

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 13

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO INTERGOVERNMENTAL AGREEMENTS; ENACTING THE
OCCUPATIONAL THERAPY LICENSURE COMPACT; AMENDING THE
OCCUPATIONAL THERAPY ACT TO PROVIDE FOR STATE AND FEDERAL
CRIMINAL HISTORY BACKGROUND CHECKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 16 of this act may be cited as the "Occupational
Therapy Licensure Compact".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Occupational Therapy Licensure Compact and except as otherwise
provided:

A. "active duty military" means full-time duty
status in the active uniformed service of the United States,
including members of the national guard and reserve on active

1 duty orders pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C.
2 Chapter 1211;

3 B. "adverse action" means any administrative,
4 civil, equitable or criminal action permitted by a state's laws
5 that is imposed by a licensing board or other authority against
6 an occupational therapist or occupational therapy assistant,
7 including actions against an individual's license or compact
8 privilege such as censure, revocation, suspension, probation,
9 monitoring of the licensee or restriction on the licensee's
10 practice;

11 C. "alternative program" means a non-disciplinary
12 monitoring process approved by an occupational therapy
13 licensing board;

14 D. "compact privilege" means the authorization,
15 which is equivalent to a license, granted by a remote state to
16 allow a licensee from another member state to practice as an
17 occupational therapist or practice as an occupational therapy
18 assistant in the remote state under its laws and rules. The
19 practice of occupational therapy occurs in the member state
20 where the patient or client is located at the time of the
21 patient or client encounter;

22 E. "continuing competence" or "continuing
23 education" means a requirement, as a condition of license
24 renewal, to provide evidence of participation in and completion
25 of educational and professional activities relevant to practice

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1 or area of work;

2 F. "current significant investigative information"
3 means investigative information that a licensing board, after
4 an inquiry or investigation that includes notification and an
5 opportunity for the occupational therapist or occupational
6 therapy assistant to respond, if required by state law, has
7 reason to believe is not groundless and if proved true would
8 indicate more than a minor infraction;

9 G. "data system" means a repository of information
10 about licensees, including license status, investigative
11 information, compact privileges and adverse actions;

12 H. "encumbered license" means a license in which an
13 adverse action restricts the practice of occupational therapy
14 by the licensee or said adverse action has been reported to the
15 national practitioner data bank;

16 I. "executive committee" means a group of directors
17 elected or appointed to act on behalf of and within the powers
18 granted to them by the commission;

19 J. "home state" means the member state that is the
20 licensee's primary state of residence;

21 K. "impaired practitioner" means an individual
22 whose professional practice is adversely affected by substance
23 abuse, addiction or other health-related conditions;

24 L. "investigative information" means information,
25 records or documents received or generated by an occupational

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1 therapy licensing board pursuant to an investigation;

2 M. "jurisprudence requirement" means the assessment
3 of an individual's knowledge of the laws and rules governing
4 the practice of occupational therapy in a state;

5 N. "licensee" means an individual who currently
6 holds an authorization from a state to practice as an
7 occupational therapist or as an occupational therapy assistant;

8 O. "member state" means a state that has enacted
9 the compact;

10 P. "occupational therapist" means an individual who
11 is licensed by a state to practice occupational therapy;

12 Q. "occupational therapy assistant" means an
13 individual who is licensed by a state to assist in the practice
14 of occupational therapy;

15 R. "occupational therapy", "occupational therapy
16 practice" and the "practice of occupational therapy" mean the
17 care and services provided by an occupational therapist or an
18 occupational therapy assistant as set forth in a member state's
19 statutes and regulations;

20 S. "occupational therapy compact commission" or
21 "commission" means the national administrative body whose
22 membership consists of all states that have enacted the
23 compact;

24 T. "occupational therapy licensing board" or
25 "licensing board" means the agency of a state that is

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1 authorized to license and regulate occupational therapists and
2 occupational therapy assistants;

3 U. "primary state of residence" means the home
4 state in which an occupational therapist or occupational
5 therapy assistant who is not active duty military declares a
6 primary residence for legal purposes as verified by the
7 person's driver's license, federal income tax return, lease,
8 deed, mortgage or voter registration or other verifying
9 documentation as further defined by commission rules;

10 V. "remote state" means a member state other than
11 the home state where a licensee is exercising or seeking to
12 exercise the compact privilege;

13 W. "rule" means a regulation promulgated by the
14 commission that has the force of law;

15 X. "state" means any state, commonwealth, district
16 or territory of the United States that regulates the practice
17 of occupational therapy;

18 Y. "single-state license" means an occupational
19 therapist or occupational therapy assistant license issued by a
20 member state that authorizes practice only within the issuing
21 state and does not include a compact privilege in any other
22 member state; and

23 Z. "telehealth" means the application of
24 telecommunication technology to deliver occupational therapy
25 services for assessment, intervention or consultation.

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1 SECTION 3. [NEW MATERIAL] STATE PARTICIPATION IN THE
2 COMPACT.--

3 A. To participate in the compact, a member state
4 shall:

5 (1) license occupational therapists and
6 occupational therapy assistants;

7 (2) participate fully in the commission's data
8 system, including using the commission's unique identifier as
9 defined in rules of the commission;

10 (3) have a mechanism in place for receiving
11 and investigating complaints about licensees;

12 (4) notify the commission, in compliance with
13 the terms of the compact and rules, of any adverse action or
14 the availability of investigative information regarding a
15 licensee;

16 (5) implement or utilize procedures for
17 considering the criminal history records of applicants for an
18 initial compact privilege. These procedures shall include the
19 submission of fingerprints or other biometric-based information
20 by applicants for the purpose of obtaining an applicant's
21 criminal history record information from the federal bureau of
22 investigation and the agency responsible for retaining that
23 state's criminal records within a time frame established by the
24 commission. When a member state receives the results of the
25 federal bureau of investigation criminal record search, the

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1 member state shall use the results in making licensure
2 decisions. Communication between a member state and the
3 commission and among member states regarding the verification
4 of eligibility for licensure through the compact shall not
5 include any information received from the federal bureau of
6 investigation relating to a federal criminal records check
7 performed by a member state under Public Law 92-544;

8 (6) comply with the rules of the commission;

9 (7) utilize only a recognized national
10 examination as a requirement for licensure pursuant to the
11 rules of the commission; and

12 (8) have continuing competence or continuing
13 education requirements as a condition for license renewal.

