

Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 60 – Professional Licensure

CHAPTER 08 REGULATIONS GOVERNING LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

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1 **Title 15 - Mississippi Department of Health**

2 **Part III – Office of Health Protection**

3 **Subpart 60 – Professional Licensure**

4 **CHAPTER 08 REGULATIONS GOVERNING LICENSURE OF**
5 **OCCUPATIONAL THERAPISTS AND OCCUPATIONAL**
6 **THERAPY ASSISTANTS**

7 100 **GENERAL**

8 100.01 **Purpose** The purpose of these regulations is to safeguard the public's health,
9 safety, and welfare by establishing minimum qualifications and creating
10 exclusive titles corresponding to the level of qualifications for individuals who
11 wish to offer occupational therapy services to the public. Further, in order to
12 insure the highest degree of professional conduct by those engaged in offering
13 occupational therapy services to the public, it is the purpose of these regulations
14 to provide and impose disciplinary sanctions, be they civil or criminal, against
15 persons who do not meet or adhere to the procedures, qualifications, and
16 standards set out in these regulations.

17 100.02 **Legal Authority:** The State Board of Health established and empowered by
18 Section 41-3-1 et seq. of Mississippi Code of 1972, annotated, is authorized to
19 establish and enforce these rules and procedures by virtue of "Mississippi
20 Occupational Therapy Practice Law," Sections 73-24-1, et seq. of Mississippi
21 Code of 1972, annotated.

22 100.03 **Definitions** The following terms shall have the meaning set forth below, unless
23 the context otherwise requires:

- 24 1. **Board** shall mean the Mississippi State Board of Health.
- 25 2. **Council** shall mean the Mississippi Advisory Council in Occupational
26 Therapy.
- 27 3. **License** shall mean the document of licensure issued by the Board.
- 28 4. **Act** shall mean the "Mississippi Occupational Therapy Practice Law"
29 sections 73-24-1 et seq. of Mississippi Code of 1972, annotated.
- 30 5. **Examination** shall mean the examination approved by the Board.
- 31 6. **Department** shall mean the Mississippi State Department of Health.
- 32 7. **Occupational therapy** means the therapeutic use of purposeful and
33 meaningful (goal-directed) activities and/or exercises to evaluate and treat

34 an individual who has, or is at risk for, a disease or disorder, impairment,
35 activity limitation or participation restriction which interferes with his
36 ability to function independently in daily life roles and to promote health
37 and wellness across his lifespan.

38 **8. Occupational therapy intervention** includes:

39 a. remediation or restoration of performance abilities that are limited due
40 to impairment in biological, physiological, psychological or
41 neurological processes;

42 b. adaptation of task, process or the environment, or the teaching of
43 compensatory techniques in order to enhance functional performance;

44 c. disability prevention methods and techniques which facilitate the
45 development or safe application of functional performance skills; or

46 d. health promotion strategies and practices which enhance functional
47 performance abilities.

48 **9. Occupational therapy service** includes, but is not limited to:

49 a. evaluating, developing, improving, sustaining or restoring skill in
50 activities of daily living (ADLS), work or productive activities,
51 including instrumental activities of daily living (IADLS), play and
52 leisure activities;

53 b. evaluating, developing, remediating or restoring physical,
54 sensorimotor, cognitive or psycho social components of performance;

55 c. designing, fabricating, applying or training in the use of assistive
56 technology or orthotic devices, and training in the use of prosthetic
57 devices;

58 d. adaptation of environments and processes, including the application
59 of ergonomic principles, to enhance functional performance and
60 safety in daily life roles;

61 e. application of physical agent modalities as an adjunct to or in
62 preparation for engagement in an occupation or functional activity;

63 f. evaluating and providing intervention in collaboration with the client,
64 family, caregiver or other person responsible for the client;

65 g. educating the client, family, caregiver or others in carrying out
66 appropriate nonskilled interventions;

- 67 h. consulting with groups, programs, organizations or communities to
68 provide population-based services; or
- 69 i. participation in administration, education, and research, including
70 both clinical and academic environments.
- 71 10. **Occupational Therapist** means a person licensed in this state to practice
72 occupational therapy as defined in these regulations, and whose license is
73 in good standing.
- 74 11. **Occupational Therapy Assistant** means a person licensed to assist in the
75 practice of occupational therapy under the supervision of or with the
76 consultation of a licensed occupational therapist, and whose license is in
77 good standing.
- 78 12. **Occupational Therapy Aide** means a person who is not licensed in the
79 field of occupational therapy and who assists occupational therapists and
80 occupational therapy assistants in the practice of occupational therapy
81 under direct supervision. The occupational therapy aides' activities
82 require an understanding of occupational therapy.
- 83 13. **Person** means any individual, partnership, unincorporated organization, or
84 corporate body, except that only an individual may be licensed under this
85 chapter.
- 86 14. **Direct supervision** means the daily, direct, on-site contact at all times of a
87 licensed occupational therapist or occupational therapy assistant when an
88 occupational therapy aide assists in the delivery of patient care.
- 89 15. **Association** shall mean the Mississippi Occupational Therapy
90 Association.

91 100.04 **Publication** The Department shall publish, annually, a list of the names and
92 addresses of all persons licensed by the department and a list of all persons
93 whose licenses have been suspended, revoked, denied renewal, put on
94 probationary status, censured, or reprimanded.

