

FILED WITH LRC TIME: <u>10:10 am</u>
JUN 13 2025
Emily B. Caudill REGULATIONS COMPILER

STATEMENT OF EMERGENCY

201 KAR 28:240E

Pursuant to KRS 13A.190(1)(a)3 and KRS 319A.310 Section 15.B.1., this emergency amendment to the administrative regulation is being promulgated to comply with the statutory requirements of the Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational Therapy Compact pursuant to Section 10 of KRS 319A.310 within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This amendment incorporates by reference the rules adopted by the Occupational Therapy Compact.

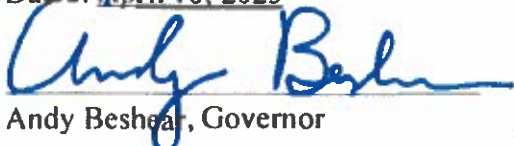
KRS 319A.310 Section 15.B.1. requires that this emergency amendment be promulgated, and therefore the filing of the ordinary amendment alone is not sufficient. This emergency amended administrative regulation will be replaced by an ordinary amended administrative regulation. The ordinary amendment filed with this emergency amendment is identical.



Scott DeBurger

Vice Chair, Kentucky Board of Licensure for Occupational Therapy

Dated: April 10, 2025



Andy Beshear, Governor

SSSS

Commonwealth of Kentucky

Dated: June 12, 2025

1 GENERAL GOVERNMENT CABINET

2 Kentucky Board of Licensure for Occupational Therapy

3 (Emergency Amendment)

4 201 KAR 28:240E. Occupational Therapy Licensure Compact.

5 RELATES TO: KRS 319A.310

6 STATUTORY AUTHORITY: KRS 319A.070(1), (3), 319A.310

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.310, Section 15.B.1. requires the

8 Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational

9 Therapy Compact Commission pursuant to Section 10 of the Compact within sixty (60) days of

10 adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to

11 KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation

12 pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules

13 adopted by the Occupational Therapy Compact Commission.

14 Section 1. The Board of Licensure for Occupational Therapy shall comply with all rules of the

15 Occupational Therapy Compact, which includes the Occupational Therapy Compact Rules as of

16 March 20, 2024.

17 Section 2. Incorporation by Reference.

18 (1) The following material is incorporated by reference: "The Occupational Therapy Compact

19 Rules", March 20, 2024, and as revised.

20 (a) [~~Chapter 1.~~] Rule on Definitions, adopted March 20, 2024; and

1 (b) Rule on [Chapter 2.] Data System Reporting Requirements, adopted March 20, 2024.

2 (c) Rule on FBI Criminal Background Checks, adopted April 16, 2025.

3 (d) Rule on Member State Implementation, adopted April 16, 2025.

4 (e) Rule on OTC Fees: Administrative & State adopted April 16, 2025.

5 (f) Rule on National Exam Definition, adopted April 16, 2025.

6 (2)

7 (a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the
8 Board of Licensure for Occupational Therapy, 500 Mero Street, 2 SC 32, Frankfort, Kentucky
9 40602, Monday through Friday, 8 am to 4:30 p.m.; or

10 (b) This material may also be obtained on the Board of Licensure for Occupational Therapy Web
11 site at <https://bot.ky.gov/>.

12 (3) This material may also be obtained at:

13 (a) The Occupational Therapy Compact Commission, 201 Park Washington Court, Falls Church,
14 Virginia 22046; or

15 (b) <https://otcompact.org/ot-compact-commission/governance-documents/>.

201 KAR 28:240E

APPROVED: April 10, 2025



Scott DeBurger
Vice Chair, Board of Licensure for Occupational Therapy

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on July 28, 2025 at 10:00 a.m., at 500 Mero Street, PPC Conference Room 259SW, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON:

Name: Lilly Jean Coiner

Title: Executive Advisor

Agency: Department of Professional Licensing, Office of Legal Services

Address: 500 Mero Street, 2 NC WK#4

Phone Number: (502) 262-5065 (office)

Fax: (502) 564-4818

Email: Lilly.coiner@ky.gov

Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 201 KAR 28:240E
Contact Person: Lilly Jean Coiner
Phone Number: (502) 262-5065 (office)
Email: Lilly.Coiner@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation implements KRS 319A.310, the Occupational Therapy Licensure Compact.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission to be promulgated as administrative regulations pursuant to KRS Chapter 13A.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 319A.310, Section 15.B.1. which requires rules adopted by the Occupational Therapy Licensure Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 319A.310 which requires this promulgation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: The amendment will add the four (4) new compact rules adopted April 16, 2025.
- (b) The necessity of the amendment to this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission to be promulgated as administrative regulations pursuant to KRS Chapter 13A.
- (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms with the authorizing statutes by being filed within sixty (60) days of the adoption of the new rules by the Occupational Therapy Licensure Compact.
- (d) How the amendment will assist in the effective administration of the statutes: The amendment will ensure the Board and all affected licensees have access and full disclosure of the rules relating to the compact and the privilege to practice in Kentucky and other compact states.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4,227 licensees, and will also affect new applicants for licensure.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is necessary.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost imposed by this administrative regulation.
- (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, they will be in compliance with the statute.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

- (a) Initially: There is no initial cost.
- (b) On a continuing basis: There is no continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering was not applied as the changes apply to all equally.

