

By: Senator(s) Dearing

To: Public Health and Welfare

SENATE BILL NO. 2140

1 AN ACT RELATING TO THE LICENSURE OF PHYSICAL THERAPISTS AND  
2 PHYSICAL THERAPIST ASSISTANTS; TO CREATE THE STATE BOARD OF  
3 PHYSICAL THERAPY AND PRESCRIBE ITS POWERS AND DUTIES; TO PROVIDE  
4 FOR THE APPOINTMENT OF THE BOARD; TO PRESCRIBE THE QUALIFICATIONS  
5 FOR LICENSURE TO PRACTICE PHYSICAL THERAPY; TO PROVIDE FOR A  
6 LICENSURE EXAMINATION; TO PROVIDE FOR A TEMPORARY LICENSE; TO  
7 PROVIDE FOR EXEMPTIONS FROM LICENSURE; TO RESTRICT THE USE OF  
8 CERTAIN TITLES TO LICENSED PRACTITIONERS OF PHYSICAL THERAPY; TO  
9 SPECIFY CERTAIN REQUIREMENTS FOR THE MANAGEMENT OF PATIENT CARE BY  
10 PHYSICAL THERAPISTS; TO SPECIFY GROUNDS FOR DISCIPLINARY ACTION  
11 AGAINST PHYSICAL THERAPIST LICENSEES; TO AUTHORIZE THE BOARD TO  
12 CONDUCT INVESTIGATIONS AND HEARINGS AND TAKE DISCIPLINARY ACTIONS  
13 AGAINST LICENSEES; TO ALLOW APPEALS FROM ACTIONS OF THE BOARD; TO  
14 SPECIFY CERTAIN UNLAWFUL PRACTICES, AND PROVIDE FOR CIVIL  
15 PENALTIES AND INJUNCTIVE RELIEF FOR VIOLATIONS OF THIS ACT; TO  
16 PROVIDE CERTAIN RIGHTS FOR CONSUMERS OF PHYSICAL THERAPY SERVICES;  
17 TO TRANSFER THE POWERS AND DUTIES OF THE STATE BOARD OF HEALTH  
18 REGARDING THE LICENSURE AND REGULATION OF THE PROFESSION OF  
19 PHYSICAL THERAPY TO THE STATE BOARD OF PHYSICAL THERAPY; TO REPEAL  
20 SECTIONS 73-23-31 THROUGH 73-23-65, MISSISSIPPI CODE OF 1972,  
21 WHICH PROVIDE FOR THE LICENSURE AND REGULATION OF THE PRACTICE OF  
22 PHYSICAL THERAPY BY THE STATE BOARD OF HEALTH AND PROVIDE FOR THE  
23 PHYSICAL THERAPY ADVISORY COUNCIL; AND FOR RELATED PURPOSES.

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

25 SECTION 1. This chapter shall be known and may be cited as  
26 the "Mississippi Physical Therapy Practice Law."

27 SECTION 2. This chapter is enacted for the purposes of  
28 protecting the public health, safety and welfare, and of providing  
29 for state administrative control, supervision, licensure and  
30 regulation of the practice of physical therapy. It is the  
31 Legislature's intent that only individuals who meet and maintain  
32 prescribed standards of competence and conduct may engage in the  
33 practice of physical therapy as authorized by this chapter. This  
34 chapter shall be liberally construed to promote the public  
35 interest and to accomplish the purposes stated in this section.



36           SECTION 3. As used in this chapter, the following terms  
37 shall have the following meanings, unless the context otherwise  
38 requires:

39           (a) "Board" means the State Board of Physical Therapy.

40           (b) "Physical therapy" or "physiotherapy," which terms  
41 are deemed identical and interchangeable, means the care and  
42 services provided by or under the direction and supervision of a  
43 physical therapist who is licensed under this chapter.

44           (c) "Physical therapist" means a person who is licensed  
45 under this chapter to practice physical therapy.

46           (d) "Physical therapist assistant" means a person who  
47 meets the requirements of this chapter for licensure and who  
48 assists the physical therapist in selected components of physical  
49 therapy interventions.

50           (e) "Practice of physical therapy" means:

51           (i) Examining, evaluating and testing individuals  
52 with mechanical, physiological and developmental impairments,  
53 functional limitations, disability or other health and  
54 movement-related conditions in order to determine a diagnosis,  
55 prognosis and plan of therapeutic intervention, and to assess the  
56 ongoing effects of intervention;

57           (ii) Alleviating impairments and functional  
58 limitations by designing, implementing and modifying therapeutic  
59 interventions that include, but are not limited to, therapeutic  
60 exercise; functional training in self-care and in home, community  
61 or work reintegration; manual therapy including soft tissue and  
62 joint mobilization and manipulation; therapeutic massage;  
63 assistive and adaptive orthotic, prosthetic, protective and  
64 supportive devices and equipment; airway clearance techniques;  
65 debridement and wound care; physical agents or modalities;  
66 mechanical and electrotherapeutic modalities; and patient-related  
67 instruction;



68 (iii) Reducing the risk of injury, impairment,  
69 functional limitation and disability, including the promotion and  
70 maintenance of fitness, health and quality of life in all age  
71 populations; and

72 (iv) Engaging in administration, consultation,  
73 education and research.

74 (f) "Physical therapy aide" means a person trained  
75 under the direction of a physical therapist who performs  
76 designated and supervised routine tasks related to physical  
77 therapy.

