 Therapy Assistant's license shall include a Statement that the Occupational Therapist's or
276 Occupational Therapy Assistant's Compact Privilege is deactivated in all Member States
277 during the pendency of the order.
- 278 I. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data
279 System. The administrator of the Data System shall promptly notify the Home State of any
280 Adverse Actions by Remote States.
- 281 J. Nothing in this Compact shall override a Member State's decision that participation in an
282 Alternative Program may be used in lieu of Adverse Action.

283 **SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT**
284 **COMMISSION.**

- 285 A. The Compact Member States hereby create and establish a joint public agency known as
286 the Occupational Therapy Compact Commission:
- 287 1. The Commission is an instrumentality of the Compact States.
- 288 2. Venue is proper and judicial proceedings by or against the Commission shall be brought
289 solely and exclusively in a court of competent jurisdiction where the principal office of the
290 Commission is located. The Commission may waive venue and jurisdictional defenses to

- 291 the extent it adopts or consents to participate in alternative dispute resolution
292 proceedings.
- 293 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.
- 294 B. Membership, Voting, and Meetings
- 295 1. Each Member State shall have and be limited to one (1) delegate selected by that
296 Member State's Licensing Board.
- 297 2. The delegate shall be either:
- 298 a. A current member of the Licensing Board, who is an Occupational Therapist,
299 Occupational Therapy Assistant, or public member; or
- 300 b. An administrator of the Licensing Board.
- 301 3. Any delegate may be removed or suspended from office as provided by the law of the
302 State from which the delegate is appointed.
- 303 4. The Member State board shall fill any vacancy occurring in the Commission within 90
304 days.
- 305 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules
306 and creation of bylaws and shall otherwise have an opportunity to participate in the
307 business and affairs of the Commission. A delegate shall vote in person or by such other
308 means as provided in the bylaws. The bylaws may provide for delegates' participation in
309 meetings by telephone or other means of communication.
- 310 6. The Commission shall meet at least once during each calendar year. Additional
311 meetings shall be held as set forth in the bylaws.
- 312 7. The Commission shall establish by Rule a term of office for delegates.
- 313 C. The Commission shall have the following powers and duties:
- 314 1. Establish a Code of Ethics for the Commission;
- 315 2. Establish the fiscal year of the Commission;
- 316 3. Establish bylaws;
- 317 4. Maintain its financial records in accordance with the bylaws;
- 318 5. Meet and take such actions as are consistent with the provisions of this Compact and
319 the bylaws;

- 320 6. Promulgate uniform Rules to facilitate and coordinate implementation and administration
321 of this Compact. The Rules shall have the force and effect of law and shall be binding in
322 all Member States;
- 323 7. Bring and prosecute legal proceedings or actions in the name of the Commission,
324 provided that the standing of any State Occupational Therapy Licensing Board to sue or
325 be sued under applicable law shall not be affected;
- 326 8. Purchase and maintain insurance and bonds;
- 327 9. Borrow, accept, or contract for services of personnel, including, but not limited to,
328 employees of a Member State;
- 329 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
330 individuals appropriate authority to carry out the purposes of the Compact, and establish
331 the Commission's personnel policies and programs relating to conflicts of interest,
332 qualifications of personnel, and other related personnel matters;
- 333 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
334 materials and services, and receive, utilize and dispose of the same; provided that at all
335 times the Commission shall avoid any appearance of impropriety and/or conflict of
336 interest;
- 337 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold,
338 improve or use, any property, real, personal or mixed; provided that at all times the
339 Commission shall avoid any appearance of impropriety;
- 340 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
341 property real, personal, or mixed;
- 342 14. Establish a budget and make expenditures;
- 343 15. Borrow money;
- 344 16. Appoint committees, including standing committees composed of members, State
345 regulators, State legislators or their representatives, and consumer representatives, and
346 such other interested persons as may be designated in this Compact and the bylaws;
- 347 17. Provide and receive information from, and cooperate with, law enforcement agencies;
- 348 18. Establish and elect an Executive Committee; and
- 349 19. Perform such other functions as may be necessary or appropriate to achieve the
350 purposes of this Compact consistent with the State regulation of Occupational Therapy
351 licensure and practice.

352 D. The Executive Committee

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

355 1. The Executive Committee shall be composed of nine members:

356 a. Seven voting members who are elected by the Commission from the current
357 membership of the Commission;

358 b. One ex-officio, nonvoting member from a recognized national Occupational Therapy
359 professional association; and

360 c. One ex-officio, nonvoting member from a recognized national Occupational Therapy
361 certification organization.

362 2. The ex-officio members will be selected by their respective organizations.

363 3. The Commission may remove any member of the Executive Committee as provided in
364 bylaws.

365 4. The Executive Committee shall meet at least annually.

366 5. The Executive Committee shall have the following Duties and responsibilities:

367 a. Recommend to the entire Commission changes to the Rules or bylaws, changes to
368 this Compact legislation, fees paid by Compact Member States such as annual dues,
369 and any Commission Compact fee charged to Licensees for the Compact Privilege;

370 b. Ensure Compact administration services are appropriately provided, contractual or
371 otherwise;

372 c. Prepare and recommend the budget;

373 d. Maintain financial records on behalf of the Commission;

374 e. Monitor Compact compliance of Member States and provide compliance reports to
375 the Commission;

376 f. Establish additional committees as necessary; and

377 g. Perform other duties as provided in Rules or bylaws.

378 E. Meetings of the Commission

379 1. All meetings shall be open to the public, and public notice of meetings shall be given in
380 the same manner as required under the Rulemaking provisions in Section 10.

