

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2343

1 AN ACT TO AMEND SECTION 73-24-3, MISSISSIPPI CODE OF 1972, TO
 2 REVISE CERTAIN DEFINITIONS IN THE MISSISSIPPI OCCUPATIONAL THERAPY
 3 PRACTICE ACT; TO AMEND SECTION 73-24-7, MISSISSIPPI CODE OF 1972,
 4 TO CLARIFY TITLES PROTECTED BY THE LICENSURE ACT, TO CLARIFY THAT
 5 SERVICES REPRESENTED AS OCCUPATIONAL THERAPY SHALL BE PROVIDED BY
 6 A LICENSED PERSON, TO PRESCRIBE THE CRIMINAL PENALTY FOR EACH
 7 VIOLATION OF THE LICENSURE ACT AND TO PRESCRIBE A PENALTY FOR
 8 MAKING A MATERIAL FALSE STATEMENT UNDER THE ACT; TO AMEND SECTION
 9 73-24-9, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE PERIOD OF TIME
 10 INDIVIDUALS NOT LICENSED IN MISSISSIPPI MAY PRACTICE UNDER THE
 11 SUPERVISION OF A LICENSEE; TO AMEND SECTION 73-24-11, MISSISSIPPI
 12 CODE OF 1972, TO CLARIFY APPOINTMENTS TO THE ADVISORY COUNCIL IN
 13 OCCUPATIONAL THERAPY AND PROVIDE FOR EXECUTIVE SESSIONS OF THE
 14 COUNCIL; TO AMEND SECTION 73-24-13, MISSISSIPPI CODE OF 1972, TO
 15 PROVIDE THE STATE BOARD OF HEALTH WITH CERTAIN AUTHORITY IN THE
 16 INVESTIGATION OF COMPLAINTS UNDER THE PRACTICE ACT; TO AMEND
 17 SECTION 73-24-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE
 18 BOARD OF HEALTH TO PUBLISH NAMES OF PERSONS WHOSE LICENSES HAVE
 19 BEEN DISCIPLINED UNDER THE ACT; TO AMEND SECTION 73-24-19,
 20 MISSISSIPPI CODE OF 1972, TO CLARIFY EDUCATIONAL QUALIFICATIONS
 21 FOR LICENSURE UNDER THE ACT; TO AMEND SECTION 73-24-21,
 22 MISSISSIPPI CODE OF 1972, TO DELETE CERTAIN AUTHORITY OF THE STATE
 23 BOARD OF HEALTH TO WAIVE LICENSING REQUIREMENTS; TO AMEND SECTION
 24 73-24-23, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
 25 AMEND SECTION 73-24-25, MISSISSIPPI CODE OF 1972, TO REVISE
 26 PROCEDURES FOR DISCIPLINARY HEARINGS OF LICENSEES BY THE STATE
 27 BOARD OF HEALTH, COMPLAINTS FOR VIOLATIONS, STIPULATIONS OF
 28 ORDERS, APPEALS AND JUDICIAL REVIEW OF ORDERS, AND TO AUTHORIZE
 29 THE BOARD TO IMPOSE DISCIPLINARY SANCTIONS INCLUDING FINES; TO
 30 CODIFY SECTION 73-24-24, MISSISSIPPI CODE OF 1972, TO PROVIDE
 31 GROUNDS FOR DISCIPLINARY ACTION AGAINST LICENSEES AND TO REQUIRE
 32 LICENSEES TO SUBMIT TO PHYSICAL OR MENTAL EXAMINATIONS UNDER
 33 CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

35 SECTION 1. Section 73-24-3, Mississippi Code of 1972, is
36 amended as follows:

37 73-24-3. The following words and phrases shall have the
38 following meanings, unless the context requires otherwise:

39 (a) "Association" shall mean the Mississippi
40 Occupational Therapy Association.

41 (b) "Board" shall mean the Mississippi State Board of
42 Health.

