

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 1060

1 AN ACT TO AMEND SECTIONS 73-23-33 AND 73-23-59, MISSISSIPPI
2 CODE OF 1972, TO DELETE THE REQUIREMENT THAT A LICENSED PHYSICAL
3 THERAPIST MAY ONLY PROVIDE PHYSICAL THERAPY SERVICES BY THE
4 REFERRAL OF A PHYSICIAN OR OTHER PRACTITIONER; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 73-23-33, Mississippi Code of 1972, is
8 amended as follows:

9 73-23-33. As used in this chapter unless the context or
10 subject matter otherwise requires:

11 (a) "Physical therapy" or "physiotherapy," which terms
12 are deemed identical and interchangeable, means the art and
13 science of a health specialty concerned with the prevention of
14 disability, and the physical rehabilitation for congenital or
15 acquired physical or mental disabilities, resulting from or
16 secondary to injury or disease. The "practice of physical
17 therapy" means the practice of the health specialty and
18 encompasses physical therapy evaluation, treatment planning,
19 treatment administration, instruction and consultative services,
20 including:

21 (i) Performing and interpreting tests and
22 measurements as an aid to physical therapy treatment, for the
23 purpose of correcting or alleviating any physical condition and to
24 prevent the development of any physical or mental disability
25 within the scope of physical therapy; and the performance of
26 neuromuscular-skeletal tests and measurements as an aid in
27 diagnosis, evaluation or determination of the existence of and the
28 extent of any body malfunction;

29 (ii) Planning initial and subsequent treatment
30 programs, on the basis of test findings; and

31 (iii) Administering treatment by therapeutic
32 exercise, neurodevelopmental procedures, therapeutic massage,
33 mechanical devices and therapeutic agents which employ the
34 physical, chemical and other properties of air, water, heat, cold,
35 electricity, sound and radiant energy for the purpose of
36 correcting or alleviating any physical condition or preventing the
37 development of any physical or mental disability. The use of
38 roentgen rays and radium for any purpose, and the use of
39 electricity for surgical purposes including cauterization, are not
40 part of physical therapy;

41 (b) "Physical therapist" means a person licensed in
42 this state to practice physical therapy as defined in this
43 chapter, and whose license is in good standing;

44 (c) "Physical therapist assistant" means a health care
45 worker who assists a physical therapist in the provision of
46 physical therapy under the direct, on-site supervision of the
47 physical therapist. The physical therapist assistant may perform
48 physical therapy procedures and related tasks that have been
49 selected and delegated by the supervising physical therapist, but
50 shall not perform the following physical therapy activities:
51 interpretation of referrals; physical therapy initial evaluation
52 and reevaluation; identification, determination or modification of
53 plans of care (including goals and treatment programs); final
54 discharge assessment/evaluation or establishment of the discharge
55 plan; or therapeutic techniques beyond the skill and knowledge of
56 the physical therapist assistant;

57 * * *

58 (d) "Board" means the State Board of Physical Therapy
59 established in Section 73-23-41;

60 (e) "Direct, on-site supervision" means face-to-face
61 oversight by a licensed physical therapist at regular intervals,

62 as prescribed in regulations adopted by the board, of the services
63 provided to a patient by a licensed physical therapist assistant;

64 (f) "Direct supervision" means face-to-face oversight
65 at regular intervals of a physical therapist issued a temporary
66 license under Section 73-23-53(1) by a licensed physical
67 therapist. Such direct supervision shall be in accordance with
68 the regulations adopted by the board.

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

71 73-23-59. (1) Licensees subject to this chapter shall
72 conduct their activities, services and practice in accordance with
73 this chapter and any rules promulgated pursuant hereto. Licensees
74 may be subject to the exercise of the disciplinary sanction
75 enumerated in Section 73-23-64 if the board finds that a licensee
76 is guilty of any of the following:

77 (a) Negligence in the practice or performance of
78 professional services or activities;

79 (b) Engaging in dishonorable, unethical or
80 unprofessional conduct of a character likely to deceive, defraud
81 or harm the public in the course of professional services or
82 activities;

83 (c) Perpetrating or cooperating in fraud or material
84 deception in obtaining or renewing a license or attempting the
85 same;

86 (d) Being convicted of any crime which has a
87 substantial relationship to the licensee's activities and services
88 or an essential element of which is misstatement, fraud or
89 dishonesty;

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

92 (f) Engaging in or permitting the performance of
93 unacceptable services personally or by others working under the
94 licensee's supervision due to the licensee's deliberate or

95 negligent act or acts or failure to act, regardless of whether
96 actual damage or damages to the public is established;

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

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

109 (i) Making differential, detrimental treatment against
110 any person because of race, color, creed, sex, religion or
111 national origin;

112 (j) Engaging in lewd conduct in connection with
113 professional services or activities;

114 (k) Engaging in false or misleading advertising;

115 (l) Contracting, assisting or permitting unlicensed
116 persons to perform services for which a license is required under
117 this chapter;

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

120 (n) Revealing confidential information except as may be
121 required by law;

122 (o) Failing to inform clients of the fact that the
123 client no longer needs the services or professional assistance of
124 the licensee;

125 (p) Charging excessive or unreasonable fees or engaging
126 in unreasonable collection practices;

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

130 (r) * * * For acting as a physical therapist assistant
131 other than under the direct, on-site supervision of a licensed
132 physical therapist;

133 (s) Violations of the current codes of conduct for
134 physical therapists and physical therapy assistants adopted by the
135 American Physical Therapy Association;

136 (t) Violations of any rules or regulations promulgated
137 pursuant to this chapter.

138 (2) The board may order a licensee to submit to a reasonable
139 physical or mental examination if the licensee's physical or
140 mental capacity to practice safely is at issue in a disciplinary
141 proceeding.

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

145 (4) In addition to the reasons specified in subsection (1)
146 of this section, the board shall be authorized to suspend the
147 license of any licensee for being out of compliance with an order
148 for support, as defined in Section 93-11-153. The procedure for
149 suspension of a license for being out of compliance with an order
150 for support, and the procedure for the reissuance or reinstatement
151 of a license suspended for that purpose, and the payment of any
152 fees for the reissuance or reinstatement of a license suspended
153 for that purpose, shall be governed by Section 93-11-157 or
154 93-11-163, as the case may be. If there is any conflict between
155 any provision of Section 93-11-157 or 93-11-163 and any provision
156 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
157 as the case may be, shall control.

158 **SECTION 3.** This act shall take effect and be in force from
159 and after July 1, 2006.