SENATE BILL 173:
Occupational Therapy Interstate Compact.

2021-2022 General Assembly

Committee:	Senate Commerce and Insurance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	March 24, 2021
Introduced by:	Sens. Krawiec, Burgin, Perry	**Prepared by:**	Bill Patterson Committee Co-Counsel
Analysis of:	First Edition		

OVERVIEW: Senate Bill 173 would make North Carolina part of the Occupational Therapy Interstate Compact.

[As introduced, this bill was identical to S173, as introduced by Sens. Krawiec, Burgin, Perry, which is currently in Senate Health Care.]

BILL ANALYSIS: Under the Occupational Therapy Interstate Compact (Compact), occupational therapists with Compact privileges would be able to practice remotely across state lines.

Section 1 of the bill would create a new Article 18I in Chapter 90 of the General Statutes. The article would do the following:

- G.S. 90-270.180 would set out the purpose of the Compact.
- G.S. 90-270.181 would create definitions for "active military duty," "adverse action," "alternative program," "compact privilege," "continuing competence/education," "current significant investigative information," "data system," "encumbered license," "executive committee," "home state," "impaired practitioner," "investigative information," "jurisprudence requirement," "licensee," "member state," "occupational therapist," "occupational therapy assistant," "occupational therapy; occupational therapy practice; practice of occupational therapy," "Occupational Therapy Compact Commission or Commission," "occupational therapy licensing board," "primary state of residence," "remote state," "rule," "state," "single-license state," and "telehealth."
- G.S. 90-270.182 would require states to do the following to participate in the Compact:
    - License occupational therapists and occupational therapy assistants.
    - Participate in the Commission's data system.
    - Receive and investigate complaints about licensees.
    - Notify the Commission of adverse action taken against licensees.
    - Implement procedures for considering criminal history records of applicants.
    - Comply with the Commission's rules.
    - Use only nationally recognized exams for licensure.
    - Have continuing education requirements.

  States would also be required to grant Compact privileges to licensees and provide delegates to Commission meetings. States would be permitted to continue to grant licenses that do not include

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

Compact privileges and establish their own requirements for licenses that do not include Compact privileges.

- G.S. 90-270.183 would require licensees with Compact privileges to meet the following requirements:
    - Have a valid and unencumbered license.
    - Have a valid social security number or National Practitioner Identification Number.
    - Comply with all sanctions resulting from adverse action against any license and wait two years from the time of compliance.
    - Notify the Commission they are seeking Compact privileges.
    - Complete a criminal background check.
    - Meet applicable jurisprudence requirements.
    - Report any adverse action taken to the Commission.

  The Compact privilege would be valid until the expiration of the home state license. Services provided in a remote state would be governed by the laws of that state, and licensees would be subject to the authority of the licensing agency in that state. Loss of Compact privileges in one remote state would lead to the loss of Compact privileges in other remote states.
- G.S. 90-270.184 would permit licensees to hold a home state license in only one state, but it would enact rules for transferring that home state license to another state.
- G.S. 90-270.185 would allow military personnel and spouses to designate a home state and retain that designation throughout the duration of active duty.
- G.S. 90-270.186 would govern adverse actions against licensees with Compact privileges:
    - Home sates would have the exclusive ability to take action against licenses issued by the home state. They would have to give the same priority to misconduct reported by any member state as they would if that conduct had taken place in the home state.
    - Remote states would be able to take action against licensees with Compact privileges practicing in the remote state.
    - Member states would be able to recoup the costs of investigation from licensees and take adverse action based on the findings of any remote state.
    - Adverse action by a home state would deactivate the licensee's Compact privileges in all other member states.
- G.S. 90-270.187 would establish the Occupational Therapy Compact Commission (Commission). Each member state would have one delegate to the Commission, which would have the following powers:
    - Establish rules and a code of ethics for the Commission.
    - Promulgate rules and take necessary actions to administer the Compact.
    - Bring and prosecute legal proceedings in the name of the Commission.
    - Hire personnel.
    - Lease, purchase, sell, convey, mortgage, and accept gifts of real property.

- Establish a budget and borrow money.
- Elect an Executive Committee to act on behalf of the Commission.

Commission meetings must be open to the public, but the Commission may convene in closed session if necessary. The Commission must pay for its activities and is permitted to levy and collect an annual assessment from each member state to cover the costs of its activities. Members of the Commission will be immune from suit from claims resulting from their official duties except in cases of intentional, willful, or wanton conduct. The Commission shall hold harmless and defend members who are sued for claims resulting from their official duties.

- G.S. 90-270.188 would establish the Compact's data system. Member states would be required to submit information on licensees, adverse actions, license application denials, current investigations, and other information determined by the rules of the Commission.
- G.S. 90-270.189 would establish rulemaking procedures for the Commission. Rules must be adopted at regular meetings of the Commission and they must be posted on the Commission website for at least 30 days prior to adoption. Public hearings on proposed rules may be held at the request of 25 individuals, a government agency, or an association or organization with at least 25 members. Rules will be approved by a majority vote of the Commission. If a majority of the legislatures of member states enact legislation objecting to a rule within 4 years of its adoption, the rule will be invalid.
- G.S. 90-270.190 would provide that the state government of each member state would enforce the Compact. States in default of the member obligations can be expelled from the Compact if they fail to cure the default after receiving notice. Disputes between the member states of the Compact could be resolved through mediation or binding arbitration. The Commission may file suit to enforce the provisions of the Compact if necessary.
- G.S. 90-270.191 would make the Compact effective once the tenth member state enacts legislation approving the Compact. States can withdraw from the Compact by repealing the legislation enacting the Compact.
- G.S. 90-270.192 would construe the provisions of the Compact broadly and make them fully severable.
- G.S. 90-270.193 would make all rules of the Commission binding on the member states. State laws in conflict with the Compact would be superseded to the extent of that conflict, but Compact provisions in conflict with the constitution of any member state would be ineffective to the extent of that conflict.

EFFECTIVE DATE: The bill would be effective when the tenth member state enacts the Compact. The North Carolina Board of Occupational Therapy must report to the Revisor of Statutes when ten member states have enacted the Compact.

BACKGROUND: The model legislation for the Compact was initially drafted in March 2020. On March 18, 2021, Virginia became the first state to enact the Compact, and 11 other states are currently considering bills that would do so: Georgia, Iowa, Illinois, Maryland, Maine, Missouri, Nevada, New Hampshire, Ohio, South Carolina, and Texas.

Jason Moran-Bates, counsel to the Senate Health Care Committee, substantially contributed to this summary.