

By: Representative Taylor

To: Public Health and
Welfare

HOUSE BILL NO. 1343

1 AN ACT TO CREATE THE HYPNOTHERAPISTS REGISTRATION ACT; TO
2 PRESCRIBE THE DUTIES OF THE DEPARTMENT OF HUMAN SERVICES UNDER
3 THIS ACT; TO PRESCRIBE THE QUALIFICATIONS FOR REGISTRATION AS A
4 REGISTERED HYPNOTHERAPIST; TO PRESCRIBE RULES AND REGULATIONS TO
5 GOVERN REGISTERED HYPNOTHERAPISTS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. This act shall be known and may be cited as the
8 "Hypnotherapist Registration Act."

9 SECTION 2. The purpose of this act is to set standards for
10 the qualifications and experience for those who seek to register
11 as practitioners of hypnotherapy, to uphold standards of
12 professional performance for those registered to practice
13 hypnotherapy in the State of Mississippi, and to protect the
14 public from unprofessional conduct by persons registered to
15 practice hypnotherapy as herein set forth.

16 SECTION 3. The following terms shall have the meanings
17 ascribed in this section unless the context clearly requires
18 otherwise:

19 (a) "Department" means the Department of Human Services
20 of the State of Mississippi.

21 (b) "Director" means the Director of the Department of
22 Human Services of the State of Mississippi.

23 (c) "General hypnotherapy" means a professional
24 relationship between a registered hypnotherapist and a client in
25 which the registered hypnotherapist provides assistance to the
26 client in matters related to the recreational, vocational,
27 avocational, educational, stress management or self-improvement

28 goals of the client provided such self-improvement goals are not
29 the focus of a medical or mental health disorder.

30 (d) "Hypnotherapy" means the induction of a hypnotic
31 state in a client to increase motivation or alter behavioral
32 patterns. Hypnotherapy includes consultation with a client to
33 determine the nature of the client's problem, assessment of a
34 client to determine his or her suitability for hypnotherapy,
35 preparation of a client to enter a hypnotic state, explanation to
36 a client of the nature of the hypnotic state, instruction of a
37 client in self-hypnosis conditioning, testing a client to
38 determine the degree of physical and emotional suggestibility,
39 induction of the hypnotic state in a client using individualized
40 methods and techniques based on interpretation of test results and
41 analysis of problems, and discussion with a client regarding the
42 results of hypnosis.

43 (e) "Independent practice" means the provision to the
44 public of general hypnotherapy or referred hypnotherapy for
45 remuneration by a person who meets all requirements for the
46 practice of hypnotherapy as herein set forth, and who has received
47 registration for the practice of hypnotherapy.

48 (f) "National professional organization" means an
49 organization that is dedicated to providing training, continuing
50 education and performance testing in hypnotherapy that is
51 incorporated in any state of the United States of America, can
52 document active membership in at least 15 states of the United
53 State of America and has training requirements that are at least
54 sufficient for registration as a registered hypnotherapist in the
55 State of Mississippi.

56 (g) "Person" means an individual, association,
57 partnership or corporation.

58 (h) "Psychotherapy" means a relationship for
59 remuneration between a therapist and a client in which the
60 therapist renders assistance to the client for the purpose of
61 diagnosing, treating, curing or improving mental health disorders.

62 (i) "Qualified supervisor" means any person who is a
63 registered hypnotherapist who meets the qualifications for
64 independent practice of hypnotherapy and has been in practice as a

65 hypnotherapist for at least three (3) years.

66 (j) "Referred hypnotherapy" means a professional
67 relationship between a registered hypnotherapist and a client in
68 which the registered hypnotherapist either provides assistance to
69 the client in:

70 (i) Matters related to a medical condition
71 diagnosed by a licensed medical doctor, licensed doctor of dental
72 medicine or a licensed doctor of chiropractic medicine who has
73 specifically referred the client to the registered hypnotherapist
74 in writing or by prescription or

75 (ii) Provides assistance to the client in matters
76 related to a mental health condition diagnosed by a licensed
77 mental health professional who has specifically referred the
78 client to the registered hypnotherapist by written referral.
79 Referred hypnotherapy shall not include the making of any specific
80 medical or psychological diagnosis and must be offered as an
81 adjunct to health care provided by the licensed professional who
82 has specifically referred the client to the registered
83 hypnotherapist.

84 (k) "Registered hypnotherapist" means any person who
85 has registered in accordance with this act for the practice of
86 hypnotherapy.

87 (l) "Registration" means that which is required to
88 practice an hypnotherapy as defined in this act.

