

By: Flaggs, Frierson

To: Public Health and
Welfare

HOUSE BILL NO. 876

1 AN ACT TO PROVIDE FOR THE LICENSURE AND REGULATION OF
2 KINESIOTHERAPISTS THERAPISTS BY THE STATE BOARD OF HEALTH; TO
3 PROVIDE QUALIFICATIONS AND ELIGIBILITY THEREFOR; TO PROVIDE FOR
4 THE SUSPENSION AND REVOCATION OF THOSE LICENSES; TO CREATE AND
5 EMPOWER A MISSISSIPPI ADVISORY COUNCIL OF KINESIOTHERAPY; TO
6 AUTHORIZE FEES; TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF
7 THIS ACT; AND FOR RELATED PURPOSES.

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

9 SECTION 1. This act shall be known and may be cited as the
10 "Mississippi Kinesiotherapy Practice Act of 2000."

11 SECTION 2. The following words and phrases shall have the
12 following meanings, unless the context requires otherwise:

13 (a) "Association" means the Mississippi Association of
14 Kinesiotherapists.

15 (b) "Board" means the State Board of Health.

16 (c) "Council" means the Mississippi Advisory Council of
17 Kinesiotherapy.

18 (d) "Kinesiotherapy" means an auxiliary medical
19 specialty concerned with the treatment of the effects of diseases,
20 injury and congenital disorder by the use of therapeutic exercise
21 and education. Kinesiotherapy demands academic and clinical
22 preparation in the concepts, principles and application of
23 anatomy, physiology, kinesiology, psychology, neurology,

24 pathology, nutrition, exercise, measurement and evaluation,
25 planning and treatment. This body of knowledge is applied within
26 various wellness and rehabilitation settings for the purpose of
27 restoring or improving the movement capabilities of individuals
28 with disease or injury, and/or preventing impairment due to
29 deconditioning impairment due to deconditioning or disease.

30 The practice of kinesiotherapy includes the evaluation,
31 planning, and treatment of an individual by utilizing therapeutic
32 exercise. This includes strengthening exercises -- active,
33 assistive and resistive; endurance exercise -- cardiovascular,
34 ambulation and mobility; flexibility and range of motion exercise;
35 aquatic exercise; balance and coordination activities; muscular
36 reeducation; and work conditioning exercise. The second modality
37 employed within the practice of kinesiotherapy is education of the
38 patient and family regarding the implications of disease or
39 disability, home exercise, body mechanics and functional mobility,
40 and means of modifying the home or worksite to allow effective
41 performance within that setting. The purpose of these
42 interventions is to improve the well-being of the individual such
43 that the individual achieves the highest level of functional
44 ability within the constraints of the disease, injury or
45 congenital disorder.

46 (e) "Kinesiotherapist" means a person licensed to
47 practice kinesiotherapy and whose license is in good standing.

48 (f) "Person" means any individual, partnership,
49 unincorporated organization or corporate body, except that only an
50 individual may be licensed under this act.

51 SECTION 3. The State Board of Health, established and
52 empowered by Section 41-3-1 et seq., shall discharge the
53 provisions of this act in the licensure and regulation of persons
54 who provide kinesiotherapy services, upon the fulfillment of the

55 education requirements outlined in Section 10 and the approval of
56 the Advisory Council of Kinesiotherapy established in Section 6.

57 SECTION 4. From and after July 1, 2000, no person shall
58 practice kinesiotherapy or hold himself or herself out as a
59 kinesiotherapist or as being able to practice kinesiotherapy or to
60 render kinesiotherapy services in the state unless he or she is
61 licensed in accordance with the provisions of this act.

62 SECTION 5. Nothing in this act shall be construed as
63 preventing or restricting the services or activities of:

64 (a) Any person licensed or registered in this state
65 under another law carrying out the therapy or practice for which
66 he or she is duly licensed or registered.

67 (b) Schools, YMCAs, athletic clubs and similar
68 organizations furnishing services to their players and members,
69 provided they do not represent themselves as providing
70 kinesiotherapy services.

71 (c) Any person who is employed as a kinesiotherapist by
72 the United States Armed Services, Public Health Service, Veterans
73 Administration or other federal agencies, if such person engages
74 in the practice of kinesiotherapy solely within the confines or
75 under the jurisdiction of the organization by which he or she is
76 employed, and does not practice kinesiotherapy outside of the
77 scope of his or her official duty. Such person also may elect to
78 be subject to this act.