43 (c) "Occupational therapy" means the therapeutic use of
44 purposeful and meaningful (goal-directed) activities and/or
45 exercises to evaluate and treat individuals who have, or are at
46 risk for, a disease or disorder, impairment, activity limitation
47 or participation restriction which interferes with their ability
48 to function independently in daily life roles and to promote
49 health and wellness across the lifespan.

50 Occupational therapy intervention may include:

51 (i) Remediation or restoration of performance
52 abilities that are limited due to impairment in biological,
53 physiological, psychological or neurological processes.

54 (ii) Adaptation of task, process or the
55 environment, or the teaching of compensatory techniques in order
56 to enhance functional performance.

57 (iii) Disability prevention methods and techniques
58 which facilitate the development or safe application of functional
59 performance skills.

60 (iv) Health promotion strategies and practices
61 which enhance functional performance abilities.

62 Occupational therapy services include, but are not
63 limited to:

64 (i) Evaluating, developing, improving, sustaining
65 or restoring skill in activities of daily living (ADLS), work or
66 productive activities, including instrumental activities of daily
67 living (IADLS), play and leisure activities.

68 (ii) Evaluating, developing, remediating or
69 restoring physical, sensorimotor, cognitive or psychosocial
70 components of performance.

71 (iii) Designing, fabricating, applying or training
72 in the use of assistive technology or orthotic devices, and
73 training in the use of prosthetic devices.

74 (iv) Adaptation of environments and processes,
75 including the application of ergonomic principles, to enhance
76 functional performance and safety in daily life roles.

77 (v) Application of physical agent modalities as an
78 adjunct to or in preparation for engagement in
79 occupations/functional activities.

80 (vi) Evaluating and providing intervention in
81 collaboration with the client, family, caregiver or other.

82 (vii) Educating the client, family, caregiver or
83 others in carrying out appropriate nonskilled interventions.

84 (viii) Consulting with groups, programs,
85 organizations or communities to provide population-based services.

86 (ix) Participation in administration, education
87 and research, including both clinical and academic environments.

88 (d) "Occupational therapist" shall mean a person
89 licensed to practice occupational therapy as defined in this
90 chapter, and whose license is in good standing.

91 (e) "Occupational therapy assistant" shall mean a
92 person licensed to assist in the practice of occupational therapy
93 under the supervision of or with the consultation of the licensed
94 occupational therapist, and whose license is in good standing.

95 (f) "Occupational therapy aide" shall mean a person not
96 licensed in the field of occupational therapy who assists
97 occupational therapists and occupational therapy assistants in the
98 practice of occupational therapy, is under the direct supervision
99 of the licensed occupational therapist or licensed occupational
100 therapy assistant, and whose activities require an understanding
101 of occupational therapy * * *.

102 (g) "Person" shall mean any individual, partnership,
103 unincorporated organization or corporate body, except that only an
104 individual may be licensed under this chapter.

105 (h) "Council" shall mean the Mississippi Advisory
106 Council in Occupational Therapy.

107 SECTION 2. Section 73-24-7, Mississippi Code of 1972, is
108 amended as follows:

109 73-24-7. (1) It is unlawful for any person who is not
110 licensed under this chapter as an occupational therapist or as an
111 occupational therapy assistant, or whose license has been
112 suspended or revoked, to in any manner represent himself as
113 someone who provides occupational therapy services, or use in
114 connection with his name or place of business the words
115 "occupational therapist," "licensed occupational therapy
116 assistant" * * * or the letters "O.T.," "L.O.T.," "O.T.L.,"
117 "O.T.A." or "O.T.A.L." or any other words, letters, abbreviations
118 or insignia indicating or implying that he is an occupational
119 therapist or an occupational therapy assistant or provides
120 occupational therapy services or to show in any way, orally, in
121 writing, in print or by sign, directly or by implication, or to
122 represent himself as an occupational therapist or an occupational
123 therapy assistant or someone who provides occupational therapy
124 services.