95 101 **MISSISSIPPI ADVISORY COUNCIL IN OCCUPATIONAL THERAPY**
96 **("COUNCIL")**

97 101.01 **Council Structure and Purpose** There is hereby established the Mississippi
98 Advisory Council in Occupational Therapy under the jurisdiction of the State
99 Board of Health. The Council shall consist of five (5) members as set forth in
100 the Act, for the terms indicated therein, and shall serve under the jurisdiction of
101 the State Board of Health. The purpose of the Council is to serve in an advisory
102 capacity to the Department.

103 101.02 **Meetings** The Council shall meet during the first month of the year.
 104 Additional meetings may be held, at the discretion of the chairman of the
 105 Council or the written request of any two (2) members of the council. A quorum
 106 shall consist of three (3) members of the Council, including the chairman, and
 107 shall be necessary for the Council to take action by vote.

108 102 **STATE BOARD OF HEALTH ("BOARD")**

109 102.01 **Responsibilities** The Board, with the advice of the council, shall:

- 110 1. approve the examination, establish licensing and renewal of license
 111 criteria for applicants;
- 112 2. maintain an up-to-date list of all individuals licensed to practice
 113 occupational therapy, with such list being available, upon request, to the
 114 public;
- 115 3. investigate alleged or suspected violations of the provisions of these
 116 regulations or other laws of this state pertaining to occupational therapy
 117 and any rules and regulations adopted by the board; for this purpose, any
 118 authorized agents of the department shall have the power and right to enter
 119 and make reasonable inspections of any place where occupational therapy
 120 is practiced, and may inspect and/or copy any records pertaining to clients
 121 or the practice of occupational therapy under these regulations;
- 122 4. refer disciplinary actions of any individual engaged in the practice of
 123 occupational therapy to the appropriate government agency for
 124 prosecution, whether licensed or otherwise, or, in its discretion, refer same
 125 to the appropriate committee or council;
- 126 5. conduct disciplinary hearings, upon specified charges, of a licensee;
- 127 6. maintain an up-to-date list of all individuals whose license has been
 128 suspended, revoked, or denied and make such list available to public
 129 inspection and supply such list to similar regulatory boards in other states
 130 or jurisdictions;
- 131 7. keep a record of all proceedings of the Board, and make said record
 132 available to the public; and
- 133 8. direct the Department to promulgate and implement rules and procedures
 134 to carry out the purpose of the Act.

135 103 **LICENSURE**

136 103.01 **Licensure Requirements** An applicant for a regular license as an occupational
 137 therapist or occupational therapy assistant shall submit to the Department,

138 verified by oath, written evidence in form and content satisfactory to the
139 Department that the applicant:

- 140 1. is of good moral character;
- 141 2. has been awarded a degree from an education program recognized by the
142 Board;
- 143 3. has successfully completed a supervised field experience;
- 144 a. for an occupational therapist, as reflected in the current accrediting
145 standards;
- 146 b. for an occupational therapy assistant, as reflected in the current
147 accrediting standards;
- 148 4. has passed an examination approved by the Department; and
- 149 5. has paid the required fee(s).
- 150 6. For an occupational therapist, the program shall be accredited by the
151 Accreditation Council for Occupational Therapy Education of the
152 American Occupational Therapy Association, or, the board-recognized
153 accrediting body.
- 154 7. For an occupational therapy assistant, the program shall be approved by
155 the Accreditation Council for Occupational Therapy Education of the
156 American Occupational Therapy Association, or the board-recognized
157 accrediting body.

158 **103.02 Licensure By Endorsement** An applicant for licensure by endorsement
159 shall submit to the Department, verified by oath, written evidence in form and
160 content satisfactory to the Department that:

- 161 1. the applicant is currently licensed to practice occupational therapy under
162 the laws of another state, territory, or jurisdiction; and
- 163 2. the requirements for said license are equivalent to or greater than those
164 required in this state as set forth in sections 103.01 and 103.03 of these
165 regulations; and
- 166 3. said license is in good standing, and is not, presently, suspended or
167 revoked; and
- 168 4. certification from NBCOT has not been subject to disciplinary action.

169 **103.03 Foreign Trained Individuals** An applicant for licensure who has been
170 trained as an occupational therapist or an occupational therapy assistant in a

171 foreign country, and desires to be licensed pursuant to the laws of the State of
172 Mississippi, shall submit to the Department, verified by oath, in form and
173 content satisfactory to the Department:

- 174 1. that the applicant is of good moral character; and
- 175 2. that the applicant has successfully completed an educational program and
176 a supervised fieldwork experience program for occupational therapists or
177 occupational therapy assistants; and
- 178 3. documentary evidence that the educational program and the supervised
179 fieldwork experience are substantially equivalent to that required of a non-
180 foreign trained applicant for licensure; and
- 181 4. that the applicant has passed an examination approved by the Department;
182 and
- 183 5. demonstrable proficiency in the English language by passing all of the
184 following English language examinations with scores to be determined by
185 the Department:
 - 186 a. Test of English as a Foreign Language (TOEFL); and
 - 187 b. Test of Spoken English (TSE); and
 - 188 c. Test of Written English (TWE).
- 189 6. An applicant who is a graduate of an accredited school of occupational
190 therapy located in one of the following countries may request an
191 exemption from the required English proficiency examinations:
 - 192 a. England
 - 193 b. Scotland
 - 194 c. Ireland
 - 195 d. Wales
 - 196 e. Australia
 - 197 f. New Zealand
 - 198 g. Canada (except the province of Quebec)
- 199 7. The department reserves the right to require a personal interview with any
200 applicant from any of the above countries for final determination of the
201 exemption request.