79 (d) Any person pursuing a course of study leading to a
80 degree or specialization in kinesiotherapy in an accredited
81 educational institution, if such activities and services
82 constitute part of the supervised course of study. The student

83 shall be clearly designated as a "trainee" or "student" and his or
84 her service must be performed under the direct on-site supervision
85 of a physician, kinesiotherapist, physical therapist or other
86 qualified individual. In addition, this service must be
87 supervised by the university instructor involved in the
88 administration of the specific course of study.

89 (e) Any person engaged in completing supervised
90 training experience requirements for graduation, if such
91 activities and services constitute a part of the experience
92 necessary to meet the requirement of Section 10 of this act.

93 (f) Any person performing kinesiotherapy services in
94 the state, if:

95 (i) The individual is performing these services
96 under a provisional license and under the supervision of a
97 licensed kinesiotherapist, physical therapist, occupational
98 therapist or physician;

99 (ii) The individual is licensed under the law of
100 another state or the District of Columbia which has licensure
101 requirements at least as stringent as the requirements in
102 Mississippi according to this act. The individual must apply for
103 Mississippi licensure within one hundred twenty (120) days of
104 beginning practice within the state; or

105 (iii) The person is currently a registered
106 kinesiotherapist (RKT) on or before July 1, 2000, and has met the
107 requirements established by the Commission on Professional
108 Standards of the American Kinesiotherapy Association and approved
109 by the Commission on the Accreditation of Allied Health Education
110 Programs. This individual may continue to practice and apply for

111 licensure immediately.

112 SECTION 6. (1) There is established the Mississippi
113 Advisory Council of Kinesiotherapy under the jurisdiction of the
114 State Board of Health. The council shall consist of five (5)
115 members appointed by the board, four (4) of whom shall be
116 appointed from a list of names submitted by the Mississippi
117 Association of Kinesiotherapists, all of whom shall be residents
118 of this state at the time of their appointment. The persons
119 appointed from the list submitted by the association must have
120 been engaged in rendering kinesiotherapy services to the public,
121 and at least three (3) of those members shall be
122 kinesiotherapists.

123 These four (4) members shall at all times be holders of valid
124 licenses for the practice of kinesiotherapy in this state, except
125 for the member of the first council, who shall fulfill the
126 licensure requirements of this act. The remaining member shall be
127 a physician of another health profession or member of the public
128 with an interest in the rights of the consumers of health
129 services.

130 (2) Within sixty (60) days after July 1, 2000, the board
131 shall appoint two (2) council members for a term of one (1) year,
132 two (2) for a term of two (2) years and one (1) for a term of
133 three (3) years. Appointments made thereafter shall be for terms
134 of three (3) years, with no person being eligible to serve more
135 than two (2) full consecutive terms. Terms shall begin on the
136 first day of the calendar year and end on the last day of the
137 calendar year or until successors are appointed, except for the
138 first appointed members, who shall serve through the last calendar

139 day of the year in which they are appointed before commencing the
140 term prescribed by this section.

141 (3) Within thirty (30) days after any vacancy on the
142 council, the association may recommend at least two (2) and not
143 more than three (3) persons to fill the vacancy. The board shall
144 appoint, as soon as practicable, one (1) of those persons whom the
145 council recommends, to fill the unexpired term. If the
146 association does not provide a recommendation, the board shall
147 appoint a person to the unexpired term.

148 (4) The council shall hold at least two (2) regular meetings
149 each year as provided by rules adopted by the council. The rules
150 may not be inconsistent with present rules of the State Department
151 of Health relating to meetings of councils. Three (3) members of
152 the council at a meeting shall constitute a quorum for all
153 purposes. Further meetings may be convened at the call of the
154 chairperson, or the written request of any two (2) members of the
155 council. All meetings of the council shall be open to the public,
156 except that the council may hold executive sessions under the
157 Mississippi Open Meetings Law, Section 25-41-1 et seq., or upon
158 the request of an applicant who fails to be approved for
159 licensure, in order to prepare a response indicating the reason
160 for denial.

161 (5) (a) It shall be grounds for removal from the council if
162 a member:

163 (i) Does not have at the time of appointment the
164 qualifications required for appointment to the council;

165 (ii) Violates a prohibition established by this
166 act; or

167 (iii) Fails to attend council meetings for a
168 period of one (1) year.

169 (b) If grounds for removal of a member from the council
170 exist, the council's actions taken during the existence of the
171 ground for removal shall be valid.

