

OCCUPATIONAL THERAPY PRACTICE ACT

§34-39-1 Short title.

This chapter shall be known and may be cited as the "Alabama State Occupational Therapy Practice Act."

(Acts 1990, No. 90-383, p. 515, §1.)

§34-39-2 Purpose.

The Alabama State Occupational Therapy Practice Act is enacted to safeguard the public health, safety, and welfare, and to assure the availability of high quality occupational therapy services to persons in need of such services. It is the purpose of this chapter to provide for the regulation of persons offering themselves as occupational therapists or as occupational therapy assistants.

(Acts 1990, No. 90-383, p. 515, §2.)

§34-39-3 Definitions.

In this chapter, the following terms shall have the respective meanings provided in this section unless the context clearly requires a different meaning:

(1) ASSOCIATION. The Alabama Occupational Therapy Association.

(2) BOARD. The Alabama State Board of Occupational Therapy.

(3) IMPAIRED. The inability of an occupational therapist or occupational therapy assistant to practice occupational therapy with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances, or as a result of any physical or mental condition.

(4) LICENSE. A valid and current certificate of registration issued by the board.

(5) OCCUPATIONAL THERAPY.

a. The practice of occupational therapy means the therapeutic use of occupations, including everyday life activities with individuals, groups, populations, or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life. The practice of occupational therapy includes:

1. Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation including all of the following:

(i) Client factors, including body functions, such as neuromusculoskeletal, sensory-perceptual, visual, mental, cognitive, and pain factors; body structures such as cardiovascular, digestive, nervous, integumentary, genitourinary systems, and structures related to movement; values, beliefs, and spirituality.

(ii) Habits, routines, roles, rituals, and behavior patterns.

(iii) Physical and social environments, cultural, personal, temporal, and virtual contexts, and activity demands that affect performance.

(iv) Performance skills, including motor and praxis, sensory-perceptual, emotional regulation, cognitive, communication, and social skills.

2. Methods or approaches selected to direct the process of interventions such as:

(i) Establishment, remediation, or restoration of a skill or ability that has not yet developed, is impaired, or is in decline.

(ii) Compensation, modification, or adaptation of activity or environment to enhance performance, or to prevent injuries, disorders, or other conditions.

(iii) Retention and enhancement of skills or abilities without which performance in everyday life activities would decline.

(iv) Promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities.

(v) Prevention of barriers to performance and participation, including injury and disability prevention.

3. Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), rest and sleep, education, work, play, leisure, and social participation including all of the following:

(i) Therapeutic use of occupations, exercises, and activities.

(ii) Training in self-care, self-management, health management and maintenance, home management, community/work reintegration, and school activities and work performance.

(iii) Development, remediation, or compensation of neuromusculoskeletal, sensory-perceptual, visual, mental, and cognitive functions, pain tolerance and management, and behavioral skills.

(iv) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process.

(v) Education and training of individuals, including family members, caregivers, groups, populations, and others.

(vi) Care coordination, case management, and transition services.

(vii) Consultative services to groups, programs, organizations, or communities.

(viii) Modification of environments, including home, work, school, or community, and adaptation of processes, including the application of ergonomic principles.

(ix) Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, training in the use of prosthetic devices, orthotic devices, and the design, fabrication, and application of selected splints or orthotics.

(x) Assessment, recommendation, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices.

(xi) Low vision rehabilitation when the patient or client is referred by a licensed optometrist, a licensed ophthalmologist, a licensed physician, a licensed assistant to physician acting pursuant to a valid supervisory agreement, or a licensed certified registered nurse practitioner in a collaborative practice agreement with a licensed physician.

(xii) Driver rehabilitation and community mobility.

(xiii) Management of feeding, eating, and swallowing to enable eating and feeding performance.

(xiv) Application of physical agent modalities, and use of a range of specific therapeutic procedures such as wound care management, interventions to enhance sensory-perceptual and cognitive processing, and manual therapy, all to enhance performance skills.

