

By: Representatives Currie, Roberson,
Steverson, Hopkins, Ford (73rd), Scoggin

To: Public Health and Human
Services

HOUSE BILL NO. 619

1 AN ACT TO AMEND SECTION 73-23-33, MISSISSIPPI CODE OF 1972,
2 TO DEFINE THE TERMS "PHYSICAL THERAPY AIDE" OR "PHYSICAL THERAPY
3 TECHNICIAN" FOR THE PURPOSES OF THE PHYSICAL THERAPY PRACTICE LAW;
4 TO AMEND SECTION 73-23-35, MISSISSIPPI CODE OF 1972, TO REVISE THE
5 CIRCUMSTANCES AND CRITERIA UNDER WHICH A PHYSICAL THERAPIST MAY
6 IMPLEMENT PHYSICAL THERAPY TREATMENT WITHOUT A REFERRAL FROM
7 ANOTHER HEALTH CARE PROVIDER; TO AMEND SECTION 73-23-39,
8 MISSISSIPPI CODE OF 1972, TO REVISE THE LIST OF PERSONS WHO ARE
9 PERMITTED TO PRACTICE PHYSICAL THERAPY IN THIS STATE WITHOUT
10 OBTAINING A MISSISSIPPI LICENSE; TO AMEND SECTION 73-23-41,
11 MISSISSIPPI CODE OF 1972, TO REVISE THE COMPOSITION OF THE STATE
12 BOARD OF PHYSICAL THERAPY; TO DELETE THE PROHIBITION ON BEING
13 APPOINTED FOR MORE THAN TWO CONSECUTIVE TERMS ON THE BOARD; TO
14 AMEND SECTION 73-23-43, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
15 BOARD TO ISSUE SUBPOENAS FOR THE ATTENDANCE AND TESTIMONY OF
16 WITNESSES AND THE PRODUCTION OF PAPERS, RECORDS OR OTHER
17 DOCUMENTARY EVIDENCE, AND TO ENFORCE THOSE SUBPOENAS IN COURT; TO
18 AUTHORIZE THE BOARD TO DETERMINE AND COLLECT, AT THE TIME OF NEW
19 LICENSURE AND LICENSURE RENEWAL, A CORE SET OF DATA ELEMENTS
20 DEEMED NECESSARY FOR THE PURPOSE OF WORKFORCE PLANNING; TO AMEND
21 SECTION 73-23-51, MISSISSIPPI CODE OF 1972, TO REVISE THE
22 PROVISIONS AUTHORIZING THE LICENSING OF PHYSICAL THERAPISTS AND
23 PHYSICAL THERAPIST ASSISTANTS BY RECIPROCITY; TO AMEND SECTION
24 73-23-53, MISSISSIPPI CODE OF 1972, TO DELETE THE AUTHORITY OF THE
25 BOARD TO ISSUE A TEMPORARY LICENSE TO PHYSICAL THERAPISTS OR
26 PHYSICAL THERAPIST ASSISTANTS LICENSED IN OTHER STATES DURING A
27 DISASTER OR EMERGENCY; TO AMEND SECTION 73-23-59, MISSISSIPPI CODE
28 OF 1972, TO CONFORM THE GROUND FOR DISCIPLINARY ACTION AGAINST A
29 PHYSICAL THERAPIST FOR IMPLEMENTING PHYSICAL THERAPY TREATMENT
30 WITHOUT A REFERRAL TO THE AMENDMENT TO SECTION 73-23-35 IN THIS
31 ACT; AND FOR RELATED PURPOSES.