202 103.04 **Limited Permit** A limited permit to practice as an occupational therapist or
203 occupational therapy assistant may be granted to an applicant for licensure
204 meeting the requirements of section 103.01 or 103.03 who has not taken the
205 approved examination or has not received the results of the examination, subject
206 to the conditions of section 103.05.

207 103.05 **Conditions of a Limited Permit:**

- 208 1. A limited permit shall be granted for a period not to exceed ninety (90)
209 days beyond the date of the next scheduled examination.
- 210 2. A limited permit holder shall restrict his practice to the State of
211 Mississippi.
- 212 3. Supervision of Limited Permit
- 213 a. An occupational therapist issued a limited permit shall practice under
214 the supervision of or in consultation with an occupational therapist
215 currently licensed in Mississippi. Supervision or in consultation with
216 an occupational therapist for the purposes of this section means direct
217 contact at least every 2 weeks at each treatment facility, with interim
218 contact occurring by other methods, such as telephone or written
219 communication.
- 220 b. An occupational therapy assistant issued a limited permit shall
221 practice under the supervision of or in consultation with an
222 occupational therapist currently licensed in Mississippi. Supervision
223 or in consultation with for the purposes of this section means direct
224 contact at least every week at each treatment facility, with interim
225 supervision occurring by other methods, such as telephone or written
226 communication.
- 227 c. An occupational therapist issued a limited permit may not supervise
228 any licensed OT or OTA.
- 229 d. Direct contact for either an occupational therapist or an occupational
230 therapy assistant should include:
- 231 i. A review of activities with appropriate revision or termination of
232 the plan of care
- 233 ii. An assessment of utilization of outside resources (whenever
234 applicable)
- 235 iii. Documentary evidence of such visit
- 236 iv. Discharge planning as indicated

- 237 4. Documentation in form and substance acceptable to the Department that
 238 the conditions of section 103.05(3) (a) have been met must be on file with
 239 the Department before a limited permit will be issued.
- 240 5. The limited permit of a person who is required to take the approved
 241 examination and fails to take said examination will not be renewed.
- 242 6. A limited permit may be renewed, at the discretion of the department, only
 243 one time, through the date that the next examination results are made
 244 public.
- 245 7. Any person who has taken but not passed the required examination in
 246 another jurisdiction shall not be eligible for a limited permit.

247 **103.06 Inactive License:**

- 248 1. A licensee may be granted inactive status upon filing a written request in
 249 form and content satisfactory to the department and upon payment of the
 250 required fee. A licensee granted inactive status shall not practice or hold
 251 himself or herself out as an occupational therapist or occupational therapy
 252 assistant and is not responsible for accruing the continuing education
 253 requirements.
- 254 2. A licensee granted inactive status for five (5) licensure years must
 255 successfully complete the following reentry requirements before resuming
 256 practice:
- 257 3. An American Occupational Therapy Association recognized reentry
 258 course
- 259 4. Practice under the supervision of a currently licensed occupational
 260 therapist for a period of ninety (90) calendar days.

261 **103.07 Abandonment:** An application shall be deemed abandoned by the
 262 Department if, after six (6) months from the date of filing, the requirements for
 263 licensing have not been completed and submitted to the Department.

264 **104 PROFESSIONAL IDENTIFICATION**

265 **104.01 Titles and Abbreviations** It is unlawful for any person who is not licensed
 266 under these regulations as an occupational therapist or as an occupational
 267 therapy assistant, or whose license has been suspended or revoked, to in any
 268 manner represent himself as someone who provides occupational therapy
 269 services, or use , in connection with his name or place of business the words
 270 "occupational therapist," "licensed occupational therapy assistant," or the letters
 271 "O.T.," "O.T.L.," "L.O.T.," "O.T.R.," "O.T.A." or O.T.A.L. "C.O.T.A." or any other
 272 words, letters, abbreviations or insignia indicating or implying that he is an
 273 occupational therapist or an occupational therapy assistant or that he provides

274 occupational therapy services; or to show in any way, orally, in writing, in print
 275 or by sign, directly or by implication, or to represent himself as an occupational
 276 therapist or an occupational therapy assistant, or someone who provides
 277 occupational therapy services.

278 104.02 **Production and Display of License** A person licensed to practice
 279 occupational therapy in Mississippi shall be issued a "Certificate of Licensure"
 280 and "License Identification Card." The licensee shall prominently display the
 281 "Certificate of Licensure" or copy thereof at their place(s) of employment. The
 282 licensee shall carry the "License Identification Card" with them at all times
 283 when providing services and show said ID card when requested.

284 105 **RENEWAL OF LICENSE**

285 105.01 **General Provisions:**

- 286 1. The Board shall issue licenses which shall be subject to renewal
 287 biennially.
- 288 2. The licensure period shall be construed as May 1 through April 30 of even
 289 numbered years.

290 105.02 **Procedure for Renewal of License** The Department shall mail renewal
 291 notices, approximately sixty (60) days prior to the end of the licensure period, to
 292 the last home address registered with the Department, to the persons to whom
 293 licenses were issued or renewed during the preceding licensure period. The
 294 licensee shall:

- 295 1. complete the renewal form(s);
- 296 2. submit proof of continuing education credit as detailed in Section 106 of
 297 these regulations;
- 298 3. enclose the renewal fee; and
- 299 4. file the above with the Department prior to the end of the licensure period.