(xv) Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and the adaptation of processes.

b. An occupational therapist or occupational therapy assistant is qualified to perform the above activities for which they have received training and any other activities for which appropriate training or education, or both, has been received. Notwithstanding any other provision of this chapter, no occupational therapy treatment programs to be rendered by an occupational therapist, occupational therapy assistant, or occupational therapy aide shall be initiated without the referral of a licensed physician, a licensed chiropractor, a licensed optometrist, a licensed assistant to a physician acting pursuant to a valid supervisory agreement, a licensed certified registered nurse practitioner in a collaborative practice agreement with a licensed physician, a licensed psychologist, or a licensed dentist who shall establish a diagnosis of the condition for which the individual will receive occupational therapy services. In cases of long-term or chronic disease, disability, or dysfunction, or any combination of the foregoing, requiring continued occupational therapy services, the person receiving occupational therapy services shall be reevaluated by a licensed physician, a licensed chiropractor, a licensed optometrist, a licensed assistant to a physician acting pursuant to a valid supervisory agreement, a licensed certified registered nurse practitioner in a collaborative practice agreement with a licensed physician, a licensed psychologist, or a licensed dentist at least annually for confirmation or modification of the diagnosis. Occupational therapists performing services that are not related to injury, disease, or illness that are performed in a wellness or community setting for the purposes of enhancing performance in everyday activities are exempt from this referral requirement. Occupational therapists employed by state agencies and those employed by the public schools and colleges of this state who provide screening and rehabilitation services for the educationally related needs of the students are exempt from this referral requirement.

c. Nothing in this chapter shall be construed as giving occupational therapists the authority to examine or diagnose patients or clients for departures from the normal of human eyes, visual systems or their adjacent structures, or to prescribe or modify ophthalmic materials including, but not limited to, spectacles, contacts, or spectacle-mounted low vision devices.

(6) OCCUPATIONAL THERAPIST. A person licensed to practice occupational therapy whose license is in good standing.

(7) OCCUPATIONAL THERAPY ASSISTANT. A person licensed to assist in the practices of occupational therapy under the supervision of, or with the consultation of, a licensed occupational therapist whose license is in good standing.

(8) OCCUPATIONAL THERAPY AIDE. A person who assists in the delivery of occupational therapy, who works under direct on-site supervision of an occupational therapist or occupational therapy assistant, or both, and whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy. No activity listed under paragraph (5)a. may be performed by an occupational therapy aide.

(9) PERSON. A human person only, not a legal entity.

(10) WITH THE CONSULTATION OF. The collaboration of two or more persons on a regularly scheduled basis for the purpose of planning, review, or evaluation of occupational therapy services.

(Acts 1990, No. 90-383, p. 515, §3; Acts 1995, No. 95-279, p. 502, §3; Act 99-92, p. 108, §3; Act 2003-62, p. 96, §3; Act 2013-309, p. 1041, §1; Act 2021-516, §1.)

§34-39-4 Representation of self as occupational therapist or therapy assistant without license prohibited.

(a) No person may present himself or herself as an occupational therapist or an occupational therapy assistant in this state unless he or she is licensed in accordance with this chapter. No firm, partnership, association, or corporation may advertise or otherwise offer to provide or convey the impression that it is providing occupational therapy unless an individual holding a current valid license or limited permit under this chapter is or will at the appropriate time be rendering the occupational therapy services to which reference is made.

(b) It is unlawful for any person not licensed as an occupational therapist or an occupational therapy assistant or whose license has been suspended or revoked to use in connection with his or her name or place of business the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters "O.T.," "L.O.T.," "O.T.R./L.," "O.T.A.," "L.O.T.A.," "C.O.T.A./L.," thereby indicating or implying that he or she is qualified to practice in this state as a licensed occupational therapist or a licensed occupational therapy assistant. At the discretion of the licensee, academic credentials including MS, OTR/L to indicate a master's degree, and OTD to indicate a clinical doctorate, may also be used in conjunction with the licensure acronyms. It is unlawful also for any person not licensed under this chapter to show in any other way, orally, in writing, in print, or by sign, directly or by implication that he or she is engaged in performing occupational therapy services.

