

By: Representatives Mims, Dixon, Gibbs
(72nd)

To: Public Health and Human
Services

HOUSE BILL NO. 309

1 AN ACT TO ENACT INTO LAW THE PHYSICAL THERAPY LICENSURE
2 COMPACT AND PROVIDE THAT THE STATE OF MISSISSIPPI ENTERS THE
3 COMPACT WITH OTHER STATES THAT JOIN IN THE COMPACT; TO AMEND
4 SECTIONS 73-23-33, 73-23-35, 73-23-39, 73-23-43, 73-23-47,
5 73-23-59 AND 73-23-64, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
6 PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS 73-23-49 AND
7 73-23-51, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
8 AMENDMENT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The Physical Therapy Licensure Compact is enacted
11 into law and entered into by this state with any and all states
12 legally joining in the Compact in accordance with its terms, in
13 the form substantially as follows:

14 **PHYSICAL THERAPY LICENSURE COMPACT**

15 **SECTION 1.**

16 **PURPOSE**

17 The purpose of this Compact is to facilitate interstate
18 practice of physical therapy with the goal of improving public
19 access to physical therapy services. The practice of physical
20 therapy occurs in the state where the patient/client is located at
21 the time of the patient/client encounter. The Compact preserves



the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

2. Enhance the states' ability to protect the public's health and safety;

3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;

4. Support spouses of relocating military members;

5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and

6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

SECTION 2.

DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

1. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.



46 2. "Adverse action" means disciplinary action taken by a
47 physical therapy licensing board based upon misconduct,
48 unacceptable performance, or a combination of both.

49 3. "Alternative program" means a nondisciplinary monitoring
50 or practice remediation process approved by a physical therapy
51 licensing board. This includes, but is not limited to, substance
52 abuse issues.

53 4. "Compact privilege" means the authorization granted by a
54 remote state to allow a licensee from another member state to
55 practice as a physical therapist or work as a physical therapist
56 assistant in the remote state under its laws and rules. The
57 practice of physical therapy occurs in the member state where the
58 patient/client is located at the time of the patient/client
59 encounter.

60 5. "Continuing competence" means a requirement, as a
61 condition of license renewal, to provide evidence of participation
62 in, and/or completion of, educational and professional activities
63 relevant to practice or area of work.

64 6. "Data system" means a repository of information about
65 licensees, including examination, licensure, investigative,
66 compact privilege, and adverse action.

67 7. "Encumbered license" means a license that a physical
68 therapy licensing board has limited in any way.



69 8. "Executive Board" means a group of directors elected or
70 appointed to act on behalf of, and within the powers granted to
71 them by, the Commission.

72 9. "Home state" means the member state that is the
73 licensee's primary state of residence.

74 10. "Investigative information" means information, records,
75 and documents received or generated by a physical therapy
76 licensing board pursuant to an investigation.

77 11. "Jurisprudence requirement" means the assessment of an
78 individual's knowledge of the laws and rules governing the
79 practice of physical therapy in a state.

80 12. "Licensee" means an individual who currently holds an
81 authorization from the state to practice as a physical therapist
82 or to work as a physical therapist assistant.

83 13. "Member state" means a state that has enacted the
84 Compact.

85 14. "Party state" means any member state in which a licensee
86 holds a current license or compact privilege or is applying for a
87 license or compact privilege.

88 15. "Physical therapist" means an individual who is licensed
89 by a state to practice physical therapy.

90 16. "Physical therapist assistant" means an individual who
91 is licensed/certified by a state and who assists the physical
92 therapist in selected components of physical therapy.



17. "Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

18. "Physical Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

19. "Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

20. "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

21. "Rule" means a regulation, principle, or directive promulgated by the Commission that has the force of law.

22. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

SECTION 3.

STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a state must:

1. Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;



- 118 2. Have a mechanism in place for receiving and
119 investigating complaints about licensees;
- 120 3. Notify the Commission, in compliance with the terms
121 of the Compact and rules, of any adverse action or the
122 availability of investigative information regarding a licensee;
- 123 4. Fully implement a criminal background check
124 requirement, within a time frame established by rule, by receiving
125 the results of the Federal Bureau of Investigation record search
126 on criminal background checks and use the results in making
127 licensure decisions in accordance with Section 3.B.;
- 128 5. Comply with the rules of the Commission;
- 129 6. Utilize a recognized national examination as a
130 requirement for licensure pursuant to the rules of the Commission;
131 and
- 132 7. Have continuing competence requirements as a
133 condition for license renewal.

134 B. Upon adoption of this Compact, the member state shall
135 have the authority to obtain biometric-based information from each
136 physical therapy licensure applicant and submit this information
137 to the Federal Bureau of Investigation for a criminal background
138 check in accordance with 28 U.S.C. Section 534 and 42 U.S.C.
139 Section 14616.

140 C. A member state shall grant the compact privilege to a
141 licensee holding a valid unencumbered license in another member
142 state in accordance with the terms of the Compact and rules.



D. Member states may charge a fee for granting a compact privilege.

SECTION 4.

COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

1. Hold a license in the home state;
2. Have no encumbrance on any state license;
3. Be eligible for a compact privilege in any member state in accordance with Section 4.D, G and H;
4. Have not had any adverse action against any license or compact privilege within the previous two (2) years;
5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);
6. Pay any applicable fees, including any state fee, for the compact privilege;
7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and
8. Report to the Commission adverse action taken by any nonmember state within thirty (30) days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the



requirements of Section 4.A to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and
2. Two (2) years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4.A to obtain a compact privilege in any remote state.



G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;

2. All fines have been paid; and

3. Two (2) years have elapsed from the date of the adverse action.

H. Once the requirements of Section 4.G have been met, the licensee must meet the requirements in Section 4.A to obtain a compact privilege in a remote state.

SECTION 5.

ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one (1) of the following as the home state:

A. Home of record;

B. Permanent Change of Station (PCS); or

C. State of current residence if it is different than the PCS state or home of record.

SECTION 6.

ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.



214 B. A home state may take adverse action based on the
215 investigative information of a remote state, so long as the home
216 state follows its own procedures for imposing adverse action.

217 C. Nothing in this Compact shall override a member state's
218 decision that participation in an alternative program may be used
219 in lieu of adverse action and that such participation shall remain
220 nonpublic if required by the member state's laws. Member states
221 must require licensees who enter any alternative programs in lieu
222 of discipline to agree not to practice in any other member state
223 during the term of the alternative program without prior
224 authorization from such other member state.