- 381 2. The Commission or the Executive Committee or other committees of the Commission
382 may convene in a closed, non-public meeting if the Commission or Executive Committee
383 or other committees of the Commission must discuss:
- 384 a. Non-compliance of a Member State with its obligations under the Compact;
 - 385 b. The employment, compensation, discipline or other matters, practices or procedures
386 related to specific employees or other matters related to the Commission's internal
387 personnel practices and procedures;
 - 388 c. Current, threatened, or reasonably anticipated litigation;
 - 389 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
390 estate;
 - 391 e. Accusing any person of a crime or formally censuring any person;
 - 392 f. Disclosure of trade secrets or commercial or financial information that is privileged or
393 confidential;
 - 394 g. Disclosure of information of a personal nature where disclosure would constitute a
395 clearly unwarranted invasion of personal privacy;
 - 396 h. Disclosure of investigative records compiled for law enforcement purposes;
 - 397 i. Disclosure of information related to any investigative reports prepared by or on
398 behalf of or for use of the Commission or other committee charged with responsibility
399 of investigation or determination of compliance issues pursuant to the Compact; or
 - 400 j. Matters specifically exempted from disclosure by federal or Member State statute.
- 401 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the
402 Commission's legal counsel or designee shall certify that the meeting may be closed and
403 shall reference each relevant exempting provision.
- 404 4. The Commission shall keep minutes that fully and clearly describe all matters discussed
405 in a meeting and shall provide a full and accurate summary of actions taken, and the
406 reasons therefore, including a description of the views expressed. All documents
407 considered in connection with an action shall be identified in such minutes. All minutes
408 and documents of a closed meeting shall remain under seal, subject to release by a
409 majority vote of the Commission or order of a court of competent jurisdiction.

410 F. Financing of the Commission

- 411 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its
412 establishment, organization, and ongoing activities.

- 413 2. The Commission may accept any and all appropriate revenue sources, donations, and
414 grants of money, equipment, supplies, materials, and services.
- 415 3. The Commission may levy on and collect an annual assessment from each Member
416 State or impose fees on other parties to cover the cost of the operations and activities of
417 the Commission and its staff, which must be in a total amount sufficient to cover its
418 annual budget as approved by the Commission each year for which revenue is not
419 provided by other sources. The aggregate annual assessment amount shall be allocated
420 based upon a formula to be determined by the Commission, which shall promulgate a
421 Rule binding upon all Member States.
- 422 4. The Commission shall not incur obligations of any kind prior to securing the funds
423 adequate to meet the same; nor shall the Commission pledge the credit of any of the
424 Member States, except by and with the authority of the Member State.
- 425 5. The Commission shall keep accurate accounts of all receipts and disbursements. The
426 receipts and disbursements of the Commission shall be subject to the audit and
427 accounting procedures established under its bylaws. However, all receipts and
428 disbursements of funds handled by the Commission shall be audited yearly by a certified
429 or licensed public accountant, and the report of the audit shall be included in and
430 become part of the annual report of the Commission.

431 G. Qualified Immunity, Defense, and Indemnification

- 432 1. The members, officers, executive director, employees and representatives of the
433 Commission shall be immune from suit and liability, either personally or in their official
434 capacity, for any claim for damage to or loss of property or personal injury or other civil
435 liability caused by or arising out of any actual or alleged act, error or omission that
436 occurred, or that the person against whom the claim is made had a reasonable basis for
437 believing occurred within the scope of Commission employment, duties or
438 responsibilities; provided that nothing in this paragraph shall be construed to protect any
439 such person from suit and/or liability for any damage, loss, injury, or liability caused by
440 the intentional or willful or wanton misconduct of that person.
- 441 2. The Commission shall defend any member, officer, executive director, employee, or
442 representative of the Commission in any civil action seeking to impose liability arising out
443 of any actual or alleged act, error, or omission that occurred within the scope of
444 Commission employment, duties, or responsibilities, or that the person against whom the
445 claim is made had a reasonable basis for believing occurred within the scope of
446 Commission employment, duties, or responsibilities; provided that nothing herein shall
447 be construed to prohibit that person from retaining his or her own counsel; and provided

448 further, that the actual or alleged act, error, or omission did not result from that person's
449 intentional or willful or wanton misconduct.

450 3. The Commission shall indemnify and hold harmless any member, officer, executive
451 director, employee, or representative of the Commission for the amount of any
452 settlement or judgment obtained against that person arising out of any actual or alleged
453 act, error or omission that occurred within the scope of Commission employment, duties,
454 or responsibilities, or that such person had a reasonable basis for believing occurred
455 within the scope of Commission employment, duties, or responsibilities, provided that
456 the actual or alleged act, error, or omission did not result from the intentional or willful or
457 wanton misconduct of that person.

458 **SECTION 9. DATA SYSTEM**

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

462 B. A Member State shall submit a uniform data set to the Data System on all individuals to
463 whom this Compact is applicable (utilizing a unique identifier) as required by the Rules of
464 the Commission, including:

465 1. Identifying information;

466 2. Licensure data;

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

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

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

470 6. Other information that may facilitate the administration of this Compact, as determined
471 by the Rules of the Commission; and

472 7. Current Significant Investigative Information.

473 C. Current Significant Investigative Information and other Investigative Information pertaining to
474 a Licensee in any Member State will only be available to other Member States.

475 D. The Commission shall promptly notify all Member States of any Adverse Action taken
476 against a Licensee or an individual applying for a license. Adverse Action information
477 pertaining to a Licensee in any Member State will be available to any other Member State.

478 E. Member States contributing information to the Data System may designate information that
479 may not be shared with the public without the express permission of the contributing State.

480 F. Any information submitted to the Data System that is subsequently required to be expunged
481 by the laws of the Member State contributing the information shall be removed from the
482 Data System.

483 **SECTION 10. RULEMAKING**

484 A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in
485 this Section and the Rules adopted thereunder. Rules and amendments shall become
486 binding as of the date specified in each Rule or amendment.

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

492 C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a
493 statute or resolution in the same manner used to adopt the Compact within 4 years of the
494 date of adoption of the Rule, then such Rule shall have no further force and effect in any
495 Member State.

