

By: Senator(s) Nunnelee (By Request),  
Gollott, Frazier

To: Public Health and  
Welfare

SENATE BILL NO. 2732

1 AN ACT TO AMEND SECTIONS 73-23-35 AND 73-23-59, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE A LICENSED PHYSICAL THERAPIST TO  
3 EXAMINE AND TREAT PERSONS WITH A PREVIOUS DIAGNOSIS AND REFERRAL  
4 BY A LICENSED PHYSICIAN OR PRACTITIONER WITHOUT ANOTHER REFERRAL  
5 UNDER CERTAIN CONDITIONS; TO AUTHORIZE A LICENSED PHYSICAL  
6 THERAPIST TO EXAMINE AND TREAT PERSONS WITHOUT SUCH A PREVIOUS  
7 DIAGNOSIS AND REFERRAL UNDER CERTAIN CONDITIONS; AND FOR RELATED  
8 PURPOSES.

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

10 **SECTION 1.** Section 73-23-35, Mississippi Code of 1972, is  
11 amended as follows:

12 73-23-35. (1) It shall be unlawful for any person,  
13 corporation or association to, in any manner, represent himself or  
14 itself as a physical therapist, a physical therapist assistant or  
15 someone who provides physical therapy services, or use in  
16 connection with his or its name the words or letters  
17 physiotherapist, registered physical therapist, R.P.T., licensed  
18 physical therapist assistant, L.P.T.A., or any other letters,  
19 words, abbreviations or insignia, indicating or implying that he  
20 or it is a physical therapist, a physical therapist assistant or  
21 provides physical therapy services, without a valid existing  
22 license as a physical therapist or as a physical therapist  
23 assistant, as the case may be, issued to him or it pursuant to  
24 this chapter. It shall be unlawful to employ an unlicensed  
25 physical therapist or physical therapist assistant to provide  
26 physical therapy services.

27 (2) The board shall aid the state's attorneys of the various  
28 counties in the enforcement of the provisions of this chapter and  
29 the prosecution of any violations thereof. In addition to the  
30 criminal penalties provided by this chapter, the civil remedy of

31 injunction shall be available to restrain and enjoin violations of  
32 any provisions of this chapter without proof of actual damages  
33 sustained by any person.

34 (3) Nothing in this chapter shall prevent a physical  
35 therapist, whose license is in good standing, from examining and  
36 treating (a) any person with a previous diagnosis or prior  
37 referral by a person licensed as a physician, dentist, osteopath,  
38 chiropractor, nurse practitioner or a podiatrist whose license is  
39 in good standing; or (b) any person with a chronic illness that  
40 has been previously diagnosed by a person licensed as a physician,  
41 dentist, osteopath, chiropractor, nurse practitioner or a  
42 podiatrist whose license is in good standing.

43 (4) A physical therapist may perform physical therapy  
44 services without referral when related to conditioning, education  
45 or other activities in a wellness setting for the purpose of  
46 injury prevention, reduction of stress or promotion of fitness.

47 (5) A physical therapist may treat a person without a  
48 previous diagnosis without a referral if all of the following are  
49 met:

50 (a) The physical therapist holds a master's or  
51 doctorate degree from a professional physical therapy program that  
52 is accredited by a national accreditation agency recognized by the  
53 United States Department of Education and by the Mississippi Board  
54 of Physical Therapy or the person has completed at least two (2)  
55 years of practical experience as a licensed physical therapist.

56 (b) The physical therapist shall, upon consent of the  
57 patient, inform the patient's physician, dentist, osteopath,  
58 chiropractor, nurse practitioner or podiatrist, of the evaluation  
59 not later than five (5) business days after the evaluation is  
60 made.

61 (c) A physical therapist shall refer to a patient's  
62 physician, dentist, osteopath, chiropractor, nurse practitioner or  
63 a podiatrist whose license is in good standing any person whose

64 condition, for which physical therapy services are rendered  
65 pursuant to this subsection, has not been documented to be  
66 progressing toward documented treatment goals after fourteen (14)  
67 visits or thirty (30) days, whichever shall come first.

68 (d) A physical therapist shall refer a client to  
69 appropriate health care practitioners if the physical therapist  
70 has reasonable cause to believe symptoms or conditions are present  
71 that require services beyond the scope of practice of the physical  
72 therapist.