225 D. Any member state may investigate actual or alleged
226 violations of the statutes and rules authorizing the practice of
227 physical therapy in any other member state in which a physical
228 therapist or physical therapist assistant holds a license or
229 compact privilege.

230 E. A remote state shall have the authority to:

231 1. Take adverse actions as set forth in Section 4.D
232 against a licensee's compact privilege in the state;

233 2. Issue subpoenas for both hearings and investigations
234 that require the attendance and testimony of witnesses, and the
235 production of evidence. Subpoenas issued by a physical therapy
236 licensing board in a party state for the attendance and testimony
237 of witnesses, and/or the production of evidence from another party
238 state, shall be enforced in the latter state by any court of



competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

F. Joint Investigations.

1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

SECTION 7.

ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission:

1. The Commission is an instrumentality of the Compact states.



263 2. Venue is proper and judicial proceedings by or
264 against the Commission shall be brought solely and exclusively in
265 a court of competent jurisdiction where the principal office of
266 the Commission is located. The Commission may waive venue and
267 jurisdictional defenses to the extent it adopts or consents to
268 participate in alternative dispute resolution proceedings.

269 3. Nothing in this Compact shall be construed to be a
270 waiver of sovereign immunity.

271 B. Membership, Voting, and Meetings.

272 1. Each member state shall have and be limited to one
273 (1) delegate selected by that member state's licensing board.

274 2. The delegate shall be a current member of the
275 licensing board, who is a physical therapist, physical therapist
276 assistant, public member, or the board administrator.

277 3. Any delegate may be removed or suspended from office
278 as provided by the law of the state from which the delegate is
279 appointed.

280 4. The member state board shall fill any vacancy
281 occurring in the Commission.

282 5. Each delegate shall be entitled to one (1) vote with
283 regard to the promulgation of rules and creation of bylaws and
284 shall otherwise have an opportunity to participate in the business
285 and affairs of the Commission.

286 6. A delegate shall vote in person or by such other
287 means as provided in the bylaws. The bylaws may provide for



delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;



313 9. Hire employees, elect or appoint officers, fix
314 compensation, define duties, grant such individuals appropriate
315 authority to carry out the purposes of the Compact, and to
316 establish the Commission's personnel policies and programs
317 relating to conflicts of interest, qualifications of personnel,
318 and other related personnel matters;

319 10. Accept any and all appropriate donations and grants
320 of money, equipment, supplies, materials and services, and to
321 receive, utilize and dispose of the same; provided that at all
322 times the Commission shall avoid any appearance of impropriety
323 and/or conflict of interest;

324 11. Lease, purchase, accept appropriate gifts or
325 donations of, or otherwise to own, hold, improve or use, any
326 property, real, personal or mixed; provided that at all times the
327 Commission shall avoid any appearance of impropriety;

328 12. Sell, convey, mortgage, pledge, lease, exchange,
329 abandon, or otherwise dispose of any property real, personal, or
330 mixed;

331 13. Establish a budget and make expenditures;

332 14. Borrow money;

333 15. Appoint committees, including standing committees
334 comprised of members, state regulators, state legislators or their
335 representatives, and consumer representatives, and such other
336 interested persons as may be designated in this Compact and the
337 bylaws;



338 16. Provide and receive information from, and cooperate
339 with, law enforcement agencies;

340 17. Establish and elect an Executive Board; and

341 18. Perform such other functions as may be necessary or
342 appropriate to achieve the purposes of this Compact consistent
343 with the state regulation of physical therapy licensure and
344 practice.

345 D. The Executive Board.

346 The Executive Board shall have the power to act on behalf of
347 the Commission according to the terms of this Compact.

348 1. The Executive Board shall be comprised of nine (9)
349 members:

350 a. Seven (7) voting members who are elected by the
351 Commission from the current membership of the Commission;

352 b. One (1) ex-officio, nonvoting member from the
353 recognized national physical therapy professional association; and

354 c. One (1) ex-officio, nonvoting member from the
355 recognized membership organization of the physical therapy
356 licensing boards.

357 2. The ex-officio members will be selected by their
358 respective organizations.

359 3. The Commission may remove any member of the
360 Executive Board as provided in bylaws.

361 4. The Executive Board shall meet at least annually.



362 5. The Executive Board shall have the following duties
363 and responsibilities:

364 a. Recommend to the entire Commission changes to
365 the rules or bylaws, changes to this Compact legislation, fees
366 paid by Compact member states such as annual dues, and any
367 commission Compact fee charged to licensees for the compact
368 privilege;

369 b. Ensure Compact administration services are
370 appropriately provided, contractual or otherwise;

371 c. Prepare and recommend the budget;

372 d. Maintain financial records on behalf of the
373 Commission;

374 e. Monitor Compact compliance of member states and
375 provide compliance reports to the Commission;

376 f. Establish additional committees as necessary;
377 and

378 g. Other duties as provided in rules or bylaws.

379 E. Meetings of the Commission.

380 1. All meetings shall be open to the public, and public
381 notice of meetings shall be given in the same manner as required
382 under the rulemaking provisions in Section 9.

383 2. The Commission or the Executive Board or other
384 committees of the Commission may convene in a closed, nonpublic
385 meeting if the Commission or Executive Board or other committees
386 of the Commission must discuss:



387 a. Noncompliance of a member state with its
388 obligations under the Compact;
389 b. The employment, compensation, discipline or
390 other matters, practices or procedures related to specific
391 employees or other matters related to the Commission's internal
392 personnel practices and procedures;
393 c. Current, threatened, or reasonably anticipated
394 litigation;
395 d. Negotiation of contracts for the purchase,
396 lease, or sale of goods, services, or real estate;
397 e. Accusing any person of a crime or formally
398 censuring any person;
399 f. Disclosure of trade secrets or commercial or
400 financial information that is privileged or confidential;
401 g. Disclosure of information of a personal nature
402 where disclosure would constitute a clearly unwarranted invasion
403 of personal privacy;
404 h. Disclosure of investigative records compiled
405 for law enforcement purposes;
406 i. Disclosure of information related to any
407 investigative reports prepared by or on behalf of or for use of
408 the Commission or other committee charged with responsibility of
409 investigation or determination of compliance issues pursuant to
410 the Compact; or



j. Matters specifically exempted from disclosure
by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed
pursuant to this provision, the Commission's legal counsel or
designee shall certify that the meeting may be closed and shall
reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and
clearly describe all matters discussed in a meeting and shall
provide a full and accurate summary of actions taken, and the
reasons therefore, including a description of the views expressed.
All documents considered in connection with an action shall be
identified in such minutes. All minutes and documents of a closed
meeting shall remain under seal, subject to release by a majority
vote of the Commission or order of a court of competent
jurisdiction.