14 B. A member state shall grant the compact privilege
15 to a licensee holding a valid unencumbered license in another
16 member state in accordance with the terms of the compact and
17 rules.

18 C. Member states may charge a fee for granting a
19 compact privilege.

20 D. A member state shall provide for the state's
21 delegate to attend all occupational therapy compact commission
22 meetings.

23 E. Individuals not residing in a member state shall
24 continue to be able to apply for a member state's single-state
25 license as provided under the laws of each member state.

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1 However, the single-state license granted to these individuals
2 shall not be recognized as granting the compact privilege in
3 any other member state.

4 F. Nothing in the compact shall affect the
5 requirements established by a member state for the issuance of
6 a single-state license.

7 SECTION 4. [NEW MATERIAL] COMPACT PRIVILEGE.--

8 A. To exercise the compact privilege under the
9 terms and provisions of the compact, the licensee shall:

- 10 (1) hold a license in the home state;
11 (2) have a valid United States social security
12 number or national practitioner identification number;
13 (3) have no encumbrance on any state license;
14 (4) be eligible for a compact privilege in any
15 member state in accordance with Subsections D, F, G and H of
16 this section;
17 (5) have paid all fines and completed all
18 requirements resulting from any adverse action against any
19 license or compact privilege, and two years have elapsed from
20 the date of such completion;
21 (6) notify the commission that the licensee is
22 seeking the compact privilege within a remote state;
23 (7) pay any applicable fees, including any
24 state fee, for the compact privilege;
25 (8) complete a criminal background check in

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1 accordance with Section 3 of the Occupational Therapy Licensure
2 Compact. The licensee shall be responsible for the payment of
3 any fee associated with the completion of a criminal background
4 check;

5 (9) meet any jurisprudence requirements
6 established by the remote state or states in which the licensee
7 is seeking a compact privilege; and

8 (10) report to the commission adverse action
9 taken by any nonmember state within thirty days from the date
10 the adverse action is taken.

11 B. The compact privilege is valid until the
12 expiration date of the home state license. The licensee must
13 comply with the requirements of Subsection A of this section to
14 maintain the compact privilege in the remote state.

15 C. A licensee providing occupational therapy in a
16 remote state under the compact privilege shall function within
17 the laws and regulations of the remote state.

18 D. Occupational therapy assistants practicing in a
19 remote state shall be supervised by an occupational therapist
20 licensed or holding a compact privilege in that remote state.

21 E. A licensee providing occupational therapy in a
22 remote state is subject to that state's regulatory authority.
23 A remote state may, in accordance with due process and that
24 state's laws, remove a licensee's compact privilege in the
25 remote state for a specific period of time, impose fines or

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1 take any other necessary actions to protect the health and
2 safety of its citizens. The licensee may be ineligible for a
3 compact privilege in any state until the specific time for
4 removal has passed and all fines are paid.

5 F. If a home state license is encumbered, the
6 licensee shall lose the compact privilege in any remote state
7 until the following occur:

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

10 (2) two years have elapsed from the date on
11 which the home state license became unencumbered.

12 G. Once an encumbered license in the home state is
13 restored to good standing, the licensee must meet the
14 requirements of Subsection A of this section to obtain a
15 compact privilege in any remote state.

16 H. If a licensee's compact privilege in any remote
17 state is removed, the individual may lose the compact privilege
18 in any other remote state until the following occur:

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

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

23 (3) two years have elapsed from the date in
24 which the requirements in Paragraphs (1) and (2) of this
25 subsection were completed; and

1 (4) the compact privileges are reinstated by
2 the commission, and the compact data system is updated to
3 reflect reinstatement.

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

7 J. Once the requirements of Subsection H have been
8 met, the licensee must meet the requirements in Subsection A of
9 this section to obtain a compact privilege in a remote state.

10 SECTION 5. [NEW MATERIAL] OBTAINING A NEW HOME STATE
11 LICENSE BY VIRTUE OF COMPACT PRIVILEGE.--

12 A. An occupational therapist or occupational
13 therapy assistant may hold a home state license, which allows
14 for compact privileges in member states, in only one member
15 state at a time.