125 (2) Any person who violates any provision of this section
126 shall upon conviction be guilty of a misdemeanor and shall be
127 fined not more than One Thousand Dollars (\$1,000.00) for each
128 violation.

129 (3) Any person who shall knowingly make a material false
130 statement in his application for license under this chapter or in
131 response to any inquiry by the department or the board shall be
132 fined not less than One Hundred Dollars (\$100.00) nor more than
133 Five Hundred Dollars (\$500.00) or imprisoned for not less than ten
134 (10) days nor more than sixty (60) days, or both such fine and
135 imprisonment.

136 SECTION 3. Section 73-24-9, Mississippi Code of 1972, is
137 amended as follows:

138 73-24-9. Nothing in this chapter shall be construed as
139 preventing or restricting the practice, services or activities of:

140 (a) Any person, licensed in this state by any other
141 law, from engaging in the profession or occupation for which he or
142 she is licensed;

143 (b) Any person who is employed as an occupational
144 therapist or occupational therapy assistant by the United States
145 Armed Services, the United States Public Health Service, the
146 Veteran's Administration or other federal agencies, if such person
147 provides occupational therapy solely under the direction or
148 control of the organization by which he is employed;

149 (c) Any person pursuing a course of study leading to a
150 degree or certificate in occupational therapy in an accredited,
151 recognized or approved educational program, or advanced training
152 in a specialty area, if such activities and services constitute a
153 part of the supervised course of study, and if such person is
154 designated by a title which clearly indicates his status as a
155 trainee or student;

156 (d) Any person fulfilling the supervised fieldwork
157 experience requirements of Section 73-24-19, if such activities
158 and services constitute a part of the experience necessary to meet
159 the requirements of that section;

160 (e) Any person employed as an occupational therapy aide
161 or who works under the supervision of a licensed occupational
162 therapist; or

163 (f) Any person performing occupational therapy services
164 in the state, if these services are performed for no more than
165 thirty (30) days in a calendar year under the supervision of an
166 occupational therapist licensed under this chapter, if:

167 (i) The person is licensed under the law of
168 another state which has licensure requirements at least as
169 stringent as the requirements of this chapter, or

170 (ii) The person is certified as an Occupational
171 Therapist Registered (OTR) or a Certified Occupational Therapy
172 Assistant (COTA), established by the National Board for

173 Certification in Occupational Therapy, Inc. (NBCOT), or its
174 successor organization.

175 (g) Any person certified by the American Board of
176 Certification in Orthotics and Prosthetics as a Certified
177 Orthotist, C.O., Certified Prosthetist, C.P., Certified
178 Prosthetist/Orthotist, C.P.O., or anyone working under their
179 direct supervision.

180 SECTION 4. Section 73-24-11, Mississippi Code of 1972, is
181 amended as follows:

182 73-24-11. (1) There is hereby established the Mississippi
183 Advisory Council in Occupational Therapy under the jurisdiction of
184 the State Board of Health.

185 (2) The council shall consist of five (5) members appointed
186 by the board, four (4) of whom shall be appointed from a list of
187 names submitted by the Mississippi Occupational Therapy
188 Association, all of whom shall be residents of this state * * *.
189 The persons appointed from the list submitted by the association
190 shall have been engaged in rendering occupational therapy services
191 to the public, teaching or research in occupational therapy at
192 least four (4) years immediately preceding their appointment. At
193 least three (3) members shall be occupational therapists and one
194 (1) member shall be either an occupational therapist or an
195 occupational therapy assistant. These members shall at all times
196 be holders of valid licenses for the practice of occupational
197 therapy in this state, except for the members of the first
198 council, who shall fulfill licensure requirements of this chapter.
199 The remaining member shall be a member of another health
200 profession or member of the public with an interest in the rights
201 of the consumers of health services.