F. Financing of the Commission.

1. The Commission shall pay, or provide for the payment
of, the reasonable expenses of its establishment, organization,
and ongoing activities.

2. The Commission may accept any and all appropriate
revenue sources, donations, and grants of money, equipment,
supplies, materials, and services.

3. The Commission may levy on and collect an annual
assessment from each member state or impose fees on other parties
to cover the cost of the operations and activities of the



Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification.

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person



461 against whom the claim is made had a reasonable basis for
462 believing occurred within the scope of Commission employment,
463 duties or responsibilities; provided that nothing in this
464 paragraph shall be construed to protect any such person from suit
465 and/or liability for any damage, loss, injury, or liability caused
466 by the intentional or willful or wanton misconduct of that person.

467 2. The Commission shall defend any member, officer,
468 executive director, employee or representative of the Commission
469 in any civil action seeking to impose liability arising out of any
470 actual or alleged act, error, or omission that occurred within the
471 scope of Commission employment, duties, or responsibilities, or
472 that the person against whom the claim is made had a reasonable
473 basis for believing occurred within the scope of Commission
474 employment, duties, or responsibilities; provided that nothing
475 herein shall be construed to prohibit that person from retaining
476 his or her own counsel; and provided further, that the actual or
477 alleged act, error, or omission did not result from that person's
478 intentional or willful or wanton misconduct.

479 3. The Commission shall indemnify and hold harmless any
480 member, officer, executive director, employee, or representative
481 of the Commission for the amount of any settlement or judgment
482 obtained against that person arising out of any actual or alleged
483 act, error or omission that occurred within the scope of
484 Commission employment, duties, or responsibilities, or that such
485 person had a reasonable basis for believing occurred within the



scope of Commission employment, duties, or responsibilities,
provided that the actual or alleged act, error, or omission did
not result from the intentional or willful or wanton misconduct of
that person.

SECTION 8.

DATA SYSTEM

A. The Commission shall provide for the development,
maintenance, and utilization of a coordinated database and
reporting system containing licensure, adverse action, and
investigative information on all licensed individuals in member
states.

B. Notwithstanding any other provision of state law to the
contrary, a member state shall submit a uniform data set to the
data system on all individuals to whom this Compact is applicable
as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact
privilege;
4. Nonconfidential information related to alternative
program participation;
5. Any denial of application for licensure, and the
reason(s) for such denial; and



509 6. Other information that may facilitate the
510 administration of this Compact, as determined by the rules of the
511 Commission.

512 C. Investigative information pertaining to a licensee in any
513 member state will only be available to other party states.

514 D. The Commission shall promptly notify all member states of
515 any adverse action taken against a licensee or an individual
516 applying for a license. Adverse action information pertaining to
517 a licensee in any member state will be available to any other
518 member state.

519 E. Member states contributing information to the data system
520 may designate information that may not be shared with the public
521 without the express permission of the contributing state.

522 F. Any information submitted to the data system that is
523 subsequently required to be expunged by the laws of the member
524 state contributing the information shall be removed from the data
525 system.

526 **SECTION 9.**

527 **RULEMAKING**

528 A. The Commission shall exercise its rulemaking powers
529 pursuant to the criteria set forth in this section and the rules
530 adopted thereunder. Rules and amendments shall become binding as
531 of the date specified in each rule or amendment.

532 B. If a majority of the legislatures of the member states
533 rejects a rule, by enactment of a statute or resolution in the



534 same manner used to adopt the Compact within four (4) years of the
535 date of adoption of the rule, then such rule shall have no further
536 force and effect in any member state.

537 C. Rules or amendments to the rules shall be adopted at a
538 regular or special meeting of the Commission.

539 D. Prior to promulgation and adoption of a final rule or
540 rules by the Commission, and at least thirty (30) days in advance
541 of the meeting at which the rule will be considered and voted
542 upon, the Commission shall file a Notice of Proposed Rulemaking:

543 1. On the website of the Commission or other publicly
544 accessible platform; and

545 2. On the website of each member state physical therapy
546 licensing board or other publicly accessible platform or the
547 publication in which each state would otherwise publish proposed
548 rules.

549 E. The Notice of Proposed Rulemaking shall include:

550 1. The proposed time, date, and location of the meeting
551 in which the rule will be considered and voted upon;

552 2. The text of the proposed rule or amendment and the
553 reason for the proposed rule;

554 3. A request for comments on the proposed rule from any
555 interested person; and

556 4. The manner in which interested persons may submit
557 notice to the Commission of their intention to attend the public
558 hearing and any written comments.



F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;
2. A state or federal governmental subdivision or agency; or
3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.



583 3. All hearings will be recorded. A copy of the
584 recording will be made available on request.

585 4. Nothing in this section shall be construed as
586 requiring a separate hearing on each rule. Rules may be grouped
587 for the convenience of the Commission at hearings required by this
588 section.

589 I. Following the scheduled hearing date, or by the close of
590 business on the scheduled hearing date if the hearing was not
591 held, the Commission shall consider all written and oral comments
592 received.

593 J. If no written notice of intent to attend the public
594 hearing by interested parties is received, the Commission may
595 proceed with promulgation of the proposed rule without a public
596 hearing.

597 K. The Commission shall, by majority vote of all members,
598 take final action on the proposed rule and shall determine the
599 effective date of the rule, if any, based on the rulemaking record
600 and the full text of the rule.

601 L. Upon determination that an emergency exists, the
602 Commission may consider and adopt an emergency rule without prior
603 notice, opportunity for comment, or hearing, provided that the
604 usual rulemaking procedures provided in the Compact and in this
605 section shall be retroactively applied to the rule as soon as
606 reasonably possible, in no event later than ninety (90) days after
607 the effective date of the rule. For the purposes of this



608 provision, an emergency rule is one that must be adopted
609 immediately in order to:

- 610 1. Meet an imminent threat to public health, safety, or
611 welfare;
- 612 2. Prevent a loss of Commission or member state funds;
- 613 3. Meet a deadline for the promulgation of an
614 administrative rule that is established by federal law or rule; or
- 615 4. Protect public health and safety.