496 D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the
497 Commission.

498 E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least
499 thirty (30) days in advance of the meeting at which the Rule will be considered and voted
500 upon, the Commission shall file a Notice of Proposed Rulemaking:

- 501 1. On the website of the Commission or other publicly accessible platform; and
- 502 2. On the website of each Member State Occupational Therapy Licensing Board or other
503 publicly accessible platform or the publication in which each State would otherwise
504 publish proposed Rules.

505 F. The Notice of Proposed Rulemaking shall include:

- 506 1. The proposed time, date, and location of the meeting in which the Rule will be
507 considered and voted upon;
- 508 2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
- 509 3. A request for comments on the proposed Rule from any interested person; and
- 510 4. The manner in which interested persons may submit notice to the Commission of their
511 intention to attend the public hearing and any written comments.

- 512 G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written
513 data, facts, opinions, and arguments, which shall be made available to the public.
- 514 H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or
515 amendment if a hearing is requested by:
- 516 1. At least twenty five (25) persons;
- 517 2. A State or federal governmental subdivision or agency; or
- 518 3. An association or organization having at least twenty five (25) members.
- 519 I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the
520 place, time, and date of the scheduled public hearing. If the hearing is held via electronic
521 means, the Commission shall publish the mechanism for access to the electronic hearing.
- 522 1. All persons wishing to be heard at the hearing shall notify the executive director of the
523 Commission or other designated member in writing of their desire to appear and testify
524 at the hearing not less than five (5) business days before the scheduled date of the
525 hearing.
- 526 2. Hearings shall be conducted in a manner providing each person who wishes to comment
527 a fair and reasonable opportunity to comment orally or in writing.
- 528 3. All hearings will be recorded. A copy of the recording will be made available on request.
- 529 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.
530 Rules may be grouped for the convenience of the Commission at hearings required by
531 this section.
- 532 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing
533 date if the hearing was not held, the Commission shall consider all written and oral
534 comments received.
- 535 K. If no written notice of intent to attend the public hearing by interested parties is received, the
536 Commission may proceed with promulgation of the proposed Rule without a public hearing.
- 537 L. The Commission shall, by majority vote of all members, take final action on the proposed
538 Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking
539 record and the full text of the Rule.
- 540 M. Upon determination that an emergency exists, the Commission may consider and adopt an
541 emergency Rule without prior notice, opportunity for comment, or hearing, provided that the
542 usual Rulemaking procedures provided in the Compact and in this section shall be
543 retroactively applied to the Rule as soon as reasonably possible, in no event later than

544 ninety (90) days after the effective date of the Rule. For the purposes of this provision, an
545 emergency Rule is one that must be adopted immediately in order to:

- 546 1. Meet an imminent threat to public health, safety, or welfare;
- 547 2. Prevent a loss of Commission or Member State funds;
- 548 3. Meet a deadline for the promulgation of an administrative Rule that is established by
549 federal law or Rule; or
- 550 4. Protect public health and safety.

551 N. The Commission or an authorized committee of the Commission may direct revisions to a
552 previously adopted Rule or amendment for purposes of correcting typographical errors,
553 errors in format, errors in consistency, or grammatical errors. Public notice of any revisions
554 shall be posted on the website of the Commission. The revision shall be subject to challenge
555 by any person for a period of thirty (30) days after posting. The revision may be challenged
556 only on grounds that the revision results in a material change to a Rule. A challenge shall be
557 made in writing and delivered to the chair of the Commission prior to the end of the notice
558 period. If no challenge is made, the revision will take effect without further action. If the
559 revision is challenged, the revision may not take effect without the approval of the
560 Commission.

561 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

562 A. Oversight

- 563 1. The executive, legislative, and judicial branches of State government in each Member
564 State shall enforce this Compact and take all actions necessary and appropriate to
565 effectuate the Compact's purposes and intent. The provisions of this Compact and the
566 Rules promulgated hereunder shall have standing as statutory law.
- 567 2. All courts shall take judicial notice of the Compact and the Rules in any judicial or
568 administrative proceeding in a Member State pertaining to the subject matter of this
569 Compact which may affect the powers, responsibilities, or actions of the Commission.
- 570 3. The Commission shall be entitled to receive service of process in any such proceeding,
571 and shall have standing to intervene in such a proceeding for all purposes. Failure to
572 provide service of process to the Commission shall render a judgment or order void as to
573 the Commission, this Compact, or promulgated Rules.

574 B. Default, Technical Assistance, and Termination

575 1. If the Commission determines that a Member State has defaulted in the performance of
576 its obligations or responsibilities under this Compact or the promulgated Rules, the
577 Commission shall:

578 a. Provide written notice to the defaulting State and other Member States of the nature
579 of the default, the proposed means of curing the default and/or any other action to be
580 taken by the Commission; and

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

582 2. If a State in default fails to cure the default, the defaulting State may be terminated from
583 the Compact upon an affirmative vote of a majority of the Member States, and all rights,
584 privileges and benefits conferred by this Compact may be terminated on the effective
585 date of termination. A cure of the default does not relieve the offending State of
586 obligations or liabilities incurred during the period of default.

587 3. Termination of membership in the Compact shall be imposed only after all other means
588 of securing compliance have been exhausted. Notice of intent to suspend or terminate
589 shall be given by the Commission to the governor, the majority and minority leaders of
590 the defaulting State's legislature, and each of the Member States.

591 4. A State that has been terminated is responsible for all assessments, obligations, and
592 liabilities incurred through the effective date of termination, including obligations that
593 extend beyond the effective date of termination.

594 5. The Commission shall not bear any costs related to a State that is found to be in default
595 or that has been terminated from the Compact, unless agreed upon in writing between
596 the Commission and the defaulting State.

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

601 C. Dispute Resolution

602 1. Upon request by a Member State, the Commission shall attempt to resolve disputes
603 related to the Compact that arise among Member States and between member and non-
604 Member States.

605 2. The Commission shall promulgate a Rule providing for both mediation and binding
606 dispute resolution for disputes as appropriate.

