

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 1061

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 OTHER PRACTITIONER WITHOUT ANOTHER  
5 REFERRAL UNDER CERTAIN CONDITIONS; TO AUTHORIZE A LICENSED  
6 PHYSICAL THERAPIST TO EXAMINE AND TREAT PERSONS WITHOUT SUCH A  
7 PREVIOUS DIAGNOSIS AND REFERRAL UNDER CERTAIN CONDITIONS; AND FOR  
8 RELATED 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 podiatrist whose license is in good standing any person whose

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

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

70 73-23-59. (1) Licensees subject to this chapter shall  
71 conduct their activities, services and practice in accordance with  
72 this chapter and any rules promulgated pursuant hereto. Licensees  
73 may be subject to the exercise of the disciplinary sanction  
74 enumerated in Section 73-23-64 if the board finds that a licensee  
75 is guilty of any of the following:

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

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

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

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

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

91 (f) Engaging in or permitting the performance of  
92 unacceptable services personally or by others working under the  
93 licensee's supervision due to the licensee's deliberate or  
94 negligent act or acts or failure to act, regardless of whether  
95 actual damage or damages to the public is established;

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

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

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

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

113           (k) Engaging in false or misleading advertising;

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

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

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

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

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

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

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

138           (s) Violations of the current codes of conduct for  
139 physical therapists and physical therapy assistants adopted by the  
140 American Physical Therapy Association;

141           (t) Violations of any rules or regulations promulgated  
142 pursuant to this chapter.

143           (2) The board may order a licensee to submit to a reasonable  
144 physical or mental examination if the licensee's physical or  
145 mental capacity to practice safely is at issue in a disciplinary  
146 proceeding.

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

150           (4) In addition to the reasons specified in subsection (1)  
151 of this section, the board shall be authorized to suspend the  
152 license of any licensee for being out of compliance with an order  
153 for support, as defined in Section 93-11-153. The procedure for  
154 suspension of a license for being out of compliance with an order  
155 for support, and the procedure for the reissuance or reinstatement  
156 of a license suspended for that purpose, and the payment of any  
157 fees for the reissuance or reinstatement of a license suspended  
158 for that purpose, shall be governed by Section 93-11-157 or  
159 93-11-163, as the case may be. If there is any conflict between  
160 any provision of Section 93-11-157 or 93-11-163 and any provision

161 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
162 as the case may be, shall control.

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