616 M. The Commission or an authorized committee of the
617 Commission may direct revisions to a previously adopted rule or
618 amendment for purposes of correcting typographical errors, errors
619 in format, errors in consistency, or grammatical errors. Public
620 notice of any revisions shall be posted on the website of the
621 Commission. The revision shall be subject to challenge by any
622 person for a period of thirty (30) days after posting. The
623 revision may be challenged only on grounds that the revision
624 results in a material change to a rule. A challenge shall be made
625 in writing, and delivered to the chair of the Commission prior to
626 the end of the notice period. If no challenge is made, the
627 revision will take effect without further action. If the revision
628 is challenged, the revision may not take effect without the
629 approval of the Commission.

630 **SECTION 10.**

631 **OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

632 A. Oversight.



633 1. The executive, legislative, and judicial branches of
634 state government in each member state shall enforce this Compact
635 and take all actions necessary and appropriate to effectuate the
636 Compact's purposes and intent. The provisions of this Compact and
637 the rules promulgated hereunder shall have standing as statutory
638 law.

639 2. All courts shall take judicial notice of the Compact
640 and the rules in any judicial or administrative proceeding in a
641 member state pertaining to the subject matter of this Compact
642 which may affect the powers, responsibilities or actions of the
643 Commission.

644 3. The Commission shall be entitled to receive service
645 of process in any such proceeding, and shall have standing to
646 intervene in such a proceeding for all purposes. Failure to
647 provide service of process to the Commission shall render a
648 judgment or order void as to the Commission, this Compact, or
649 promulgated rules.

650 B. Default, Technical Assistance, and Termination.

651 1. If the Commission determines that a member state has
652 defaulted in the performance of its obligations or
653 responsibilities under this Compact or the promulgated rules, the
654 Commission shall:

655 a. Provide written notice to the defaulting state
656 and other member states of the nature of the default, the proposed



means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.



682 6. The defaulting state may appeal the action of the
683 Commission by petitioning the United States District Court for the
684 District of Columbia or the federal district where the Commission
685 has its principal offices. The prevailing member shall be awarded
686 all costs of such litigation, including reasonable attorney's
687 fees.

688 C. Dispute Resolution.

689 1. Upon request by a member state, the Commission shall
690 attempt to resolve disputes related to the Compact that arise
691 among member states and between member and nonmember states.

692 2. The Commission shall promulgate a rule providing for
693 both mediation and binding dispute resolution for disputes as
694 appropriate.

695 D. Enforcement.

696 1. The Commission, in the reasonable exercise of its
697 discretion, shall enforce the provisions and rules of this
698 Compact.

699 2. By majority vote, the Commission may initiate legal
700 action in the United States District Court for the District of
701 Columbia or the federal district where the Commission has its
702 principal offices against a member state in default to enforce
703 compliance with the provisions of the Compact and its promulgated
704 rules and bylaws. The relief sought may include both injunctive
705 relief and damages. In the event judicial enforcement is



necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 11.

DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.



731 2. Withdrawal shall not affect the continuing
732 requirement of the withdrawing state's physical therapy licensing
733 board to comply with the investigative and adverse action
734 reporting requirements of this act prior to the effective date of
735 withdrawal.

736 D. Nothing contained in this Compact shall be construed to
737 invalidate or prevent any physical therapy licensure agreement or
738 other cooperative arrangement between a member state and a
739 nonmember state that does not conflict with the provisions of this
740 Compact.

741 E. This Compact may be amended by the member states. No
742 amendment to this Compact shall become effective and binding upon
743 any member state until it is enacted into the laws of all member
744 states.

745 **SECTION 12.**

746 **CONSTRUCTION AND SEVERABILITY**

747 This Compact shall be liberally construed so as to effectuate
748 the purposes thereof. The provisions of this Compact shall be
749 severable and if any phrase, clause, sentence or provision of this
750 Compact is declared to be contrary to the constitution of any
751 party state or of the United States or the applicability thereof
752 to any government, agency, person or circumstance is held invalid,
753 the validity of the remainder of this Compact and the
754 applicability thereof to any government, agency, person or
755 circumstance shall not be affected thereby. If this Compact shall



be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

SECTION 2. Section 73-23-33, Mississippi Code of 1972, is amended as follows:

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

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

(i) Performing and interpreting tests and measurements as an aid to physical therapy treatment, for the purpose of correcting or alleviating any physical condition and to prevent the development of any physical or mental disability within the scope of physical therapy; and the performance of neuromuscular-skeletal tests and measurements as an aid in



780 diagnosis, evaluation or determination of the existence of and the
781 extent of any body malfunction;

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

784 (iii) Administering treatment by therapeutic
785 exercise, neurodevelopmental procedures, therapeutic massage,
786 mechanical devices and therapeutic agents which employ the
787 physical, chemical and other properties of air, water, heat, cold,
788 electricity, sound and radiant energy for the purpose of
789 correcting or alleviating any physical condition or preventing the
790 development of any physical or mental disability. The use of
791 roentgen rays and radium for any purpose, and the use of
792 electricity for surgical purposes including cauterization, are not
793 part of physical therapy;

794 (b) "Physical therapist" means a person licensed in
795 this state to practice physical therapy as defined in this
796 chapter, and whose license is in good standing, or a person who
797 holds the privilege to practice;

798 (c) "Physical therapist assistant" means a health care
799 worker who assists a physical therapist in the provision of
800 physical therapy under the direct, on-site supervision of the
801 physical therapist. The physical therapist assistant may perform
802 physical therapy procedures and related tasks that have been
803 selected and delegated by the supervising physical therapist, but
804 shall not perform the following physical therapy activities:



805 interpretation of referrals; physical therapy initial evaluation
806 and reevaluation; identification, determination or modification of
807 plans of care (including goals and treatment programs); final
808 discharge assessment/evaluation or establishment of the discharge
809 plan; or therapeutic techniques beyond the skill and knowledge of
810 the physical therapist assistant;