78 (g) "Restricted license" means a license on which the  
79 board places restrictions or conditions, or both, as to scope of  
80 practice, place of practice, supervision of practice, duration of  
81 licensed status, or type or condition of patient or client to whom  
82 the licensee may provide services.

83 (h) "Direct supervision" means face-to-face oversight  
84 by a licensed physical therapist at regular intervals of a  
85 physical therapist who has been issued a temporary license under  
86 Section 9 of this act. This direct supervision shall be in  
87 accordance with the rules and regulations adopted by the board.

88 (i) "Direct on-site supervision" means face-to-face  
89 oversight by a licensed physical therapist at regular intervals,  
90 as prescribed in rules and regulations adopted by the board, of  
91 the services provided to a patient by a licensed physical  
92 therapist assistant.

93 (j) "Continuous on-site supervision" means the  
94 supervising physical therapist, or when delegated a physical  
95 therapist assistant, is continuously on-site and present in the  
96 department or facility where services are provided, is immediately  
97 available to the person being supervised and maintains continued  
98 involvement in appropriate aspects of each treatment session in  
99 which physical therapy aides are involved in components of care as  
100 determined by the supervising physical therapist.



101           (k) "Testing" means standardized methods and techniques  
102 used to gather data about the patient, including electrodiagnostic  
103 and electrophysiologic tests and measures.

104           (l) "Consultation by means of telecommunication" means  
105 that a physical therapist renders professional or expert opinion  
106 or advice to another physical therapist or health care provider  
107 via telecommunications or computer technology from a distant  
108 location. It includes the transfer of data or exchange of  
109 educational or related information by means of audio, video or  
110 data communications. The physical therapist may use telehealth  
111 technology as a vehicle for providing only services that are  
112 legally or professionally authorized. The patient's written or  
113 verbal consent must be obtained and documented before this  
114 consultation. All records used or resulting from a consultation  
115 by means of telecommunications are part of a patient's records and  
116 are subject to applicable confidentiality requirements.

117           (m) "Jurisdiction of the United States" means any  
118 state, territory or the District of Columbia that licenses  
119 physical therapists.

120           SECTION 4. (1) There is established a State Board of  
121 Physical Therapy that shall consist of six (6) members appointed  
122 by the Governor, with the advice and consent of the Senate. At  
123 least three (3) members shall be appointed from a list of five (5)  
124 persons submitted by the Mississippi Physical Therapy Association,  
125 all of whom must be residents of Mississippi and must have engaged  
126 in the practice of physical therapy within the state for at least  
127 four (4) years. Three (3) members shall be physical therapists,  
128 one (1) member shall be a physical therapist assistant, one (1)  
129 member shall be a physician, and one (1) member shall be a  
130 consumer at large who is not associated with or financially  
131 interested in the practice or business of physical therapy. The  
132 initial members of the board shall be appointed for staggered  
133 terms, as follows: one (1) member shall be appointed for a term



134 that ends on June 30, 2002; two (2) members shall be appointed for  
135 terms that end on June 30, 2003; one (1) member shall be appointed  
136 for a term that ends on June 30, 2004; and two (2) members shall  
137 be appointed for terms that end on June 30, 2005. All subsequent  
138 appointments to the board shall be for terms of four (4) years  
139 from the expiration date of the previous term. No person shall be  
140 appointed for more than two (2) consecutive terms. By approval of  
141 the majority of the board, the service of a member may be extended  
142 at the completion of a four-year term until a new member is  
143 appointed or the current member is reappointed.

144 (2) The board shall annually elect a chairman, secretary and  
145 treasurer. The board shall provide for the timely orientation and  
146 training of new professional and public appointees to the board  
147 regarding board licensing and disciplinary procedures, this  
148 chapter and board rules, regulations, policies and procedures. A  
149 member may be removed by the board only for due cause. Failure to  
150 attend at least half of the board meetings in a fiscal year shall  
151 constitute cause. The board shall meet at least once each  
152 quarter, and those meetings shall be held in compliance with the  
153 Open Meetings Law (Section 25-41-1 et seq.). A majority of board  
154 members shall constitute a quorum for the transaction of business.  
155 The board shall keep an official record of its meetings.  
156 Vacancies on the board shall be filled by board member vote from a  
157 list of nominees submitted by the Mississippi Physical Therapy  
158 Association. Members of the board shall receive the per diem  
159 authorized under Section 25-3-69 for each day spent actually  
160 discharging their official duties, and shall receive reimbursement  
161 for mileage and necessary travel expenses incurred as provided in  
162 Section 25-3-41. A board member who acts within the scope of  
163 board duties, without malice and in the reasonable belief that the  
164 member's action is warranted by law, is immune from civil  
165 liability.



166           SECTION 5. (1) It shall be the duty of the board to pass  
167 upon the qualifications of applicants for licensure as physical  
168 therapists and physical therapist assistants, to issue licenses  
169 and renewals of licenses to physical therapists and physical  
170 therapist assistants qualifying under this chapter, and with  
171 proper cause to suspend or revoke the license of those persons.  
172 The board may adopt rules and regulations not inconsistent with  
173 law, in accordance with the Administrative Procedures Law (Section  
174 25-43-1 et seq.), as it may deem necessary for the performance of  
175 its duties in regulating the practice of physical therapy in the  
176 State of Mississippi. The board shall maintain a listing of the  
177 names of every living physical therapist and physical therapist  
178 assistant licensed in this state, his or her last known place of  
179 business, last known place of residence and the date and number of  
180 his or her license. The board shall compile a list of physical  
181 therapists and physical therapist assistants licensed to practice  
182 in the State of Mississippi and that list shall be available to  
183 any person upon application to the board and the payment of such  
184 charge as may be fixed by the board. The board shall have the  
185 power to make such expenditures, employ such personnel and enter  
186 into such contracts for services as it may deem necessary for the  
187 administration of the provisions of this chapter. The board shall  
188 make available board rulings, opinions and interpretations of  
189 statutes or regulations in order to guide persons regulated under  
190 this chapter and shall maintain annual performance records. The  
191 board shall provide information to the public regarding the  
192 complaint process. The board shall make available final  
193 disciplinary action taken against a licensee.