607 D. Enforcement

- 608 1. The Commission, in the reasonable exercise of its discretion, shall enforce the
609 provisions and Rules of this Compact.
- 610 2. By majority vote, the Commission may initiate legal action in the United States District
611 Court for the District of Columbia or the federal district where the Commission has its
612 principal offices against a Member State in default to enforce compliance with the
613 provisions of the Compact and its promulgated Rules and bylaws. The relief sought may
614 include both injunctive relief and damages. In the event judicial enforcement is
615 necessary, the prevailing member shall be awarded all costs of such litigation, including
616 reasonable attorney's fees.
- 617 3. The remedies herein shall not be the exclusive remedies of the Commission. The
618 Commission may pursue any other remedies available under federal or State law.

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

- 622 A. The Compact shall come into effect on the date on which the Compact statute is enacted
623 into law in the tenth Member State. The provisions, which become effective at that time,
624 shall be limited to the powers granted to the Commission relating to assembly and the
625 promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking
626 powers necessary to the implementation and administration of the Compact.
- 627 B. Any State that joins the Compact subsequent to the Commission's initial adoption of the
628 Rules shall be subject to the Rules as they exist on the date on which the Compact
629 becomes law in that State. Any Rule that has been previously adopted by the Commission
630 shall have the full force and effect of law on the day the Compact becomes law in that State.
- 631 C. Any Member State may withdraw from this Compact by enacting a statute repealing the
632 same.
- 633 1. A Member State's withdrawal shall not take effect until six (6) months after enactment of
634 the repealing statute.
- 635 2. Withdrawal shall not affect the continuing requirement of the withdrawing State's
636 Occupational Therapy Licensing Board to comply with the investigative and Adverse
637 Action reporting requirements of this act prior to the effective date of withdrawal.
- 638 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
639 Occupational Therapy licensure agreement or other cooperative arrangement between a
640 Member State and a non-Member State that does not conflict with the provisions of this
641 Compact.

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

645 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

646 This Compact shall be liberally construed so as to effectuate the purposes thereof. The
647 provisions of this Compact shall be severable and if any phrase, clause, sentence or
648 provision of this Compact is declared to be contrary to the constitution of any Member State
649 or of the United States or the applicability thereof to any government, agency, person, or
650 circumstance is held invalid, the validity of the remainder of this Compact and the
651 applicability thereof to any government, agency, person, or circumstance shall not be
652 affected thereby. If this Compact shall be held contrary to the constitution of any Member
653 State, the Compact shall remain in full force and effect as to the remaining Member States
654 and in full force and effect as to the Member State affected as to all severable matters.

655 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

- 656 A. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege
657 shall function within the laws and regulations of the Remote State.
- 658 B. Nothing herein prevents the enforcement of any other law of a Member State that is not
659 inconsistent with the Compact.
- 660 C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the
661 conflict.
- 662 D. Any lawful actions of the Commission, including all Rules and bylaws promulgated by the
663 Commission, are binding upon the Member States.
- 664 E. All agreements between the Commission and the Member States are binding in accordance
665 with their terms.
- 666 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
667 legislature of any Member State, the provision shall be ineffective to the extent of the conflict
668 with the constitutional provision in question in that Member State.

OCCUPATIONAL THERAPY COMPACT COMMISSION (OTCC)
MONTHLY PAYMENTS to OTC MEMBER STATES



Effective Date: February 12, 2026	Scope: This policy applies to the OTCC, its Secretariat, and the OTC member states.
Purpose: This policy establishes the process for the OTCC to make monthly payments to the OTC member states. The OTCC collects state fees on behalf of each member state which sells OTC privileges to practice. Those fees are returned to the state via check or ACH transfer from the OTCC.	
Policy Statement: In accordance with the OTC Commission's rules and procedures, the OTCC shall remit 100 percent (100%) of the State Fee to each state for which it collected state fees.	
Policy: <u>Overview</u> <ul style="list-style-type: none">• All transactions are settled the day following their purchase.• Settled transactions are those that have been batched and paid in the credit card processing vendor (ex: Authorize.net) daily transaction.• Weekly Reports include transactions purchased from Friday through Thursday and settled in CompactConnect from Saturday through Friday.• Monthly Reports include transactions settled from the first to the last day of the month. These may include purchases made on the last day of the previous month through the next-to-last day of the current month.<ul style="list-style-type: none">○ Example: A report for October would include transactions settled between October 1 and October 31, with purchases made between September 30 and October 30.• The Secretariat will maintain an up-to-date list of all states and their designated payment methods (check or ACH). <u>Reconciliation of Daily Transactions</u> <p>The Executive Director (ED) or their designee shall verify that daily deposits match the settled transaction reports, ensuring that the total deposit aligns exactly with the reported dollar amount.</p> <u>Weekly Reconciliation</u> <p>The ED or their designee shall confirm that weekly reports accurately reflect the total dollar amount and number of transactions per state, based on the compilation of the verified daily reports.</p> <u>Monthly Reconciliation</u> <p>The ED or their designee shall verify that the cumulative totals from the weekly reports match the monthly report, both in total dollar amounts and number of transactions per state. Once verification is complete, the ED or designee will prepare a monthly payment summary listing:</p> <ul style="list-style-type: none">• Each state eligible for payment• The number of privileges settled in that state during the previous calendar month• The corresponding dollar amount to be disbursed <p>This summary, along with the monthly statement, shall be emailed to the Treasurer for review. Supporting documentation of approved payments will be maintained by the Secretariat for a period of at least seven (7) years.</p>	

Treasurer Review and Payment Authorization

- The Treasurer shall review the monthly payment summary and email either approval or questions back to the ED.
- Payments approved by the Treasurer shall be issued by the Secretariat via check or ACH transfer.
- If approval is received after the 15th, payments must be issued within two business days.
- Any questions from the Treasurer should be addressed within one business day to ensure timely disbursement.
- The Treasurer’s written approval must be shared with both the ED and the Secretariat staff member(s) responsible for processing payments.
- Verification shall be completed by a staff member independent from the person responsible for initiating payments whenever possible.
- The Chair of the Commission shall complete the review and approval in the absence of the Treasurer.