172 SECTION 7. (1) The board shall administer, coordinate and
173 enforce the provisions of this act, evaluate the qualifications
174 and approve for licensure under this act. The board may issue
175 subpoenas, examine witnesses, administer oaths and investigate
176 allegations for practices violating the provisions of this act.

177 (2) The board shall adopt such rules and regulations, not
178 inconsistent with the laws of this state, as may be necessary to
179 effectuate the provisions of this act, and may amend or repeal the
180 same as may be necessary for such purposes, with the advice of the
181 council. Such rules and regulations shall be adopted in
182 accordance with the provisions of Section 25-43-1 et seq.

183 (3) The board shall conduct hearings and keep such records
184 and minutes as are necessary to carry out its functions. It shall
185 provide reasonable public notice to the appropriate persons as to
186 the time and place of all hearings authorized under this act in
187 such a manner and at such times as it may determine by its rules
188 and regulations.

189 (4) The conferral or enumeration of specific powers
190 elsewhere in this act shall not be construed as a limitation of
191 the general functions by this section.

192 SECTION 8. (1) The administration of the provisions of this
193 act shall be financed from income accruing from fees, licenses and
194 charges assessed and collected by the board and from such other

195 funds available to the board. In addition, the board shall
196 receive and account for all funds received and shall keep such
197 funds in a special fund which is created in the State Treasury.
198 Funds collected under provisions of this act shall be used solely
199 for the expenses incurred in the administration of the provisions
200 of this act, which may include full or partial financing of the
201 continuing professional education program provided for under
202 subsection (1) of Section 13 of this act. Such funds shall be
203 subject to audit by the State Auditor.

204 (2) Members of the council shall receive no compensation for
205 their services, but shall be reimbursed for their expenses
206 actually incurred in the execution of their powers and duties,
207 including mileage, as provided in Section 25-3-41.

208 SECTION 9. (1) The board shall issue licenses and notices
209 of renewal, revocation, suspension or reinstatement, and shall
210 publish annually the names of persons licensed under this act.

211 (2) The board shall publish and disseminate to all
212 licensees, in an appropriate manner, the license standards
213 prescribed by this act, any amendments thereto, and such rules and
214 regulations as the board may adopt under the authority of Section
215 7 of this act, within sixty (60) days of their adoption.

216 SECTION 10. (1) An applicant applying for a license as a
217 kinesiotherapist shall file a written application on forms
218 provided by the board, showing to the satisfaction of the board
219 that he or she:

220 (a) Is of good moral character;

221 (b) Has successfully completed the academic
222 requirements of an accredited kinesiotherapy program, or similar

223 program as approved by the Commission on Professional Standards of
224 the American Kinesiotherapy Association, including a minimum of
225 one thousand (1,000) hours of clinical internship under the direct
226 supervision of a licensed kinesiotherapist, physician, physical
227 therapist or other qualified individual; and

228 (c) Has successfully passed a competency examination
229 prepared and administered by the Council on Professional Standards
230 of the American Kinesiotherapy Association. Examinations will be
231 administered to qualified applicants at least twice each calendar
232 year. The written portion of this examination will be validated
233 by an independent testing professional.

234 (2) Any person applying for licensure, in addition to
235 demonstrating his eligibility in accordance with the requirements
236 of this section, shall make application to the board for review of
237 proof of his eligibility on a form and in such a manner as the
238 board shall prescribe. The application shall be accompanied by
239 the fee fixed in accordance with the provisions of Section 14 of
240 this act.

241 (3) Foreign trained kinesiotherapists shall satisfy the
242 examination requirements of this section. The board shall require
243 foreign trained applicants to furnish proof of good moral
244 character and completion of educational and supervised fieldwork
245 requirements substantially equal to those contained in this
246 section before taking the examination.

247 (4) The board shall waive the educational, internship and
248 examination requirements for licensure as stated in subsections
249 (1), (2) and (3) of this section for any applicant applying for
250 licensure who presents evidence to the board that he or she is

251 currently a registered kinesiotherapist as approved by the
252 American Kinesiotherapy Association. To obtain the benefit of
253 this waiver, an applicant must file an application for licensure
254 no later than six (6) months after July 1, 2000.

255 SECTION 11. (1) The board shall issue a license to any
256 person who meets the requirements of this act upon payment of the
257 license fee.