811 (d) "Referral" means the written or oral designation of
812 physical therapy services by a doctor of medicine, dentistry,
813 osteopathy, podiatry or chiropractic, or by a physician assistant
814 or nurse practitioner, holding a license in good standing; and the
815 instruction therefor may be as detailed or as general as the
816 doctor, physician assistant or nurse practitioner in his or her
817 sound discretion deems necessary in the particular case;

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

820 (f) "Direct, on-site supervision" means face-to-face
821 oversight by a licensed physical therapist or physical therapist
822 who holds the privilege to practice at regular intervals, as
823 prescribed in regulations adopted by the board, of the services
824 provided to a patient by a licensed physical therapist assistant
825 or physical therapist assistant who holds the privilege to
826 practice;

827 (g) "Direct supervision" means face-to-face oversight
828 at regular intervals of a physical therapist issued a temporary
829 license under Section 73-23-53(1) by a licensed physical



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

(h) "Privilege to practice" means the authorization to practice as a physical therapist in this state or work as a physical therapist assistant in this state under the Physical Therapy Licensure Compact provided for in Section 1 of this act.

(i) "Licensee" means a person who has been issued a license to practice physical therapy or work as a physical therapy assistant in the state or who holds the privilege to practice physical therapy or work as a physical therapy assistant in the state.

SECTION 3. Section 73-23-35, Mississippi Code of 1972, is amended as follows:

73-23-35. (1) A person, corporation, association or business entity shall not use in connection with that person's or party's name or the name or activity of the business the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," "doctor of physical therapy," "physical therapist assistant," the letters "PT," "DPT," "LPT," "RPT," "PTA," "LPTA," and/or any other words, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied unless such services are provided by or under the direction of a physical



therapist or physical therapist assistant, as the case may be,
with a valid and current license issued pursuant to this chapter
or with the privilege to practice. It shall be unlawful to employ
an unlicensed physical therapist or physical therapist assistant
to provide physical therapy services.

(2) The board shall aid the state's attorneys of the various
counties in the enforcement of the provisions of this chapter and
the prosecution of any violations thereof. In addition to the
criminal penalties provided by this chapter, the civil remedy of
injunction shall be available to restrain and enjoin violations of
any provisions of this chapter without proof of actual damages
sustained by any person. For purposes of this chapter, the board,
in seeking an injunction, need only show that the defendant
violated subsection (1) of this section to establish irreparable
injury or a likelihood of a continuation of the violation.

(3) A physical therapist licensed under this chapter or
privileged to practice shall not perform physical therapy services
without a prescription or referral from a person licensed as a
physician, dentist, osteopath, podiatrist, chiropractor, physician
assistant or nurse practitioner. However, a physical therapist
licensed under this chapter or privileged to practice may perform
physical therapy services without a prescription or referral under
the following circumstances:

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



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

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

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

887 (e) (i) To an individual for a previously diagnosed
888 condition or conditions for which physical therapy services are
889 appropriate after informing the health care provider rendering the
890 diagnosis. The diagnosis must have been made within the previous
891 one hundred eighty (180) days. The physical therapist shall
892 provide the health care provider who rendered the diagnosis with a
893 plan of care for physical therapy services within the first
894 fifteen (15) days of physical therapy intervention.

895 (ii) Nothing in this chapter shall create
896 liability of any kind for the health care provider rendering the
897 diagnosis under this paragraph (e) for a condition, illness or
898 injury that manifested itself after the diagnosis, or for any
899 alleged damages as a result of physical therapy services performed
900 without a prescription or referral from a person licensed as a
901 physician, dentist, osteopath, podiatrist, chiropractor, physician
902 assistant or nurse practitioner, the diagnosis and/or prescription
903 for physical therapy services having been rendered with reasonable
904 care.



(4) Physical therapy services performed without a prescription or referral from a person licensed as a physician, dentist, osteopath, podiatrist, chiropractor, physician assistant or nurse practitioner shall not be construed to mandate coverage for physical therapy services under any health care plan, insurance policy, or workers' compensation or circumvent any requirement for preauthorization of services in accordance with any health care plan, insurance policy or workers' compensation.

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

SECTION 4. Section 73-23-39, Mississippi Code of 1972, is amended as follows:

73-23-39. The following persons shall be permitted to practice physical therapy in this state without obtaining a license under this chapter, upon the terms and conditions specified herein:

(a) Students enrolled in accredited physical therapist or physical therapist assistant educational programs, while engaged in completing a clinical requirement for graduation, which



929 must be performed under the direct, on-site supervision of a
930 licensed physical therapist;

931 (b) Physical therapists licensed in other jurisdictions
932 while enrolled in graduate educational programs in this state that
933 include the evaluation and treatment of patients as part of their
934 experience required for credit, so long as the student is not at
935 the same time gainfully employed in this state as a physical
936 therapist;

937 (c) Practitioners of physical therapy or persons acting
938 as physical therapist assistants who are employed in the United
939 States armed services, United States Public Health Service,
940 Veterans Administration or other federal agency; however, if such
941 individual engages in the practice of physical therapy or acts as
942 a physical therapist assistant outside of the scope of official
943 duty, he must be licensed as herein provided;

944 (d) Physical therapists licensed in other jurisdictions
945 who are teaching or participating in physical therapy education
946 projects, demonstrations or courses in this state, or providing
947 physical therapy services to visiting established athletic
948 organizations, performing arts companies or volunteering to
949 provide services to competitors in events such as the Olympics or
950 dance competitions in which their participation in the evaluation
951 and treatment of patients is minimal.

952 (e) Physical therapist assistants licensed in other
953 jurisdictions who are teaching or participating in physical



therapy education projects, demonstrations or courses in this state, or providing physical therapy services to visiting established athletic organizations, performing arts companies or volunteering to provide services to competitors in events such as the Olympics or dance competitions in which their participation in the treatment of patients is minimal.

(f) Licensees who exercise the privilege to practice under the terms and provisions of the Physical Therapy Licensure Compact provided for in Section 1 of this act.