300 105.03 **Failure to Renew:**

- 301 1. A licensee who does not file, with the Department, his renewal application
 302 prior to the end of the licensure period will be deemed to have allowed his
 303 license to lapse. Said license may be reinstated by the Department, in its
 304 discretion, by the payment of the renewal fee, the late
 305 renewal/reinstatement fee, and the required continuing education hours
 306 provided said application for renewal is made within two (2) years after its
 307 last expiration date.

- 308 2. A license may not be reinstated after having lapsed for two (2) consecutive
309 years. A new application must be made and the licensure regulations in
310 effect at that time must be met.

311 106 **CONTINUING EDUCATION (CE)**

312 106.01 **Definition and philosophy** Each individual licensed as a occupational therapist
313 or occupational therapy assistant is responsible for optimum service to the
314 consumer and is accountable to the consumer, the employer, and the profession
315 for evidence of maintaining high levels of skill and knowledge. Continuing
316 education is defined as education beyond the basic preparation required for entry
317 into the profession, directly related to the performance and practice of
318 occupational therapy.

319 106.02 **Requirements:**

- 320 1. Regulations set the requirement of 20 contact hours (CH) or 2 Continuing
321 Education Unit (CEU) to be accrued during the licensure period. No
322 carryover of continuing education hours from one licensure period to
323 another shall be allowed. At least 30 percent (6 Contact Hours or .6 CEU)
324 of the required continuing education must be directly related to the clinical
325 practice of occupational therapy. The six (6) contact hours related to
326 clinical practice shall be live face-to-face training i.e., no internet training,
327 video training, television training, etc. Of the remaining required 14 hours
328 of training, 50 percent or 7 hours may be non-live face-to-face training.
329 Non-live training may include home study courses, video, internet, etc.
330 All training shall be from approved sources.
- 331 2. Individuals applying for initial licensure within a licensing term must
332 accrue continuing education hours on a prorated scale. Written
333 notification of required hours will be sent to the applicant at the time of
334 licensure.
- 335 3. Persons who fail to accrue the required continuing education hours shall
336 be issued a CE probationary license for the licensure term. Failure to
337 accrue the required hours during the CE probationary period will result in
338 the revocation of the license. Hours accrued are first credited for the
339 delinquent hours lacking from the previous licensure period, and then
340 applied to the current (CE probationary) licensing period.
- 341 4. CE probationary licenses will be issued for one licensure term only. No
342 ensuing license may be CE probationary as a result of not meeting
343 continuing education requirements.

344 106.03 **Content Criteria** The content must apply to the field of occupational therapy
345 and performance and must be designed to meet one of the following goals:

- 346 1. Update knowledge and skills required for competent performance beyond
347 entry level as described in current legislation and regulations.
- 348 2. Allow the licensee to enhance his knowledge and skills.
- 349 3. Provide opportunities for interdisciplinary learning.
- 350 4. Extend limits of professional capabilities and opportunities.
- 351 5. Facilitate personal contributions to the advancement of the profession.

352 106.04 **Sources of Continuing Education** (Revised 1/14/09) Continuing education
353 hours may be accrued from the following sources, when the content of the
354 programs relates to the profession of occupational therapy:

- 355 1. Attendance at educational programs:
- 356 a. Attendance at educational programs where continuing education
357 credit is given and approved by the Mississippi Occupational Therapy
358 Association (MSOTA).
- 359 b. Attendance at educational programs where continuing education
360 credit is given and approved by the American Occupational Therapy
361 Association (AOTA), including other state association educational
362 programs.
- 363 c. Attendance at educational programs where continuing education
364 credit is given and approved by the American Medical Association
365 (AMA) and its components.
- 366 d. Attendance at other programs approved for continuing education
367 credit by AOTA, AMA, APTA, ASHA, or their components.
- 368 e. Attendance at educational programs where continuing education
369 credit is given and approved by accredited universities or colleges.
- 370 f. Attendance at educational programs where continuing education
371 credit is given and approved by a licensure authority of any
372 jurisdiction in the United States for occupational therapy.
- 373 g. Attendance at educational programs where continuing education
374 credit is given and approved by the American Physical Therapy
375 Association (APTA), including other state association educational
376 programs.
- 377 h. Attendance at educational programs where continuing education
378 credit is given and approved by the American Speech and Hearing

379 Association (ASHA), including other state association educational
380 programs.

381 A course/provider not approved by one of the organizations listed in section
382 106.04(1) will not be accepted as continuing education for licensure renewal
383 purposes. A course not approved by an organization listed in this section of
384 the regulations may be reviewed by the department. Contact the department
385 for information.

386 2. Presentations made before recognized groups of occupational therapists,
387 medical practitioners, or other health related professionals and directly
388 related to the profession of occupational therapy. To be considered for
389 continuing education credit, material outline and a synopsis must be
390 submitted to the Department prior to the presentation date. Notice of
391 approval or disapproval will be sent following a review by the
392 Department. For approved presentations, the presenter may accrue one (1)
393 hour of continuing education credit for each hour of the actual
394 presentation, and one (1) hour of preparation time, for a total of (2) two
395 hours. Presenter credit is given one (1) time only, even though the session
396 may be presented multiple times. No more than 30% of total required
397 hours may be accrued through presentations.

398 3. Academic course work:

399 a. Academic course work taken for credit from a regionally accredited
400 college or university. The courses must relate to the profession of
401 occupational therapy. One academic semester hour shall be
402 equivalent to fifteen (15) clock hours for continuing education credit.
403 No more than fifty percent (50%) of total required hours may be
404 accrued through academic course work. Undergraduate level courses
405 are acceptable only when they can be demonstrated to update or
406 enhance competency in licensee's specific practice field, and
407 documented that course work has not been taken previously, to the
408 satisfaction of the department. Graduate level courses are acceptable
409 for occupational therapists. Undergraduate courses are acceptable for
410 occupational therapy assistants.

