

By: Senator(s) Nunnelee (By Request)

To: Public Health and Welfare

SENATE BILL NO. 2186

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, 2006.