202 (3) * * * Appointments made thereafter shall be for terms of
203 three (3) years, with no person being eligible to serve more than
204 two (2) full consecutive terms. Terms shall begin on the first
205 day of the calendar year and end on the last day of the calendar

206 year or until successors are appointed, except for the first
207 appointed members, who shall serve through the last calendar day
208 of the year in which they are appointed before commencing the term
209 prescribed by this section.

210 (4) * * * In the event of a vacancy in one of the positions
211 the association may recommend, as soon as practical, at least two
212 (2) and not more than three (3) persons to fill that vacancy. The
213 board shall appoint, as soon as practical, one (1) of these
214 persons who shall fill the unexpired term. If the association
215 does not provide a recommendation, the board shall appoint a
216 person to the unexpired term.

217 (5) The council shall meet during the first month of each
218 calendar year to select a chairperson and for other appropriate
219 reasons. Further meetings may be convened at the call of the
220 chairperson, or the written request of any two (2) members of the
221 council. Three (3) members of the council shall constitute a
222 quorum for all purposes. All meetings of the council shall be
223 open to the public, except that the council may hold executive
224 sessions under the Mississippi Open Meetings Law, Section 25-41-1
225 et seq., Mississippi Code of 1972 * * *.

226 SECTION 5. Section 73-24-13, Mississippi Code of 1972, is
227 amended as follows:

228 73-24-13. (1) The board shall administer, coordinate and
229 enforce the provisions of this chapter, evaluate the
230 qualifications, and approve the examinations for licensure under
231 this chapter, and may issue subpoenas, examine witnesses and
232 administer oaths * * *.

233 (2) The board shall adopt such rules and regulations, not
234 inconsistent with the laws of this state, as may be necessary to
235 effectuate the provisions of this chapter, the practice of
236 occupational therapy in this state, and may amend or repeal the
237 same as may be necessary for such purposes, with the advice of the
238 council. Such rules and regulations shall be adopted in

239 accordance with the provisions of Section 25-43-1 et seq.,
240 Mississippi Code of 1972.

241 (3) The board shall conduct hearings and keep such records
242 and minutes as are necessary to carry out its functions. It shall
243 provide reasonable public notice to the appropriate persons as to
244 the time and place of all hearings authorized under this chapter
245 in such a manner and at such times as it may determine by the
246 board's rules and regulations.

247 (4) The board shall investigate alleged or suspected
248 violations of the provisions of this chapter or other laws of this
249 state pertaining to occupational therapy and any rules and
250 regulations adopted by the board; for this purpose, any authorized
251 agents of the department shall have the power and right to enter
252 and make reasonable inspections of any place where occupational
253 therapy is practiced, and may inspect and/or copy any records
254 pertaining to clients or the practice of occupational therapy
255 under this chapter.

256 (5) The conferral or enumeration of specific powers
257 elsewhere in this chapter shall be construed as a limitation of
258 the general functions by this section.

259 SECTION 6. Section 73-24-17, Mississippi Code of 1972, is
260 amended as follows:

261 73-24-17. (1) The board shall issue licenses and notices of
262 renewal, revocation, suspension or reinstatement, and shall
263 publish annually the names of persons licensed under this chapter
264 and the names of the persons whose licenses have been disciplined
265 under this chapter.

266 (2) The board shall publish and disseminate to all
267 licensees, in an appropriate manner, the license standards
268 prescribed by this chapter, any amendments thereto, and such rules
269 and regulations as the board may adopt under the authority of
270 Section 73-24-13 within sixty (60) days of their adoption.