Payment Processing

Upon receiving approval from the Treasurer, the Secretariat will:

- Starting on the 15th of each month, initiate payment for approved transactions via check or ACH transfer within two business days.
 - The payment shall clearly indicate the month the payment covers and any memo information required by the receiving state.
- Provide the OTCC via the ED with a list of all payments issued, including:
 - State name
 - Date of issuance
 - Check number (or ACH confirmation date)

Reporting to States

The OTCC via the Secretariat shall send each state a monthly report summarizing all privileges issued during the prior month. This report will include:

- A list of each individual transaction
- The total amount paid to the state
- The date and number of the check, or the date of the ACH transaction

Policy Review:

This policy will be reviewed annually to ensure its relevance and effectiveness. Any updates or changes to the policy will be communicated to all OTCC Commissioners and staff.

This policy was originally drafted by the OTCC Finance and Executive Committees in January 2026. It’s original effective date is February 12, 2026.

POLICY REVISION HISTORY			
Date of Revision	Revisions completed by (author)	Final approval authority	Effective Date of Revised Policy

Excerpt from Past Meeting Minutes Regarding Licensure Compact Discussion

➤ February 9-10, 2023

Agenda Item 17: Presentation by Dr. Lesly Wilson James, OTR/L, Chair of Executive Committee of the Occupational Therapy Licensure Compact (Compact) with updates on the compact.

President Miller welcomed the students from the first cohort at the Riverside Campus of Stanbridge University and their instructor, Dr. Bill Wong. Dr. Wong is a co-instructor with Board President Denise Miller for the Leadership Management and Advocacy course at Stanbridge University.

President Miller welcomed Dr. Lesly Wilson James, PhD, MPA, PMP, OTR/L. Dr. James is chairperson of the Executive Committee of the Occupational Therapy Licensure Compact (Compact), chairperson of the South Carolina Licensure Board for Occupational Therapy, associate professor at Lenoir-Rhyne University, and Fellow of the American Occupational Therapy Association.

Dr. James gave a presentation on the national Occupational Therapy Licensure Compact the Compact Commission and its various supporting committees. Dr. James introduced Chuck Willmarth, Vice President, Health Policy and State Affairs, American Occupational Therapy Association (AOTA), who was there to provide support and answer any technical questions.

Public Comment:

Bryant Edwards encouraged the Board to think about how the Compact might play out in the California and how the Board could set up licensees for success.

President Miller thanked Mr. Edwards for his comment.

There were no additional public comments.

President Miller asked Dr. James if the regulatory language is the same for all the states in the compact.

Dr. James responded that in her home state of South Carolina, the state's occupational therapy association worked with AOTA and a lobbyist that assisted with the legislation.

Chuck Willmarth explained how AOTA and the state associations are working with lobbyists to get the Compact language introduced and signed into law.

Mr. Wilmarth explained that in terms of regulations, the Compact is an agency with rule making authority and when it came to implementation, the member states will post the information on their website. The language in the legislation enabling states to join the Compact is substantially the same for all states, but it is not identical. He elaborated that while there may differences in terms of style or phrasing, the substance of the enabling legislation needs to be identical.

President Miller asked Mr. Wilmarth if there are other states that fingerprint for background checks.

Mr. Wilmarth responded yes, there are states that have background checks. He explained that the Compact Commission has the authority to identify when the fingerprint requirement will be required of Compact member states and those states without the legislative authority to conduct background checks will be given time implement the requirement.

President Miller stated that she sees the next step for the California Board, is to keep the Compact on the Board's meeting agenda as a placeholder and to let the professional associations take the lead on pursuing that legislation.

Public Comments:

Thai-Hanh Nguyen asked why other states were choosing not to be part of the compact.

Mr. Wilmarth responded that he believed it was an issue of timing. However, during the Covid pandemic, many saw a situation where the country needed to bring healthcare professionals from one state to another.

Bella Yang asked what can current students do to show support for the compact?

Mr. Wilmarth suggested students become members of AOTA because membership is what provides support for advocacy.

Dr. James added that students can also write letters to their legislators.

Thai-Hanh Nguyen asked if the policies for the states in the Compact will be uniform.

Mr. Wilmarth responded that the scope of the Compact is simply about licensing and the ability to practice in other states but does not bring uniformity to practice.

Carlin Daley Reaume stated that OTAC has been hearing from their members that there is interest in participating in the Compact and they are interested in continuing to engage in the conversation.

There were no additional public comments.

Agenda Item 18: Discussion of the Compact and possible for exam 18 is the discussion of the possible action to determine if the Board will initiate steps to join the Compact.

President Miller addressed the fact that the Board had already discussed the Compact at great length in item #17 and that she wanted to keep the topic on the agenda for the May meeting.

Board Member Bookwalter questioned why it would be kept on the agenda if there were not going to be any changes by the Board's next meeting.

President Miller responded that the Board does not have to keep it as a future agenda item, but if legislation is introduced before the next meeting or if the professional association requests that the Board address it then the Compact will be added to the agenda.

Vice President Morcos agreed that if nothing changes, it should not be on the agenda.

Public Comment:

Carlin Daley Reaume said that on behalf of OTAC, they want to provide as much support for the Compact as they can.

Vice President Morcos asked Ms. Reaume if the association was ready to take action and introduce legislation.

Ms. Reaume responded that thus far there had not been any legislative movement. There were other initiatives that have higher priority, but OTAC was open to shifting priorities based on member interest.

There were no additional public comments.

➤ **May 18-19, 2023**

Agenda Item 20: Update on the Occupational Therapy Licensure Compact and possible Board action.

This agenda item was discussed on May 18, 2023.

President Denise Miller introduced the agenda item and reminded the Board that it is a placeholder.