89 (m) "Supervised practice" means the provision of
90 hypnotherapy to a client under the guidance, critique and review
91 of a qualified supervisor.

92 (n) "Supervision" means review of aspects of the
93 therapeutic relationship between a hypnotherapist and client or
94 clients in a face-to-face meeting for the purpose of improving the
95 therapeutic skills of the person under supervision.

96 SECTION 4. (1) Persons holding valid registration as
97 registered hypnotherapists under this act may practice general

98 hypnotherapy or referred hypnotherapy in independent practice or
99 as part of an association, partnership or corporation.

100 (2) Persons who are in training to meet the requirements for
101 registration as registered hypnotherapist under this act may
102 practice with out registration provided such practice is
103 supervised practice with a person who is a qualified supervisor as
104 defined by this act and provided such persons in training hold
105 themselves out to the public using the term "intern," or some
106 other designation of trainee status.

107 SECTION 5. (1) This act does not prohibit any persons
108 legally regulated in this state by any other act from engaging in
109 the practice for which they are authorized as long as they do not
110 represent themselves by the title of registered hypnotherapist.
111 Nothing in this act shall be construed to limit the activities and
112 services provided by a person legally regulated in this state by
113 any other act from engaging in the practice of hypnotherapy as
114 defined in this act provided the regulatory act governing such
115 persons contains a scope of practice which might reasonable be
116 interpreted to include the use of hypnotherapy.

117 (2) This act does not prohibit the practice of nonregulated
118 professions whose practitioners are engaged in the delivery of
119 human services as long as these practitioners neither represent
120 themselves as or use the title registered hypnotherapists, nor
121 provide hypnotherapy as defined in Section 3(d) of this act.

122 (3) Nothing in this act shall be construed to limit the
123 activities and services of a person or intern in hypnotherapy
124 seeking to fulfill the educational or supervision requirements in
125 order to qualify for registration under this act provided that the
126 activities and services of a person or intern are supervised as
127 specified in this act.

128 (4) Corporations, partnerships and associations may employ
129 persons seeking to fulfill the educational or supervision
130 requirements for registration under this act if the activities and

131 services rendered by that person constitute a part of the
132 trainee's supervised course of study or required professional
133 supervision.

134 (5) Nothing in this section shall prohibit a corporation,
135 partnership or association from contracting with a licensed or
136 registered health care professional to provide services that are
137 similar to those provided by registered hypnotherapists.

138 (6) Nothing in this act shall prevent the employment by a
139 registered hypnotherapist, individual, association, partnership or
140 corporation furnishing hypnotherapy for remuneration of persons
141 not registered under this act to perform services in various
142 capacities as needed, provided that such persons are not in any
143 manner held out to the public as rendering hypnotherapy as defined
144 in Section 3(d) of this act.

145 (7) Nothing contained in this act shall require any
146 hospital, clinic, home health agency, hospice or other entity that
147 provides health care services to employ or to contract with a
148 registered hypnotherapist to perform any of the activities defined
149 in Section 3(d) of this act.

150 (8) Nothing in this act shall be construed to limit the
151 services of a person not registered under the provisions of this
152 act in the employ of a state, county or municipal agency or other
153 political subdivision of the state or not-for-profit corporation
154 providing human services if (a) the services are part of the
155 duties of his or her salaried position, (b) the services are
156 performed solely on behalf of his employer and (c) such persons
157 are not in any manner held out to the public as registered
158 hypnotherapists.

159 (9) Duly recognized members of any bona fide religious
160 denomination shall not be restricted from functioning in their
161 ministerial capacity by this act provided they do not represent
162 themselves as being registered hypnotherapist.

163 (10) Nothing in this act shall prohibit individuals not

164 registered under this act who work in self-help groups or programs
165 or not-for-profit organization from providing services in those
166 groups, program or organizations provided that such persons are
167 not in any manner held out to the public as registered
168 hypnotherapists.

169 SECTION 6. (1) Unless exempted under Section 5 of this act
170 a person without holding valid registration as a registered
171 hypnotherapist issued by the department shall not:

172 (a) In any manner hold him or herself out to the public
173 as a registered hypnotherapist under this act;

174 (b) Use the title "registered hypnotherapist"; or

175 (c) Offer to render or render to individuals,
176 corporations or the public, hypnotherapy as defined in Section
177 3(d) of this act.

178 (2) Nothing in this act shall be construed as permitting
179 persons registered as registered hypnotherapists to engage in any
180 manner in the practice of medicine in all its branches as defined
181 by the law in this state.

