

By: Representative Moody

To: Public Health and Welfare

HOUSE BILL NO. 1224

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

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

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

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

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

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

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

51 (d) "Occupational therapy intervention" includes:

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

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

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

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

63 (e) "Occupational therapy service" includes, but is not
64 limited to:

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

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

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

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

78 (v) Application of physical agent modalities as an
79 adjunct to or in preparation for engagement in an occupation or
80 functional activity;

81 (vi) Evaluating and providing intervention in
82 collaboration with the client, family, caregiver or other person
83 responsible for the client;

84 (vii) Educating the client, family, caregiver or
85 others in carrying out appropriate nonskilled interventions;

86 (viii) Consulting with groups, programs,
87 organizations or communities to provide population-based services;
88 or

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

91 (f) "Occupational therapist" means a person licensed
92 to practice occupational therapy as defined in this chapter, and
93 whose license is in good standing.

94 (g) "Occupational therapy assistant" means a person
95 licensed to assist in the practice of occupational therapy under
96 the supervision of or with the consultation of the licensed
97 occupational therapist, and whose license is in good standing.

98 (h) "Occupational therapy aide" means a person not
99 licensed in the field of occupational therapy who assists
100 occupational therapists and occupational therapy assistants in the
101 practice of occupational therapy, is under the direct supervision
102 of the licensed occupational therapist or licensed occupational
103 therapy assistant, and whose activities require an understanding
104 of occupational therapy * * *.

105 (i) "Person" means any individual, partnership,
106 unincorporated organization or corporate body, except that only an
107 individual may be licensed under this chapter.

108 (j) "Council" means the Mississippi Advisory Council in
109 Occupational Therapy.

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

112 73-24-7. (1) It is unlawful for any person who is not
113 licensed under this chapter as an occupational therapist or as an
114 occupational therapy assistant, or whose license has been
115 suspended or revoked, to:

116 (a) In any manner represent himself as someone who
117 provides occupational therapy services, or use in connection with
118 his name or place of business the words "occupational therapist,"
119 "licensed occupational therapy assistant" * * * or the letters
120 "O.T.," "L.O.T.," "O.T.L.," "O.T.A." or "O.T.A.L." or any other
121 words, letters, abbreviations or insignia indicating or implying
122 that he is an occupational therapist or an occupational therapy
123 assistant or that he provides occupational therapy services; or

124 (b) To show in any way, orally, in writing, in print or
125 by sign, directly or by implication, or to represent himself as an
126 occupational therapist or an occupational therapy assistant or
127 someone who provides occupational therapy services.

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

132 (3) Any person who knowingly shall make a material false
133 statement in his application for license under this chapter or in
134 response to any inquiry by the department or the board shall be
135 fined not less than One Hundred Dollars (\$100.00) nor more than
136 Five Hundred Dollars (\$500.00) or imprisoned for not less than ten

137 (10) days nor more than sixty (60) days, or both such fine and
138 imprisonment.

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

141 73-24-9. Nothing in this chapter shall be construed as
142 preventing or restricting the practice, services or activities of:

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

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

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

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

163 (e) Any person employed as an occupational therapy aide
164 or who works under the supervision of a licensed occupational
165 therapist; or

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

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

173 (ii) The person is certified as an Occupational
174 Therapist Registered (OTR) or a Certified Occupational Therapy
175 Assistant (COTA), established by the National Board for
176 Certification in Occupational Therapy, Inc. (NBCOT), or its
177 successor organization;

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

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

185 73-24-11. (1) There is hereby established the Mississippi
186 Advisory Council in Occupational Therapy under the jurisdiction of
187 the State Board of Health.

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

203 profession or member of the public with an interest in the rights
204 of the consumers of health services.

205 (3) * * * Appointments made thereafter shall be for terms of
206 three (3) years, with no person being eligible to serve more than
207 two (2) full consecutive terms. Terms shall begin on the first
208 day of the calendar year and end on the last day of the calendar
209 year or until successors are appointed, except for the first
210 appointed members, who shall serve through the last calendar day
211 of the year in which they are appointed before commencing the term
212 prescribed by this section.

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

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

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

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

236 (2) The board shall adopt such rules and regulations, not
237 inconsistent with the laws of this state, as may be necessary to
238 effectuate the provisions of this chapter, the practice of
239 occupational therapy in this state, and may amend or repeal the
240 same as may be necessary for such purposes, with the advice of the
241 council. Such rules and regulations shall be adopted in
242 accordance with the provisions of Section 25-43-1 et seq.,
243 Mississippi Code of 1972.