16 B. If an occupational therapist or occupational
17 therapy assistant changes primary state of residence by moving
18 between two member states:

19 (1) the occupational therapist or occupational
20 therapy assistant shall file an application for obtaining a new
21 home state license by virtue of a compact privilege, pay all
22 applicable fees and notify the current and new home state in
23 accordance with applicable rules adopted by the commission;

24 (2) upon receipt of an application for
25 obtaining a new home state license by virtue of compact

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1 privilege, the new home state shall verify that the
2 occupational therapist or occupational therapy assistant meets
3 the pertinent criteria outlined in Section 4 of the
4 Occupational Therapy Licensure Compact via the data system,
5 without need for primary source verification except for:

6 (a) a federal bureau of investigation
7 fingerprint-based criminal background check, if not previously
8 performed or updated pursuant to applicable rules adopted by
9 the commission in accordance with Public Law 92-544;

10 (b) any other criminal background check
11 as required by the new home state; and

12 (c) submission of any requisite
13 jurisprudence requirements of the new home state;

14 (3) the former home state shall convert the
15 former home state license into a compact privilege once the new
16 home state has activated the new home state license in
17 accordance with applicable rules adopted by the commission;

18 (4) notwithstanding any other provision of the
19 compact, if the occupational therapist or occupational therapy
20 assistant cannot meet the requirements in Section 4 of the
21 Occupational Therapy Licensure Compact, the new home state
22 shall apply its requirements for issuing a new single-state
23 license; and

24 (5) the occupational therapist or the
25 occupational therapy assistant shall pay all applicable fees to

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1 the new home state in order to be issued a new home state
2 license.

3 C. If an occupational therapist or occupational
4 therapy assistant changes primary state of residence by moving
5 from a member state to a nonmember state, or from a nonmember
6 state to a member state, the state criteria shall apply for
7 issuance of a single-state license in the new state.

8 D. Nothing in the compact shall interfere with a
9 licensee's ability to hold a single-state license in multiple
10 states; however, for the purposes of the compact, a licensee
11 shall have only one home state license.

12 E. Nothing in the compact shall affect the
13 requirements established by a member state for the issuance of
14 a single-state license.

15 SECTION 6. [NEW MATERIAL] ACTIVE DUTY MILITARY PERSONNEL
16 OR THEIR SPOUSES.--Active duty military personnel, or their
17 spouses, shall designate a home state where the individual has
18 a current license in good standing. The individual may retain
19 the home state designation during the period the service member
20 is on active duty. Subsequent to designating a home state, the
21 individual shall only change the individual's home state
22 through application for licensure in the new state or through
23 the process described in Section 5 of the Occupational Therapy
24 Licensure Compact.

25 SECTION 7. [NEW MATERIAL] ADVERSE ACTIONS.--

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1 A. A home state shall have exclusive power to
2 impose adverse action against an occupational therapist's or
3 occupational therapy assistant's license issued by the home
4 state.

5 B. In addition to the other powers conferred by
6 state law, a remote state shall have the authority, in
7 accordance with existing state due process law, to:

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

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

23 C. For purposes of taking adverse action, the home
24 state shall give the same priority and effect to reported
25 conduct received from a member state as it would if the conduct

1 had occurred within the home state. In so doing, the home
2 state shall apply its own state laws to determine appropriate
3 action.

4 D. The home state shall complete any pending
5 investigations of an occupational therapist or occupational
6 therapy assistant who changes primary state of residence during
7 the course of the investigations. The home state shall also
8 have the authority to take appropriate action and shall
9 promptly report the conclusions of the investigations to the
10 data system. The data system administrator shall promptly
11 notify the new home state of any adverse actions.

12 E. If otherwise permitted by state law, a member
13 state may recover from the affected occupational therapist or
14 occupational therapy assistant the costs of investigations and
15 disposition of cases resulting from any adverse action taken
16 against that occupational therapist or occupational therapy
17 assistant.

18 F. A member state may take adverse action based on
19 the factual findings of the remote state; provided that the
20 member state follows its own procedures for taking the adverse
21 action.

22 G. In addition to the authority granted to a member
23 state by its respective state occupational therapy laws and
24 regulations or other applicable state law, any member state may
25 participate with other member states in joint investigations of

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1 licensees. Member states shall share any investigative,
2 litigation or compliance materials in furtherance of any joint
3 or individual investigation initiated under the compact.

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

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

20 J. Nothing in the compact shall override a member
21 state's decision that participation in an alternative program
22 may be used in lieu of adverse action.

23 SECTION 8. [NEW MATERIAL] OCCUPATIONAL THERAPY COMPACT
24 COMMISSION--CREATED.--

25 A. The compact member states hereby create and

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1 establish a joint public agency known as the "occupational
2 therapy compact commission", subject to the following
3 provisions:

4 (1) the commission is an instrumentality of
5 the compact states;

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

13 (3) nothing in the compact shall be construed
14 to be a waiver of sovereign immunity.

15 B. Membership, voting and meetings of the
16 commission shall proceed as follows:

17 (1) each member state shall have and be
18 limited to one delegate selected by that member state's
19 licensing board. The delegate shall be either:

20 (a) a current member of the licensing
21 board who is an occupational therapist, occupational therapy
22 assistant or public member; or

23 (b) an administrator of the licensing
24 board;

25 (2) any delegate may be removed or suspended

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1 from office as provided by the law of the state from which the
2 delegate is appointed;

3 (3) the member state licensing board shall
4 fill any vacancy occurring in the commission within ninety
5 days;

6 (4) each delegate shall be entitled to one
7 vote with regard to the promulgation of rules and creation of
8 bylaws and shall otherwise have an opportunity to participate
9 in the business and affairs of the commission;

10 (5) a delegate shall vote in person or by such
11 other means as provided in the bylaws. The bylaws may provide
12 for delegates' participation in meetings by telephone or other
13 means of communication;

14 (6) the commission shall meet at least once
15 during each calendar year. Additional meetings shall be held
16 as set forth in the bylaws; and

17 (7) the commission shall establish by rule a
18 term of office for delegates.

19 C. The commission shall:

20 (1) establish a code of ethics for the
21 commission;

22 (2) establish the fiscal year of the
23 commission;

24 (3) establish bylaws;

25 (4) maintain its financial records in

1 accordance with the bylaws;

2 (5) meet and take such actions as are
3 consistent with the provisions of the compact and the bylaws;

4 (6) promulgate uniform rules to facilitate and
5 coordinate implementation and administration of the compact.