182 (3) When in the course of providing hypnotherapy to any
183 person, a registered hypnotherapist registered under the
184 provisions of this act finds indication of a disease or condition
185 that in his or her judgment required professional service outside
186 of the scope of practice as defined in this act, he or she shall
187 refer that person to a physician licensed to practice medicine in
188 all of its branches or another appropriate health care provider.

189 (4) All persons registered as registered hypnotherapists
190 under the provision of this act shall give to each client who
191 seeks to receive hypnotherapy from that registered hypnotherapist
192 a full and accurate written disclosure statement of the type and
193 nature of education and training possessed by that registered
194 hypnotherapist. The information contained in this disclosure
195 statement shall contain, but not be limited to, academic degrees
196 earned by the registered hypnotherapist and the nature of their

197 accreditation, training programs in hypnotherapy completed by the
198 registered hypnotherapist, including the number of hours of
199 instruction and duration of training and national certifications
200 in hypnotherapy held by the registered hypnotherapist. The
201 disclosure statement shall also state that neither psychotherapy
202 nor the diagnosis of mental, dental or medical disease is a part
203 of hypnotherapy s defined by this act and that registration as a
204 registered hypnotherapist through this act does not authorize a
205 person to practice psychotherapy or diagnosis in virtue of this
206 act.

207 (5) A person registered as a registered hypnotherapist under
208 the provisions of this act shall not publicly advertise their
209 services in any way that would cause a reasonable person to
210 conclude that the person registered as a registered hypnotherapist
211 is also a doctor of medicine or of psychology, unless the person
212 registered under the provisions of this act is licensed under a
213 valid existing act for the practice of medicine or psychology.

214 SECTION 7. Except as otherwise provided in this act, the
215 department may:

216 (a) Review applications for registration as registered
217 hypnotherapist from persons seeking registration to ascertain the
218 fitness and qualifications of these persons for practicing
219 hypnotherapy as provided for in this act.

220 (b) Conduct hearings on proceedings to refuse to issue,
221 renew or to revoke registration or suspend, place on probation,
222 censure or reprimand persons registered under this act and to
223 refuse to issue or renew or to revoke registration or suspend,
224 place on probation, censure or reprimand persons registered under
225 this act.

226 (c) Formulate rules and regulations required for the
227 administration of this act and issue appropriate certificates of
228 registration to persons registered under this act.

229 (d) Maintain rosters of the names and addresses of all

230 registered hypnotherapists and all persons whose registrations
231 have been suspended, revoked or denied renewal for cause within
232 the previous calendar year. These rosters shall be available upon
233 written request and payment of the required fee.

234 SECTION 8. Applications for registration as a registered
235 hypnotherapist shall be made to the department on forms prescribed
236 by the department and accompanied by the required fee which is not
237 refundable. All applications shall contain such information that,
238 in the judgement of the department, will enable the department to
239 pass on the qualifications of the applicant for registration to
240 practice as a registered hypnotherapist.

241 SECTION 9. A person is qualified to be registered as a
242 registered hypnotherapist, and the department shall issue a
243 registration authorizing the practice of hypnotherapy to an
244 applicant who:

245 (a) Has applied in writing on the prescribed form and
246 has paid the required fee;

247 (b) Is at least twenty-one (21) years of age and has
248 not engaged in conduct or activities which would constitute
249 grounds for discipline under this act;

250 (c) Documents that he or she has received a minimum of
251 one hundred (100) hours of personal instruction in hypnosis or
252 hypnotherapy that is either sanctioned by a national professional
253 organization as defined by this act or was from any school
254 teaching hypnotherapy that is accredited by an agency authorized
255 by the United States Department of Education or is otherwise
256 licensed, registered, approved or sanctioned by any state of the
257 United States, provided the organization or school teaches a
258 curriculum that includes:

259 (i) Instruction in the history of hypnosis;

260 (ii) Techniques of client assessment;

261 (iii) Suggestibility testing;

262 (iv) Induction and dehypnotization techniques;

263 (v) Deepening techniques;
264 (vi) Principles of post-hypnotic suggestion;
265 (vii) Contraindications for hypnosis;
266 (viii) Treatment planning;
267 (ix) Self-hypnosis training;
268 (x) Administration and record-keeping
269 (xi) Law and ethics; and
270 (xii) An orientation to the limits of practice
271 specified in this act sufficient to allow a reasonable person to
272 make an informed decision if the client's problem reasonably falls
273 within the scope of hypnotherapy;

274 (d) Has completed a minimum of two hundred (200) hours
275 of supervised practice of hypnotherapy with a person who is a
276 qualified supervisor as defined by this act with a ratio of not
277 less than one (1) hour of personal supervision for every fifteen
278 (15) hours of supervised practice;

279 (e) For each year after the initial year of
280 registration, documents, fifteen (15) hours of continuing
281 education in hypnosis or hypnotherapy during the previous year.