271 SECTION 7. Section 73-24-19, Mississippi Code of 1972, is
272 amended as follows:

273 73-24-19. (1) An applicant applying for a license as an
274 occupational therapist or as an occupational therapy assistant
275 shall file a written application on forms provided by the board,
276 showing to the satisfaction of the board that he meets the
277 following requirements:

278 (a) Is of good moral character;

279 (b) Has been awarded a degree from an education program
280 in occupational therapy recognized by the board, with a
281 concentration of instruction in basic human sciences, the human
282 development process, occupational tasks and activities, the
283 health-illness-health continuum, and occupational therapy theory
284 and practice:

285 (i) For an occupational therapist, such program
286 shall be accredited by the Accreditation Council for Occupational
287 Therapy Education of the American Occupational Therapy Association
288 or the board-recognized accrediting body;

289 (ii) For an occupational therapy assistant, such a
290 program shall be accredited by the Accreditation Council for
291 Occupational Therapy Education of the American Occupational
292 Therapy Association or the board-recognized accrediting body.

293 (c) Has successfully completed a period of supervised
294 fieldwork experience at a recognized educational institution or a
295 training program approved by the educational institution where he
296 or she met the academic requirements:

297 (i) For an occupational therapist, the required
298 supervised fieldwork experience shall meet current national
299 standards that are published annually by the board;

300 (ii) For an occupational therapy assistant, the
301 required supervised fieldwork experience shall meet national
302 standards that are published annually by the board.

303 (2) The board shall approve an examination for occupational
304 therapists and an examination for occupational therapy assistants
305 that will be used as the examination for licensure.

306 (3) Any person applying for licensure shall, in addition to
307 demonstrating his eligibility in accordance with the requirements
308 of this section, make application to the board for review of proof
309 of his eligibility for certification by the National Board for
310 Certification in Occupational Therapy, Inc. (NBCOT), or its
311 successor organization, on a form and in such a manner as the
312 board shall prescribe. The application shall be accompanied by
313 the fee fixed in accordance with the provisions of Section
314 73-24-29. The board shall establish standards for acceptable
315 performance on the examination. A person who fails an examination
316 may apply for reexamination upon payment of the prescribed fee.

317 (4) Applicants for licensure shall be examined at a time and
318 place and under such supervision as the board may require. The
319 board shall give reasonable public notice of these examinations in
320 accordance with its rules and regulations.

321 (5) An applicant may be licensed as an occupational
322 therapist if he or she: (a) has practiced as an occupational
323 therapy assistant for four (4) years, (b) has completed the
324 requirements of a period of six (6) months of supervised fieldwork
325 experience at a recognized educational institution or a training
326 program approved by a recognized accredited educational
327 institution before January 1, 1988, and (c) has passed the
328 examination for occupational therapists.

329 (6) Each application or filing made under this section shall
330 include the social security number(s) of the applicant in
331 accordance with Section 93-11-64, Mississippi Code of 1972.

332 SECTION 8. Section 73-24-21, Mississippi Code of 1972, is
333 amended as follows:

334 73-24-21. (1) The board shall grant a license to any person
335 certified prior to the effective date of this chapter as an

336 Occupational Therapist Registered (OTR) or a Certified
337 Occupational Therapy Assistant (COTA) by the American Occupational
338 Therapy Association (AOTA). The board may waive the examination,
339 education or experience requirements and grant a license to any
340 person certified by AOTA after the effective date of this chapter
341 if the board determines the requirements for such certification
342 are equivalent to the requirements for licensure in this chapter.

343 (2) The board may waive the examination, education or
344 experience requirements and grant a license to any applicant who
345 shall present proof of current licensure as an occupational
346 therapist or occupational therapy assistant in another state, the
347 District of Columbia or territory of the United States which
348 requires standards for licensure considered by the board to be
349 equivalent to the requirements for licensure of this chapter.

350 (3) Foreign trained occupational therapists and occupational
351 therapy assistants shall satisfy the examination requirements of
352 Section 73-24-19. The board shall require foreign trained
353 applicants to furnish proof of good moral character and completion
354 of educational and supervised fieldwork requirements substantially
355 equal to those contained in Section 73-24-19 before taking the
356 examination.