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

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

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

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

264 73-24-17. (1) The board shall issue licenses and notices of
265 renewal, revocation, suspension or reinstatement, and shall
266 publish annually the names of persons licensed under this chapter
267 and the names of the persons whose licenses have been subjected to
268 disciplinary action under this chapter.

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

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

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

281 (a) Is of good moral character;

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

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

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

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

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

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

306 (2) The board shall approve an examination for occupational
307 therapists and an examination for occupational therapy assistants
308 that will be used as the examination for licensure.

309 (3) Any person applying for licensure shall, in addition to
310 demonstrating his eligibility in accordance with the requirements
311 of this section, make application to the board for review of proof
312 of his eligibility for certification by the National Board for
313 Certification in Occupational Therapy, Inc. (NBCOT), or its
314 successor organization, on a form and in such a manner as the
315 board shall prescribe. The application shall be accompanied by
316 the fee fixed in accordance with the provisions of Section
317 73-24-29. The board shall establish standards for acceptable
318 performance on the examination. A person who fails an examination
319 may apply for reexamination upon payment of the prescribed fee.

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

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

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

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

337 73-24-21. (1) The board shall grant a license to any person
338 certified prior to the effective date of this chapter as an
339 Occupational Therapist Registered (OTR) or a Certified
340 Occupational Therapy Assistant (COTA) by the American Occupational
341 Therapy Association (AOTA). The board may waive the examination,
342 education or experience requirements and grant a license to any
343 person certified by AOTA after the effective date of this chapter
344 if the board determines the requirements for such certification
345 are equivalent to the requirements for licensure in this chapter.

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

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

360 * * *

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

363 73-24-23. (1) The board shall issue a license to any person
364 who meets the requirements of this chapter and upon payment of the
365 license fee.

366 (2) The board shall issue a limited permit to persons who
367 have completed the education and experience requirements of this
368 chapter upon payment of the limited permit fee. This permit shall
369 allow the person to practice occupational therapy or assist in the
370 practice of occupational therapy, as the case may be, under the
371 supervision of an occupational therapist who holds a current
372 license in this state and shall be valid until the date on which
373 the results of the next qualifying examination have been made
374 public. The limited permit can be renewed one (1) time if the
375 applicant has failed the examination.

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

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

389 SECTION 10. The following shall be codified as Section
390 73-24-24, Mississippi Code of 1972:

391 73-24-24. (1) Licensees subject to this chapter shall
392 conduct their activities, services and practice in accordance with
393 this chapter and any rules promulgated pursuant hereto. Licenses
394 may be subject to the exercise of the disciplinary sanction

395 enumerated in Section 73-24-25 if the board finds that a licensee
396 is guilty of any of the following:

397 (a) Negligence in the practice or performance of
398 professional services or activities;

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

403 (c) Perpetrating or cooperating in fraud or material
404 deception in obtaining or renewing a license or attempting the
405 same;

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

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

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

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

- 427 (h) Having disciplinary action taken against the
428 licensee's license in another state;
- 429 (i) Making differential, detrimental treatment against
430 any person because of race, color, creed, sex, religion or
431 national origin;
- 432 (j) Engaging in lewd conduct in connection with
433 professional services or activities;
- 434 (k) Engaging in false or misleading advertising;
- 435 (l) Contracting, assisting or permitting unlicensed
436 persons to perform services for which a license is required under
437 this chapter;
- 438 (m) Violation of any probation requirements placed on a
439 license by the board;
- 440 (n) Revealing confidential information except as may be
441 required by law;
- 442 (o) Failing to inform clients of the fact that the
443 client no longer needs the services or professional assistance of
444 the licensee;
- 445 (p) Charging excessive or unreasonable fees or engaging
446 in unreasonable collection practices;
- 447 (q) For treating or attempting to treat ailments or
448 other health conditions of human beings other than by occupational
449 therapy as authorized by this chapter;
- 450 (r) For practice or activities considered to be
451 unprofessional conduct as defined by the rules and regulations;
- 452 (s) Violations of the current codes of conduct for
453 occupational therapists and occupational therapy assistants
454 adopted by the American Occupational Therapy Association;
- 455 (t) Violations of any rules or regulations promulgated
456 pursuant to this chapter.
- 457 (2) The board may order a licensee to submit to a reasonable
458 physical or mental examination if the licensee's physical or

459 mental capacity to practice safely is at issue in a disciplinary
460 proceeding.