411 b. Academic course work taken by an OT/OTA for credit toward an
412 advanced degree in occupational therapy may be counted as meeting
413 the full continuing education requirements.

414 4. Home Study Courses approved by the department.

415 5. Professional publications where the licensee is an author. To be
416 considered for continuing education credit, a reprint of the published
417 article must be submitted to the department. Notice of approval or

418 disapproval will be sent out after review by the department. A maximum
419 of 3 contact hours may be accrued through professional publication.

420 6. Supervision of occupational therapy and occupational therapy assistant
421 students. To be considered for continuing education credit, full
422 supervision of a student must be performed for a complete clinical
423 rotation. The educational institution must provide written documentation
424 of the supervision. A total of four (4) contact hours will be awarded for
425 the full supervision. No more than four (4) hours may be accrued during a
426 licensure period.

427 7. Specific **UNACCEPTABLE** activities include:

- 428 a. All in-service programs not approved under Section 106.04(1) of
429 these regulations
- 430 b. Orientation to specific work-site programs dealing with organizational
431 structures, processes, or procedures
- 432 c. Meetings for purposes of policy decision
- 433 d. Non-educational meetings at annual conferences, chapter, or
434 organizational meetings
- 435 e. Entertainment or recreational meetings or activities
- 436 f. Committee meetings, holding of office, serving as an organizational
437 delegate
- 438 g. CPR education.
- 439 h. Self-directed studies other than those previously outlined.

440
441 **106.05 Reporting Procedures for Continuing Education** It is the responsibility
442 of the licensee to insure that the following criteria are met with respect to
443 continuing education credit:

- 444 1. Attendance at seminars, workshops, presentations, etc., approved by an
445 organization listed in section 106.04(1) is automatically accepted for credit
446 unless sessions are duplicated. Verification of attendance may be made by
447 submitting a continuing education certificate (must include source,
448 number of continuing education hours and date of attendance) and proof
449 of approval for the program/provider.
- 450 2. Credit for presentations: Submit a copy of the Department's approval
451 letter.

- 452 3. Academic course work credits must meet the content criteria in Section
 453 106.03, and must be accompanied by a course description from the college
 454 or university catalog and a copy of the transcript or final grade report. A
 455 minimum course grade of "C" is required for CE credit.
- 456 4. Home Study Course: A certificate of completion must be submitted to
 457 receive continuing education credit.
- 458 5. Publication: A letter of approval from the department.

459 107 **REVOCAION, SUSPENSION, AND DENIAL OF LICENSE**

460 107.01 **Standards of Conduct** Licensees subject to these regulations shall conduct
 461 their activities, services, and practice in accordance with this section. Licensees
 462 may be subject to the exercise of the disciplinary sanctions enumerated in
 463 Section 107.06 of these regulations if the Department finds that a licensee is
 464 guilty of any of the following:

- 465 1. Negligence in the practice or performance of professional services or
 466 activities.
- 467 2. Engaging in dishonorable, unethical, or unprofessional conduct of a
 468 character likely to deceive, defraud, or harm the public in the course of
 469 professional services or activities.
- 470 3. Perpetrating or cooperating in fraud or material deception in obtaining or
 471 renewing a license or attempting the same.
- 472 4. Being convicted of any crime which has a substantial relationship to the
 473 licensee's activities and services or an essential element of which is
 474 misstatement, fraud, or dishonesty.
- 475 5. Being convicted of any crime, which is a felony under the laws of this
 476 state or the United States.
- 477 6. Engaging in or permitting the performance of unacceptable services
 478 personally or by others working under the licensee's supervision due to the
 479 licensee's deliberate or negligent act or acts or failure to act, regardless of
 480 whether actual damage or damages to the public is established.
- 481 7. Continued practice although the licensee has become unfit to practice as a
 482 occupational therapist or occupational therapy assistant due to:
- 483 a. failure to keep abreast of current professional theory or practice; or
- 484 b. physical or mental disability; the entry of an order or judgment by a
 485 court of competent jurisdiction that a licensee is in need of mental
 486 treatment or is incompetent shall constitute mental disability; or

- 487 c. addiction or severe dependency upon alcohol or other drugs which
488 may endanger the public by impairing the licensee's ability to
489 practice.
- 490 8. Having disciplinary action taken against the licensee's license in another
491 state.
- 492 9. Making differential, detrimental treatment against any person because of
493 race, color, creed, sex, religion, or national origin.
- 494 10. Engaging in lewd conduct in connection with professional services or
495 activities.
- 496 11. Engaging in false or misleading advertising.
- 497 12. Contracting, assisting, or permitting unlicensed persons to perform
498 services for which a license is required under these regulations.
- 499 13. Violation of any probation requirements placed on a license by the Board.
- 500 14. Revealing confidential information except as may be required by law.
- 501 15. Failing to inform clients of the fact that the client no longer needs the
502 services or professional assistance of the licensee.
- 503 16. Charging excessive or unreasonable fees or engaging in unreasonable
504 collection practices.
- 505 17. For treating or attempting to treat ailments or other health conditions of
506 human beings other than by occupational therapy as authorized by these
507 regulations.
- 508 18. For applying or offering to apply occupational therapy as an occupational
509 therapist within the scope of occupational therapy, or for acting as an
510 occupational therapy assistant other than under the supervision or in
511 consultation with a licensed occupational therapist.
- 512 19. Violations of the current code of ethics for occupational therapists and
513 occupational therapy assistants adopted by the American Occupational
514 Therapy Association or its successor organization.
- 515 20. Violations of any rules or regulations promulgated pursuant to these
516 regulations.
- 517 21. Has engaged in any conduct considered by the Board to be detrimental to
518 the profession of occupational therapy.