(Acts 1990, No. 90-383, p. 515, §4; Act 2013-309, p. 1041, §1.)

§34-39-5 Exceptions.

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

(1) Any person licensed under any other law of the state from engaging in the profession for which he or she is licensed.

(2) Any person employed as an occupational therapist or an occupational therapy assistant by the government of the United States, if the person provides occupational therapy solely under the direction or control of the organization by which he or she is employed.

(3) Any person pursuing a course of study leading to a degree in occupational therapy at an accredited or approved educational program if the activities and services constitute a part of a supervised course of study, if the person is designated by a title which clearly indicates his or her status as a student or trainee.

(4) Any person fulfilling the supervised fieldwork experience requirements of subdivision (2) of Section 34-39-8.

(Acts 1990, No. 90-383, p. 515, §5; Acts 1995, No. 95-279, p. 502, §3; Act 2013-309, p. 1041, §1.)

§34-39-6 Board of Occupational Therapy established; composition; fund created.

(a) There is established the Alabama State Board of Occupational Therapy.

(1) The board shall consist of five members, four of whom shall be involved in the practice of occupational therapy, of which one shall be an occupational therapy assistant. The remaining member shall be a member of another health profession or a member of the public with an interest in the rights or the concerns of health services. Each member of the board shall be a citizen of this state. The occupational therapy board members shall be appointed by the Governor from a list submitted by the Alabama Occupational Therapy Association. In appointing members to the board,

the association and the Governor, to the extent possible, shall select those persons whose appointments ensure that the membership of the board is inclusive and reflects the racial, gender, geographic, urban/rural, and economic diversity of the state. Those board members who are occupational therapists, of which one shall be a minority, and occupational therapy assistants shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least three years, and shall at all times be holders of valid licenses for the practice of occupational therapy in Alabama. Except for the members in the initial board, all members who are occupational therapists and occupational therapy assistants shall fulfill the requirements for licensure pursuant to this chapter. Terms of appointment for the initial board members shall be as follows: Two members shall serve a one-year term; two members shall serve a two-year term; and one member shall serve a three-year term.

(2) The board shall, within 90 days after April 17, 1990, be selected as provided in subdivision (1). At the expiration of the initial terms, board members shall be appointed in the same manner as initial appointments, each for a period of three years. No person shall be appointed to serve more than three consecutive terms.

(3) Terms shall begin on the first day of the calendar year and end on the last day of the calendar year, or until successors are appointed, except for the initial members who shall serve through the last calendar day of the year in which they are appointed before the commencement of the terms prescribed by subdivision (1).

(4) Within 45 days after April 17, 1990, and annually thereafter, the association shall submit two or three names for each position on the board to be filled. In the event of a midterm vacancy in one of the positions on the board, the Governor shall appoint a member to fill the unexpired term from a list submitted by the association in the same manner as provided in subdivision (1).

(5) The Governor, after notice and opportunity for hearing by the board, may remove any member of the board for neglect of duty, incompetence, revocation or suspension of the license of the member, or other dishonorable conduct. After removal, the Governor shall appoint a successor to the unexpired term from a list of two or three names submitted by the association.

(6) The board shall elect from its membership a chairperson, a secretary, and a treasurer. A majority of the members of the board shall constitute a quorum. The board shall meet during the first month of the calendar year to select officers. No board member may hold the same position as an officer of the board for more than two consecutive years. At least one additional meeting shall be held before the end of the calendar year. Further meetings may be convened at the call of the chairperson, or on the request of any three board members.

(7) Members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in accordance with the laws of the State of Alabama and regulations of the State Personnel Director.