194           (2) The board shall coordinate and collect fees for the  
195 issuance of licenses on a biennial (twenty-four-month) schedule.  
196 The renewal fee for licensure shall be fixed by the board. Any  
197 licensed person seeking renewal shall include proof of the  
198 completion of twenty-four (24) continuing education hours within



199 the current licensure period and must have completed the  
200 appropriate application forms.

201 (3) All fees and other monies collected or received by the  
202 board shall be paid into and credited to a special fund that is  
203 created in the State Treasury, which shall be known as the  
204 "Physical Therapy Fund." Any interest earned on the special fund  
205 shall be credited to the special fund and shall not be paid into  
206 the State General Fund. Any unexpended monies remaining in the  
207 special fund at the end of a fiscal year shall not lapse into the  
208 State General Fund. Monies in the special fund shall be expended,  
209 upon appropriation by the Legislature, for the purposes of  
210 implementing the provisions of this chapter. Disbursement of  
211 monies in the special fund shall be made only upon warrants issued  
212 by the State Fiscal Officer upon requisitions signed by the  
213 treasurer of the board. The financial records of the board shall  
214 be audited annually by the State Auditor.

215 SECTION 6. (1) An applicant for a license as a physical  
216 therapist or a physical therapist assistant must:

217 (a) Be of good moral character;

218 (b) Have completed the application process as  
219 prescribed by the board;

220 (c) Be a graduate of a physical therapy education  
221 program accredited by a national accreditation agency approved by  
222 the board; and

223 (d) Have successfully passed a national examination  
224 approved by the board.

225 (2) An applicant for a license as a physical therapist who  
226 has been educated outside of the United States shall:

227 (a) Be of good moral character;

228 (b) Have completed the application process as  
229 prescribed by the board;

230 (c) Provide satisfactory evidence that the applicant's  
231 education is substantially equivalent to the requirements of



232 physical therapists educated in accredited educational programs as  
233 determined by the board. If it is determined that a  
234 foreign-educated applicant's education is not substantially  
235 equivalent, the board may require the person to complete  
236 additional course work before it proceeds with the application  
237 process;

238 (d) Provide proof of legal authorization to reside and  
239 seek employment in a jurisdiction of the United States;

240 (e) Have the applicant's educational credentials  
241 evaluated by a board-approved credential evaluation agency;

242 (f) Have passed the board-approved English proficiency  
243 examinations if the applicant's native language is not English;  
244 and

245 (g) Have successfully passed the national examination  
246 approved by the board.

247 (3) Notwithstanding the provisions of subsection (2) of this  
248 section, if the foreign-educated physical therapist applicant is a  
249 graduate of an accredited educational program as approved by the  
250 board, the board may waive the requirements of paragraphs (c) and  
251 (e) of subsection (2) of this section.

252 SECTION 7. (1) An applicant for licensure shall file a  
253 complete application as required by the board. The applicant  
254 shall include application and examination fees as prescribed by  
255 the board. Each application for licensure shall include the  
256 social security number of the applicant in accordance with Section  
257 93-11-64.

258 (2) The board shall notify an applicant of any deficiencies  
259 in the application. An applicant who disagrees with the  
260 identified deficiencies may request in writing and, upon request,  
261 shall be granted a hearing before the board. The hearing shall be  
262 held in the same manner as prescribed in Section 19 for hearings  
263 on denials of licenses.





264           SECTION 8. (1) The licensure examination for physical  
265 therapists and for physical therapist assistants shall be selected  
266 by the board and may also include an oral examination or practical  
267 examination, or both, at the discretion of the board.

268           (2) An applicant may take the examination for licensure  
269 after the application process has been completed.

270           (3) An applicant for licensure who does not pass the  
271 examination after the first attempt may retake the examination one  
272 (1) additional time without reapplication for licensure within six  
273 (6) months of the first failure. Before the board may approve an  
274 applicant for subsequent testing beyond two (2) attempts, an  
275 applicant shall reapply for licensure and shall demonstrate  
276 evidence satisfactory to the board of having successfully  
277 completed additional clinical training or course work, or both, as  
278 determined by the board.

279           SECTION 9. (1) A temporary license to practice as a  
280 physical therapist or physical therapist assistant may be granted  
281 to those persons meeting the requirements stated in Section 6 of  
282 this act who (a) have not taken the approved examination or (b)  
283 have taken the approved examination but have not received the  
284 results of the examination. The temporary license shall be  
285 granted for a period not to exceed ninety (90) days. Any physical  
286 therapist granted a temporary license under this subsection shall  
287 restrict his or her practice to the State of Mississippi and shall  
288 be under the direct supervision of a physical therapist licensed  
289 in Mississippi. Any physical therapist assistant granted a  
290 temporary license under this subsection shall be under the direct  
291 on-site supervision of a Mississippi licensed physical therapist.  
292 Documentation verifying that supervision shall be on file with the  
293 board before a temporary license is granted.