6 The rules shall have the force and effect of law and shall be
7 binding in all member states;

8 (7) bring and prosecute legal proceedings or
9 actions in the name of the commission; provided that the
10 standing of any state occupational therapy licensing board to
11 sue or be sued under applicable law shall not be affected;

12 (8) purchase and maintain insurance and bonds;

13 (9) borrow, accept or contract for services of
14 personnel, including employees of a member state;

15 (10) hire employees, elect or appoint
16 officers, fix compensation, define duties, grant such
17 individuals appropriate authority to carry out the purposes of
18 the compact and establish the commission's personnel policies
19 and programs relating to conflicts of interest, qualifications
20 of personnel and other related personnel matters;

21 (11) accept any and all appropriate donations
22 and grants of money, equipment, supplies, materials and
23 services and receive, utilize and dispose of the same; provided
24 that at all times the commission shall avoid any appearance of
25 impropriety or conflict of interest;

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1 (12) lease, purchase, accept appropriate gifts
2 or donations of, or otherwise own, hold, improve or use, any
3 property, whether real, personal or mixed; provided that at all
4 times the commission shall avoid any appearance of impropriety;

5 (13) sell, convey, mortgage, pledge, lease,
6 exchange, abandon or otherwise dispose of any property, whether
7 real, personal or mixed;

8 (14) establish a budget and make expenditures;

9 (15) borrow money;

10 (16) appoint committees, including standing
11 committees composed of members, state regulators, state
12 legislators or their representatives, consumer representatives
13 and such other interested persons as may be designated in the
14 compact and the bylaws;

15 (17) provide and receive information from, and
16 cooperate with, law enforcement agencies;

17 (18) establish and elect an executive
18 committee; and

19 (19) perform such other functions as may be
20 necessary or appropriate to achieve the purposes of the compact
21 consistent with the state regulation of occupational therapy
22 licensure and practice.

23 D. The executive committee shall have the power to
24 act on behalf of the commission according to the terms of the
25 compact and shall be composed of nine members as follows:

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

3 (2) one nonvoting ex-officio member from a
4 recognized national occupational therapy professional
5 association; and

6 (3) one nonvoting ex-officio member from a
7 recognized national occupational therapy certification
8 organization.

9 E. The ex-officio members of the executive
10 committee shall be selected by their respective organizations.

11 F. The commission may remove any member of the
12 executive committee as provided in bylaws.

13 G. The executive committee shall meet at least
14 annually.

15 H. The executive committee shall have the following
16 duties and responsibilities:

17 (1) recommend to the entire commission changes
18 to the rules or bylaws, changes to the compact legislation,
19 fees paid by compact member states such as annual dues and any
20 commission compact fee charged to licensees for the compact
21 privilege;

22 (2) ensure that compact administration
23 services are appropriately provided, contractual or otherwise;

24 (3) prepare and recommend a budget;

25 (4) maintain financial records on behalf of

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1 the commission;

2 (5) monitor compact compliance of member
3 states and provide compliance reports to the commission;

4 (6) establish additional committees as
5 necessary; and

6 (7) carry out other duties as provided in
7 rules or bylaws.

8 I. All meetings of the commission shall be open to
9 the public, and public notice of meetings shall be given in the
10 same manner as required under the rulemaking provisions in
11 Section 11 of the Occupational Therapy Licensure Compact.

12 J. The commission or the executive committee or
13 other committees of the commission may convene in a closed,
14 nonpublic meeting if the commission or executive committee or
15 other committees of the commission must discuss:

16 (1) noncompliance of a member state with its
17 obligations under the compact;

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

22 (3) current, threatened or reasonably
23 anticipated litigation;

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

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1 (5) accusations made of any person of a crime
2 or formal censuring of any person;

3 (6) disclosure of trade secrets or commercial
4 or financial information that is privileged or confidential;

5 (7) disclosure of information of a personal
6 nature where disclosure would constitute a clearly unwarranted
7 invasion of personal privacy;

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

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

15 (10) matters specifically exempted from
16 disclosure by federal or member state statute.

17 K. If a meeting, or portion of a meeting, is closed
18 pursuant to Subsection J of this section, the commission's
19 legal counsel or designee shall certify that the meeting may be
20 closed and shall reference each relevant exempting provision.

21 L. The commission shall keep minutes that fully and
22 clearly describe all matters discussed in a meeting and shall
23 provide a full and accurate summary of actions taken, and the
24 reasons therefore, including a description of the views
25 expressed. All documents considered in connection with an

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1 action shall be identified in the minutes. All minutes and
2 documents of a closed meeting shall remain under seal, subject
3 to release by a majority vote of the commission or order of a
4 court of competent jurisdiction.

5 M. The commission shall pay, or provide for the
6 payment of, the reasonable expenses of its establishment,
7 organization and ongoing activities. The commission may accept
8 any and all appropriate revenue sources, donations and grants
9 of money, equipment, supplies, materials and services. The
10 commission may levy on and collect an annual assessment from
11 each member state or impose fees on other parties to cover the
12 cost of the operations and activities of the commission and its
13 staff, which must be in a total amount sufficient to cover its
14 annual budget as approved by the commission each year for which
15 revenue is not provided by other sources. The aggregate annual
16 assessment amount shall be allocated based upon a formula to be
17 determined by the commission, which shall promulgate a rule
18 binding upon all member states.

19 N. The commission shall not incur obligations of
20 any kind prior to securing the funds adequate to meet the
21 obligations; nor shall the commission pledge the credit of any
22 of the member states, except by and with the authority of the
23 member state.