282 SECTION 10. (1) The expiration date and renewal period for
283 each registration issued under this act shall be set by rule.
284 Registered hypnotherapists may renew their registration during the
285 sixty-day period preceding its expiration date by paying the
286 required fee and demonstrating compliance with any continuing
287 education requirements.

288 (2) Any person who has permitted a registration to expire or
289 who has a registration on inactive status may have it restored by
290 submitting an application to the department and filing proof of
291 fitness to have the registration restored, including, if
292 appropriate, evidence which is satisfactory to the department
293 certifying the practice hypnotherapy in another jurisdiction and
294 by paying the required fee.

295 (3) If the person has not maintained an active practice in

296 another jurisdiction which is satisfactory to the department, the
297 department shall determine the person's fitness to resume active
298 status. The department may also require the person to complete a
299 specified period of evaluated hypnotherapy work experience.

300 (4) However, any person whose registration expired while on
301 active duty with the armed forces of the United States or in
302 training or education under the supervision of the United States
303 Government prior to induction into the military service may have
304 his or her registration restored without paying any renewal fees
305 if, within two (2) years after the termination of such service,
306 training or educations, except under condition other than
307 honorable, the department is furnished with satisfactory evidence
308 that the person has been so engaged and that such service,
309 training or education has been so terminated.

310 (5) A registration to practice hypnotherapy shall not be
311 denied any applicant because of the applicant's race, religion
312 creed, national origin, political beliefs or activities, age, sex,
313 sexual orientation or physical impairment.

314 SECTION 11. (1) For a period of three (3) years after the
315 effective date of this act the department shall, on application,
316 issue a registration to any person for the practice of
317 hypnotherapy who has not completed the training specified in
318 Section 9(c) of this act but who can document the maintenance of a
319 practice of hypnotherapy for remuneration for a period of three
320 (3) years. Persons receiving initial registration under the
321 provision of this section shall not be required to complete
322 further training in hypnotherapy beyond the annual continuing
323 education in hypnotherapy required by this act.

324 (2) For a period of three (3) years after the effective date
325 of this act the department shall, on application, issue a
326 registration to any person for the practice of hypnotherapy who
327 has not completed any internship, trainee or supervision period
328 specified in Section 9(d) of this act, but who otherwise meets the

329 requirements of Section 9(c) of this act or who can document using
330 taxation or other records the maintenance of a practice of
331 hypnotherapy for meaningful remuneration for a period of three (3)
332 years. Persons receiving initial registration under the provision
333 of this section shall not be required to complete any internship,
334 trainee or supervision period for renewal of registration under
335 this act.

336 SECTION 12. The fees imposed under this act are as follows
337 and are not refundable:

338 (a) The initial fee for application for registration as
339 a registered hypnotherapist is One Hundred Fifty Dollars
340 (\$150.00).

341 (b) The initial fee for renewal of a registration is
342 Thirty Dollars (\$30.00) per year.

343 (c) The initial fee for the reinstatement of a
344 registration which has been expired for less than five (5) years
345 is Twenty Dollars (\$20.00), plus payment of all unpaid fees for
346 every year that has lapsed.

347 (d) The initial fee for the restoration of a
348 registration which has expired for more than five (5) years is Two
349 Hundred Dollars (\$200.00).

350 (e) The initial fee for the issuance of a duplicate
351 registration, the issuance of a replacement for a registration
352 that has been lost or destroyed or the issuance of a registration
353 with a change of name or address, other than during the renewal
354 period is Twenty Dollars (\$20.00). A fee is not required for name
355 and address changes on department records when a duplicate
356 registration is not issued.

357 (f) The initial fee for the certification of a
358 registered hypnotherapist's record is Two Hundred Dollars
359 (\$200.00).

360 (g) The initial fee for application for registration by
361 a person registered or licensed to practice hypnotherapy under the

362 laws of another jurisdiction is Two Hundred Dollars (\$200.00).

363 (h) The fee for copies of a registration shall be the
364 actual cost of producing such copies.

365 (i) The fee for a roster of persons registered as
366 registered hypnotherapists shall be the actual cost of producing
367 such a roster.