(b) There is established a separate special revenue fund in the State Treasury known as the Alabama State Board of Occupational Therapy Fund. All receipts collected by the board pursuant to this chapter shall be deposited in this fund and used only to carry out the provisions of this chapter. Receipts shall be disbursed only by warrant of the state Comptroller upon the State Treasurer, upon itemized vouchers approved by the chairperson. No funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 to 41-4-96, inclusive, and Sections 41-19-1 to 41-19-12, inclusive, and only in amounts as stipulated in the general appropriations bill or other appropriation bills.

(Acts 1990, No. 90-383, p. 515, §6; Act 2003-62, p. 96, §3; Act 2011-168, p. 321, §3; Act 2013-309, p. 1041, §1.)

§34-39-7 Duties of board; joint approval of rules with Board of Medical Examiners.

- (a) The board shall administer, coordinate, and enforce this chapter.
- (b) The board, within 90 days of the time at which it is appointed, shall notify all current practitioners of occupational therapy in the state, as identified by the American Occupational Therapy Certification Board, of the enactment of this chapter and its otherwise becoming a law.
- (c) The board shall adopt and publish rules relating to the professional conduct to carry out the policies of this chapter, including, but not limited to, rules relating to professional licensure, registration, and the establishment of ethical standards of practice. The State Board of Medical Examiners and the Alabama State Board of Occupational Therapy shall jointly approve any rule or policy that interprets, explains, or enumerates the permissible acts, functions, or services rendered by an occupational therapist, occupational therapy assistant, or occupational therapy aide as those acts, functions, and services are defined in Section 34-39-3. Any rule or policy adopted in violation of this requirement is invalid.
- (d) The board shall evaluate the qualifications of all applicants for licensure under this chapter and shall maintain a register of all persons holding a license and a record of all inspections made.
- (e) The board shall approve all examinations of applicants for licensure at least twice a year, shall determine the qualifications and authorize the issuance of licenses to qualified occupational therapists and occupational therapy assistants, and shall renew, suspend, or revoke the licenses in the manner provided.
- (f) The board may investigate complaints and allegations concerning the violation of this chapter and may examine witnesses, issue subpoenas, and administer oaths in connection with these investigations. Hearings may be conducted, provided reasonable public notice is given and records and minutes are kept in accordance with the rules of the board.
- (g) The board shall make an annual report to the Governor which shall contain an account of duties performed, actions taken, and appropriate recommendations.
- (h) The board shall establish a budget in accordance with the requirements of the state.
- (i) The board may establish and publish reasonable fees as established in Section 34-39-14.
- (j) The board may employ and discharge an executive director and any officers and employees as may be necessary and shall determine their duties and fix their compensation in accordance with applicable state statutes. The board shall hire and establish the responsibilities and salary of all employees.
- (k) The board shall establish an impaired practitioner program beginning January 1, 2022, pursuant to Section 34-39-12.1.

(Acts 1990, No. 90-383, p. 515, §7; Acts 1995, No. 95-279, p. 502, §3; Act 2013-309, p. 1041, §1; Act 2021-516, §1.)

§34-39-8 Application for license; requirements.

An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, and shall file a written application on forms provided by the board, showing to the satisfaction of the board fulfillment of all of the following requirements:

- (1) Applicant shall present evidence satisfactory to the board of having successfully completed all of the academic requirements for degree or certificate conferral from an educational program in occupational therapy recognized by the board. The program shall be accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, Incorporated.

(2) Applicant shall pass an examination as provided for in Section 34-39-9.
(Acts 1990, No. 90-383, p. 515, §8; Acts 1995, No. 95-279, p. 502, §3; Act 2011-168, p. 321, §3; Act 2013-309, p. 1041, §1.)

§34-39-9 Examinations and reexamination; foreign trained applicants.