519 22. The Department may order a licensee to submit to a reasonable physical or
 520 mental examination if the licensee's physical or mental capacity to practice
 521 safely is at issue in a disciplinary proceeding. Failure to comply with a
 522 board order to submit to a physical or mental examination shall render a
 523 licensee subject to the summary suspension procedures described in
 524 Section 107.02 of these regulations.

525 107.02 **Summary Suspension:**

- 526 1. The Department may summarily suspend a license without a hearing,
 527 simultaneously with the filing of a formal complaint and notice of hearing,
 528 if the Department determines that:
- 529 a. the health, safety, or welfare of the general public is in immediate
 530 danger; or
- 531 b. the licensee's physical capacity to practice his profession is in issue;
 532 or
- 533 c. the licensee's mental capacity to practice his profession is in issue.
- 534 2. If the Department summarily suspends a license, a hearing must begin
 535 within twenty (20) days after such suspension begins, unless continued at
 536 the request of the licensee.

537 107.03 **Complaints** All complaints concerning a licensee, his business, or professional
 538 practice, shall be reviewed by the Department. Each complaint received shall be
 539 logged, recording at a minimum the following information:

- 540 1. A. licensee's name;
- 541 2. B. name of the complaining party, if known;
- 542 3. C. date of complaint;
- 543 4. D. brief statement of complaint; and
- 544 5. E. disposition.

545 107.04 **Investigation** All complaints will be investigated and evaluated by
 546 Department.

547 107.05 **Notice of Charges and Hearing**

- 548 1. Following the investigative process, the Department may file formal
 549 charges against the licensee. Such formal complaint shall, at a minimum,
 550 inform the licensee of the facts which are the basis of the charge and

- 551 which are specific enough to enable the licensee to defend against the
552 charges.
- 553 2. Each licensee, whose conduct is the subject of a formal charge which
554 seeks to impose disciplinary action against the licensee, shall be served
555 notice of the formal charge at least thirty (30) days before the date of
556 hearing. A hearing shall be presided over by the Board or the Board's
557 designee. Service shall be considered to have been given if the notice was
558 personally received by the licensee, or the notice was mailed certified,
559 return receipt requested, to the licensee at the licensee's last known
560 address as listed with the Department. The notice of the formal hearing
561 shall consist at a minimum of the following information:
- 562 a. the time, place and date of hearing;
- 563 b. that the licensee shall appear personally at the hearing and may be
564 represented by counsel;
- 565 c. that the licensee shall have the right to produce witnesses and
566 evidence in the licensee's behalf and shall have the right to cross-
567 examine adverse witnesses and evidence;
- 568 d. that the hearing could result in disciplinary action being taken against
569 the licensee's license;
- 570 e. that rules for the conduct of these hearings exist and it may be in the
571 licensee's best interest to obtain a copy; and
- 572 f. that the Department, or its designee, shall preside at the hearing and
573 following the conclusion of the hearing shall make findings of facts,
574 conclusions of law and recommendations, separately stated, to the
575 Board as to what disciplinary action, if any, should be imposed on the
576 licensee.
- 577 3. The Department may order a licensee to submit to a reasonable physical or
578 mental examination if the licensee's physical or mental capacity to practice
579 safely is at issue in a disciplinary proceeding. Failure to comply with a
580 board order to submit to a physical or mental examination shall render a
581 licensee subject to the summary suspension procedures described in
582 Section 107.02 of these regulations.
- 583 4. The Department or its designee shall hear evidence produced in support of
584 the formal charges and contrary evidence produced by the licensee. At the
585 conclusion of the hearing, the Board shall issue an order, within sixty (60)
586 days.
- 587 5. Disposition of any complaints may be made by consent order or
588 stipulation between the Board and the licensee.

589 6. All proceedings pursuant to this section are matters of public record and
590 shall be preserved pursuant to state law.

591 107.06 **Sanctions** The Department may impose any of the following sanctions, singly
592 or in combination, when it finds that a licensee is guilty of any of the above
593 offenses:

594 1. Revoke the license.

595 2. Suspend the license, for any period of time.

596 3. Censure the licensee.

597 4. Impose a monetary penalty of not more than Two Hundred Dollars
598 (\$200.00).

599 5. Place a licensee on probationary status and require the licensee to submit
600 to any of the following:

601 a. report regularly to the Department, or its designee, upon matters
602 which are the basis of probation;

603 b. continue to renew professional education until a satisfactory degree of
604 skill has been attained in those areas which are the basis of probation;
605 or

606 c. such other reasonable requirements or restrictions as are proper.

607 6. Refuse to renew a license.

608 7. Revoke probation which has been granted and impose any other
609 disciplinary action in this subsection when the requirements of probation
610 have not been fulfilled or have been violated.

611 8. The Department may seek the counsel of the Mississippi Advisory
612 Council in Occupational Therapy regarding disciplinary actions.

613 9. Disposition of any formal complaint may be made by consent order or
614 stipulation between the board and the licensee.

615 107.07 **Appeals** Any person aggrieved by a decision of the Department shall have a
616 right of appeal in the manner provided for in the Act and the Laws of the State
617 of Mississippi.