258 (2) The board shall issue a temporary license to persons who
259 have completed the education and experience requirements of this
260 act upon payment of the temporary license fee. This license shall
261 allow the person to practice kinesiotherapy under the supervision
262 of a kinesiotherapist who holds a current license in this state,
263 and shall be valid until the date on which the results of the next
264 qualifying examination have been made public. The temporary
265 license may be renewed one (1) time if the applicant has failed
266 the examination.

267 (3) Any person who is issued a license as a kinesiotherapist
268 under this act may use the words "licensed kinesiotherapist" or
269 the letters "LKT" in addition to their recognition as a
270 "registered kinesiotherapist" or "RKT" following passing of the
271 national examination, in connection with his or her name.

272 SECTION 12. (1) The board, after notice and opportunity for
273 a hearing, has the power to deny, refuse to renew, suspend or
274 revoke the license of, or impose probationary conditions upon, any
275 licensee who has been guilty of unprofessional conduct which has
276 endangered or is likely to endanger the health, welfare or public
277 safety of the public. Such unprofessional conduct includes:

278 (a) Obtaining or attempting to obtain a license by

279 fraud, misrepresentation or concealment of material facts;

280 (b) Being guilty of unprofessional conduct as defined
281 by the rules and regulations established by the board, or
282 violating the code of ethics adopted and published by the board;

283 (c) Being convicted of a crime in any court, except for
284 minor offenses defined as "minor misdemeanors," "violations" or
285 "offenses" in any court, if the acts which he or she was convicted
286 are found by the board to have a direct bearing on whether he or
287 she should be entrusted to serve the public in the capacity of
288 kinesiotherapist;

289 (d) Violating any lawful order, rule or regulation
290 rendered or adopted by the board; and

291 (e) Violating any provision of this act.

292 (2) A denial of, refusal to renew, suspension or revocation
293 of the license of, or imposition of probationary conditions upon,
294 a license may be ordered by the board after a hearing in the
295 manner provided by the rules and regulations adopted by the board.
296 An application for reinstatement may be made to the board after
297 one (1) year from the date of the revocation of a license. The
298 board may accept or reject an application for reinstatement and
299 hold a hearing to consider such reinstatement.

300 SECTION 13. (1) Any license issued under this act shall be
301 subject to annual renewal, and shall expire unless renewed in the
302 manner prescribed by the rules and regulations of the board, upon
303 the payment of a renewal fee and demonstration of completion of
304 continuing professional education. The board may provide for the
305 late renewal of a license upon the payment of a late fee in
306 accordance with its rules and regulations, but no late renewal of

307 a license may be granted more than two (2) years after its
308 expiration.

309 (2) Upon request and payment of the license fee required,
310 the board shall grant inactive status to a licensee who:

311 (a) Does not practice as a kinesiotherapist; or

312 (b) Does not hold himself or herself out as a
313 kinesiotherapist; or

314 (c) Does not maintain the continuing education
315 requirements.

316 (3) A suspended license is subject to expiration and may be
317 renewed as provided in this section, but such renewal shall not
318 entitle the suspended licensee to engage in the licensed activity
319 or in any other conduct or activity in violation of the order or
320 judgment by which the license was suspended. If a license revoked
321 on disciplinary grounds is reinstated, the licensee, as a
322 condition of reinstatement, shall pay the renewal fee and any late
323 fee that may be applicable.

324 SECTION 14. (1) The board is empowered to prescribe and
325 publish reasonable fees for the following purposes:

326 (a) Application fee, which is nonrefundable;

327 (b) Initial license fee;

328 (c) Renewal of license fee;

329 (d) Late renewal fee;

330 (e) Temporary license fee;

331 (f) Reinstatement of license fee;

332 (g) Inactive license fee.

333 (2) Such fees shall be commensurate to the extent feasible
334 with the cost of fulfilling the duties of the board and council as

335 defined by this act. However, no individual fee shall exceed One
336 Hundred Fifty Dollars (\$150.00).

337 SECTION 15. (1) It is unlawful for any person who is not
338 licensed as a kinesiotherapist under this act, or any person whose
339 license has been suspended or revoked, to use the words "licensed
340 kinesiotherapist" or the letters "LKT" in connection with his or
341 her name or place of business. It is unlawful for such an
342 individual to imply or indicate by words, abbreviations or
343 insignia that he or she is a licensed kinesiotherapist.

344 (2) Any person who violates any provision of Section 4 of
345 this act and subsection (1) of this section shall upon conviction
346 be guilty of a misdemeanor and shall be fined not more than One
347 Thousand Dollars (\$1,000.00).

348 SECTION 16. This act shall take effect and be in force from
349 and after July 1, 2000.