(a) A person applying for licensure under this chapter shall demonstrate his/her eligibility in accordance with the requirements of Section 34-39-8, and shall make application for examination upon a form and in such a manner as the board shall prescribe. A person who fails an examination may make reapplication for reexamination accompanied by the established fee.

(b) Each applicant for licensure under this chapter shall be examined by written examination to test his or her knowledge of the basic clinical sciences relating to occupational therapy, and occupational therapy theory and practice, the applicant's professional skills and judgment in the utilization of occupational therapy techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice. The board shall establish standards for acceptable performance by the applicant.

(c) Applicants for licensure shall be examined at a time and place and under such supervision as the board may require. Examinations shall be given at least twice each year at such places as the board may determine. The board shall give reasonable public notice of these examinations in accordance with its rules and regulations.

(d) Applicants may obtain their examination scores in accordance with such rules and regulations as the board may establish.

(e) Foreign trained occupational therapists and occupational therapy assistants shall satisfy the examination requirements of Section 34-39-8(3). The board shall require foreign trained applicants to complete educational and supervised fieldwork requirements, substantially equal to those contained in Section 34-39-8, before taking the examination.

(Acts 1990, No. 90-383, p. 515, §9.)

§34-39-10 Waiver of license requirements; reciprocity; notification procedure.

(a) The board shall grant a license to any person certified prior to April 17, 1990, as an occupational therapist registered (OTR) or as a certified occupational therapy assistant (COTA) by the American Occupational Therapy Association, Inc. The board may waive the examination, education, or experience and grant a license to any person certified after April 17, 1990, by a national occupational therapy certification board, if the board considers the requirements for certification to be equivalent to the requirements under the terms of this chapter.

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

(c) The board shall cause notification to be sent to all occupational therapists and occupational therapy assistants presently employed or practicing occupational therapy in this state. The notification shall summarize the requirements of this chapter and provide information on procedures for obtaining a license.

(Acts 1990, No. 90-383, p. 515, §10; Acts 1995, No. 95-279, p. 502, §3.)

§34-39-11 Issuance of license; limited permit; permitted representations.

(a) The board shall issue a license to any person who meets the requirements of this chapter upon payment of the license fee as described in Section 34-39-14.

(b) The board shall issue a limited permit to persons who have completed the educational and fieldwork experience requirements of this chapter. This permit shall allow the person to practice occupational therapy under the supervision of an occupational therapist who holds a current license in this state and shall be valid until the date on which the results of the qualifying examination have been made public. This limited permit shall not be renewed if the applicant has failed the examination. Failure of the examination shall result in revocation of an active limited permit.

(c) Any person who is issued a license as an occupational therapist under the terms of this chapter may use the words "occupational therapist," "licensed occupational therapist," "occupational therapist registered," or may use the letters "O.T.," "L.O.T.," or "O.T.R./L." in connection with his/her name or place of business to denote registration hereunder.

(d) Any person who is issued a license as an occupational therapy assistant under the terms of this chapter may use the words "occupational therapy assistant," "licensed occupational therapy assistant," "certified occupational therapy assistant," or may use the letters "O.T.A.," "L.O.T.A.," or "C.O.T.A./L." in connection with his or her name or place of business to denote registration hereunder.

(Acts 1990, No. 90-383, p. 515, §11; Act 2013-309, p. 1041, §1.)

§34-39-12 Denial or suspension of license; probationary conditions; hearing; reinstatement.

(a) The board shall, after notice and opportunity for hearing, have the power to deny or refuse to renew a license, or may suspend or revoke a license, or may impose probationary conditions, where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes:

(1) Obtaining or attempting to obtain a license by fraud, misrepresentation, or concealment of material facts;

(2) Being guilty of unprofessional conduct as defined by the rules established by the board;

(3) Violating any lawful order, rule, or regulation rendered or adopted by the board;

(4) Being convicted of a crime other than minor offenses defined as "minor misdemeanors," "violations," or "offenses" in any court if the acts for which he or she was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant.

(5) Violating any provision of this chapter.