Board Member Bookwalter provided an overview of the Occupational Therapy Licensure Compact (Compact) to the members of the public in attendance, which included an occupational therapy class from the University of St. Augustine.

President Miller confirmed that currently, in California there are not any licensure Boards that participate in a Compact. The Board had received public feedback in support of the Compact. The Board is hesitant to join, as California is a highly regulated state, and the Compact is not in alignment with California standards. Thus, the Board will leave this topic as a placeholder until there are changes.

Public Comment:

The Board engaged in a robust conversation with the University of St. Augustine occupational therapy students regarding the specifics of how California compares to other states in the applicant screening process.

Board Member Pavlovich added that it is difficult to carry out the enforcement process or disciplinary actions against out of state licensees who have omitted commission of acts which are violations of the Board's laws and or regulations.

Executive Officer Martin explained that in the early stages of the licensure compact, background checks were not a requirement. In California, background checks are required and in fact, an applicant can be denied a license based on the results. However, the Compact now requires an FBI fingerprint-based criminal background check.

Board Member Wietlisbach added that prior to the Compact requiring a criminal background check, if California had agreed to join the licensure compact, an applicant who was previously denied licensure in California as a result of their background check could get licensed in

another less strict compact state that didn't require a background check and then work in California.

Board Member Pavlovich clarified to the occupational therapy students that a licensee could only work in states that are also members of the Compact.

When asked why the standards varied from state to state, Mr. Bookwalter explained that it is difficult for all the states to have the same standards because each state wants local control.

There were no additional Board member remarks.
There were no additional public comments.

➤ **August 24-25, 2023**

Agenda Item 19: Update on the Occupational Therapy Licensure Compact and possible Board Action.

Executive Officer Martin gave an overview of the materials provided for this item. She noted that the Licensure Compact is gaining traction. In this year alone, six states have joined the Licensure Compact.

Ms. Miller commented that the addition of six states would bring the total number of states in support to approximately 30 and that the Board could begin crafting language if they felt inclined.

There were no additional Board member remarks.
There were no additional public comments.

➤ **February 8-9, 2024**

Agenda Item 18: Update on the Occupational Therapy Licensure Compact and possible Board action.

Executive Officer Heather Martin announced that she did not have an update on the Licensure Compact.

President Richard Bookwalter asked Kersten Laughlin, a member of the public, if she had an update from OTAC regarding the Licensure Compact?

Public Comment

Kersten Laughlin, faculty member at St. Augustine and Region One Director-Elect OTAC, responded that she had not heard anything new about the Licensure Compact.

Board Member Denise Miller recommended leaving the Licensure Compact on the agenda for the May 2024 board meeting, because Shaun Conway, Vice President, Regulatory

Affairs at National Board for Certification in Occupational Therapy, Inc. (NBCOT), was going to be in attendance and could provide an update at that time.

Board Member Sharon Pavlovich noted that her students asked why California was not part of the Licensure Compact. As the new generation of students are getting more

involved with the associations, she believed that more questions would be forthcoming particularly for the educators.

Joyce Fries, Fieldwork Coordinator at Grossmont College, agreed with Ms. Pavlovich.

Mr. Bookwalter noted that for California to be part of the Licensure Compact there would have to be a bill that passed.

Ms. Do responded that the Board would need students and practitioners to lobby the legislators to get the Licensure Compact on a bill and get it passed in California.

Public Comment

Steven Berrera, prospective occupational therapy student, asked the Board to explain the Licensure Compact to him.

Mr. Bookwalter replied that the Licensure Compact is an interstate agreement to allow occupational therapists to work in member states. He added that California was not currently part of the Licensure Compact.

AGENDA ITEM 12

DISCUSSION AND POSSIBLE ACTION REGARDING SEEKING AN EXEMPTION FROM THE INDEPENDENT CONTRACTOR ABC TEST (LABOR CODE SECTION 2775(B)) UNDER LABOR CODE SECTION 2783.

Excerpt from the Board's 2026 Sunset Report

ISSUE #4: INDEPENDENT CONTRACTORS. Does the new test for determining employment status, as prescribed in the court decision *Dynamex Operations West Inc. v. Superior Court*, have any unresolved implications for CBOT licensees working as independent contractors?

Background: In the Spring of 2018, the California Supreme Court issued a decision in *Dynamex Operations West, Inc. v. Superior Court* (4 Cal.5th 903) that significantly changed the factors that determine whether a worker is legally an employee or an independent contractor. In a case involving the classification of delivery drivers, the California Supreme Court adopted a new test comprised of three elements:

- A. That the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
- B. That the worker performs work that is outside the usual course of the hiring entity's business; and
- C. That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

The test, commonly referred to as the "ABC test," potentially reaches into numerous fields and industries utilizing workers previously believed to be independent contractors, including occupations regulated by entities under the DCA. In the following year, AB 5 (Gonzalez), Chapter 296, Statutes of 2019 codified the Dynamex ABC test while providing for clarifications and carve-outs for certain professions. Specifically, physicians and surgeons, dentists, podiatrists, psychologists, and veterinarians were among those professions that were allowed to continue operating under the previous framework for independent contractors. As a result, the new ABC test must be applied and interpreted for all non-exempted licensed professionals.

Staff Recommendation: CBOT should inform the committees of any discussions it has had about the Dynamex decision and AB 5, and whether there is potential to impact the current landscape of the profession unless an exemption is provided.

Board's 2022 Response: The issue of AB 5 and the impact to the profession has not been discussed by the Board as the employee/employer relationship or contractor issue didn't appear to be a practice or a consumer protection issue. However, the prevalence of OTs who are independent contractors suggests the value of the Board discussing an exemption to the Labor Code for contracting OTs at a future Board meeting. If it is determined that an exemption from the Labor Code for contracting OTs is the direction the Board wants to go, the Board will work with stakeholders and notify the Committees before submitting any legislative proposals.