SECTION 5. Section 73-23-43, Mississippi Code of 1972, is amended as follows:

73-23-43. (1) The board shall have the following general powers and duties:

(a) To examine and determine the qualifications and fitness of applicants for licenses to practice as physical therapists and licenses to act as physical therapist assistants in this state and prepare or approve and conduct all examinations of applicants for licensure;

(b) To issue, renew, deny, suspend or revoke licenses to practice as physical therapists and licenses to act as physical therapist assistants in this state or otherwise discipline licensed physical therapists and physical therapist assistants;

(c) To investigate alleged or suspected violations of the provisions of this chapter or other laws of this state



pertaining to physical therapy and any rules and regulations
adopted by the board;

(d) To establish reasonable fees for application for
examination, certificates of licensure and renewal, and other
services provided by the board;

(e) To adopt, amend or repeal any rules or regulations
necessary to carry out the purposes of this chapter and the duties
and responsibilities of the board, in accordance with Section
25-43-1 et seq. Such rules, when lawfully adopted, shall have the
effect of law;

(f) To hire appropriate support personnel to carry out
the provisions of this chapter;

(g) To adopt a code of ethics for physical therapists
and physical therapist assistants licensed under this chapter
which may be the current code of ethics of the American Physical
Therapy Association;

(h) To regulate the practice of physical therapy by
interpreting and enforcing this chapter;

(i) To provide for the examination of physical
therapists and physical therapist assistants;

(j) To establish mechanisms for assessing the
continuing professional competence of physical therapists and
physical therapist assistants to practice physical therapy;

(k) To set criteria for continuing education;



1002 (1) To establish and collect fees for sustaining the
1003 necessary operation and expenses of the board;

1004 (m) To publish, at least annually, final disciplinary
1005 action against a licensee;

1006 (n) To report final disciplinary action taken against a
1007 licensee to other state or federal regulatory agencies and to a
1008 national disciplinary database recognized by the board or as
1009 required by law;

1010 (o) To share documents, materials, or other
1011 information, including confidential and privileged documents,
1012 materials, or information, received or maintained by the board
1013 with other state or federal agencies, and with a national
1014 disciplinary database recognized by the board or as required by
1015 law provided that the recipient agrees to maintain the
1016 confidentiality and privileged status of the document, material or
1017 other information;

1018 (p) To participate in or conduct performance audits;

1019 (q) To, through its employees and/or representatives,
1020 enter and make inspections of any place where physical therapy is
1021 practiced and inspect and/or copy any record pertaining to clients
1022 or the practice of physical therapy under this chapter; * * *~~and~~

1023 (r) To conduct a criminal history records check on
1024 licensees whose licensure is subject to investigation by the board
1025 and on applicants for licensure. In order to determine the
1026 applicant's or licensee's suitability for licensing, the applicant



1027 or licensee shall be fingerprinted. The board shall submit the
1028 fingerprints to the Department of Public Safety for a check of the
1029 state criminal records and forward to the Federal Bureau of
1030 Investigation for a check of the national criminal records. The
1031 Department of Public Safety shall disseminate the results of the
1032 state check and the national check to the board for a suitability
1033 determination. The board shall be authorized to charge and
1034 collect from the applicant or licensee, in addition to all other
1035 applicable fees and costs, such amount as may be incurred by the
1036 board in requesting and obtaining state and national criminal
1037 history records information on the applicant or licensee.

1038 Any and all state or national criminal history records
1039 information obtained by the board that is not already a matter of
1040 public record shall be deemed nonpublic and confidential
1041 information restricted to the exclusive use of the board, its
1042 members, officers, investigators, agents and attorneys in
1043 evaluating the applicant's eligibility or disqualification for
1044 licensure, and shall be exempt from the Mississippi Public Records
1045 Act of 1983. Except when introduced into evidence in a hearing
1046 before the board to determine licensure, no such information or
1047 records related thereto shall, except with the written consent of
1048 the applicant or by order of a court of competent jurisdiction, be
1049 released or otherwise disclosed by the board to any other person
1050 or agency * * *; and



1051 (s) Perform the duties prescribed by the Physical
1052 Therapy Licensure Compact provided for in Section 1 of this act.
1053 The State Board of Physical Therapy shall be the physical therapy
1054 licensing board.

1055 The powers and duties enumerated above are granted for the
1056 purpose of enabling the board to safeguard the public health,
1057 safety and welfare against unqualified or incompetent
1058 practitioners of physical therapy and persons acting as physical
1059 therapist assistants, and are to be liberally construed to
1060 accomplish this objective;

1061 (2) The board shall maintain a register listing the name of
1062 every physical therapist and physical therapist assistant licensed
1063 to practice in this state, his last known place of business and
1064 last known place of residence, and the date and number of his
1065 license. The board shall, at least once a year, compile a list of
1066 physical therapists and physical therapist assistants licensed to
1067 practice in this state and such a list shall be available to any
1068 person upon application to the board and the payment of such
1069 charges as may be fixed by it.

1070 **SECTION 6.** Section 73-23-47, Mississippi Code of 1972, is
1071 amended as follows:

1072 73-23-47. (1) Any person who desires to be licensed under
1073 this chapter must: (a) be of good moral character; (b) have
1074 graduated from a physical therapy or physical therapist assistant
1075 program, as the case may be, accredited by an agency recognized by



the United States Department of Education, Office on Postsecondary Education; and (c) pay a nonrefundable examination fee as set by the board; (d) pay an application fee, no part of which shall be refunded; (e) be examined for licensure by the board; and meet the requirements established by the rules of the board. The licensure examination for physical therapists and for physical therapist assistants shall be selected by the board and may also include an oral examination or practical examination or both at the discretion of the board.

(2) Any person who desires to exercise the privilege to practice under the Physical Therapy Licensure Compact must complete the terms and provisions of the compact as prescribed in Section 1 of this act.