357 * * *

358 SECTION 9. Section 73-24-23, Mississippi Code of 1972, is
359 amended as follows:

360 73-24-23. (1) The board shall issue a license to any person
361 who meets the requirements of this chapter and upon payment of the
362 license fee.

363 (2) The board shall issue a limited permit to persons who
364 have completed the education and experience requirements of this
365 act upon payment of the limited permit fee. This permit shall
366 allow the person to practice occupational therapy or assist in the
367 practice of occupational therapy, as the case may be, under the
368 supervision of an occupational therapist who holds a current

369 license in this state and shall be valid until the date on which
370 the results of the next qualifying examination have been made
371 public. The limited permit can be renewed one (1) time if the
372 applicant has failed the examination.

373 (3) Any person who is issued a license as an occupational
374 therapist under this chapter may use the words "licensed
375 occupational therapist," "occupational therapist licensed,"
376 "occupational therapist * * *," or he may use the letters * * *
377 "L.O.T.," "O.T.L." or "O.T." in connection with his or her name or
378 place of business to denote licensure under this chapter.

379 (4) Any person who is issued a license as an occupational
380 therapy assistant under this chapter may use the words
381 "occupational therapy assistant," "licensed occupational therapy
382 assistant" or "occupational therapy assistant licensed," or may
383 use the letters "O.T.A.," "L.O.T.A." or "O.T.A.L.," in connection
384 with his name or place of business to denote licensure under this
385 chapter.

386 SECTION 10. The following shall be codified as Section
387 73-24-24, Mississippi Code of 1972:

388 73-24-24. (1) Licensees subject to this chapter shall
389 conduct their activities, services and practice in accordance with
390 this chapter and any rules promulgated pursuant hereto. Licenses
391 may be subject to the exercise of the disciplinary sanction
392 enumerated in Section 73-24-25 if the board finds that a licensee
393 is guilty of any of the following:

394 (a) Negligence in the practice or performance of
395 professional services or activities;

396 (b) Engaging in dishonorable, unethical or
397 unprofessional conduct of a character likely to deceive, defraud
398 or harm the public in the course of professional services or
399 activities;

400 (c) Perpetrating or cooperating in fraud or material
401 deception in obtaining or renewing a license or attempting the
402 same;

403 (d) Being convicted of any crime which has a
404 substantial relationship to the licensee's activities and services
405 or an essential element of which is misstatement, fraud or
406 dishonesty;

407 (e) Being convicted of any crime which is a felony
408 under the laws of this state or the United States;

409 (f) Engaging in or permitting the performance of
410 unacceptable services personally or by others working under the
411 licensee's supervision due to the licensee's deliberate or
412 negligent act or acts or failure to act, regardless of whether
413 actual damage or damages to the public is established;

414 (g) Continued practice although the licensee has become
415 unfit to practice as an occupational therapist or occupational
416 therapist assistant due to: (i) failure to keep abreast of
417 current professional theory or practice; or (ii) physical or
418 mental disability; the entry of an order or judgment by a court of
419 competent jurisdiction that a licensee is in need of mental
420 treatment or is incompetent shall constitute mental disability; or
421 (iii) addition or severe dependency upon alcohol or other drugs
422 which may endanger the public by impairing the licensee's ability
423 to practice;

424 (h) Having disciplinary action taken against the
425 licensee's license in another state;

426 (i) Making differential, detrimental treatment against
427 any person because of race, color, creed, sex, religion or
428 national origin;

429 (j) Engaging in lewd conduct in connection with
430 professional services or activities;

431 (k) Engaging in false or misleading advertising;

432 (1) Contracting, assisting or permitting unlicensed
433 persons to perform services for which a license is required under
434 this chapter;

435 (m) Violation of any probation requirements placed on a
436 license by the board;

437 (n) Revealing confidential information except as may be
438 required by law;

439 (o) Failing to inform clients of the fact that the
440 client no longer needs the services or professional assistance of
441 the licensee;