Board's Current Response: Discussion of AB 5 and the impact to the occupational therapy profession was held at the Board's May 2022 meeting. Discussion and input from the public led the Board to seek an exemption to AB 5 under Labor Code 2783. However, language has not yet been drafted for Board approval and the Board has been unsuccessful in finding an author for a bill. The Board looks forward to drafting and reviewing exemption language and finding a bill author.

Excerpt from May 19, 2022, Board Meeting Minutes

Agenda Item 12. Discussion and possible action on including occupational therapists in Labor Code section 2783, relating to contractor status.

DCA Attorney Joseph Chin explained the differences between applying the Dynamex and Borello standards to determine contractor status.

Board Member Lynna Do offered her knowledge on the requirements of Dynamex and Borello. Ms. Do's opinion was that Borello offered the path of least resistance.

The Board Members discussed the information provided by Ms. Do and decided that it would be best for OTs and OTAs to be exempted from Dynamex and governed by Borello.

- Richard Bookwalter moved that the Board draft legislation to add OT and OTA to Labor Code 2783 (b) among the list of occupations governed by Borello.
- Lynna Do seconded the motion.

Public Comment

Heather Kitching stated that she was very much in support of OTs and OTAs being included in the exemption.

Board Member Votes

Sharon Pavlovich:	Yes
Beata Morcos:	Yes
Richard Bookwalter:	Yes
Lynna Do:	Yes
Denise Miller:	Yes

The motion carried.

State of California

LABOR CODE

Section 2775

2775. (a) As used in this article:

(1) “Dynamex” means *Dynamex Operations W. Inc. v. Superior Court* (2018) 4 Cal.5th 903.

(2) “Borello” means the California Supreme Court’s decision in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341.

(b) (1) For purposes of this code and the Unemployment Insurance Code, and for the purposes of wage orders of the Industrial Welfare Commission, a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

(A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The person performs work that is outside the usual course of the hiring entity’s business.

(C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

(2) Notwithstanding paragraph (1), any exceptions to the terms “employee,” “employer,” “employ,” or “independent contractor,” and any extensions of employer status or liability, that are expressly made by a provision of this code, the Unemployment Insurance Code, or in an applicable order of the Industrial Welfare Commission, including, but not limited to, the definition of “employee” in subdivision 2(E) of Wage Order No. 2, shall remain in effect for the purposes set forth therein.

(3) If a court of law rules that the three-part test in paragraph (1) cannot be applied to a particular context based on grounds other than an express exception to employment status as provided under paragraph (2), then the determination of employee or independent contractor status in that context shall instead be governed by the California Supreme Court’s decision in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 (Borello).

(Added by Stats. 2020, Ch. 38, Sec. 2. (AB 2257) Effective September 4, 2020.)

Excerpt from CA Dept. of Industrial Relations Website on the Borello Test

The California Supreme Court established the *Borello* test in *S.G. Borello & Sons, Inc. v. Dept. of Industrial Relations* (1989) 48 Cal.3d 341. The test relies upon multiple factors to determine if an individual is an employee or an independent contractor. A key factor is whether the potential employer has all necessary control over the manner and means of accomplishing the result desired, although such control need not be direct, actually exercised, or detailed. This factor is considered with other factors, which include:

- Whether the worker performing services holds themselves out as being engaged in an occupation or business distinct from that of the employer;
- Whether the work is a regular or integral part of the employer's business;
- Whether the employer or the worker supplies the instrumentalities, tools, and the place for the worker doing the work;
- Whether the worker has invested in the business, such as in the equipment or materials required by their task;
- Whether the service provided requires a special skill;
- The kind of occupation, and whether the work is usually done under the direction of the employer or by a specialist without supervision;
- The worker's opportunity for profit or loss depending on their managerial skill;
- The length of time for which the services are to be performed;
- The degree of permanence of the working relationship;
- The method of payment, whether by time or by the job;
- Whether the worker hires their own employees;
- Whether the employer has a right to fire at will or whether a termination gives rise to an action for breach of contract; and
- Whether or not the worker and the potential employer believe they are creating an employer-employee relationship (this may be relevant, but the legal determination of employment status is not based on whether the parties believe they have an employer-employee relationship).

Borello is referred to as a "multifactor" test because it requires consideration of all potentially relevant facts – no single factor controls the determination. Courts have emphasized different factors in the multifactor test depending on the circumstances. For example, where the employer does not control the work details, an employer-employee relationship may be found if (1) the employer retains control over the operation as a whole, (2) the worker's duties are an integral part of the operation, and (3) the nature of the work makes detailed control unnecessary. (*Yellow Cab Cooperative, Inc. v. Workers' Compensation Appeals Board* (1991) 226 Cal.App.3d 1288.)

As the Supreme Court has explained, *Borello* “emphasizes statutory purpose as the touchstone for deciding whether a particular category of workers should be considered employees rather than independent contractors for purposes of social welfare legislation.” (*Dynamex*, 4 Cal.5th at 935.) The emphasis on statutory purpose “sets apart the *Borello* test for distinguishing employees from independent contractors from the [common law] standard... in which the control of details factor is given considerable weight.” (Id.)

Proposed Amendments to Labor Code Section 2783

Labor Code - LAB

DIVISION 3. EMPLOYMENT RELATIONS [2700 - 3122.4]

(Division 3 enacted by Stats. 1937, Ch. 90.)

CHAPTER 2. Employer and Employee [2750 - 2930]

(Chapter 2 enacted by Stats. 1937, Ch. 90.)

ARTICLE 1.5. Worker Status: Employees [2775 - 2787]

(Article 1.5 added by Stats. 2020, Ch. 38, Sec. 2.)

2783.

