

**SUBJECT:** Enacting the Occupational Therapy Licensure Compact in Texas

**COMMITTEE:** Public Health — favorable, without amendment

**VOTE:** 10 ayes — Klick, Allison, Campos, Coleman, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

1 absent — Guerra

**WITNESSES:** For — Judith Joseph and John Luna, Texas Occupational Therapy Association; (*Registered, but did not testify:* Nora Belcher, Texas e-Health Alliance; Denise Rose, Texas Occupational Therapy Association; Craig Tounget, Texas Physical Therapy Association; Mark Hanna, Texas Speech Language Hearing Association)

Against — None

**BACKGROUND:** The Occupational Therapy Licensure Compact is an interstate agreement to regulate the practice of occupational therapy in member states. It contains provisions relating to membership in the compact, the practice of occupational therapy in other member states, and the establishment of the Occupational Therapy Compact Commission, which acts as the governing body of the compact and has binding rulemaking authority over member states. The compact would take effect upon enactment by 10 member states.

Interested parties have noted that membership in the compact would enhance the ability of occupational therapists to practice in Texas and increase patient access to occupational therapy, including through the use of telehealth.

**DIGEST:** HB 1903 would enact the Occupational Therapy Licensure Compact in Texas. The bill contains provisions relating to the practice of occupational therapy in member states.

**Occupational Therapy Compact Commission.** The Occupational Therapy Compact Commission would serve as the governing body of the compact. The powers of the commission would not waive sovereign immunity. The compact would provide for the composition and powers of the commission, including provisions relating to finances, voting, and public access to meetings.

**State participation.** Among other requirements, a member state would be required to license occupational therapists and occupational therapy assistants, commit to sharing certain information, comply with the rules of the Occupational Therapy Compact Commission, adhere to certain educational and licensing standards, and grant compact privilege to a holder of a valid license in another member state. Member states would be authorized to charge a fee for the granting of compact privilege. A licensee would only be authorized to receive compact privilege if the licensee's primary state of residence joined the compact. The compact would not affect the ability of a state to issue a single-state license.

The Texas Board of Occupational Therapy Examiners would be the compact administrator for the state and would be authorized to adopt rules necessary to implement the compact.

**Compact privilege.** Among other requirements to obtain compact privilege, a licensee would be required to hold a license in a member state, meet certain identification and background requirements, notify the commission of the intent to seek compact privilege in another state, and meet all requirements in the other state. A licensee practicing under compact privilege would be required to adhere to all laws and regulations of the remote state and would be subject to that state's regulatory authority. Certain provisions limiting practice for licensees whose license was encumbered or removed would apply.

**Obtaining new home state license.** A licensee would be authorized to obtain a new home state license if the licensee held compact privilege in the new home state in accordance with commission rules. Licensees

obtaining a new license would be required to meet certain identification and background requirements. A licensee could hold multiple single-state licenses simultaneously, but only the license from the licensee's primary state of residence could act as a home state license for purposes of the compact.

**Military members and spouses.** Active-duty members of the military or their spouses could designate a state in which the individual holds a license that would serve as the individual's home state for the duration of the service member's active-duty service.

**Adverse actions.** Adverse action against a home state licensee could be taken only by a home state. Remote states would be authorized to take adverse action against a licensee's compact privilege and issue subpoenas for witnesses and evidence originating from other member states. A home state would be required to account for any adverse action taken by another member state in accordance with the home state's laws.

The compact would contain certain requirements for information sharing between member states relating to licensees who change their home state during an active investigation. Member states would be authorized to conduct joint investigations and take adverse action in response to an investigation conducted by another member state. Member states would be required to report any adverse action to the compact data system. Member states would be authorized to require a licensee to participate in an alternative program instead of taking adverse action.

**Compact data system.** The compact would require that the commission develop and maintain a shared database for use by member states. Member states would be required to submit certain information relating to licensees and certain disciplinary actions to the compact data system. Member states would be authorized to restrict public access to information in the data system and certain investigative information relating to licensees only could be shared with other member states.

**Rulemaking.** The commission would be authorized to make rules,

including rules in certain emergency situations, to govern the practice of occupational therapy in member states in accordance with the provisions of the compact. Proposed rule changes would require the consent of a majority of member states. Rules would be binding on all member states, but any rule that exceeded the scope of the compact would be invalid and have no force and effect.

**Oversight and dispute resolution.** Member states would be required to enforce the compact. The commission would be required to provide technical and remedial assistance to member states out of compliance with the compact and perform certain dispute resolution functions. The commission would be authorized to terminate the membership of a state in the compact if all other means of ensuring compliance had been exhausted.

**Implementation and withdrawal.** The compact would take effect upon enactment by 10 member states. States joining the compact after this date would be subject to commission rules as they existed when the compact was enacted in those states. Member states would be authorized to withdraw from the compact, which would take effect six months following the date of withdrawal.

**Construction and severability.** The compact would be liberally construed to effectuate its purposes. If a provision was found to conflict with the U.S. Constitution, other provisions of the compact would be valid for all member states. If a provision was found to conflict with a member state's constitution, all other provisions of the compact would remain in effect in that state and the compact would remain effective in full in other member states.

**Binding effect of compact.** Licensees operating in a remote state would be subject to the laws of that state. Commission rules would be binding on all member states and would supersede state law in the event of a conflict.

The bill would take effect September 1, 2021.