(3) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 7. Section 73-23-59, Mississippi Code of 1972, is amended as follows:

73-23-59. (1) Licensees subject to this chapter shall conduct their activities, services and practice in accordance with this chapter and any rules promulgated pursuant hereto. The board, upon satisfactory proof and in accordance with the provisions of this chapter and the regulations of the board, may suspend, revoke, or refuse to issue or renew any license hereunder, or revoke or suspend any privilege to practice,



1101 censure or reprimand any licensee, restrict or limit a license,
1102 and take any other action in relation to a license or privilege to
1103 practice as the board may deem proper under the circumstances upon
1104 any of the following grounds:

1105 (a) Negligence in the practice or performance of
1106 professional services or activities;

1107 (b) Engaging in dishonorable, unethical or
1108 unprofessional conduct of a character likely to deceive, defraud
1109 or harm the public in the course of professional services or
1110 activities;

1111 (c) Perpetrating or cooperating in fraud or material
1112 deception in obtaining or renewing a license or attempting the
1113 same or obtaining a privilege to practice;

1114 (d) Being convicted of any crime which has a
1115 substantial relationship to the licensee's activities and services
1116 or an essential element of which is misstatement, fraud or
1117 dishonesty;

1118 (e) Having been convicted of or pled guilty to a felony
1119 in the courts of this state or any other state, territory or
1120 country. Conviction, as used in this paragraph, shall include a
1121 deferred conviction, deferred prosecution, deferred sentence,
1122 finding or verdict of guilt, an admission of guilty, or a plea of
1123 nolo contendere;

1124 (f) Engaging in or permitting the performance of
1125 unacceptable services personally or by others working under the



1126 licensee's supervision due to the licensee's deliberate or
1127 negligent act or acts or failure to act, regardless of whether
1128 actual damage or damages to the public is established;

1129 (g) Continued practice although the licensee has become
1130 unfit to practice as a physical therapist or physical therapist
1131 assistant due to: (i) failure to keep abreast of current
1132 professional theory or practice; or (ii) physical or mental
1133 disability; the entry of an order or judgment by a court of
1134 competent jurisdiction that a licensee is in need of mental
1135 treatment or is incompetent shall constitute mental disability; or
1136 (iii) addiction or severe dependency upon alcohol or other drugs
1137 which may endanger the public by impairing the licensee's ability
1138 to practice;

1139 (h) Having disciplinary action taken against the
1140 licensee's license in another state;

1141 (i) Making differential, detrimental treatment against
1142 any person because of race, color, creed, sex, religion or
1143 national origin;

1144 (j) Engaging in lewd conduct in connection with
1145 professional services or activities;

1146 (k) Engaging in false or misleading advertising;

1147 (l) Contracting, assisting or permitting unlicensed
1148 persons to perform services for which a license is required under
1149 this chapter or privilege to practice is required under Section 1
1150 of this act;



1151 (m) Violation of any probation requirements placed on a
1152 license or privilege to practice by the board;

1153 (n) Revealing confidential information except as may be
1154 required by law;

1155 (o) Failing to inform clients of the fact that the
1156 client no longer needs the services or professional assistance of
1157 the licensee;

1158 (p) Charging excessive or unreasonable fees or engaging
1159 in unreasonable collection practices;

1160 (q) For treating or attempting to treat ailments or
1161 other health conditions of human beings other than by physical
1162 therapy as authorized by this chapter;

1163 (r) Except as authorized in Section 73-23-35(3), for
1164 applying or offering to apply physical therapy, exclusive of
1165 initial evaluation or screening and exclusive of education or
1166 consultation for the prevention of physical and mental disability
1167 within the scope of physical therapy, other than upon the referral
1168 of a licensed physician, dentist, osteopath, podiatrist,
1169 chiropractor, physician assistant or nurse practitioner; or for
1170 acting as a physical therapist assistant other than under the
1171 direct, on-site supervision of a licensed physical therapist;

1172 (s) Failing to adhere to the recognized standards of
1173 ethics of the physical therapy profession as established by rules
1174 of the board;



1175 (t) Failing to complete continuing competence
1176 requirements as established by board rule;

1177 (u) Failing to supervise physical therapist assistants
1178 in accordance with this chapter and/or board rules;

1179 (v) Engaging in sexual misconduct. For the purpose of
1180 this paragraph, sexual misconduct includes, but is not necessarily
1181 limited to:

1182 (i) Engaging in or soliciting sexual
1183 relationships, whether consensual or nonconsensual, while a
1184 physical therapist or physical therapist assistant/patient
1185 relationship exists.

1186 (ii) Making sexual advances, requesting sexual
1187 favors or engaging in other verbal conduct or physical contact of
1188 a sexual nature with patients or clients.

1189 (iii) Intentionally viewing a completely or
1190 partially disrobed patient in the course of treatment if the
1191 viewing is not related to patient diagnosis or treatment under
1192 current practice standards;

1193 (w) The erroneous issuance of a license or privilege to
1194 practice to any person;

1195 (x) Violations of any provisions of this chapter, board
1196 rules or regulations or a written order or directive of the board;

1197 (y) Failing to maintain adequate patient records. For
1198 the purposes of this paragraph, "adequate patient records" means
1199 legible records that contain at minimum sufficient information to



1200 identify the patient, an evaluation of objective findings, a
1201 diagnosis, a plan of care, a treatment record and a discharge
1202 plan;

1203 (z) Failing to report to the board any unprofessional,
1204 incompetent or illegal acts that appear to be in violation of this
1205 law or any rules established by the board.

1206 (2) The board may order a licensee to submit to a reasonable
1207 physical or mental examination if the licensee's physical or
1208 mental capacity to practice safely is at issue in a disciplinary
1209 proceeding.

1210 (3) Failure to comply with a board order to submit to a
1211 physical or mental examination shall render a licensee subject to
1212 the summary suspension procedures described in Section 73-23-64.

1213 (4) In addition to the reasons specified in subsection (1)
1214 of this section, the board shall be authorized to suspend the
1215 license or privilege to practice of any licensee for being out of
1216 compliance with an order for support, as defined in Section
1217 93-11-153. The procedure for suspension of a license or privilege
1218 to practice for being out of compliance with an order for support,
1219 and the procedure for the reissuance or reinstatement of a license
1220 or privilege to practice suspended for that purpose, and the
1221 payment of any fees for the reissuance or reinstatement of a
1222 license or privilege to practice suspended for that purpose, shall
1223 be governed by Section 93-11-157 or 93-11-163, as the case may be.
1224 If there is any conflict between any provision of Section



1225 93-11-157 or 93-11-163 and any provision of this chapter, the
1226 provisions of Section 93-11-157 or 93-11-163, as the case may be,
1227 shall control.