368 Fees for the services provided by the department specified in
369 this act may, from time to time, be adjusted by the department so
370 that revenue collected is sufficient to cover the expenses
371 incurred by the department for registering qualified person who
372 have applied for registration as registered hypnotherapists. For
373 a period of one (1) fiscal year after the effective date of this
374 act, ninety percent (90%) of all the fees collected under this act
375 shall be deposited into the registered hypnotherapist Dedicated
376 Fund, which is created as a separate fund in the State Treasury,
377 and ten percent (10%) shall be deposited into the General Fund.
378 In all future years all of the fees collected under this act shall
379 be deposited into the registered hypnotherapist Fund. The monies
380 deposited into the Registered Hypnotherapist Fund shall be
381 appropriated to the department for expenses of the department in
382 the administration of this act. Monies in the Registered
383 Hypnotherapist Fund may be invested and reinvested, with all
384 earning received from investments to be deposited into that fund
385 and used for the same purpose as fees deposited in that fund.

386 SECTION 13. Any person who issues or delivers a check or
387 other order to the department which is not honored on two (2)
388 occasions by the financial institution upon which it is drawn
389 because of insufficient funds on account, the account is closed,
390 or a stop payment has been placed on the account shall pay to the
391 department in addition to the amount owing upon such check or
392 other order, a fee of Fifty Dollars (\$50.00). If the check or
393 other order was issued or delivered in payment of a renewal fee
394 and the person whose registration as a registered hypnotherapist

395 has lapsed continues to practice without paying the renewal fee
396 and the fee required under this section, an addition penalty of
397 One Hundred Dollars (\$100.00) shall be imposed for practicing
398 without a current registration. The fees and penalties imposed by
399 this section are in addition to any other penalty for practicing
400 hypnotherapy without a registration as a registered
401 hypnotherapist. The department shall notify the person whose
402 registration has lapsed that the person is engaged in the
403 unauthorized practice of hypnotherapy and the amount due the
404 department, which shall include the lapsed renewal fee and the
405 other required fees. If after the expiration of thirty (30) days
406 from the date of the notification the person whose registration as
407 a registered hypnotherapist has lapsed seeks a current
408 registration, the person shall thereafter apply to the department
409 for reinstatement of registration and shall pay all fees due to
410 the department. The department may establish a fee for the
411 processing of an application for reinstatement of a registration
412 that allows the department to pay all costs and expenses incident
413 to the processing of this application. However, the director may
414 waive or reduce the fees in individual cases where he or she finds
415 they would be unnecessarily burdensome.

416 SECTION 14. The department may issue a registration for the
417 practice of hypnotherapy to a person who has not completely
418 fulfilled all of the qualifications for the practice of
419 hypnotherapy specified by this act to persons who are already
420 registered or licensed to practice hypnotherapy under the laws of
421 another state of the United States, if the requirements for
422 registration or licensing in that state are, on the date of
423 licensing registration, substantially equal to the requirements of
424 this act in the opinion of the department. The applicant shall
425 pay all of the required fees.

426 SECTION 15. (1) A registered hypnotherapist shall not
427 disclose any information acquired from persons consulting the

428 registered hypnotherapist in their capacity as a registered
429 hypnotherapist except that which may be voluntarily disclosed
430 under the following circumstances:

431 (a) In the course of formally reporting, conferring, or
432 consulting with administrative superiors, colleagues, or
433 consultants who share professional responsibilities, in which
434 instance all recipients of the information are similarly bound to
435 regard the communication as privileged;

436 (b) With the written consent of the person who provided
437 the information;

438 (c) In the case of death or disability, with the
439 written consent of a personal representative, other person
440 authorized to sue, or the beneficiary of an insurance policy on
441 the person's life, health or physical condition;

442 (d) When a communication reveals the intended
443 commission of a crime or harmful act and such disclosure is judged
444 necessary by the registered hypnotherapist to protect any person
445 from a clear, imminent risk of serious mental or physical harm or
446 injury, or to forestall a serious threat to the public safety; or

447 (e) When the person waives the privilege by bringing
448 any public charges against the registered hypnotherapist.

449 (2) When the person is a minor under the laws of the State
450 of Mississippi and the information acquired by the registered
451 hypnotherapist indicates the minor was the victim or subject of a
452 crime, the registered hypnotherapist may be required to testify in
453 any judicial proceedings in which the commission of that crime is
454 the subject of inquiry when, after in camera review of the
455 information that the registered hypnotherapist acquired, the court
456 determines that the interest of the minor in having the
457 information held privileged are outweighed by the requirements of
458 justice, the need to protect the public safety or the need to
459 protect the minor, except as provided under Section 43-21-353.