294           (2) A temporary license to practice physical therapy or to  
295 act as a physical therapist assistant may be granted to a physical  
296 therapist or a physical therapist assistant licensed in another



297 state who is moving into the state provided the application for  
298 Mississippi licensure is pending and the current license is in  
299 good standing. This temporary license may be granted for a period  
300 not to exceed sixty (60) days.

301 (3) Any person granted a temporary license who is required  
302 to take the approved examination and fails to take the exam as  
303 required by the board or does not pass the required exam shall  
304 have the temporary license revoked and a license of any type shall  
305 not be issued until the person has passed an approved examination.

306 (4) Any person who has taken but not passed the required  
307 examination in this or another jurisdiction shall not be eligible  
308 for a license of any type until an approved examination is passed.

309 (5) Any person who has been trained as a physical therapist  
310 or physical therapist assistant in a foreign country and desires  
311 to be temporarily licensed under this subsection shall demonstrate  
312 proficiency in the English language and meet the other  
313 requirements of subsection (2) (a) through (f) of Section 6 of this  
314 act before the temporary license will be issued.

315 SECTION 10. The board shall issue a license to a physical  
316 therapist or physical therapist assistant who has a valid  
317 unrestricted license from another jurisdiction of the United  
318 States if that person, when granted the license, met all  
319 requirements prescribed in subsection (1) of Section 6 of this act  
320 and any applicable board rules or regulations.

321 SECTION 11. (1) This chapter does not restrict a person  
322 licensed under any other law of this state from engaging in the  
323 profession or practice for which that person is licensed if that  
324 person does not represent, imply or claim that he or she is a  
325 physical therapist or physical therapist assistant or a provider  
326 of physical therapy.

327 (2) The following persons are exempt from the licensure  
328 requirements of this chapter when engaged in the following  
329 activities:



330 (a) A person in an education program approved by the  
331 board who is pursuing a course of study leading to a degree as a  
332 physical therapist or a physical therapist assistant and who is  
333 satisfying supervised clinical education requirements related to  
334 the person's physical therapy education while under on-site  
335 supervision of a licensed physical therapist.

336 (b) A physical therapist who is practicing in the  
337 United States Armed Services, United States Public Health Service  
338 or Veterans Administration under federal regulations for state  
339 licensure of health care providers.

340 (c) A physical therapist who is licensed in another  
341 jurisdiction of the United States or a foreign-educated physical  
342 therapist credentialed in another country if that person is  
343 performing physical therapy in connection with teaching or  
344 participating in an educational seminar of no more than sixty (60)  
345 days in a calendar year.

346 (d) A physical therapist who is licensed in another  
347 jurisdiction of the United States if that person is providing  
348 consultation by means of telecommunication to a physical therapist  
349 licensed under this chapter.

350 (e) Schools, YMCAs, athletic clubs and similar  
351 organizations that furnish services to their players and members,  
352 provided that they do not represent themselves as physical  
353 therapists or as physical therapist assistants or as providing  
354 physical therapy services.

355 SECTION 12. (1) A licensee shall renew the license  
356 according to board rules and regulations. A licensee who fails to  
357 renew the license on or before the expiration date shall not  
358 practice as a physical therapist or work as a physical therapist  
359 assistant in this state.

360 (2) Each licensee is responsible for reporting to the board  
361 any name change and any changes in business and home addresses  
362 within thirty (30) days after the date of the change.



363           SECTION 13. (1) The board may reinstate a lapsed license  
364 upon payment of a renewal fee and reinstatement fee.

365           (2) If a person's license has lapsed for more than three (3)  
366 consecutive years, that person shall reapply for a license and pay  
367 all applicable fees. The person shall also demonstrate to the  
368 board's satisfaction competence to practice physical therapy, or  
369 shall serve an internship under a restricted license or take  
370 remedial courses as determined by the board, or both, at the  
371 board's discretion. The board may also require the applicant to  
372 take an examination.

373           SECTION 14. (1) A physical therapist licensed under this  
374 chapter is fully authorized to practice physical therapy as  
375 defined in Section 3 of this act.

376           (2) A physical therapist shall refer a patient or client to  
377 appropriate health care practitioners if the physical therapist  
378 has reasonable cause to believe that symptoms or conditions are  
379 present that require services beyond the scope of practice or when  
380 physical therapy is contraindicated.

381           (3) A physical therapist shall adhere to the recognized  
382 standards of ethics of the physical therapy profession and as  
383 further established by rules and regulations of the board.

384           SECTION 15. (1) A physical therapist shall use the letters  
385 "PT" in connection with the physical therapist's name or place of  
386 business to denote licensure under this chapter.

387           (2) A person or business entity, its employees, agents or  
388 representatives shall not use in connection with that person's  
389 name or the name or activity of the business, the words "physical  
390 therapy," "physical therapist," "physiotherapy," "physiotherapist"  
391 or "registered physical therapist," the letters "PT," "LPT,"  
392 "RPT," or any other words, abbreviations or insignia indicating or  
393 implying directly or indirectly that physical therapy is provided  
394 or supplied, including the billing of services labeled as physical



395 therapy, unless those services are provided by or under the  
396 direction of a physical therapist licensed under this chapter.