1228 **SECTION 8.** Section 73-23-64, Mississippi Code of 1972, is
1229 amended as follows:

1230 73-23-64. (1) The board may impose any of the following
1231 sanctions, singly or in combination, when it finds an applicant or
1232 a licensee has committed any violation listed in Section 73-23-59:

1233 (a) Revocation of the license or privilege to practice;

1234 (b) Suspension of the license or privilege to practice,
1235 for any period of time;

1236 (c) Censure the licensee;

1237 (d) Impose a monetary penalty in an amount not to
1238 exceed Five Hundred Dollars (\$500.00) for the first violation, One
1239 Thousand Dollars (\$1,000.00) for the second violation, and Five
1240 Thousand Dollars (\$5,000.00) for the third violation and for each
1241 subsequent violation;

1242 (e) Place a licensee on probationary status and require
1243 the licensee to submit to any of the following: (i) report
1244 regularly to the board, or its designee, upon matters which are
1245 the basis of probation; (ii) continue to renew professional
1246 education until a satisfactory degree of skill has been attained
1247 in those areas which are the basis of probation; or (iii) such
1248 other reasonable requirements or restrictions as are proper;



1249 (f) Refuse to issue or renew a license or refuse to
1250 issue a privilege to practice;

1251 (g) Revoke probation which has been granted and impose
1252 any other disciplinary action in this subsection when the
1253 requirements of probation have not been fulfilled or have been
1254 violated;

1255 (h) Restrict a license or privilege to practice; or

1256 (i) Accept a voluntary surrendering of a license or
1257 privilege to practice based on an order of consent from the board.

1258 (2) The board may summarily suspend a license or privilege
1259 to practice under this chapter without a hearing simultaneously
1260 with the filing of a formal complaint and notice for a hearing
1261 provided under this section pending proceedings before the board.
1262 If the board suspends summarily a license or privilege to practice
1263 under the provisions of this subsection, a hearing must begin
1264 within twenty (20) days after such suspension begins, unless
1265 continued at the request of the licensee.

1266 (3) Disposition of any formal complaint may be made by
1267 consent order or stipulation between the board and the licensee.

1268 (4) The board may reinstate any licensee to good standing
1269 under this chapter if the board is satisfied that the applicant's
1270 renewed practice is in the public interest. The procedure for the
1271 reimbursement of a license or privilege to practice that is
1272 suspended for being out of compliance with an order for support,



1273 as defined in Section 93-11-153, shall be governed by Section
1274 93-11-157 or 93-11-163, as the case may be.

1275 (5) The board shall seek to achieve consistency in the
1276 application of the foregoing sanctions, and significant departure
1277 from prior decisions involving similar conduct shall be explained
1278 by the board.

1279 (6) In addition to any other power that it has, the board
1280 may issue an advisory letter to a licensee if it finds that the
1281 information received in a complaint or an investigation does not
1282 merit disciplinary action against the licensee.

1283 (7) The board may also assess and levy upon any licensee or
1284 applicant for licensure or the privilege to practice the costs
1285 incurred or expended by the board in the investigation and
1286 prosecution of any licensure or disciplinary action, including,
1287 but not limited to, the cost of process service, court reports,
1288 expert witnesses, investigators, and attorney's fees.

1289 **SECTION 9.** Section 73-23-49, Mississippi Code of 1972, is
1290 brought forward as follows:

1291 73-23-49. (1) Any person who desires to be licensed as a
1292 physical therapist or as a physical therapist assistant shall
1293 apply to the board in writing on a form furnished by the board.
1294 He shall provide such documents as required by the application
1295 forms provided by the board. He shall pay the board at the time
1296 of filing an application fee fixed annually by the board, no part
1297 of which shall be refunded. In addition thereto, the board shall



1298 adopt a fee schedule by rule and regulation. The fee schedule may
1299 include, but is not limited to:

- 1300 (a) Application fee;
- 1301 (b) Initial license fee;
- 1302 (c) Renewal of licensure fee;
- 1303 (d) Registration fee;
- 1304 (e) Examination fee;
- 1305 (f) License issued after expiration date fee;
- 1306 (g) Late renewal fees;
- 1307 (h) Temporary license fee;
- 1308 (i) Renewal of temporary license fee;
- 1309 (j) Reinstatement fees;
- 1310 (k) Inactive license fees;
- 1311 (l) Restricted license fee;
- 1312 (m) Lapsed license fees;
- 1313 (n) Late renewal fees; and
- 1314 (o) Late penalty fees.

1315 (2) All license, renewal, and other fees currently set by
1316 the board by rules and regulations and in effect before July 1,
1317 2008, shall remain in effect until such time as the board, by its
1318 rule-making authority, acts to implement new fee schedules
1319 pursuant to the provisions of this section. When increased by the
1320 board fees may not be increased by more than ten percent (10%) of
1321 the previous year's fee.



(3) Notwithstanding subsections (1) and (2) of this section, in all instances where the board uses the services of a national testing service for preparation, administration, or grading of examinations, the board may charge or require the applicant to pay the actual cost of the examination services, in addition to its other fees.

(4) Every person to whom a license is issued pursuant to this chapter shall, as a condition precedent to its issuance, pay the application and any other fee prescribed by the board.

SECTION 10. Section 73-23-51, Mississippi Code of 1972, is brought forward as follows:

73-23-51. (1) The board may license as a physical therapist or as a physical therapist assistant, and furnish a certificate of licensure without examination to, any applicant who presents evidence, satisfactory to the board, of having passed an examination before a similar lawfully authorized examining agency or board in physical therapy of another state or the District of Columbia, if the standards for registration in physical therapy or for licensure as a physical therapist assistant in such other state or district are determined by the board to be as high as those of this state. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

(2) Any person who has been trained as a physical therapist in a foreign country and desires to be licensed under this chapter



1347 and who: (a) is of good moral character; (b) holds a diploma from
1348 an educational program for physical therapists approved by the
1349 board; (c) submits documentary evidence to the board that he has
1350 completed a course of professional instruction substantially
1351 equivalent to that obtained by an applicant for licensure; (d)
1352 demonstrates satisfactory proof of proficiency in the English
1353 language; and (e) meets other requirements established by rules of
1354 the board, may make application on a form furnished by the board
1355 for examination as a foreign-trained physical therapist. At the
1356 time of making such application, the applicant shall pay the fee
1357 prescribed by the board, no portion of which shall be returned.

1358 Any person who desires to be licensed under this subsection
1359 shall take an examination approved by the board and shall obtain a
1360 permanent license. If this requirement is not met, the license of
1361 the foreign-trained therapist may be revoked.

1362 **SECTION 11.** This act shall take effect and be in force from
1363 and after July 1, 2017.