24 O. The commission shall keep accurate accounts of
25 all receipts and disbursements. The receipts and disbursements

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

7 **SECTION 9. [NEW MATERIAL] QUALIFIED IMMUNITY, DEFENSE AND**
8 **INDEMNIFICATION.--**

9 A. The members, officers, executive director,
10 employees and representatives of the commission shall be immune
11 from suit and liability, either personally or in their official
12 capacity, for any claim for damage to or loss of property or
13 personal injury or other civil liability caused by or arising
14 out of any actual or alleged act, error or omission that
15 occurred, or that the person against whom the claim is made had
16 a reasonable basis for believing occurred within the scope of
17 commission employment, duties or responsibilities; provided
18 that nothing in this subsection shall be construed to protect
19 any such person from suit or liability for any damage, loss,
20 injury or liability caused by the intentional or willful or
21 wanton misconduct of that person. The liability of the
22 commission within any member state may not exceed the limits of
23 liability set forth under the constitution and laws of that
24 state for state officials, employees and agents. The
25 commission is considered to be an instrumentality of the states

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1 for the purpose of any such action.

2 B. The commission shall defend any member, officer,
3 executive director, employee or representative of the
4 commission in any civil action seeking to impose liability
5 arising out of any actual or alleged act, error or omission
6 that occurred within the scope of commission employment, duties
7 or responsibilities, or that the person against whom the claim
8 is made had a reasonable basis for believing occurred within
9 the scope of commission employment, duties or responsibilities;
10 provided that nothing in this section shall be construed to
11 prohibit that person from retaining counsel; and further
12 provided that the actual or alleged act, error or omission did
13 not result from that person's intentional or willful or wanton
14 misconduct.

15 C. The commission shall indemnify and hold harmless
16 any member, officer, executive director, employee or
17 representative of the commission for the amount of any
18 settlement or judgment obtained against that person arising out
19 of any actual or alleged act, error or omission that occurred
20 within the scope of commission employment, duties or
21 responsibilities, or that such person had a reasonable basis
22 for believing occurred within the scope of commission
23 employment, duties or responsibilities; provided that the
24 actual or alleged act, error or omission did not result from
25 the intentional or willful or wanton misconduct of that person.

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1 SECTION 10. ~~[NEW MATERIAL]~~ DATA SYSTEM.--

2 A. The commission shall provide for the
3 development, maintenance and utilization of a coordinated
4 database and reporting system containing licensure, adverse
5 action and investigative information on all licensed
6 individuals in member states.

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

- 11 (1) identifying information;
12 (2) licensure data;
13 (3) adverse actions against a license or
14 compact privilege;
15 (4) non-confidential information related to
16 alternative program participation;
17 (5) any denial of application for licensure,
18 and the reason for such denial;
19 (6) other information that may facilitate the
20 administration of the compact, as determined by the rules of
21 the commission; and
22 (7) current significant investigative
23 information.

24 C. Current significant investigative information
25 and other investigative information pertaining to a licensee in

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1 any member state shall only be available to other member
2 states.

3 D. The commission shall promptly notify all member
4 states of any adverse action taken against a licensee or an
5 individual applying for a license. Adverse action information
6 pertaining to a licensee in any member state will be available
7 to any other member state.

8 E. Member states contributing information to the
9 data system may designate information that may not be shared
10 with the public without the express permission of the
11 contributing state.

12 F. Any information submitted to the data system
13 that is subsequently required to be expunged by the laws of the
14 member state contributing the information shall be removed from
15 the data system.

16 G. All information provided to the commission or
17 distributed by member boards shall be confidential, filed under
18 seal and used only for investigatory or disciplinary matters;
19 provided that information submitted to the board of examiners
20 for occupational therapy is subject to the confidentiality and
21 transparency requirements imposed by New Mexico law or court
22 order.

23 SECTION 11. [NEW MATERIAL] RULEMAKING.--

24 A. The commission shall exercise its rulemaking
25 powers pursuant to the criteria set forth in this section and

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1 the rules adopted thereunder. Rules and amendments shall
2 become binding as of the date specified in each rule or
3 amendment.

4 B. The commission shall promulgate reasonable rules
5 in order to effectively and efficiently achieve the purposes of
6 the compact. In the event the commission exercises its
7 rulemaking authority in a manner that is beyond the scope of
8 the purposes of the compact, such an action by the commission
9 shall be invalid and have no force and effect.

10 C. If a majority of the legislatures of the member
11 states rejects a rule, by enactment of a statute or resolution
12 in the same manner used to adopt the compact within four years
13 of the date of adoption of the rule, the rule shall have no
14 further force and effect in any member state.

15 D. Rules or amendments to the rules shall be
16 adopted at a regular or special meeting of the commission.

17 E. Prior to promulgation and adoption of a final
18 rule by the commission, and at least thirty days in advance of
19 the meeting at which the rule will be considered and voted
20 upon, the commission shall file a notice of proposed
21 rulemaking:

22 (1) on the website of the commission or other
23 publicly accessible platform; and

24 (2) on the website of each member state
25 occupational therapy licensing board or other publicly

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1 accessible platform or the publication in which each state
2 would otherwise publish proposed rules.

3 F. The notice of proposed rulemaking shall include:

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

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

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

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

14 G. Prior to adoption of a proposed rule, the
15 commission shall allow persons to submit written data, facts,
16 opinions and arguments, which shall be made available to the
17 public.

18 H. The commission shall grant an opportunity for a
19 public hearing before it adopts a rule or amendment if a
20 hearing is requested by:

21 (1) at least twenty-five persons;

22 (2) a state or federal governmental
23 subdivision or agency; or

24 (3) an association or organization having at
25 least twenty-five members.

