

House Amendments to Senate Bill No. 2677

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

11 73-23-35. (1) It shall be unlawful for any person,
12 corporation or association to, in any manner, represent himself or
13 itself as a physical therapist, a physical therapist assistant or
14 someone who provides physical therapy services, or use in
15 connection with his or its name the words or letters
16 physiotherapist, registered physical therapist, R.P.T., licensed
17 physical therapist assistant, L.P.T.A., or any other letters,
18 words, abbreviations or insignia, indicating or implying that he
19 or it is a physical therapist, a physical therapist assistant or
20 provides physical therapy services, without a valid existing
21 license as a physical therapist or as a physical therapist
22 assistant, as the case may be, issued to him or it pursuant to
23 this chapter. It shall be unlawful to employ an unlicensed
24 physical therapist or physical therapist assistant to provide
25 physical therapy services.

26 (2) The board shall aid the state's attorneys of the various
27 counties in the enforcement of the provisions of this chapter and
28 the prosecution of any violations thereof. In addition to the
29 criminal penalties provided by this chapter, the civil remedy of
30 injunction shall be available to restrain and enjoin violations of
31 any provisions of this chapter without proof of actual damages
32 sustained by any person.

33 (3) A physical therapist licensed under this chapter shall
34 not perform physical therapy services without a prescription or

35 referral from a person licensed as a physician, dentist,
36 osteopath, podiatrist, chiropractor or nurse practitioner.

37 However, a physical therapist licensed under this chapter may
38 perform physical therapy services without a prescription or
39 referral under the following circumstances:

40 (a) To children with a diagnosed developmental
41 disability pursuant to the patient's plan of care.

42 (b) As part of a home health care agency pursuant to
43 the patient's plan of care.

44 (c) To a patient in a nursing home pursuant to the
45 patient's plan of care.

46 (d) Related to conditioning or to providing education
47 or activities in a wellness setting for the purpose of injury
48 prevention, reduction of stress or promotion of fitness.

49 (e) (i) To an individual for a previously diagnosed
50 condition or conditions for which physical therapy services are
51 appropriate after informing the health care provider rendering the
52 diagnosis. The diagnosis must have been made within the previous
53 one hundred eighty (180) days. The physical therapist shall
54 provide the health care provider who rendered the diagnosis with a
55 plan of care for physical therapy services within the first
56 fifteen (15) days of physical therapy intervention.

57 (ii) Nothing in this chapter shall create
58 liability of any kind for the health care provider rendering the
59 diagnosis under this paragraph (e) for a condition, illness, or
60 injury that manifested itself after the diagnosis, or for any
61 alleged damages as a result of physical therapy services performed
62 without a prescription or referral from a person licensed as a
63 physician, dentist, osteopath, podiatrist, chiropractor or nurse
64 practitioner, the diagnosis and/or prescription for physical
65 therapy services having been rendered with reasonable care.

66 (4) Physical therapy services performed without a
67 prescription or referral from a person licensed as a physician,
68 dentist, osteopath, podiatrist, chiropractor or nurse practitioner
69 shall not be construed to mandate coverage for physical therapy

70 services under any health care plan, insurance policy, or workers'
71 compensation or circumvent any requirement for preauthorization of
72 services in accordance with any health care plan, insurance policy
73 or workers' compensation.

74 (5) Nothing in this section shall restrict the Division of
75 Medicaid from setting rules and regulations regarding the coverage
76 of physical therapy services and nothing in this section shall
77 amend or change the Division of Medicaid's schedule of benefits,
78 exclusions and/or limitations related to physical therapy services
79 as determined by state or federal regulations and state and
80 federal law.

81 (6) This section shall stand repealed on July 1, 2008.

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

84 73-23-59. (1) Licensees subject to this chapter shall
85 conduct their activities, services and practice in accordance with
86 this chapter and any rules promulgated pursuant hereto. Licensees
87 may be subject to the exercise of the disciplinary sanction
88 enumerated in Section 73-23-64 if the board finds that a licensee
89 is guilty of any of the following:

90 (a) Negligence in the practice or performance of
91 professional services or activities;

92 (b) Engaging in dishonorable, unethical or
93 unprofessional conduct of a character likely to deceive, defraud
94 or harm the public in the course of professional services or
95 activities;

96 (c) Perpetrating or cooperating in fraud or material
97 deception in obtaining or renewing a license or attempting the
98 same;

99 (d) Being convicted of any crime which has a
100 substantial relationship to the licensee's activities and services
101 or an essential element of which is misstatement, fraud or
102 dishonesty;

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

105 (f) Engaging in or permitting the performance of
106 unacceptable services personally or by others working under the
107 licensee's supervision due to the licensee's deliberate or
108 negligent act or acts or failure to act, regardless of whether
109 actual damage or damages to the public is established;

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

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

122 (i) Making differential, detrimental treatment against
123 any person because of race, color, creed, sex, religion or
124 national origin;

125 (j) Engaging in lewd conduct in connection with
126 professional services or activities;