460 (3) Any person having access to records or anyone who

461 participates in providing hypnotherapy, or, in providing any human
462 services, is supervised by a registered hypnotherapist, is
463 similarly bound to regard all information and communications as
464 privileged in accord with this section.

465 (4) Nothing in the act shall be construed to prohibit a
466 registered Hypnotherapist from voluntarily testifying in court
467 hearings concerning matters of adoption, child abuse, child
468 neglect or other matters pertaining to children, except as
469 provided under Section 43-21-353.

470 SECTION 16. (1) The department may refuse to issue, renew
471 or may revoke, suspend, place on probation, reprimand, or take
472 other disciplinary action as the department deems appropriate,
473 including the issuance of fines not to exceed One Thousand Dollars
474 (\$1,000.00) for each violation, with regards to any registration
475 for any one or more of the following:

476 (a) Material misstatement in furnishing information to
477 the department or to any other state agency.

478 (b) Violations or negligent or intentional disregard of
479 this act, or any of its rules.

480 (c) Conviction of any crime under the laws of the
481 United States or any state or territory thereof that is a felony,
482 or that is a misdemeanor, an essential element of which is
483 dishonestly, or of any crime which is directly related to the
484 practice of hypnotherapy.

485 (d) Making any misrepresentation for the purpose of
486 obtaining a registration as a registered hypnotherapist, or
487 violating any provision of the act or its rules.

488 (e) Incompetence or gross negligence in the rendering
489 of hypnotherapy.

490 (f) Malpractice.

491 (g) Advising or assisting another person in violating
492 any provision of this act or any of its rules.

493 (h) Failing to provide information within sixty (60)

494 days in response to a written request made by the department.

495 (i) Engaging in dishonorable, unethical, or conduct
496 likely to deceive, defraud or harm the public and violating any
497 rules of conduct established by the department as part of a
498 reasonable effort to regulate the practice of hypnotherapy within
499 the provisions of the act.

500 (j) Habitual or excessive use or addiction to alcohol,
501 narcotics, stimulants, or any other chemical agent or drug which
502 results in inability to practice hypnotherapy with reasonable
503 skill, judgement or safety.

504 (k) Discipline by another jurisdiction, if at least one
505 (1) of the grounds is the same or substantially equivalent to
506 those set forth in this section.

507 (l) Directly or indirectly giving to or receiving from
508 any person, firm corporation, partnership or association any fee,
509 commission, rebate or other form of compensation for any service
510 not actually rendered.

511 (m) A finding by the department that the person
512 registered as a registered hypnotherapist, after having had the
513 registration placed on probationary status, has violated the terms
514 of probation.

515 (n) Abandonment of a client.

516 (o) Wilfully filling false reports relating to the
517 practice of a registered hypnotherapist including, but not limited
518 to, false records filed with federal or State agencies or
519 departments.

520 (p) Wilfully failing to report an instance of suspected
521 child abuse or neglect as required by Section 43-21-353.

522 (q) Upon proof by clear and convincing evidence that
523 the registered hypnotherapist has caused a child to be an abused
524 child or neglected child as defined in Section 43-21-105.

525 (r) Physical or mental disability, including
526 deterioration through the aging process or loss of abilities and

527 skills which results in the inability to practice hypnotherapy
528 with reasonable judgment, skill or safety.

529 (s) Solicitation of professional services by using
530 false or misleading advertising.

531 (t) Failure to file a tax return, or to pay the tax,
532 penalty or interest shown in a filed return, or to pay any final
533 assessment of tax, penalty or interest, as required by any state
534 or federal law.

535 (2) Any fines imposed under this section shall not exceed
536 One Thousand Dollars (\$1,000.00) for each violation.

537 SECTION 17. (1) If any person violates the provisions of
538 this act, the director, through the Attorney General, may petition
539 for an order enjoining the violation or for an order enforcing
540 compliance with this act. Upon the filing of a verified petition,
541 the court with appropriate jurisdiction may issue a temporary
542 restraining order without notice or bond, and may preliminarily
543 and permanently enjoin the violation. If it is established that
544 person has violated or is violating the injunction, the court may
545 punish the offender for contempt of court. Proceedings under this
546 section are in addition to all other remedies and penalties
547 provided by this act.

548 (2) If any person holds himself out as being a registered
549 hypnotherapist under this act and is not registered for the
550 practice of hypnotherapy under this act, then any registered
551 hypnotherapist, interested party, or any person injured may
552 petition for relief as provided in subsection (a) of this section.

