

By: Senator(s) Nunnelee, Dearing, Burton,
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To: Public Health and
Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2677

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; TO AMEND SECTION
8 73-23-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LICENSED PHYSICAL
9 THERAPISTS TO SUPERVISE UP TO FOUR PHYSICAL THERAPIST ASSISTANTS;
10 AND FOR RELATED PURPOSES.

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

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

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

29 (2) The board shall aid the state's attorneys of the various
30 counties in the enforcement of the provisions of this chapter and
31 the prosecution of any violations thereof. In addition to the

32 criminal penalties provided by this chapter, the civil remedy of
33 injunction shall be available to restrain and enjoin violations of
34 any provisions of this chapter without proof of actual damages
35 sustained by any person.

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

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

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

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

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

63 (c) A physical therapist shall refer to a patient's
64 physician, dentist, osteopath, chiropractor, nurse practitioner or

65 a podiatrist whose license is in good standing any person whose
66 condition, for which physical therapy services are rendered
67 pursuant to this subsection, has not been documented to be
68 progressing toward documented treatment goals after fourteen (14)
69 visits or thirty (30) days, whichever shall come first.

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

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

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

83 (a) Negligence in the practice or performance of
84 professional services or activities;

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

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

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

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

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

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

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

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

118 (j) Engaging in lewd conduct in connection with
119 professional services or activities;

120 (k) Engaging in false or misleading advertising;

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

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

126 (n) Revealing confidential information except as may be
127 required by law;

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

131 (p) Charging excessive or unreasonable fees or engaging
132 in unreasonable collection practices;

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

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

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

148 (t) Violations of any rules or regulations promulgated
149 pursuant to this chapter.

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

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

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

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

170 **SECTION 3.** Section 73-23-33, Mississippi Code of 1972, is
171 amended as follows:

172 73-23-33. As used in this chapter unless the context or
173 subject matter otherwise requires:

174 (a) "Physical therapy" or "physiotherapy," which terms
175 are deemed identical and interchangeable, means the art and
176 science of a health specialty concerned with the prevention of
177 disability, and the physical rehabilitation for congenital or
178 acquired physical or mental disabilities, resulting from or
179 secondary to injury or disease. The "practice of physical
180 therapy" means the practice of the health specialty and
181 encompasses physical therapy evaluation, treatment planning,
182 treatment administration, instruction and consultative services,
183 including:

184 (i) Performing and interpreting tests and
185 measurements as an aid to physical therapy treatment, for the
186 purpose of correcting or alleviating any physical condition and to
187 prevent the development of any physical or mental disability
188 within the scope of physical therapy; and the performance of
189 neuromuscular-skeletal tests and measurements as an aid in
190 diagnosis, evaluation or determination of the existence of and the
191 extent of any body malfunction;

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

194 (iii) Administering treatment by therapeutic
195 exercise, neurodevelopmental procedures, therapeutic massage,
196 mechanical devices and therapeutic agents which employ the

197 physical, chemical and other properties of air, water, heat, cold,
198 electricity, sound and radiant energy for the purpose of
199 correcting or alleviating any physical condition or preventing the
200 development of any physical or mental disability. The use of
201 roentgen rays and radium for any purpose, and the use of
202 electricity for surgical purposes including cauterization, are not
203 part of physical therapy;

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

207 (c) "Physical therapist assistant" means a health care
208 worker who assists a physical therapist in the provision of
209 physical therapy under the direct, on-site supervision of the
210 physical therapist. The physical therapist assistant may perform
211 physical therapy procedures and related tasks that have been
212 selected and delegated by the supervising physical therapist, but
213 shall not perform the following physical therapy activities:
214 interpretation of referrals; physical therapy initial evaluation
215 and reevaluation; identification, determination or modification of
216 plans of care (including goals and treatment programs); final
217 discharge assessment/evaluation or establishment of the discharge
218 plan; or therapeutic techniques beyond the skill and knowledge of
219 the physical therapist assistant;

220 (d) "Referral" means the written or oral designation of
221 physical therapy services by a doctor of medicine, dentistry,
222 osteopathy, podiatry or chiropractic, or by a nurse practitioner,
223 holding a license in good standing; and the instruction therefor
224 may be as detailed or as general as the doctor or nurse
225 practitioner in his or her sound discretion deems necessary in the
226 particular case;

227 (e) "Board" means the State Board of Physical Therapy
228 established in Section 73-23-41;

229 (f) "Direct, on-site supervision" means face-to-face
230 oversight by a licensed physical therapist at regular intervals,
231 as prescribed in regulations adopted by the board, of the services
232 provided to a patient by a licensed physical therapist assistant.

233 (g) "Direct supervision" means face-to-face oversight
234 at regular intervals of a physical therapist issued a temporary
235 license under Section 73-23-53(1) by a licensed physical
236 therapist. Such direct supervision shall be in accordance with
237 the regulations adopted by the board; provided, however, that a
238 licensed physical therapist shall be authorized to have direct
239 supervision over not more than four (4) physical therapist
240 assistants at one (1) time.

241 **SECTION 4.** This act shall take effect and be in force from
242 and after July 1, 2006.