127 (k) Engaging in false or misleading advertising;

128 (l) Contracting, assisting or permitting unlicensed
129 persons to perform services for which a license is required under
130 this chapter;

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

133 (n) Revealing confidential information except as may be
134 required by law;

135 (o) Failing to inform clients of the fact that the
136 client no longer needs the services or professional assistance of
137 the licensee;

138 (p) Charging excessive or unreasonable fees or engaging
139 in unreasonable collection practices;

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

143 (r) Except as authorized in Section 73-23-35(3), for
144 applying or offering to apply physical therapy, exclusive of
145 initial evaluation or screening and exclusive of education or
146 consultation for the prevention of physical and mental disability
147 within the scope of physical therapy, other than upon the referral
148 of a licensed physician, dentist, osteopath, podiatrist,
149 chiropractor or nurse practitioner; or for acting as a physical
150 therapist assistant other than under the direct, on-site
151 supervision of a licensed physical therapist;

152 (s) Violations of the current codes of conduct for
153 physical therapists and physical therapy assistants adopted by the
154 American Physical Therapy Association;

155 (t) Violations of any rules or regulations promulgated
156 pursuant to this chapter.

157 (2) The board may order a licensee to submit to a reasonable
158 physical or mental examination if the licensee's physical or
159 mental capacity to practice safely is at issue in a disciplinary
160 proceeding.

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

164 (4) In addition to the reasons specified in subsection (1)
165 of this section, the board shall be authorized to suspend the
166 license of any licensee for being out of compliance with an order
167 for support, as defined in Section 93-11-153. The procedure for
168 suspension of a license for being out of compliance with an order
169 for support, and the procedure for the reissuance or reinstatement
170 of a license suspended for that purpose, and the payment of any
171 fees for the reissuance or reinstatement of a license suspended
172 for that purpose, shall be governed by Section 93-11-157 or
173 93-11-163, as the case may be. If there is any conflict between
174 any provision of Section 93-11-157 or 93-11-163 and any provision

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

177 (5) This section shall stand repealed on July 1, 2008.

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

180 73-23-33. As used in this chapter unless the context or
181 subject matter otherwise requires:

182 (a) "Physical therapy" or "physiotherapy," which terms
183 are deemed identical and interchangeable, means the art and
184 science of a health specialty concerned with the prevention of
185 disability, and the physical rehabilitation for congenital or
186 acquired physical or mental disabilities, resulting from or
187 secondary to injury or disease. The "practice of physical
188 therapy" means the practice of the health specialty and
189 encompasses physical therapy evaluation, treatment planning,
190 treatment administration, instruction and consultative services,
191 including:

192 (i) Performing and interpreting tests and
193 measurements as an aid to physical therapy treatment, for the
194 purpose of correcting or alleviating any physical condition and to
195 prevent the development of any physical or mental disability
196 within the scope of physical therapy; and the performance of
197 neuromuscular-skeletal tests and measurements as an aid in
198 diagnosis, evaluation or determination of the existence of and the
199 extent of any body malfunction;

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

202 (iii) Administering treatment by therapeutic
203 exercise, neurodevelopmental procedures, therapeutic massage,
204 mechanical devices and therapeutic agents which employ the
205 physical, chemical and other properties of air, water, heat, cold,
206 electricity, sound and radiant energy for the purpose of
207 correcting or alleviating any physical condition or preventing the
208 development of any physical or mental disability. The use of
209 roentgen rays and radium for any purpose, and the use of

210 electricity for surgical purposes including cauterization, are not
211 part of physical therapy;

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

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

228 (d) "Referral" means the written or oral designation of
229 physical therapy services by a doctor of medicine, dentistry,
230 osteopathy, podiatry or chiropractic, or by a nurse practitioner,
231 holding a license in good standing; and the instruction therefor
232 may be as detailed or as general as the doctor or nurse
233 practitioner in his or her sound discretion deems necessary in the
234 particular case;

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

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

241 (g) "Direct supervision" means face-to-face oversight
242 at regular intervals of a physical therapist issued a temporary
243 license under Section 73-23-53(1) by a licensed physical
244 therapist. Such direct supervision shall be in accordance with

245 the regulations adopted by the board; however, a licensed physical
246 therapist shall be authorized to have direct supervision over not
247 more than four (4) physical therapist assistants at one time.

248 This section shall stand repealed on July 1, 2008.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 PROVIDE PHYSICAL THERAPY SERVICES WITHOUT A PRESCRIPTION OR
4 REFERRAL FROM A HEALTH CARE PROVIDER UNDER CERTAIN CIRCUMSTANCES;
5 TO AMEND SECTION 73-23-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
6 LICENSED PHYSICAL THERAPISTS TO SUPERVISE UP TO FOUR PHYSICAL
7 THERAPIST ASSISTANTS; AND FOR RELATED PURPOSES.

HR03\SB2677PH.J

Don Richardson
Clerk of the House of Representatives