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

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

466 73-24-25. (1) Any person whose application for a license is
467 denied shall be entitled to a hearing before the board if he
468 submits a written request to the board. Such hearing shall be
469 conducted at the earliest possible date. A subcommittee of the
470 council shall attend and may offer relevant evidence at any such
471 hearing. The board shall fix a time and place for the hearing and
472 shall cause a written copy of the reason for denial of the
473 license, together with a notice of the time and place fixed for
474 the hearing, to be served on the applicant requesting the hearing
475 and shall serve notice of such hearing on the council. Service of
476 and notice of the hearing may be given by United States certified
477 mail, return receipt requested, to the last known address of the
478 licensee or applicant. For purposes of the hearing, the board,
479 acting by and through the Executive Director of the State Board of
480 Health, shall have the power to subpoena persons and compel the
481 production of records, papers and other documents.

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

488 (b) Following the investigative process, the board may
489 file formal charges against the licensee. Such formal complaint,
490 at a minimum, shall inform the licensee of the facts which are the

491 basis of the charge and which are specific enough to enable the
492 licensee to defend against the charges.

493 (c) Each licensee whose conduct is the subject of a
494 formal charge which seeks to impose disciplinary action against
495 the licensee shall be served notice of the formal charge at least
496 thirty (30) days before the date of the hearing, which hearing
497 shall be presided over by the board or the board's designee.
498 Service shall be considered to have been given if the notice was
499 personally received by the licensee or if the notice was sent by
500 United States certified mail, return receipt requested, to the
501 licensee at the licensee's last known address as listed with the
502 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) Notification that the licensee shall appear
507 personally at the hearing and may be represented by counsel;

508 (iii) Notification that the licensee shall have
509 the right to produce witnesses and evidence in his behalf and
510 shall have the right to cross-examine adverse witnesses and
511 evidence;

512 (iv) Notification that the hearing could result in
513 disciplinary action being taken against the licensee;

514 (v) Notification that rules for the conduct of the
515 hearing exist, and it may be in the licensee's best interest to
516 obtain a copy;

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

522 (vii) The board or its designee shall hear
523 evidence produced in support of the formal charges and contrary

524 evidence produced by the licensee. At the conclusion of the
525 hearing, the board shall issue an order; and

526 (viii) All proceedings under this section are
527 matters of public record and shall be preserved in accordance with
528 state law.

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

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

549 (a) Revoke the license;

550 (b) Suspend the license, for any period of time;

551 (c) Censure the licensee;

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

554 (e) Place a licensee on probationary status and
555 requiring the licensee to submit to any of the following: (i)
556 report regularly to the board, or its designee, upon matters which

557 are the basis of probation; (ii) continue to renew professional
558 education until a satisfactory degree of skill has been attained
559 in those areas which are the basis of probation; or (iii) such
560 other reasonable requirement or restrictions as the board deems
561 proper;

562 (f) Refuse to renew a license; or

563 (g) Revoke probation which has been granted and impose
564 any other disciplinary action under this subsection when the
565 requirements of probation have not been fulfilled or have been
566 violated.

567 (5) The board summarily may suspend a license under this
568 chapter without the filing of a formal complaint, notice or a
569 hearing, if the board finds that the continued practice in the
570 profession by the licensee would constitute an immediate danger to
571 the public. If the board summarily suspends a license under the
572 provisions of this subsection a hearing must be held within twenty
573 (20) days after suspension begins, unless the hearing date is
574 continued at the request of the licensee.

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

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

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

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

586 (10) In addition, the board shall be authorized to suspend
587 the license of any licensee for being out of compliance with an
588 order for support, as defined in Section 93-11-153. The procedure
589 for suspension of a license for being out of compliance with an

590 order for support, and the procedure for reissuance or
591 reinstatement of a license suspended for that purpose, and the
592 payment of any fees for the reissuance or reinstatement of a
593 license suspended for that purpose, shall be governed by Section
594 93-11-157 or 93-11-163, as the case may be. If there is any
595 conflict between any provision of Section 93-11-157 or 93-11-163
596 and any provision of this chapter, the provisions of Section
597 93-11-157 or 93-11-163, as the case may be, shall control.

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