397 (3) A physical therapist assistant shall use the letters  
398 "PTA" in connection with that person's name to denote licensure  
399 hereunder.

400 (4) A person shall not use the title "physical therapist  
401 assistant," the letters "PTA," or any other words, abbreviations  
402 or insignia in connection with that person's name to indicate or  
403 imply, directly or indirectly, that the person is a physical  
404 therapist assistant unless that person is licensed as a physical  
405 therapist assistant under this chapter.

406 (5) The board shall aid the district attorneys and county  
407 prosecuting attorneys in the enforcement of the provisions of this  
408 chapter and the prosecution of any violations of this chapter. In  
409 addition to the criminal penalties provided by this chapter, the  
410 civil remedy of injunction shall be available to restrain and  
411 enjoin violations of any provision of this chapter without proof  
412 of actual damages sustained by any person.

413 SECTION 16. (1) A physical therapist is responsible for  
414 managing all aspects of the physical therapy care of each patient.  
415 The physical therapist shall provide:

- 416 (a) The initial written evaluation for each patient;
- 417 (b) Periodic written reevaluation of each patient;
- 418 (c) A written discharge plan for the patient and the  
419 patient's response to treatment at discharge;
- 420 (d) A written plan of care; and
- 421 (e) A written record of treatment.

422 (2) A physical therapist shall assure the qualifications of  
423 all assistive personnel to perform specific designated tasks  
424 through written documentation of the assistive personnel's  
425 training.

426 (3) For each date of service, a physical therapist shall  
427 provide all therapeutic interventions that require the expertise



428 of a physical therapist and shall determine the components of  
429 physical therapy intervention that may be delegated to a physical  
430 therapist assistant and the tasks related to physical therapy that  
431 may be performed by a physical therapy aide for delivery of  
432 service that is safe, effective and efficient for each patient.

433 (4) A physical therapist assistant shall work under a  
434 physical therapist's direct on-site supervision. A physical  
435 therapist assistant may document care provided without the  
436 co-signature of the supervising physical therapist.

437 (5) A physical therapist may concurrently supervise no more  
438 than two (2) physical therapist assistants.

439 (6) A physical therapist may use physical therapy aides for  
440 designated routine tasks. A physical therapy aide shall work  
441 under the continuous on-site supervision of a physical therapist  
442 or physical therapist assistant who is continuously on-site and  
443 present in the facility.

444 (7) A physical therapist's responsibility for patient care  
445 management shall include oversight of all documentation for  
446 services rendered to each patient, including awareness of fees  
447 charged.

448 SECTION 17. (1) The following are grounds for disciplinary  
449 action:

450 (a) Violating any provision of this chapter, board  
451 rules or regulations or a written order of the board;

452 (b) Practicing or offering to practice beyond the scope  
453 of the practice of physical therapy;

454 (c) Obtaining or attempting to obtain a license by  
455 fraud or misrepresentation;

456 (d) Engaging in the performance of substandard care by  
457 a physical therapist due to a deliberate or negligent act or  
458 failure to act, regardless of whether actual injury to the patient  
459 is established;



460 (e) Engaging in the performance of substandard care by  
461 a physical therapist assistant, including exceeding the authority  
462 to perform components of intervention selected by the supervising  
463 physical therapist, regardless of whether actual injury to the  
464 patient is established;

465 (f) Failing to supervise assistive personnel in  
466 accordance with this chapter and board rules or regulations;

467 (g) Having been convicted of a felony in the courts of  
468 this state or any other state, territory or country. As used in  
469 this paragraph, the term "conviction" includes a finding or  
470 verdict of guilt, an admission of guilt or a plea of nolo  
471 contendere;

472 (h) Practicing as a physical therapist or working as a  
473 physical therapist assistant when physical or mental abilities are  
474 impaired by the use of controlled substances or other  
475 habit-forming drugs, chemicals or alcohol;

476 (i) Having had a license revoked or suspended, other  
477 disciplinary action taken, or an application for licensure  
478 refused, revoked or suspended by the proper authorities of another  
479 state, territory or country;

480 (j) Engaging in sexual misconduct. For the purposes of  
481 this paragraph, "sexual misconduct" includes:

482 (i) Engaging in or soliciting sexual  
483 relationships, whether consensual or nonconsensual, while a  
484 physical therapist or physical therapist assistant/patient  
485 relationship exists;

486 (ii) Making sexual advances, requesting sexual  
487 favors or engaging in other verbal conduct or physical contact of  
488 a sexual nature with patients or clients; and

489 (iii) Intentionally viewing a completely or  
490 partially disrobed patient in the course of treatment if the  
491 viewing is not related to patient diagnosis or treatment under  
492 current practice standards.