73 **SECTION 2.** Section 73-23-59, Mississippi Code of 1972, is  
74 amended as follows:

75 73-23-59. (1) Licensees subject to this chapter shall  
76 conduct their activities, services and practice in accordance with  
77 this chapter and any rules promulgated pursuant hereto. Licensees  
78 may be subject to the exercise of the disciplinary sanction  
79 enumerated in Section 73-23-64 if the board finds that a licensee  
80 is guilty of any of the following:

81 (a) Negligence in the practice or performance of  
82 professional services or activities;

83 (b) Engaging in dishonorable, unethical or  
84 unprofessional conduct of a character likely to deceive, defraud  
85 or harm the public in the course of professional services or  
86 activities;

87 (c) Perpetrating or cooperating in fraud or material  
88 deception in obtaining or renewing a license or attempting the  
89 same;

90 (d) Being convicted of any crime which has a  
91 substantial relationship to the licensee's activities and services  
92 or an essential element of which is misstatement, fraud or  
93 dishonesty;

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

96           (f) Engaging in or permitting the performance of  
97 unacceptable services personally or by others working under the  
98 licensee's supervision due to the licensee's deliberate or  
99 negligent act or acts or failure to act, regardless of whether  
100 actual damage or damages to the public is established;

101           (g) Continued practice although the licensee has become  
102 unfit to practice as a physical therapist or physical therapist  
103 assistant due to: (i) failure to keep abreast of current  
104 professional theory or practice; or (ii) physical or mental  
105 disability; the entry of an order or judgment by a court of  
106 competent jurisdiction that a licensee is in need of mental  
107 treatment or is incompetent shall constitute mental disability; or  
108 (iii) addiction or severe dependency upon alcohol or other drugs  
109 which may endanger the public by impairing the licensee's ability  
110 to practice;

111           (h) Having disciplinary action taken against the  
112 licensee's license in another state;

113           (i) Making differential, detrimental treatment against  
114 any person because of race, color, creed, sex, religion or  
115 national origin;

116           (j) Engaging in lewd conduct in connection with  
117 professional services or activities;

118           (k) Engaging in false or misleading advertising;

119           (l) Contracting, assisting or permitting unlicensed  
120 persons to perform services for which a license is required under  
121 this chapter;

122           (m) Violation of any probation requirements placed on a  
123 license by the board;

124           (n) Revealing confidential information except as may be  
125 required by law;

126           (o) Failing to inform clients of the fact that the  
127 client no longer needs the services or professional assistance of  
128 the licensee;

129           (p) Charging excessive or unreasonable fees or engaging  
130 in unreasonable collection practices;

131           (q) For treating or attempting to treat ailments or  
132 other health conditions of human beings other than by physical  
133 therapy as authorized by this chapter;

134           (r) Except as authorized in Section 73-23-35(3)(4) and  
135 (5), for applying or offering to apply physical therapy, exclusive  
136 of initial evaluation or screening and exclusive of education or  
137 consultation for the prevention of physical and mental disability  
138 within the scope of physical therapy, other than upon the referral  
139 of a licensed physician, dentist, osteopath, podiatrist,  
140 chiropractor or nurse practitioner; or for acting as a physical  
141 therapist assistant other than under the direct, on-site  
142 supervision of a licensed physical therapist;

143           (s) Violations of the current codes of conduct for  
144 physical therapists and physical therapy assistants adopted by the  
145 American Physical Therapy Association;

146           (t) Violations of any rules or regulations promulgated  
147 pursuant to this chapter.

148           (2) The board may order a licensee to submit to a reasonable  
149 physical or mental examination if the licensee's physical or  
150 mental capacity to practice safely is at issue in a disciplinary  
151 proceeding.

152           (3) Failure to comply with a board order to submit to a  
153 physical or mental examination shall render a licensee subject to  
154 the summary suspension procedures described in Section 73-23-64.

155           (4) In addition to the reasons specified in subsection (1)  
156 of this section, the board shall be authorized to suspend the  
157 license of any licensee for being out of compliance with an order  
158 for support, as defined in Section 93-11-153. The procedure for  
159 suspension of a license for being out of compliance with an order  
160 for support, and the procedure for the reissuance or reinstatement  
161 of a license suspended for that purpose, and the payment of any

162 fees for the reissuance or reinstatement of a license suspended  
163 for that purpose, shall be governed by Section 93-11-157 or  
164 93-11-163, as the case may be. If there is any conflict between  
165 any provision of Section 93-11-157 or 93-11-163 and any provision  
166 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
167 as the case may be, shall control.

168         **SECTION 3.** This act shall take effect and be in force from  
169 and after July 1, 2005.