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1 I. If a hearing is held on the proposed rule or
2 amendment, the commission shall publish the place, time and
3 date of the scheduled public hearing. If the hearing is held
4 via electronic means, the commission shall publish the
5 mechanism for access to the electronic hearing and the
6 procedure for hearings shall be conducted according to the
7 following provisions:

8 (1) all persons wishing to be heard at the
9 hearing shall notify the executive director of the commission
10 or other designated member in writing of their desire to appear
11 and testify at the hearing not less than five business days
12 before the scheduled date of the hearing;

13 (2) hearings shall be conducted in a manner
14 providing each person who wishes to comment a fair and
15 reasonable opportunity to comment orally or in writing;

16 (3) all hearings will be recorded. A copy of
17 the recording will be made available on request; and

18 (4) nothing in this section shall be construed
19 as requiring a separate hearing on each rule. Rules may be
20 grouped for the convenience of the commission at hearings
21 required by this section.

22 J. Following the scheduled hearing date, or by the
23 close of business on the scheduled hearing date if the hearing
24 was not held, the commission shall consider all written and
25 oral comments received.

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1 K. If no written notice of intent to attend the
2 public hearing by interested parties is received, the
3 commission may proceed with promulgation of the proposed rule
4 without a public hearing.

5 L. The commission shall, by majority vote of all
6 members, take final action on the proposed rule and shall
7 determine the effective date of the rule, if any, based on the
8 rulemaking record and the full text of the rule.

9 M. Upon determination that an emergency exists, the
10 commission may consider and adopt an emergency rule without
11 prior notice, opportunity for comment or hearing; provided that
12 the usual rulemaking procedures provided in the compact and in
13 this section shall be retroactively applied to the rule as soon
14 as reasonably possible, but in no event later than ninety days
15 after the effective date of the rule. For the purposes of this
16 provision, an emergency rule is one that must be adopted
17 immediately in order to:

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

20 (2) prevent a loss of commission or member
21 state funds;

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

25 (4) protect public health and safety.

1 N. The commission or an authorized committee of the
2 commission may direct revisions to a previously adopted rule or
3 amendment for purposes of correcting typographical errors,
4 errors in format, errors in consistency or grammatical errors.
5 Public notice of any revisions shall be posted on the website
6 of the commission. The revision shall be subject to challenge
7 by any person for a period of thirty days after posting. The
8 revision may be challenged only on grounds that the revision
9 results in a material change to a rule. A challenge shall be
10 made in writing and delivered to the chair of the commission
11 prior to the end of the notice period. If no challenge is
12 made, the revision shall take effect without further action.
13 If the revision is challenged, the revision may not take effect
14 without the approval of the commission.

15 **SECTION 12. [NEW MATERIAL] OVERSIGHT, DISPUTE RESOLUTION**
16 **AND ENFORCEMENT.--**

17 A. The executive, legislative and judicial branches
18 of state government in each member state shall enforce the
19 compact and take all actions necessary and appropriate to
20 effectuate the compact's purposes and intent. The provisions
21 of the compact and the rules promulgated hereunder shall have
22 standing as statutory law.

23 B. All courts shall take judicial notice of the
24 compact and the rules in any judicial or administrative
25 proceeding in a member state pertaining to the subject matter

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1 of the compact which may affect the powers, responsibilities or
2 actions of the commission. The commission shall be entitled to
3 receive service of process in any judicial or administrative
4 proceeding and shall have standing to intervene in such a
5 proceeding for all purposes. Failure to provide service of
6 process to the commission shall render a judgment or order void
7 as to the commission, the compact or promulgated rules.

8 C. If the commission determines that a member state
9 has defaulted in the performance of its obligations or
10 responsibilities under the compact or the promulgated rules,
11 the commission shall:

12 (1) provide written notice to the defaulting
13 state and other member states of the nature of the default, the
14 proposed means of curing the default or any other action to be
15 taken by the commission; and

16 (2) provide remedial training and specific
17 technical assistance regarding the default.

18 D. If a state in default fails to cure the default,
19 the defaulting state may be terminated from the compact upon an
20 affirmative vote of a majority of the member states, and all
21 rights, privileges and benefits conferred by the compact may be
22 terminated on the effective date of termination. A cure of the
23 default does not relieve the offending state of obligations or
24 liabilities incurred during the period of default.

25 E. Termination of membership in the compact shall

1 be imposed only after all other means of securing compliance
2 have been exhausted. Notice of intent to suspend or terminate
3 shall be given by the commission to the governor, the majority
4 and minority leaders of the defaulting state's legislature and
5 each of the member states.

6 F. A state that has been terminated is responsible
7 for all assessments, obligations and liabilities incurred
8 through the effective date of termination, including
9 obligations that extend beyond the effective date of
10 termination.

11 G. The commission shall not bear any costs related
12 to a state that is found to be in default or that has been
13 terminated from the compact, unless agreed upon in writing
14 between the commission and the defaulting state.

15 H. The defaulting state may appeal the action of
16 the commission by petitioning the United States district court
17 for the District of Columbia, a federal court of New Mexico or
18 the federal district where the commission has its principal
19 offices. The prevailing member shall be awarded all costs of
20 such litigation, including reasonable attorney fees.

21 I. Upon request by a member state, the commission
22 shall attempt to resolve disputes related to the compact that
23 arise among member states and between member and nonmember
24 states.

25 J. The commission shall promulgate a rule providing

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1 for both mediation and binding dispute resolution for disputes
2 as appropriate.