553 (3) Whenever, in the opinion of the department, a person
554 violated any provision of this act, the department may issue a
555 ruling to show cause why an order to cease and desist should not
556 be entered against that person. The ruling shall clearly set
557 forth the grounds relied upon by the department and shall allow
558 seven (7) days from the date of the ruling to file an answer
559 satisfactory to the department. Failure to answer to the

560 satisfaction of the department shall cause an order to cease and
561 desist to be issued.

562 SECTION 18. The department may investigate the actions of
563 any applicant or any person holding or claiming to hold a
564 registration to practice hypnotherapy. The department, before
565 revoking, suspending, placing on probation reprimanding or taking
566 any other disciplinary action under Section 17 of this act, at
567 least ten (10) days before the date set for the hearing, shall
568 notify, in writing the applicant for, or holder of, a registration
569 to practice hypnotherapy of the nature of the charges and that a
570 hearing will be held on the date designated. The written notice
571 may be served by personal delivery or certified or registered mail
572 to the applicant or person registered for the practice of
573 hypnotherapy at the address of the last notification to the
574 department. The department shall direct the person registered as
575 a registered hypnotherapist to file a written answer with the
576 department, under oath, within twenty (20) days after the service
577 of the notice, and inform the person that if he or she fails to
578 file and answer, his or her registration may be revoked,
579 suspended, placed on probation, reprimanded, or the department may
580 take any other or additional disciplinary action including the
581 issuance of fines not to exceed One Thousand Dollars (\$1,000.00)
582 for each violation, as the department may deem necessary, without
583 hearing. At the time and place fixed in the notice,
584 representatives of the department shall proceed to hear the
585 charges and the parties or their counsel shall be accorded ample
586 opportunity to present such statements, testimony, evidence, and
587 argument as may be pertinent to the charges or to their defense.
588 The department may continue the hearing from time to time.

589 SECTION 19. The department, at its expense, shall preserve a
590 record of all proceedings at the formal hearing of any case
591 involving the refusal to issue or to renew a registration to
592 practice hypnotherapy. The notice of hearing, complaint, all

593 other documents in the nature of pleadings, written motions filed
594 in the proceedings, the transcript of testimony, and orders of the
595 department shall be in the record of the proceeding.

596 SECTION 20. The department has the power to subpoena and to
597 bring before it any person and to take testimony either orally or
598 by deposition, or both, with the same fees and mileage and in the
599 same manner as prescribed in civil cases in the courts of this
600 State. The director or the designated hearing officer has the
601 power to administer oaths to witnesses at any hearing which the
602 department is authorized to conduct, and any other oaths
603 authorized in any act administered by the department.

604 SECTION 21. Any court, upon application of the department
605 designated hearing officer, or the applicant or licensee against
606 whom proceedings under Section 17 of this act are pending, may
607 enter an order requiring the attendance of witnesses and their
608 testimony and the production of documents, papers, files,
609 recordings, books and records in connection with any hearing or
610 investigation. The court may compel obedience to its order by
611 proceedings for contempt.

612 SECTION 22. At the conclusion of the hearing, the designated
613 hearing officer shall present to the director a written report of
614 its findings of fact, conclusions of law and recommendations. The
615 report shall contain a finding whether the person registered to
616 practice hypnotherapy violated this act or failed to comply with
617 the conditions required in this act. The designated hearing
618 officer shall specify the nature of the violation of failure to
619 comply, and shall make his or her recommendations to the director.
620 The report of findings of fact, conclusions of law,
621 recommendations of the hearing officer shall be the basis for the
622 department's order for refusal or for the granting of the
623 registration to practice hypnotherapy, if the director disagrees
624 with the recommendations of the hearing officer, the director may
625 issue an order in contravention of the recommendations of the

626 hearing officer. The director shall provide a written report to
627 the designated hearing officer on any disagreement and shall
628 specify the reasons for the action in the final order. The
629 finding is not admissible in evidence against the person in a
630 criminal prosecution brought for the violation of this act, but
631 the hearing and findings are not a bar to a criminal persecution
632 brought for the violation of this act.

633 SECTION 23. At the conclusion of the hearing, a copy of the
634 designated hearing officer's report shall be served upon the
635 applicant or person registered to practice hypnotherapy by the
636 department, either personally or as provided in the act for the
637 service of the notice of hearing. Within twenty (20) days after
638 the service, the applicant or person registered to practice
639 hypnotherapy may present to the department a motion in writing for
640 a rehearing which shall specify the particular grounds for
641 rehearing. If no motion for a rehearing is filed, then upon the
642 expiration of the time specified for filing such a motion, or if a
643 motion for rehearing is denied, then upon such denial, the
644 director may enter any order in accordance with recommendations of
645 the hearing officer, except as provided in Section 24 of the act.

