

LFC Requester:**Noah Montano**

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1-17-2025

Bill No: HB 81

Sponsor: Rep. Elizabeth "Liz" Thomson
Short Title: Occupational Therapy
Licensure Compact

Agency Name and Code Number: Regulation and Licensing
Department - 420

Person Writing: Alesia Duran

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	47 + Indeterminate*	4	51 + Indeterminate*	Partially Recurring	Occupational Therapy Board

(Parenthesis () Indicate Expenditure Decreases)

*Indeterminate due to Item 4 as listed in the “Fiscal Implications” section (below). The specified costs are listed in Items 1 – 3 in the same section.

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 81 (HB81) would enact the Occupational Therapy Licensure Interstate Compact (Compact) “to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services.” New Mexico would enter into this multi-state licensure Compact, while preserving the State’s regulatory authority over licensure pursuant to the Occupational Therapy Act, NMSA 1978 §§ 61-12A-1 to -25 (Act).

Section 2 states that the objectives of the Compact are to: (1) increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses; (2) enhance the states' ability to protect the public's health and safety; (3) encourage the cooperation of member states in regulating multistate occupational therapy practice; (4) support spouses of relocating active duty military personnel; (5) enhance the exchange of licensure, investigative and disciplinary information among member states; (6) allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; (7) allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state’s practice standards; and (8) facilitate the use of telehealth technology to increase access to occupational therapy services.

Section 3 provides new definitions including: active duty military, adverse action, alternative program, compact privilege, continuing competence or continuing 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 compact commissions, occupational therapy licensing board, primary state of residence, remote state, rule, state, single-state license, and telehealth.

Section 4 enumerates the requirements for a state’s participation in the Compact. Participant states must license occupational therapists and occupational therapist assistants, participate fully in the Commission’s data system and use the Commission’s unique identifier, notify the Commission of any adverse action and the availability of investigative information regarding a licensee, implement or utilize procedures for considering an applicant’s criminal history to include submission of fingerprints or other biometric-based information to obtain criminal history information, utilize only a recognized national exam as a requirement for licensure, have

continuing education requirements as a condition for renewal, recognize the licenses issued by a member state, notify the Commission of any adverse action or the availability of investigative information regarding a licensee, implement or utilize procedures for considering the criminal history records of applicants for initial compact privilege. Member states must comply with the rules of the Commission and may charge a fee for granting a compact privilege. Section 4 also allows member states to grant a single state license without granting compact privileges to individuals not residing in a member state.

Section 5 outlines the basis upon which compact privileges may be exercised by various licensees, and how the member states must monitor and regulate licensees with compact privileges pursuant to the Compact.

Section 6 provides the mechanism for obtaining a new home state license by virtue of compact privilege.

Section 7 requires active-duty military personnel or their spouses to designate a home state where the individual holds a current license in good standing. The home state may only be changed through application for licensure in the new state or through the process described in Section 6 of the Compact.

Section 8 sets out the criteria and authority upon which a remote state may impose adverse actions against a privilege to practice in a member state, authorizes joint investigation if necessary, and requires member states to prioritize addressing reported adverse conduct with its own state laws to determine appropriate action. All actions taken must be reported to the administrator of the data system for the Compact.

Section 9 establishes the Occupational Therapy Compact Commission (Commission) as a joint public agency and as an “instrumentality of the compact states,” and allows one delegate from each state to serve on the Commission who is either a current member of the licensing board and is an occupations therapist, occupations therapy assistant or public member, or an administrator of the licensing board. This section outlines the duties of the Commission.

Section 10 addresses qualified immunity, defense and indemnification of the Commission members, officers, executive director, employees and representatives.

Section 11 outlines the requirements for the development, maintenance utilization of a coordinated database and reporting system for licensure, adverse actions, and investigative information on all licensed individuals in member states.

Section 12 provides for rulemaking requirements of the Commission.