493           (k) Directly or indirectly requesting, receiving or  
494 participating in the dividing, transferring, assigning, rebating  
495 or refunding of an unearned fee, or profiting by means of a credit  
496 or other valuable consideration such as an unearned commission,  
497 discount or gratuity in connection with the furnishing of physical  
498 therapy services. This does not prohibit the members of any  
499 regularly and properly organized business entity recognized by law  
500 and comprised of physical therapists from dividing fees received  
501 for professional services among themselves as they determine  
502 necessary to defray their joint operating expense;

503           (l) Failing to adhere to the recognized standards of  
504 ethics of the physical therapy profession;

505           (m) Charging unreasonable or fraudulent fees for  
506 services performed or not performed;

507           (n) Making misleading, deceptive, untrue or fraudulent  
508 representations in violation of this chapter or in the practice of  
509 the profession;

510           (o) Having been adjudged mentally incompetent by a  
511 court of competent jurisdiction;

512           (p) Aiding or abetting a person who is not licensed in  
513 this state and who directly or indirectly performs activities  
514 requiring a license;

515           (q) Failing to report to the board any act or omission  
516 of a licensee, applicant or any other person who violates the  
517 provisions of this chapter;

518           (r) Interfering with an investigation or disciplinary  
519 proceeding by willful misrepresentation of facts or by the use of  
520 threats or harassment against any patient or witness to prevent  
521 them from providing evidence in a disciplinary proceeding or any  
522 legal action;

523           (s) Failing to maintain patient confidentiality without  
524 prior written consent of the patient unless otherwise required by  
525 law;





526 (t) Failing to maintain adequate patient records. For  
527 the purposes of this paragraph, "adequate patient records" means  
528 legible records that contain at a minimum sufficient information  
529 to identify the patient, an evaluation of objective findings, a  
530 diagnosis, the plan of care, the treatment record and a discharge  
531 plan;

532 (u) Promoting an unnecessary device, treatment  
533 intervention or service for the financial gain of the practitioner  
534 or of a third party;

535 (v) Providing treatment intervention unwarranted by the  
536 condition of the patient, or continuing treatment beyond the point  
537 of reasonable benefit; and

538 (w) Participating in underutilization or  
539 overutilization of physical therapy services for personal or  
540 institutional financial gain, or participation in services that  
541 are in any way linked to the financial gain of a referral source.

542 (2) In addition to the grounds specified in subsection (1)  
543 of this section, the board shall be authorized to suspend the  
544 license of any licensee for being out of compliance with an order  
545 for support, as defined in Section 93-11-153. The procedure for  
546 suspension of a license for being out of compliance with an order  
547 for support, and the procedure for the reissuance or reinstatement  
548 of a license suspended for that purpose, and the payment of any  
549 fees for the reissuance or reinstatement of a license suspended  
550 for that purpose, shall be governed by Section 93-11-157 or  
551 93-11-163, as the case may be. If there is any conflict between  
552 any provision of Section 93-11-157 or 93-11-163 and any provision  
553 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
554 as the case may be, shall control.

555 SECTION 18. (1) To enforce this chapter the board is  
556 authorized to:

557 (a) Receive complaints filed against licensees and  
558 conduct a timely investigation;



559           (b) Conduct an investigation at any time and on its own  
560 initiative without receipt of a written complaint if a majority of  
561 the board has reason to believe that there may be a violation of  
562 this chapter;

563           (c) Issue subpoenas to compel the attendance of any  
564 witness or the production of any documentation relative to a case;

565           (d) Take emergency action ordering the summary  
566 suspension of a license or the restriction of the licensee's  
567 practice or employment pending proceedings by the board;

568           (e) Appoint hearing officers authorized to conduct  
569 hearings. Hearing officers shall prepare and submit to the board  
570 findings of fact, conclusions of law and an order that shall be  
571 reviewed and voted on by the board; and

572           (f) Require a licensee to be examined in order to  
573 determine the licensee's mental, physical or professional  
574 competence.

575           (2) If the board finds that the information received in a  
576 complaint or an investigation is not of sufficient seriousness to  
577 merit disciplinary action against a licensee it may take the  
578 following actions:

579           (a) Dismiss the complaint if the board believes the  
580 information or complaint is without merit; or

581           (b) Issue a confidential advisory letter to the  
582 licensee. An advisory letter is nondisciplinary and notifies a  
583 licensee that, while there is insufficient evidence to support  
584 disciplinary action, the board believes that the licensee should  
585 modify or eliminate certain conduct or practices.

586           SECTION 19. (1) Any person whose application for a license  
587 is denied shall be entitled to a hearing before the board if he  
588 submits a written request to the board. The hearing shall be  
589 conducted at the earliest possible date. The board shall fix a  
590 time and place for the hearing and shall cause a written copy of  
591 the reason for denial of the license together with a notice of the



592 time and place fixed for the hearing to be served on the applicant  
593 requesting the hearing. Service of and notice of the hearing may  
594 be given by certified mail to the last known address of the  
595 licensee or applicant. For purposes of the hearing, the board  
596 shall have the power to subpoena persons and compel the production  
597 of records, papers and other documents.

598 (2) (a) All complaints concerning a licensee's business or  
599 professional practice shall be received by the board. Each  
600 complaint received shall be logged, recording at a minimum, the  
601 following information: (i) the licensee's name; (ii) the name of  
602 the complaining party, if known; (iii) the date of the complaint;  
603 (iv) a brief statement of the complaint; and (v) the disposition  
604 of the complaint.

605 (b) Following the investigative process the board may  
606 file formal charges against the licensee. The formal complaint  
607 shall at a minimum inform the licensee of the facts that are the  
608 basis of the charge and that are specific enough to enable the  
609 licensee to defend against the charges.

610 (c) Each licensee whose conduct is the subject of a  
611 formal charge that seeks to impose disciplinary action against the  
612 licensee shall be served notice of the formal charge at least  
613 thirty (30) days before the date of the hearing, which hearing  
614 shall be presided over by the board or the board's designee.  
615 Service shall be considered to have been given if the notice was  
616 personally received by the licensee or if the notice was mailed  
617 certified return receipt requested to the licensee at the  
618 licensee's last known address as listed with the board.