442 (p) Charging excessive or unreasonable fees or engaging
443 in unreasonable collection practices;

444 (q) For treating or attempting to treat ailments or
445 other health conditions of human beings other than by occupational
446 therapy as authorized by this chapter;

447 (r) For practice or activities considered to be
448 unprofessional conduct as defined by the rules and regulations;

449 (s) Violations of the current codes of conduct for
450 occupational therapists and occupational therapy assistants
451 adopted by the American Occupational Therapy Association;

452 (t) Violations of any rules or regulations promulgated
453 pursuant to this chapter.

454 (2) The board may order a licensee to submit to a reasonable
455 physical or mental examination if the licensee's physical or
456 mental capacity to practice safely is at issue in a disciplinary
457 proceeding.

458 (3) Failure to comply with a board order to submit to a
459 physical or mental examination shall render a licensee subject to
460 the summary suspension procedures described in Section 73-24-25.

461 SECTION 11. Section 73-24-25, Mississippi Code of 1972, is
462 amended as follows:

463 73-24-25. **Hearing on denial of license; complaints for**
464 **violation of chapter; appeals; judicial review; disciplinary**

465 sanctions; summary suspension of license; consent orders or
466 stipulations.

467 (1) Any person whose application for a license is denied
468 shall be entitled to a hearing before the board if he submits a
469 written request to the board. Such hearing shall be conducted at
470 the earliest possible date. A subcommittee of the council shall
471 attend and may offer relevant evidence at any such hearing. The
472 board shall fix a time and place for the hearing and shall cause a
473 written copy of the reason for denial of the license, together
474 with a notice of the time and place fixed for the hearing to be
475 served on the applicant requesting the hearing and shall serve
476 notice of such hearing on the council. Service of and notice of
477 the hearing may be given by certified mail to the last known
478 address of the licensee or applicant. For purposes of the
479 hearing, the board, acting by and through the Executive Director
480 of the State Board of Health, shall have the power to subpoena
481 persons and compel the production of records, papers and other
482 documents.

483 (2) (a) All complaints concerning a licensee's business or
484 professional practice shall be received by the board. Each
485 complaint received shall be logged, recording at a minimum the
486 following information: (i) licensee's name; (ii) name of the
487 complaining party, if known; (iii) date of complaint; (iv) brief
488 statement of complaint; and (iv) disposition.

489 (b) Following the investigative process, the board may
490 file formal charges against the licensee. Such formal complaint
491 shall, at a minimum, inform the licensee of the facts which are
492 the basis of the charge and which are specific enough to enable
493 the licensee to defend against the charges.

494 (c) Each licensee whose conduct is the subject of a
495 formal charge which seeks to impose disciplinary action against
496 the licensee shall be served notice of the formal charge at least
497 thirty (30) days before the date of the hearing, which hearing

498 shall be presided over by the board or the board's designee.
499 Service shall be considered to have been given if the notice was
500 personally received by the licensee or if the notice was mailed
501 certified, return receipt requested, to the licensee at the
502 licensee's last known address as listed with the state agency.

503 (d) The notice of the formal charge shall consist, at a
504 minimum, of the following information:

505 (i) The time, place and date of the hearing;

506 (ii) That the licensee shall appear personally at
507 the hearing and may be represented by counsel;

508 (iii) That the licensee shall have the right to
509 produce witnesses and evidence in the licensee's behalf and shall
510 have the right to cross-examine adverse witnesses and evidence;

511 (iv) That the hearing could result in disciplinary
512 action being taken against the licensee's license;

513 (v) That rules for the conduct of these hearings
514 exist and it may be in the licensee's best interest to obtain a
515 copy;

516 (vi) That the board or its designee shall preside
517 at the hearing and following the conclusion of the hearing shall
518 make findings of facts, conclusions of law and recommendations,
519 separately stated, to the board as to what disciplinary action, if
520 any, should be imposed on the licensee;

521 (vii) The board or its designee shall hear
522 evidence produced in support of the formal charges and contrary
523 evidence produced by the licensee. At the conclusion of the
524 hearing, the board shall issue an order; and

525 (viii) All proceedings pursuant to this section
526 are matters of public record and shall be preserved pursuant to
527 state law.