Section 2775 and the holding in *Dynamex* do not apply to the following occupations as defined in the paragraphs below, and instead, the determination of employee or independent contractor status for individuals in those occupations shall be governed by *Borello*:

- (a) A person or organization that is licensed by the Department of Insurance pursuant to Chapter 5 (commencing with Section 1621), Chapter 6 (commencing with Section 1760), or Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of the Insurance Code or a person who provides underwriting inspections, premium audits, risk management, claims adjusting, third-party administration consistent with use of the term “third-party administrator,” as defined in subdivision (cc) of Section 10112.1 of Title 8 of the California Code of Regulations, or loss control work for the insurance and financial service industries.
- (b) A physician and surgeon, dentist, podiatrist, psychologist, ~~or~~ veterinarian, or occupational therapy practitioner licensed by the State of California pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, performing professional or medical services provided to or by a health care entity, including an entity organized as a sole proprietorship, partnership, or professional corporation as defined in Section 13401 of the Corporations Code. Nothing in this subdivision shall circumvent, undermine, or restrict the rights under federal law to organize and collectively bargain.
- (c) An individual who holds an active license from the State of California and is practicing one of the following recognized professions: lawyer, architect, landscape architect, engineer, private investigator, or accountant.
- (d) A securities broker-dealer or investment adviser or their agents and representatives that are either of the following:
- (1) Registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority.
 - (2) Licensed by the State of California under Chapter 2 (commencing with Section 25210) or Chapter 3 (commencing with Section 25230) of Division 1 of Part 3 of Title 4 of the Corporations Code.
- (e) A direct sales salesperson as described in Section 650 of the Unemployment Insurance Code, so long as the conditions for exclusion from employment under that section are met.

(f) A manufactured housing salesperson, subject to all obligations under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, including all regulations promulgated by the Department of Housing and Community Development relating to manufactured home salespersons and all other obligations of manufactured housing salespersons to members of the public. The statutorily imposed duties of a manufactured housing dealer under Section 18060.5 of the Health and Safety Code are not factors to be considered under the Borello test.

(g) A commercial fisher working on an American vessel.

(1) For the purposes of this subdivision:

(A) "American vessel" has the same meaning as defined in Section 125.5 of the Unemployment Insurance Code.

(B) "Commercial fisher" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.

(C) "Working on an American vessel" means the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel. However, "working on an American vessel" does not apply to anyone aboard a licensed commercial fishing vessel as a visitor or guest who does not directly or indirectly participate in the taking.

(2) For the purposes of this subdivision, a commercial fisher working on an American vessel is eligible for unemployment insurance benefits if they meet the definition of "employment" in Section 609 of the Unemployment Insurance Code and are otherwise eligible for those benefits pursuant to the provisions of the Unemployment Insurance Code.

(3) (A) Notwithstanding Section 10231.5 of the Government Code, on or before March 1, 2021, and each June 30 thereafter, the Employment Development Department shall issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. This report shall include, but not be limited to, all of the following:

(i) Reporting the number of commercial fishers who apply for unemployment insurance benefits.

(ii) The number of commercial fishers who have their claims disputed.

(iii) The number of commercial fishers who have their claims denied.

(iv) The number of commercial fishers who receive unemployment insurance benefits.

(B) The report required by this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.

(4) This subdivision shall become inoperative on January 1, 2031, unless extended by the Legislature.

(h) (1) A newspaper distributor working under contract with a newspaper publisher, as defined in paragraph (2), or a newspaper carrier.

(2) For purposes of this subdivision:

(A) “Newspaper” means a newspaper of general circulation, as defined in Section 6000 or 6008 of the Government Code, and any other publication circulated to the community in general as an extension of or substitute for that newspaper’s own publication, whether that publication be designated a “shoppers’ guide,” as a zoned edition, or otherwise. “Newspaper” may also be a publication that is published in print and that may be posted in a digital format, and distributed periodically at daily, weekly, or other short intervals, for the dissemination of news of a general or local character and of a general or local interest.

(B) “Publisher” means the natural or corporate person that manages the newspaper’s business operations, including circulation.

(C) “Newspaper distributor” means a person or entity that contracts with a publisher to distribute newspapers to the community.

(D) “Newspaper carrier” means a person who effects physical delivery of the newspaper to the customer or reader, who is not working as an app-based driver, as defined in Chapter 10.5 (commencing with Section 7448) of Division 3 of the Business and Professions Code, during the time when the newspaper carrier is performing the newspaper delivery services.

(3) (A) On or before March 1, 2025, March 1, 2026, March 1, 2027, March 1, 2028, and March 1, 2029, every newspaper publisher or distributor that hires or directly contracts with newspaper carriers shall submit to the Labor and Workforce Development Agency, in a manner prescribed by the agency and in conformity with existing law, the following information related to their workforce for the current year:

(i) The number of carriers for which the publisher or distributor paid payroll taxes in the previous year and the number of carriers for which the publisher or distributor did not pay payroll taxes in the previous year.

(ii) The average wage rate paid to carriers classified as independent contractors and as employees.

(iii) The number of carrier wage claims filed, if any, with the Labor Commissioner or in a court of law.

(B) For the March 1, 2025, reporting date only, every newspaper publisher and distributor shall also report the number of carrier wage claims filed with the Labor Commissioner or in a court of law for the preceding three years.

(C) Information that is submitted shall only be disclosed in accordance with Section 7927.705 of the Government Code, relating to trade secrets or other proprietary business information.

(4) This subdivision shall become inoperative on January 1, 2030, unless extended by the Legislature.

(i) An individual who is engaged by an international exchange visitor program that has obtained and maintains full official designation by the United States Department of State under Part 62 (commencing with Section 62.1) of Title 22 of the Code of Federal Regulations for the purpose of conducting, instead of participating in, international and cultural exchange visitor programs and is in full compliance with Part 62 (commencing with Section 62.1) of Title 22 of the Code of Federal Regulations.

(j) A competition judge with a specialized skill set or expertise providing services that require the exercise of discretion and independent judgment to an organization for the purposes of determining the outcome or enforcing the rules of a competition. This includes, but is not limited to, an amateur umpire or referee.

(Amended by Stats. 2025, Ch. 305, Sec. 2. (AB 1514) Effective January 1, 2026.)