619 (d) The notice of the formal charge shall consist at a  
620 minimum of the following information:

621 (i) The time, place and date of the hearing;  
622 (ii) That the licensee shall appear personally at  
623 the hearing and may be represented by counsel;



624 (iii) That the licensee shall have the right to  
625 produce witnesses and evidence on the licensee's behalf and shall  
626 have the right to cross-examine adverse witnesses and evidence;

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

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

632 (vi) That the board or its designee shall preside  
633 at the hearing and following the conclusion of the hearing shall  
634 make findings of facts, conclusions of law and recommendations  
635 separately stated to the board as to what disciplinary action, if  
636 any, should be imposed on the licensee;

637 (vii) The board or its designee will hear evidence  
638 produced in support of the formal charges and contrary evidence  
639 produced by the licensee, and the board will issue an order at the  
640 conclusion of the hearing; and

641 (viii) All proceedings under this section are  
642 matters of public record and shall be preserved in accordance with  
643 state law.

644 (2) In addition to other remedies provided by law or in  
645 equity, any applicant or licensee aggrieved by any action of the  
646 board may appeal the action of the board to the chancery court of  
647 the county of his residence if he is a resident of this state, or  
648 the Chancery Court of the First Judicial District of Hinds County,  
649 Mississippi, if he is a nonresident of this state, and the court  
650 after a hearing may modify, affirm or reverse the judgment of the  
651 board or may remand the case to the board for further proceedings.  
652 An appeal must be filed within thirty (30) days immediately  
653 following the mailing or delivery to the applicant or licensee of  
654 a copy of the order of judgment of the board unless the court for  
655 good cause shown extends the time. Appeals may be had to the  
656 Supreme Court of the State of Mississippi as provided by law from



657 any final judgment of the chancery court. If the board appeals  
658 any judgment of the chancery court, no bond shall be required of  
659 it in order to perfect its appeal. Any appeal of a license  
660 suspension that is required by Section 93-11-157 or 93-11-163  
661 shall be taken in accordance with the appeal procedure specified  
662 in Section 93-11-157 or 93-11-163, as the case may be, rather than  
663 the procedure specified in this section.

664 SECTION 20. (1) Upon proof that any grounds described in  
665 Section 17 of this act have been violated, the board may take the  
666 following disciplinary actions singly or in combination:

667 (a) Issue a censure;

668 (b) Restrict a license. The board may require a  
669 licensee to report regularly to the board on matters related to  
670 the grounds for the restricted license;

671 (c) Suspend a license for a period prescribed by the  
672 board;

673 (d) Revoke a license;

674 (e) Refuse to issue or renew a license;

675 (f) Fine a licensee. In addition to a fine, the board  
676 may assess and collect the reasonable costs incurred in a  
677 disciplinary hearing when action is taken against a person's  
678 license; or

679 (g) Accept a voluntary surrendering of a license.

680 (2) Each violation of Section 17 of this act shall, upon  
681 conviction, be punishable by a fine of not less than One Hundred  
682 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or  
683 by imprisonment for not less than ten (10) days nor more than  
684 sixty (60) days, or both such fine and imprisonment.

685 SECTION 21. Actions of the board shall be taken subject to  
686 the right of notice, hearing and adjudication and the right of  
687 appeal in accordance with Mississippi law relating to  
688 administrative law and procedure.



689           SECTION 22. (1) It is unlawful for any person to practice  
690 or in any manner to represent, imply or claim to practice physical  
691 therapy or use any word or designation that implies that the  
692 person is a physical therapist unless that person is licensed  
693 under this chapter. A person who engages in an activity requiring  
694 a license under this chapter or uses any word, title, letters or  
695 any description of services that incorporates one or more of the  
696 terms, designations or abbreviations in violation of Section 15 of  
697 this act that implies that the person is licensed to engage in the  
698 practice of physical therapy is guilty of a misdemeanor.

699           (2) The board may investigate any person to the extent  
700 necessary to determine if the person is engaged in the unlawful  
701 practice of physical therapy. If an investigation indicates that  
702 a person may be practicing physical therapy unlawfully, the board  
703 shall inform the person of the alleged violation. The board may  
704 refer the matter for prosecution regardless of whether the person  
705 ceases the unlawful practice of physical therapy.

706           (3) The board, through the Office of the Attorney General,  
707 may apply for injunctive relief in any court of competent  
708 jurisdiction to enjoin any person from committing any act in  
709 violation of this chapter. Injunction proceedings are in addition  
710 to, and not in lieu of, all penalties and other remedies  
711 prescribed in this chapter.

712           (4) A person who aids or requires another person to directly  
713 or indirectly violate this chapter or board rules or regulations,  
714 who permits a license to be used by another person, or who acts  
715 with the intent to violate or evade this chapter or board rules or  
716 regulations is subject to a civil penalty of not more than One  
717 Thousand Dollars (\$1,000.00) for the first violation and not more  
718 than Five Thousand Dollars (\$5,000.00) for each subsequent  
719 violation.

720           (5) The board shall deposit all monies it collects from  
721 civil penalties under this chapter into the Physical Therapy Fund.



722           SECTION 23. (1) A person including, but not limited to, a  
723 licensee, corporation, insurance company, health care organization  
724 or health care facility and state or local governmental agencies  
725 shall report to the board any conviction, determination or finding  
726 that a licensee has committed an act that constitutes a violation  
727 of Section 17 of this act.