528 (3) In addition to other remedies provided by law or in
529 equity, any applicant or licensee aggrieved by any action of the
530 board may appeal the action of the board to the chancery court of

531 the county of his residence if he be a resident of this state, or
532 the Chancery Court of the First Judicial District of Hinds County,
533 Mississippi, if he be a nonresident of this state, and the court
534 after a hearing may modify, affirm or reverse the judgment of the
535 board or may remand the case to the board for further proceedings.
536 An appeal shall be filed within thirty (30) days immediately
537 following the mailing or delivery to the applicant or licensee of
538 a copy of the order of judgment of the board, unless the court,
539 for good cause shown, extends the time. Appeals may be had to the
540 Supreme Court of the State of Mississippi as provided by law from
541 any final judgment of the chancery court. If the board appeals
542 from any judgment of the chancery court, no bond shall be required
543 of it in order to perfect is appeal.

544 (4) The board may impose any of the following sanctions,
545 singly or in combination, when it finds that a licensee is guilty
546 of any such offense:

547 (a) Revocation of the license;

548 (b) Suspension of the license, for any period of time;

549 (c) Censure the licensee;

550 (d) Impose a monetary penalty of not more than Two
551 Hundred Dollars (\$200.00);

552 (e) Place a licensee on probationary status and require
553 the licensee to submit to any of the following: (i) report
554 regularly to the board, or its designee, upon matters which are
555 the basis of probation; (ii) continue to renew professional
556 education until a satisfactory degree of skill has been attained
557 in those areas which are the basis of probation; or (iii) such
558 other reasonable requirement or restrictions as are proper;

559 (f) Refuse to renew a license; or

560 (g) Revoke probation which has been granted and impose
561 any other disciplinary action in this subsection when the
562 requirements of probation have not been fulfilled or have been
563 violated.

564 (5) The board may summarily suspend a license under this
565 chapter without a hearing simultaneously with the filing of a
566 formal complaint and notice for a hearing provided under this
567 section if the board finds that the continued practice in the
568 profession would constitute an immediate danger to the public. If
569 the board suspends summarily a license under the provisions of
570 this subsection a hearing must begin within twenty (20) days after
571 such suspension begins, unless continued at the request of the
572 licensee.

573 (6) Disposition of any formal complaint may be made by
574 consent order or stipulation between the board and the licensee.

575 (7) The board may reinstate any licensee to good standing
576 under this chapter if, after hearing, the board is satisfied that
577 the applicant's renewed practice is in the public interest.

578 (8) The board may seek the counsel of the Occupational
579 Therapy Advisory Council regarding disciplinary actions.

580 (9) The board shall seek to achieve consistency in the
581 application of the foregoing sanctions, and significant departure
582 from prior decisions involving similar conduct shall be explained
583 by the board.

584 (10) In addition, the board shall be authorized to suspend
585 the license of any licensee for being out of compliance with an
586 order for support, as defined in Section 93-11-153. The procedure
587 for suspension of a license for being out of compliance with an
588 order for support, and the procedure for reissuance or
589 reinstatement of a license suspended for that purpose, and the
590 payment of any fees for the reissuance or reinstatement of a
591 license suspended for that purpose, shall be governed by Section
592 93-11-157 or 93-11-163, as the case may be. If there is any
593 conflict between any provision of Section 93-11-157 or 93-11-163
594 and any provision of this chapter, the provisions of Section
595 93-11-157 or 93-11-163, as the case may be, shall control.

596 SECTION 12. This act shall take effect and be in force from
597 and after July 1, 2001.