618 108 **EXCEPTIONS AND EXEMPTIONS**

619 108.01 **Exceptions** Nothing in this chapter shall be construed as preventing or
620 restricting the practice, services or activities of:

- 621 1. Any person, licensed in this state by any other law, from engaging in the
622 profession or occupation for which he or she is licensed;
- 623 2. Any person who is employed as an occupational therapist or occupational
624 therapy assistant by the United States armed services, the U.S. Public
625 Health Service, the Veteran's Administration or other federal agencies, if
626 such person provides occupational therapy solely under the director or
627 control of the organization by which he is employed;
- 628 3. Any person pursuing a course of study leading to a degree or certificate in
629 occupational therapy in an accredited, recognized or approved educational
630 program, or advanced training in a specialty area, if such activities and
631 services constitute a part of the supervised course of study, and if such
632 person is designated by a title which clearly indicates his status as a
633 trainee or student; (revised 2/20/98)
- 634 4. Any person fulfilling the supervised fieldwork experience requirements of
635 Section 73-24-19, if such activities and services constitute a part of the
636 experience necessary to meet the requirements of that section;
- 637 5. Any person employed as an occupational therapy aide or who works under
638 the supervision of a licensed occupational therapist; or
- 639 6. Any person performing occupational therapy services in the state, if these
640 services are performed for no more than thirty (30) days in a calendar year
641 under the supervision of an occupational therapist licensed under this
642 chapter, if:
- 643 a. The person is licensed under the law of another state which has
644 licensure requirements at least as stringent as the requirements of this
645 chapter, or
- 646 b. The person is certified as an Occupational Therapist Registered
647 (OTR) or a Certified Occupational Therapy Assistant (COTA),
648 established by the National Board for Certification in Occupational
649 Therapy (NBCOT) or its successor organization.
- 650 Any licensee who will supervise a person performing occupational therapy
651 services in the state shall ensure that the following information is on file
652 and satisfactory with the department prior to the person performing
653 occupational therapy services:
- 654 a. Proof that the person meets one or both of the requirements in
655 subsection 6(a)(b) of this section of the regulations; and
- 656 b. A schedule indicating when the person will be performing
657 occupational therapy services; and

658 c. The name(s) of the facility(ies) where the person will perform
659 occupational therapy services

660 7. Any person certified by the American Board of Certification in Orthotics
661 and Prosthetics as a Certified Orthotist, C.O., Certified Prosthetist, C.P.,
662 Certified Prosthetist/Orthotist, C.P.O., or anyone working under their
663 direct supervision.

664 108.02 **Good Samaritan Act:**

665 [LEFT BLANK ON PURPOSE]

666 109 **OCCUPATIONAL THERAPY ASSISTANT**

667 109.01 **Definition** An occupational therapy assistant (OTA), shall be defined as an
668 individual who meets the qualifications and requirements as set forth in Section
669 103 of these regulations, and has been issued a license by the Department. The
670 roles and responsibilities of an OTA are:

671 1. To practice only under the supervision of, or in consultation with, an
672 occupational therapist licensed to practice in Mississippi.

673 2. To assist with but not perform total patient evaluations.

674 3. To perform treatment procedures as delegated by the occupational
675 therapist.

676 4. To supervise other supportive personnel as charged by the occupational
677 therapist.

678 5. To notify the occupational therapist of changes in the patient's status,
679 including all untoward patient responses.

680 6. To discontinue immediately any treatment procedures which in their
681 judgment appear to be harmful to the patient.

682 7. To refuse to carry out treatment procedures that they believe to be not in
683 the best interest of the patient.

684 109.02 **Supervision or Consultation:**

685 1. An occupational therapy assistant issued a limited permit (see section
686 103.05).

687 2. An occupational therapy assistant issued a regular license.

688 a. Supervision or consultation which means face to face meetings of
689 supervisor and supervisee (OT and OTA) to review and evaluate
690 treatment and progress at the work site, and regular interim

- 691 communication between the supervisor and supervisee. A face-to-
 692 face meeting is held at least once every seventh treatment day or 21
 693 calendar days, whichever comes first.
- 694 b. The supervising occupational therapist must be accessible by
 695 telecommunications to the occupational therapy assistant on a daily
 696 basis while the occupational therapy assistant is treating patients.
- 697 c. Regardless of the practice setting, the following requirements must be
 698 observed when the occupational therapist is supervising or consulting
 699 with the occupational therapy assistant:
- 700 i. The initial visit for evaluation of the patient and establishment of a
 701 plan of care must be made by the supervising or consulting
 702 occupational therapist.
- 703 ii. A joint supervisory visit must be made by the supervising
 704 occupational therapist and the occupational therapy assistant with
 705 the patient present at the patient's residence or treatment setting
 706 once every 7 treatment days or every 21 days, whichever comes
 707 first.
- 708 iii. A supervisory visit should include:
- 709 A review of activities with appropriate revision or
 710 termination of the plan of care
- 711 An assessment of utilization of outside resources
 712 (whenever applicable)
- 713 Documentary evidence of such visit
- 714 Discharge planning as indicated
- 715 iv. An occupational therapist may not supervise/consult with more
 716 than two (2) occupational therapy assistants except in school
 717 settings, or settings where maintenance or tertiary type services are
 718 provided, such as the regional treatment centers under the direction
 719 of the Department of Mental Health.
- 720 **3. Occupational therapy aides:**
- 721 a. An occupational therapy aide is an unlicensed person who assists an
 722 occupational therapist or occupational therapy assistant as defined in
 723 Section 100.03 of these regulations. An occupational therapy aide is a
 724 worker who is trained on the job.