FISCAL IMPACT STATEMENT

Regulation No. 201 KAR 28:240E
Contact Person: Lilly Jean Coiner
Phone Number: (502) 262-5065 (office)
Email: Lilly.Coiner@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319A.070(1), (3) and KRS 319A.310. Additionally, interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is not expressly authorized by an act of the General Assembly.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for Occupational Therapy is the promulgating agency and the only other affected state unit, part or division.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: The compact will likely become operational in 2025, however, the expenditures needed for the first year are currently indeterminable. There will likely be some state expenditures necessary for data system programming, administering applications for compact privileges within and without the Commonwealth, as well as administering complaint and enforcement actions for those with the privilege to practice in other states.

For subsequent years: It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

2. Revenues:

For the first year: If the compact becomes operational in Kentucky during the first year, The Board may require imposition of a fee to cover the cost of administration. However, at this time the potential revenues are undeterminable.

For subsequent years: It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which

may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

3. Cost Savings:

For the first year: Indeterminable

For subsequent years: Indeterminable

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(b) Estimate the following for each affected local entity identified in 4(a):

1. Expenditures

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): There are no other affected regulated entities not otherwise listed.

(b) Estimate the following for each regulated identified in 5(a):

1. Expenditures

For the first year: N/A.

For subsequent years: N/A.

2. Revenues:

For the first year: N/A.

For subsequent years: N/A.

3. Cost Savings:

For the first year: N/A.

For subsequent years: N/A.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Compact Commission is in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the

compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a “major economic impact,” as defined by KRS 13A.010(13): This administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

AFFIDAVIT OF EMERGENCY STATEMENT BOARD CHAIR

Comes the Affiant, Scott DeBurger, and after being duly sworn states the following:

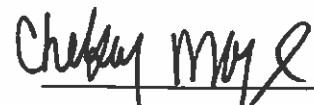
1. I am the Vice Chair of the Kentucky Board of Licensure for Occupational Therapy.
2. The Occupational Therapy Compact will adopt new compact rules on April 16, 2025.
3. The Board of Licensure for Occupational Therapy considered the proposed rules at its April 10, 2025, regular meeting and authorized Board Counsel to submit the accompanying emergency amendment to the administrative regulation to adopt the rules, along with an identical ordinary amendment to the administrative regulation as soon as possible.
4. Based on a finding that an emergency exists in accordance with KRS 13A.190(1)(a)3., an imminent deadline for the promulgation of an emergency amendment to the administrative regulation established by KRS 319A.310 Section 15.B.1., the attached emergency amendment is being filed within sixty (6) days of April 16, 2024, adoption of the new Occupational Therapy Compact Rules.

Further the Affiant saith naught.



Affiant

Subscribed, sworn, and acknowledged to me by Scott DeBurger this 10th day of April, 2025.



Chelsey Moyo, KYNP67982
NOTARY PUBLIC
STATE AT LARGE

My Commission expires: 03/2027

SUMMARY OF MATERIALS INCORPORATED BY REFERENCE

201 KAR 28:240E

"The Occupational Therapy Compact Rules", adopted by the Occupational Therapy Compact Commission at its Meeting on March 20, 2024, relating to:

- (a) Rule on Definitions, adopted March 20, 2024; and
- (b) Rule on Data System Reporting Requirements, adopted March 20, 2024.
- (c) Rule on FBI Criminal Background Checks, adopted April 16, 2025.
- (d) Rule on Member State Implementation, adopted April 16, 2025.
- (e) Rule on OTC Fees: Administrative & State adopted April 16, 2025.
- (f) Rule on National Exam Definition, adopted April 16, 2025.

SUMMARY OF CHANGES MATERIALS INCORPORATED BY REFERENCE

201 KAR 28:240E

There following four rules are being added to the Occupational Therapy Licensure Compact Rules:

- (c) Rule on FBI Criminal Background Checks, adopted April 16, 2025.
- (d) Rule on Member State Implementation, adopted April 16, 2025.
- (e) Rule on OTC Fees: Administrative & State adopted April 16, 2025.
- (f) Rule on National Exam Definition, adopted April 16, 2025.