Section 13 provides authority for oversight, dispute resolution and enforcement of member states.

Section 14 provides the date of implementation and procedures for withdrawing from the Compact.

Section 15 provides that the construction of the Compact is to be construed to effectuate the purpose of the Compact and includes severability language.

Section 16 provides for the binding effect of the Compact and other laws.

FISCAL IMPLICATIONS

Item 1. Section 4 provides that a member state shall provide for the state's delegate to attend all occupational therapy commission meetings. The Board will incur out-of-state travel expenses for its compact commission delegate member to attend annual meetings. Travel expenses (including airfare, hotel, meals, transportation, etc.) are estimated to cost Two Thousand Dollars (\$2,000) per day per Delegate for a total of Eight Thousand Dollars (\$8,000) in FY26 and in FY27. The cost of travel incurred for disciplinary actions and travel to the Compact Commission meetings are not addressed in HB 81, so it is unclear how these costs will impact the budget.

Item 2. Enactment of this bill would require the Board to adopt rules in accordance with the requirements, procedures and bylaws of the Compact. The administrative rulemaking process necessary to address all rules that it would be necessary to amend or add to accommodate the provisions of the Compact will be extensive. The estimated cost to the Occupational Therapy Board to implement a rule change is Three Thousand Dollars (\$3,000.00).

Item 3. Enactment of this bill will require an enhancement in the current NM Plus online licensing system. Depending on the nature and extent of all necessary rule changes, this enhancement to the system may be involved. The one-time estimated cost for the update to the current NM Plus online licensing system for the Occupational Therapy Board is Forty Thousand Dollars (\$40,000).

Item 4. The Board may be required to pay an annual assessment based on a formula to be determined by the Commission. *See* Section 8(M) for anticipated commission expenses to establish, organize and operate. This cost is unknown at this time but is expected to be recurring.

SIGNIFICANT ISSUES

The New Mexico Regulation and Licensing Department contacted the Occupational Therapy Board, which is administratively attached, to seek any input as to this bill. The Board received the following input from the Chair of the Board:

“1) I want to ensure that NM Board of Examiners for OT retains complete authority over NM licenses. I am concerned that the broad language regarding the commission will not support autonomy of the NM Board

2) I do not support any requirement of NBCOT certification for NM licensure renewal. Currently, an initial certification is required for initial licensure but renewal in NM is not dependent on NBCOT certification (only CEU and adhering to the rules).

3) I support language to allow licensure to continue AS IS with practitioners having the OPTION to join the compact.

4) I would request that licensure compact rules be added as a completely separate section (in addition to existing rules) to make clear that joining the compact is an OPTION not a requirement. I understand that some existing rules would need to be adjusted, but I view this compact as an additional option for practitioners who choose to use it.

5) Licensure requirements for the compact are fairly similar to NM requirements. The big difference is that NBCOT current certification is required for any practitioner joining the compact. I do not support changing current rules to require current NBCOT certification

for NM licensure renewal for practitioners now wishing to join the compact.”

The Board understands that the Compact would potentially add to the number of licensed Occupational Therapists licensees in the state, and public health and safety, but seeks the impact on a licensee’s ability to practice in New Mexico to be positively impacted and not create additional barriers to licensing.

The expectation is that joining the national compact will increase the number of occupational therapists who are licensed to provide occupational therapist services in New Mexico and boost economic development across the state. According to *Think New Mexico*, there are 31 member states to the Compact.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

As noted above, enactment of this bill would require the Board to adopt rules in accordance with the requirements, procedures and bylaws of the compact. The bill would also require an enhancement to the current NM Plus online licensing system. RLD staff will need training to recognize what is acceptable documentation for compact membership. The Board will need to set fees for Compact licensure.

Federal Background Checks and Fingerprinting will need to be implemented.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If New Mexico does not enact this bill, the limited numbers of licensed practitioners will continue to be a barrier to access to occupational therapy services for many people in our state.

AMENDMENTS