- 725 b. Duties assigned to an occupational therapy aide must be determined
 726 and directly supervised by a licensed occupational therapist or
 727 occupational therapy assistant and must not exceed the level of
 728 specific training, knowledge, skill and competence of the individual
 729 being supervised.
- 730 c. The supervising occupational therapist or occupational therapy
 731 assistant is professionally responsible for the acts or actions
 732 performed by any occupational therapy aide supervised by the
 733 licensee in the occupational therapy setting.
- 734 d. Documentation of all training specific to the aide's duties must be in
 735 the aide's file.
- 736 e. Duties or functions which occupational therapy aides shall not
 737 perform include the following:
- 738 i. Interpreting referrals or prescriptions for occupational therapy
 739 services;
- 740 ii. Performing evaluative procedures;
- 741 iii. Developing, planning, adjusting, or modifying treatment
 742 procedures;
- 743 iv. Preparing written documentation of patient treatment or progress;
 744 and
- 745 v. Act independently without the direct supervision of a licensed
 746 occupational therapist or occupational therapy assistant during
 747 patient therapy sessions.
- 748 4. The supervision/consultation requirements stated in these regulations are
 749 minimal. It is the professional responsibility and duty of the licensed
 750 occupational therapist to provide the occupational therapist assistant with
 751 more supervision if deemed necessary in the occupational therapist's
 752 professional judgment.

753 110 CRIMINAL OFFENSES AND PUNISHMENT

754 110.01 Criminal Offenses and Punishment

- 755 1. Any person who violates any provision of Section 104 of these
 756 regulations, upon conviction, shall be guilty of a misdemeanor and shall
 757 be fined not more than One Thousand Dollars (\$1,000.00) for each
 758 violation.

759 2. Any person who knowingly shall make a material false statement in his
 760 application for license under these regulations or in response to any
 761 inquiry by the department or the board shall be fined not less than One
 762 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00)
 763 or imprisoned for not less than ten (10) days nor more than sixty (60)
 764 days, or both such fine and imprisonment.

765 111 **FEES**

766 111.01 **Method of Payment** In accordance with the Act, the following non-
 767 refundable fees, where applicable, are payable to the Mississippi State
 768 Department of Health by check or money order.

769 111.02 **Schedule of Fees:**

- 770 1. Application Fee.....\$100.00
- 771 2. Initial Licensure fee
- 772 a. Occupational Therapist.....\$150.00
- 773 b. Occupational Therapy Assistant.....\$100.00
- 774 3. Renewal Fee
- 775 a. Occupational Therapist.....\$150.00
- 776 b. Occupational Therapy Assistant.....\$100.00
- 777 4. Late Renewal/Reinstatement Fee.....\$125.00
- 778 5. License Certificate Replacement Fee.....\$ 25.00
- 779 6. Duplicate License Certificate Fee.....\$ 25.00
- 780 7. ID Card Replacement Fee.....\$ 10.00
- 781 8. License Verification Fee.....\$ 25.00
- 782 9. Inactive License Fee\$ 50.00
- 783 10. Examination Fee:
- 784 a. Occupational Therapist.....**
- 785 b. Occupational Therapy Assistant.....**

786 **Contact the examination administrant for current examination fees.

787 111.03 **Examination Fee** Fees for the examination are to be paid to the appropriate
788 examination administrant.

789 112 **ADMINISTRATIVE GRIEVANCE PROCEDURE**

790 112.01 **Administrative Appeals:**

791 1. Any person aggrieved by a decision regarding the initial application for
792 licensure or the renewal of licensure shall have the right of a second
793 review by the Director of Professional Licensure and Council or a
794 designated member of the Council.

795 2. Any person aggrieved by a decision rendered after the second review shall
796 have the right of administrative appeal and a public hearing to be
797 conducted in accordance with the policies of the Department of Health.

798 112.02 **Notification** Written notice will be provided to all applicants regarding
799 denial of an original license or a renewal license. Such notice shall contain the
800 reason thereof.

801 112.03 **Hearing:**

802 1. If requested in writing within the specified time frame a hearing will be
803 provided in which the applicant may show cause why the license should
804 be granted or renewed.

805 2. Within sixty (60) days of the hearing, or other such time frame as
806 determined during the hearing, written findings of fact, together with a
807 recommendation for action on the license in question, shall be forwarded
808 to the State Health Officer. The State Health Officer shall decide what
809 action will be taken on the recommendation within five days of its receipt.
810 Written notice shall be provided to the applicant.

811 113 **SUSPENSION FOR FAILURE TO PAY CHILD SUPPORT** In addition, the
812 Department is authorized to suspend the license of any licensee for being out of
813 compliance with an order for support, as defined in Section 93-11-153. The procedure
814 for suspension of a license for being out of compliance with an order for support, and the
815 procedure for reissuance or reinstatement of a license suspended for that purpose, and the
816 payment of any fees for the reissuance or reinstatement of a license suspended for that
817 purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If
818 there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any
819 provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case
820 may be, shall control.

821 **CERTIFICATION OF REGULATION**

822 This is to certify that the above **Regulations Governing Licensure of Occupational Therapists and**
823 **Occupational Therapy Assistants** was adopted by the Mississippi State Board of Health on January 14,
824 2009 to become effective February 13, 2009.

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826
827

F. E. Thompson, Jr., MD, MPH
Secretary and Executive Officer