(b) Such denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license may be ordered by the board in a decision made after a hearing in the manner provided by the rules and regulations adopted by the board. One year from the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may, but shall not be required to, hold a hearing to consider such reinstatement.

(Acts 1990, No. 90-383, p. 515, §12.)

§34-39-12.1 Alabama Occupational Therapy Wellness Committee; impaired practitioner program.

- (a) The board shall promote the early identification, intervention, treatment, and rehabilitation of occupational therapists or occupational therapy assistants who may be impaired.
- (b) To accomplish this obligation, the board may contract with any nonprofit corporation or medical professional association to create, support, and maintain an Alabama Occupational Therapy Wellness Committee. The committee shall be selected in a manner prescribed by the board. The board may expend available funds as necessary to adequately provide for the operational expenses of the committee including, but not limited to, the actual cost of travel, office overhead, and personnel expense. The expenditure of funds provided by the board for operating expenses of the committee are not subject to state competitive bid laws.
- (c) The board may enter into an agreement with a nonprofit corporation or medical professional association for the committee to undertake those functions and responsibilities specified in the agreement, which may include any or all of the following:
- (1) Contracting with providers of treatment programs.
 - (2) Receiving and evaluating reports of suspected impairment from any source.
 - (3) Intervening in cases of verified impairment.
 - (4) Referring impaired occupational therapists or occupational therapy assistants to treatment programs.
 - (5) Monitoring the treatment and rehabilitation of impaired occupational therapists or occupational therapy assistants.
 - (6) Providing post-treatment monitoring and support of rehabilitated impaired occupational therapists or occupational therapy assistants.
 - (7) Performing other activities as agreed by the board and the committee.
- (d) The committee shall develop procedures in consultation with the board for all of the following:
- (1) Periodic reporting of statistical information regarding impaired practitioner program activity.
 - (2) Periodic disclosure and joint review of all information the board deems appropriate regarding reports received, contracts or investigations made, and the disposition of each report. The committee may not disclose any personally identifiable information except as otherwise provided in this chapter.
- (e) Any person appointed to serve as a member of the committee and any auxiliary personnel, consultant, attorney, or other volunteer or employee of the committee taking any action authorized by this chapter, engaging in the performance of any duties on behalf of the committee, or participating in any administrative or judicial proceeding resulting therefrom, in the performance and operation thereof, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any nonprofit corporation or medical professional association or other entity that contracts with or receives funds from the board for the creation, support, and operation of the committee, in so doing, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.
- (f) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the committee and any findings, conclusions, recommendations, or reports resulting from any investigation, intervention, treatment, or rehabilitation, or other proceeding of the committee is privileged and confidential. All records and proceedings of the committee pertaining to an impaired occupational therapist or occupational therapy assistant are confidential and shall be used by the committee and the members of the committee only in the exercise of the proper function of the committee and shall not be public record nor available for court subpoena or for discovery proceedings. In the event of a breach of contract between the committee and the impaired

occupational therapist or occupational therapy assistant, all records pertaining to the conduct determined to cause the breach of contract shall be disclosed to the board upon its request for disciplinary purposes only. Nothing contained in this subsection shall apply to records made in the regular course of business of an occupational therapist or occupational therapy assistant and any information, document, or record otherwise available from an original source may not be construed as immune from discovery or use in any civil proceeding merely because it is presented or considered during proceedings of the committee.

(g) The committee shall render an annual report to the board concerning the operations and proceedings of the committee for the preceding year. The committee shall report to the board any occupational therapist or occupational therapy assistant who the committee determines is impaired, when it appears that the occupational therapist or occupational therapy assistant is currently in need of intervention, treatment, or rehabilitation and the occupational therapist or occupational therapy assistant has failed or refused to participate in any program of treatment or rehabilitation recommended by the committee. A report to the committee shall be deemed a report to the board for the purposes of any mandated reporting of occupational therapy licensee impairment or occupational therapy assistance licensee impairment otherwise provided for by law.

