

§2293. Adverse actions

1. Authority of home state. A home state has exclusive power to impose adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state. [PL 2021, c. 324, §2 (NEW).]

2. Authority of remote state. In addition to the other powers conferred by state law, a remote state has the authority, in accordance with existing state due process law, to:

A. Take adverse action against an occupational therapist's or occupational therapy assistant's compact privilege within that member state; and [PL 2021, c. 324, §2 (NEW).]

B. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. A subpoena issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state may be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located. [PL 2021, c. 324, §2 (NEW).]

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3. Application of law in home state. For the purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state and shall apply its own state laws to determine appropriate action.

[PL 2021, c. 324, §2 (NEW).]

4. Investigations. The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes the therapist's or the assistant's primary state of residence during the course of the investigations. The home state where the investigations were initiated also has the authority to take appropriate action and shall promptly report the conclusions of the investigations to the data system. The data system administrator shall promptly notify the new home state of any adverse action.

[PL 2021, c. 324, §2 (NEW).]

5. Recovery of costs of investigations. A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

[PL 2021, c. 324, §2 (NEW).]

6. Factual findings. A member state may take adverse action based on the factual findings of a remote state, as long as the member state follows its own procedures for taking the adverse action.

[PL 2021, c. 324, §2 (NEW).]

7. Joint investigations. The following requirements apply to joint investigations.

A. In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees. [PL 2021, c. 324, §2 (NEW).]

B. Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact. [PL 2021, c. 324, §2 (NEW).]

[PL 2021, c. 324, §2 (NEW).]

8. Deactivation of compact privilege. If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or

occupational therapy assistant's compact privilege in all other member states must be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license must include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

[PL 2021, c. 324, §2 (NEW).]

9. Notice of adverse action. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

[PL 2021, c. 324, §2 (NEW).]

10. Alternative program. This compact does not override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

[PL 2021, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 324, §2 (NEW).

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