728           (2) A person is immune from civil liability, whether direct  
729 or derivative, for providing information in good faith to the  
730 board in accordance with subsection (1) of this section.

731           (3) The board shall not disclose the identity of a person  
732 who provides information unless the information is essential to  
733 proceedings conducted under Sections 18 and 19 of this act or  
734 unless required by a court of law.

735           SECTION 24. In lieu of a disciplinary proceeding prescribed  
736 by this chapter, the board may permit a licensee to actively  
737 participate in a board-approved substance abuse recovery program  
738 if:

739                   (a) The board has evidence that the licensee is  
740 impaired;

741                   (b) The licensee has not been convicted of a felony  
742 relating to a controlled substance in a court of law of the United  
743 States or any other territory or country;

744                   (c) The licensee enters into a written agreement with  
745 the board for a restricted license and complies with all the terms  
746 of the agreement, including making satisfactory progress in the  
747 program and adhering to any limitations on the licensee's practice  
748 or work imposed by the board to protect the public. Failure to  
749 enter into such an agreement shall activate an immediate  
750 investigation and disciplinary proceeding by the board; and

751                   (d) As part of the agreement established between the  
752 licensee and the board, the licensee signs a waiver allowing the  
753 substance abuse program to release information to the board if the



754 licensee does not comply with the requirements of this section or  
755 is unable to practice or work with reasonable skill or safety.

756 SECTION 25. (1) The public shall have access to the  
757 following information:

758 (a) A list of licensed physical therapists and physical  
759 therapist assistants that includes place of practice, license  
760 number, date of license expiration and status of license; and

761 (b) A list of official actions taken by the board.

762 (2) The home address and telephone numbers of physical  
763 therapists and physical therapist assistants are not public  
764 records and shall be kept confidential by the board unless they  
765 are the only addresses and telephone numbers of record.

766 (3) If a referring practitioner is deriving direct or  
767 indirect compensation from the referral to physical therapy, the  
768 physical therapist shall disclose this information in writing to  
769 the patient before the initial evaluation.

770 (4) A physical therapist shall disclose in writing to a  
771 patient any financial interest in products that the physical  
772 therapist endorses and recommends to the patient at the time of  
773 the endorsement or recommendation.

774 (5) A physical therapist shall inform each patient that the  
775 patient has freedom of choice in services and products.

776 (6) Information relating to the physical therapist/patient  
777 relationship is confidential and shall not be communicated to a  
778 third party who is not involved in that patient's care without the  
779 prior written consent of the patient. A physical therapist shall  
780 divulge to the board information it requires in connection with  
781 any investigation, public hearing or other proceedings. The  
782 physical therapist/patient privilege does not extend to cases in  
783 which the physical therapist has a duty to report information as  
784 required by law.





785           (7) Any person may submit a complaint regarding any licensee  
786 or any other person potentially in violation of this chapter.  
787 Confidentiality shall be maintained subject to law.

788           (8) The board shall keep all information relating to the  
789 receiving and investigation of complaints filed against licensees  
790 confidential until the information becomes public record or as  
791 required by law. Patient records, including clinical records,  
792 files, any other report or oral statement relating to diagnostic  
793 findings or treatment of patients, any information from which a  
794 patient or his family might be identified, or information received  
795 and records or reports kept by the board as a result of an  
796 investigation made under this chapter shall not be available to  
797 the public and shall be kept confidential by the board.

798           (9) Each licensee shall display a copy of the licensee's  
799 license with current renewal verification in a location accessible  
800 to public view at the licensee's place of practice.

801           SECTION 26. Any person licensed by the State Board of Health  
802 under Sections 73-23-31 through 73-23-65 as they existed before  
803 July 1, 2001, and holding a valid license to practice physical  
804 therapy on July 1, 2001, may be licensed under the provisions of  
805 this chapter without examination, provided that the person applies  
806 for and obtains a new license certificate from the State Board of  
807 Physical Therapy before October 1, 2001, if that time does not  
808 coincide with the biennial date for renewal of license. Each  
809 physical therapist or physical therapist assistant so licensed  
810 will retain the same licensure number as assigned by the State  
811 Board of Health.

812           SECTION 27. The Physical Therapy Advisory Council is  
813 abolished. All of the powers and duties of the State Board of  
814 Health regarding the licensure and regulation of the profession of  
815 physical therapy in the State of Mississippi are transferred to  
816 the State Board of Physical Therapy. Any property, contractual  
817 rights and obligations and unexpended funds of the State Board of



818 Health relating to that board's licensure and regulation of the  
819 profession of physical therapy in the State of Mississippi are  
820 transferred to the State Board of Physical Therapy.

821 SECTION 28. Sections 73-23-31, 73-23-33, 73-23-35, 73-23-37,  
822 73-23-39, 73-23-41, 73-23-43, 73-23-45, 73-23-47, 73-23-49,  
823 73-23-51, 73-23-53, 73-23-55, 73-23-57, 73-23-59, 73-23-61,  
824 73-23-63, 73-23-64 and 73-23-65, Mississippi Code of 1972, which  
825 provide for the licensure and regulation of the practice of  
826 physical therapy by the State Board of Health and provide for the  
827 Physical Therapy Advisory Council, are repealed.

828 SECTION 29. Sections 1 through 27 of this act shall be  
829 codified as new sections in Chapter 23, Title 73 of the  
830 Mississippi Code of 1972.

831 SECTION 30. This act shall take effect and be in force from  
832 and after July 1, 2001.