(h) If the board has reasonable cause to believe that an occupational therapist or occupational therapy assistant is impaired, the board may cause an evaluation of the occupational therapist or occupational therapy assistant to be conducted by the committee for the purpose of determining if there is an impairment. The committee shall report the findings of its evaluation to the board.

(Act 2021-516, §2.)

§34-39-13 Expiration and renewal of licenses; fee; continuing education; late fee.

(a) All licenses under this chapter shall be subject to renewal and shall expire unless renewed in the manner prescribed by the rules and regulations of the board upon the payment of a renewal fee. The board may set a required number of continuing education units for license renewal. The board may provide for a late renewal of license upon payment of a late renewal fee. Any license which has not been restored within three years following its expiration may not be renewed, restored, or reissued thereafter. The holder of such an expired license may apply for and obtain a valid license only upon compliance with all relevant requirements for issuance of a new license. (b) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity or in other conduct or activity in violation of the license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the reorder or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any late fee that may be applicable.

(Acts 1990, No. 90-383, p. 515, §13.)

§34-39-14 Fees authorized.

The board is empowered to establish, publish, and collect reasonable fees and costs in amounts determined by the board for the following purposes:

- (1) Application for examination;
- (2) Limited permit fee;

- (3) Initial license fee;
- (4) Renewal of license fee;
- (5) Late renewal fee; and
- (6) The costs of conducting a hearing of any person whose license or certificate of qualification is suspended, revoked, or refused as a result of such hearing.
(*Acts 1990, No. 90-383, p. 515, §14; Acts 1991, No. 91-165, p. 221, §3.*)

§34-39-15 Violation as misdemeanor; penalty; forfeiture and revocation of license.

Any person who violates any provision of this chapter as set forth in Sections 34-39-4 and 34-39-13, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250 and not more than \$1,000, or imprisonment for a period not exceeding six months, or both. A license held by any person convicted under this section shall be forfeited and revoked forthwith for one year from the date of such conviction.

(*Acts 1990, No. 90-383, p. 515, §15.*)

§34-39-16 Complaints; notice and hearing; judicial review.

(a) Any person may file a complaint with the board against any licensed occupational therapist or licensed occupational therapy assistant in the state charging the person with having violated this chapter. The complaint shall set forth specifications of charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he or she is charged. When a complaint is filed, the secretary of the board, or the executive director at the request of the secretary, shall mail a copy thereof to the accused by return receipt mail at his or her address of record, with a written notice of the time and place of hearing thereof, advising him or her that he or she may be present in person and by counsel if he or she so desires, to offer evidence and be heard in his or her defense.

(b) At the time and place fixed for the hearing, the board shall receive evidence upon the subject matter under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his or her defense. The board shall be bound by the rules of evidence in contested cases under Section 41-22-13 of the Alabama Administrative Procedure Act and all oral testimony considered by the board shall be under oath. If the board finds that the licensed occupational therapist or the licensed occupational therapy assistant has violated this chapter, the board may suspend or revoke his or her licensure, levy a reasonable fine not to exceed one thousand dollars (\$1,000) per violation, or restrict his or her license and require the licensee to report regularly to the board on matters related to the reasons for the restricted license, or any combination of these.

(c) The action of the board in suspending, revoking, or refusing to issue a license may be appealed to the Circuit Court of Montgomery County accompanied by a bond to be approved by the court. The notice of appeal shall be filed within 30 days from the receipt of such order or ruling. Appeals shall be governed by the judicial review provisions of Section 41-22-20 of the Alabama Administrative Procedure Act, except that the review procedure provided therein shall not suspend the action of the board nor stay the enforcement of any order in the suspension, revocation, or refusal of a license.

(*Acts 1990, No. 90-383, p. 515, §16; Acts 1991, No. 91-165, p. 221, §3; Act 2013-309, p. 1041, §1.*)