3 K. The commission, in the reasonable exercise of
4 its discretion, shall enforce the provisions and rules of the
5 compact.

6 L. By majority vote, the commission may initiate
7 legal action in the United States district court for the
8 District of Columbia, a federal court of New Mexico or the
9 federal district where the commission has its principal offices
10 against a member state in default to enforce compliance with
11 the provisions of the compact and its promulgated rules and
12 bylaws. The relief sought may include both injunctive relief
13 and damages. In the event judicial enforcement is necessary,
14 the prevailing member shall be awarded all costs of such
15 litigation, including reasonable attorney fees.

16 M. The remedies provided in the compact shall not
17 be the exclusive remedies of the commission. The commission
18 may pursue any other remedies available under federal or state
19 law.

20 SECTION 13. [NEW MATERIAL] DATE OF IMPLEMENTATION OF THE
21 OCCUPATIONAL THERAPY LICENSURE COMPACT AND ASSOCIATED RULES,
22 WITHDRAWAL AND AMENDMENT.--

23 A. The compact shall come into effect on the date
24 on which the compact statute is enacted into law in the tenth
25 member state. The provisions, which become effective at that

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1 time, shall be limited to the powers granted to the commission
2 relating to assembly and the promulgation of rules.

3 Thereafter, the commission shall meet and exercise rulemaking
4 powers necessary to the implementation and administration of
5 the compact.

6 B. Any state that joins the compact subsequent to
7 the commission's initial adoption of the rules shall be subject
8 to the rules as they exist on the date on which the compact
9 becomes law in that state. Any rule that has been previously
10 adopted by the commission shall have the full force and effect
11 of law on the day the compact becomes law in that state.

12 C. Any member state may withdraw from the compact
13 by enacting a statute repealing the same.

14 D. A member state's withdrawal shall not take
15 effect until six months after enactment of the repealing
16 statute.

17 E. Withdrawal shall not affect the continuing
18 requirement of the withdrawing state's occupational therapy
19 licensing board to comply with the investigative and adverse
20 action reporting requirements of the compact prior to the
21 effective date of withdrawal.

22 F. Nothing contained in the compact shall be
23 construed to invalidate or prevent any occupational therapy
24 licensure agreement or other cooperative arrangement between a
25 member state and a nonmember state that does not conflict with

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1 the provisions of the compact.

2 G. The compact may be amended by the member states.
3 No amendment to the compact shall become effective and binding
4 upon any member state until it is enacted into the laws of all
5 member states.

6 SECTION 14. [NEW MATERIAL] CONSTRUCTION AND
7 SEVERABILITY.--The compact shall be liberally construed so as
8 to effectuate the purposes of the compact. The provisions of
9 the compact shall be severable and if any phrase, clause,
10 sentence or provision of the compact is declared to be contrary
11 to the constitution of any member state or of the United States
12 or the applicability thereof to any government, agency, person
13 or circumstance is held invalid, the validity of the remainder
14 of the compact and the applicability thereof to any government,
15 agency, person or circumstance shall not be affected thereby.
16 If the compact shall be held contrary to the constitution of
17 any member state, the compact shall remain in full force and
18 effect as to the remaining member states and in full force and
19 effect as to the member state affected as to all severable
20 matters.

21 SECTION 15. [NEW MATERIAL] PRESERVATION OF STATE
22 AUTHORITY.--

23 A. This compact creates a new pathway for
24 occupational therapy licensure in this state but does not
25 otherwise change or limit the effect of the Occupational

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1 Therapy Act.

2 B. This compact adopts the prevailing standard for
3 licensure and affirms that the practice of occupational therapy
4 occurs where the patient is located at the time of an
5 occupational therapy patient encounter and, therefore, requires
6 the occupational therapist to be under the jurisdiction of the
7 state occupational therapy board where the patient is located.

8 C. A state occupational therapy board that
9 participates in this compact retains the authority to impose an
10 adverse action against a license to practice occupational
11 therapy in that state, including licenses issued to
12 occupational therapists through procedures provided by this
13 compact.

14 SECTION 16. [NEW MATERIAL] BINDING EFFECT OF COMPACT AND
15 OTHER LAWS.--

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

19 B. Nothing in the compact prevents the enforcement
20 of any other law of a member state that is not inconsistent
21 with the compact.

22 C. Any laws in a member state in conflict with the
23 compact are superseded to the extent of the conflict.

24 D. Any lawful actions of the commission, including
25 all rules and bylaws promulgated by the commission, are binding

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upon the member states.

E. All agreements between the commission and the member states are binding in accordance with their terms.

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

SECTION 17. A new section of the Occupational Therapy Act is enacted to read:

"[NEW MATERIAL] PARTICIPATION IN OCCUPATIONAL THERAPY LICENSURE COMPACT AS CONDITION OF EMPLOYMENT PROHIBITED.--An employer shall not require an occupational therapist licensed in this state pursuant to the Occupational Therapy Act to seek licensure through the Occupational Therapy Licensure Compact as a condition of initial or continued employment as an occupational therapist in this state. An employer may require that an occupational therapist obtain and maintain a license to practice occupational therapy in multiple states if the occupational therapist is free to obtain and maintain the licenses by any means authorized by the laws of the respective states."

SECTION 18. A new section of the Occupational Therapy Act is enacted to read:

"[NEW MATERIAL] OCCUPATIONAL THERAPY LICENSURE COMPACT

1 COMMISSION--COMMISSIONER DUTIES.--

2 A. If a meeting, or a portion of a meeting, of the
3 occupational therapy compact commission is closed pursuant to
4 Subsection J of Section 8 of the Occupational Therapy Licensure
5 Compact, commissioners appointed to represent New Mexico on the
6 commission shall request the commission's legal counsel or
7 designee to certify that the meeting may be closed by citing
8 each provision of that subsection that is applicable.