646 If the applicant or person registered to practice hypnotherapy
647 requests and pays for a transcript of the record within the time
648 for filing a motion for rehearing, the twenty-day period within
649 which a motion may be filed shall commence upon the delivery of
650 the transcript to the applicant or person registered to practice
651 hypnotherapy.

652 SECTION 24. Whenever the director believes justice has not
653 been done in the revocation, suspension or refusal to issue to
654 renew a registration to practice hypnotherapy, or the discipline
655 of a registration, he or she may order a rehearing.

656 SECTION 25. The director has the authority to appoint any
657 attorney licensed to practice law in the State of Mississippi to
658 serve as the hearing officer in any action for refusal to issue or

659 renew a registration to practice hypnotherapy. The hearing
660 officer has full authority to conduct the hearing and may appoint
661 an advisory committee of person who practice hypnotherapy for
662 remuneration and who are registered to practice hypnotherapy by
663 this act. The hearing officer shall report his or her findings of
664 fact, conclusion of law and recommendations to the director. If
665 the director disagrees with the recommendation of the hearing
666 officer, the director may issue an order in contravention of the
667 recommendation. The director shall promptly provide a written
668 explanation to the hearing officer on any such disagreement.

669 SECTION 26. An order or certified copy thereof over the seal
670 of the department and purporting to be signed by the director, is
671 prima facie proof that the signature is the genuine signature of
672 the director and that the director is duly appointed and
673 qualified.

674 SECTION 27. At any time after the suspension or revocation
675 of any registration to practice of hypnotherapy, the department
676 may restore it to the person registered upon the written
677 recommendation of the director, unless after an investigation and
678 hearing the director determines that restoration is not in the
679 public interest.

680 SECTION 28. Upon the revocation or suspension of a
681 registration to practice hypnotherapy, the person registered shall
682 immediately surrender his or her registration to the department.
683 If the person so registered fails to do, the department has the
684 right to seize the registration.

685 SECTION 29. The director may summarily suspend the
686 registration to practice hypnotherapy without a hearing,
687 simultaneously with the institution of proceedings for a hearing
688 provided for in Section 18 of this act, if the director finds that
689 evidence in the possession of the director indicates that the
690 continuation of practice by the registered hypnotherapist would
691 constitute an imminent danger to the public. In the event that the

692 director summarily suspends the registration of an individual
693 without a hearing, a hearing must be held within thirty (30) days
694 after the suspension has occurred.

695 SECTION 30. Proceeding for judicial review shall be commence
696 din the circuit court of the county in which the party applying
697 for review resides, but if the party is not a resident of
698 Mississippi, the venue shall be in the First Judicial District of
699 Hinds County.

700 SECTION 31. The department shall not be required to certify
701 any record to the court, to file an answer in court, or to
702 otherwise appear in any court in a judicial review proceeding,
703 unless there is filed in the court, with the complaint, a receipt
704 from the department acknowledging payment of the costs of
705 furnishing and certifying the record. Failure on the part of the
706 plaintiff to file the receipt in court is grounds for dismissal of
707 the action.

708 SECTION 32. Unless otherwise specified, any person found to
709 have violated any provision of this at is guilty of a misdemeanor
710 and upon conviction shall be fined not more than Five Hundred
711 Dollars (\$500.00) or confined in a county jail for not more than
712 six (6) months, or both.

713 SECTION 33. The Mississippi Administrative Procedure Act is
714 expressly adopted and incorporated in this act as if all of the
715 provisions of the act were included in this act.

716 SECTION 34. All fees and any other monies received by the
717 department shall be deposited in a special fund that is created in
718 the State Treasury which shall be known and my be cited as the
719 registered hypnotherapist Fund and shall be used for the
720 implementation and administration of this act when appropriated by
721 the Legislature for that purpose. The monies in the special fund
722 shall be subject to all provisions of the state budget laws that
723 are applicable to special fund agencies, and shall be disbursed by
724 the State Treasurer only upon warrants issued by the State Fiscal

725 Officer upon requisitions signed by the director of the department
726 or his designee. Any interest earned on this special fund shall
727 be credited by the State Treasurer to the fund and shall not be
728 paid into the State General Fund. Any unexpended monies remaining
729 in the special fund at the end of a fiscal year shall not lapse
730 into the State General Fund.

731 SECTION 35. This act shall take effect and be in force from
732 and after July 1, 1999.