9 Commissioners may satisfy this section by making a motion, or
10 voting in the affirmative on a motion, to have the occupational
11 therapy compact commission's legal counsel or designee certify
12 that the meeting may be closed.

13 B. Any time the occupational therapy compact
14 commission is voting on what to include in the commission's
15 minutes, commissioners appointed to represent New Mexico on the
16 commission shall vote to include in the minutes:

17 (1) all actions taken by the commission and
18 the reasons for each action, including a description of the
19 views expressed; and

20 (2) identification of all documents considered
21 by the commission that relate to an action taken by the
22 commission."

23 SECTION 19. A new section of the Occupational Therapy Act
24 is enacted to read:

25 "[NEW MATERIAL] BOARD OBLIGATIONS--PUBLIC POSTING.--The

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board shall post on the board's public website:

A. copies of the occupational therapy compact commission's current bylaws and rules;

B. notice of any occupational therapy compact commission action that may affect the license of an occupational therapist in this state within thirty days of the commission's action being taken; and

C. any minutes or documents of the occupational therapy compact commission that are released pursuant to a vote of the commission. All minutes and documents of a closed meeting of the occupational therapy compact commission shall remain under seal, subject to release by a majority vote of the commission or an order of a court of competent jurisdiction."

SECTION 20. A new section of the Occupational Therapy Act is enacted to read:

"[NEW MATERIAL] JOINT INVESTIGATIONS--INVESTIGATIVE SUBPOENAS.--The board may enter into joint investigations with other state occupational therapy boards pursuant to the Occupational Therapy Licensure Compact; provided that participation in the joint investigation is governed by a written agreement among the board and the other participating occupational therapy boards."

SECTION 21. Section 61-12A-9 NMSA 1978 (being Laws 1996, Chapter 55, Section 9, as amended) is amended to read:

"61-12A-9. BOARD--POWERS AND DUTIES.--

1 A. The board shall:

2 (1) promulgate rules in accordance with the
3 State Rules Act to carry out the provisions of the Occupational
4 Therapy Act;

5 (2) use funds to meet the necessary expenses
6 incurred in carrying out the provisions of the Occupational
7 Therapy Act;

8 (3) adopt a code of ethics;

9 (4) enforce the provisions of the Occupational
10 Therapy Act to protect the public by conducting hearings on
11 charges relating to the discipline of licensees, including the
12 denial, suspension or revocation of a license in accordance
13 with the Uniform Licensing Act;

14 (5) establish and collect fees;

15 (6) provide for examination for and issuance,
16 renewal and reinstatement of licenses;

17 (7) establish, impose, collect and remit fines
18 for violations of the Occupational Therapy Act to the current
19 school fund;

20 (8) appoint a registrar to keep records and
21 minutes necessary to carry out the functions of the board;

22 [and]

23 (9) obtain the legal assistance of the
24 attorney general;

25 (10) prescribe procedures, forms and the

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1 manner of submitting an applicant's full set of fingerprints
2 for state and federal criminal history background reports that
3 the board uses to evaluate the applicant's qualification for
4 licensure; and

5 (11) require an applicant, as a condition of
6 eligibility for initial licensure, to submit a full set of
7 fingerprints to the department of public safety to obtain state
8 and national criminal history record information on the
9 applicant. State and national criminal history record reports
10 are confidential and not public records. The board shall not
11 disseminate criminal history record information across state
12 lines.

13 B. The board may:

14 (1) issue investigative subpoenas for the
15 purpose of investigating complaints against licensees prior to
16 the issuance of a notice of contemplated action;

17 (2) hire or contract with an investigator to
18 investigate complaints that have been filed with the board.
19 The board shall set the compensation of the investigator to be
20 paid from the funds of the board;

21 (3) inspect establishments; and

22 (4) designate hearing officers."

23 SECTION 22. CONTINGENT REPEAL.--

24 A. Sections 1 through 20 of this 2026 act are
25 repealed if a state or federal court of New Mexico finds that a

1 rule or decision of the occupational therapy compact
2 commission, or a court order regarding a rule or decision
3 relating to the Occupational Therapy Licensure Compact, would
4 change the scope of practice of an occupational therapist or
5 the definition of unprofessional conduct for an occupational
6 therapist in a manner that is inconsistent with the
7 Occupational Therapy Act or any other state law relating to the
8 practice of occupational therapy. A person who is or may be
9 affected by a rule or decision at issue under this subsection
10 shall have standing to seek a determination by the district
11 court.

12 B. The board of examiners for occupational therapy
13 shall certify to the director of the legislative council
14 service and the executive director of the New Mexico
15 compilation commission the date on which the action described
16 in Subsection A of this section occurs.

17 C. Repeal of the Occupational Therapy Licensure
18 Compact pursuant to this section constitutes this state's
19 immediate withdrawal from the Occupational Therapy Licensure
20 Compact. The board of examiners for occupational therapy shall
21 send written notification of withdrawal to the governor of each
22 other state that has enacted the Occupational Therapy Licensure
23 Compact.

24 D. The board of examiners for occupational therapy,
25 or a member of the legislature, may request in writing that the

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1 attorney general review the actions of the occupational therapy
2 compact commission or a court ruling relating to the
3 enforcement of the Occupational Therapy Licensure Compact.

4 E. In the event of a repeal pursuant to this
5 section, the provisions of Section 13 of the Occupational
6 Therapy Licensure Compact shall remain in effect and govern the
7 withdrawal.

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