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



33 **SECTION 1.** Section 73-23-33, Mississippi Code of 1972, is
34 amended as follows:

35 73-23-33. As used in this chapter unless the context or
36 subject matter otherwise requires:

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

47 (i) Performing and interpreting tests and
48 measurements as an aid to physical therapy treatment, for the
49 purpose of correcting or alleviating any physical condition and to
50 prevent the development of any physical or mental disability
51 within the scope of physical therapy; and the performance of
52 neuromuscular-skeletal tests and measurements as an aid in
53 diagnosis, evaluation or determination of the existence of and the
54 extent of any body malfunction;

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



57 (iii) Administering treatment by therapeutic
58 exercise, neurodevelopmental procedures, therapeutic massage,
59 mechanical devices and therapeutic agents which employ the
60 physical, chemical and other properties of air, water, heat, cold,
61 electricity, sound and radiant energy for the purpose of
62 correcting or alleviating any physical condition or preventing the
63 development of any physical or mental disability. The use of
64 roentgen rays and radium for any purpose, and the use of
65 electricity for surgical purposes including cauterization, are not
66 part of physical therapy;

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

71 (c) "Physical therapist assistant" means a health care
72 worker who assists a physical therapist in the provision of
73 physical therapy under the direct, on-site supervision of the
74 physical therapist. The physical therapist assistant may perform
75 physical therapy procedures and related tasks that have been
76 selected and delegated by the supervising physical therapist, but
77 shall not perform the following physical therapy activities:
78 interpretation of referrals; physical therapy initial evaluation
79 and reevaluation; identification, determination or modification of
80 plans of care (including goals and treatment programs); final
81 discharge assessment/evaluation or establishment of the discharge



82 plan; or therapeutic techniques beyond the skill and knowledge of
83 the physical therapist assistant;

84 (d) "Physical therapy aide" or "physical therapy
85 technician" means an unlicensed person trained by or under the
86 direction of a physical therapist who performs designated and
87 supervised routine tasks related to physical therapy services;

88 (e) "Referral" means the written or oral designation of
89 physical therapy services by a doctor of medicine, dentistry,
90 osteopathy, podiatry or chiropractic, or by a physician assistant
91 or nurse practitioner, holding a license in good standing; and the
92 instruction therefor may be as detailed or as general as the
93 doctor, physician assistant or nurse practitioner in his or her
94 sound discretion deems necessary in the particular case;

95 (* * * f) "Board" means the State Board of Physical
96 Therapy established in Section 73-23-41;

97 (* * * g) "Direct, on-site supervision" means
98 face-to-face oversight by a licensed physical therapist or
99 physical therapist who holds the privilege to practice at regular
100 intervals, as prescribed in regulations adopted by the board, of
101 the services provided to a patient by a licensed physical
102 therapist assistant or physical therapist assistant who holds the
103 privilege to practice;

104 (* * * h) "Direct supervision" means face-to-face
105 oversight at regular intervals of a physical therapist issued a
106 temporary license under Section 73-23-53(1) by a licensed physical



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

111 (* * *i) "Privilege to practice" means the
112 authorization to practice as a physical therapist in this state or
113 work as a physical therapist assistant in this state under the
114 Physical Therapy Licensure Compact provided for in Section 1 of
115 this act.

116 (* * *j) "Licensee" means a person who has been issued
117 a license to practice physical therapy or work as a physical
118 therapy assistant in the state or who holds the privilege to
119 practice physical therapy or work as a physical therapy assistant
120 in the state.

121 **SECTION 2.** Section 73-23-35, Mississippi Code of 1972, is
122 amended as follows:

123 73-23-35. (1) A person, corporation, association or
124 business entity shall not use in connection with that person's or
125 party's name or the name or activity of the business the words
126 "physical therapy," "physical therapist," "physiotherapy,"
127 "physiotherapist," "registered physical therapist," "doctor of
128 physical therapy," "physical therapist assistant," the letters
129 "PT," "DPT," "LPT," "RPT," "PTA," "LPTA," and/or any other words,
130 abbreviations, or insignia indicating or implying directly or
131 indirectly that physical therapy is provided or supplied unless



132 such services are provided by or under the direction of a physical
133 therapist or physical therapist assistant, as the case may be,
134 with a valid and current license issued pursuant to this chapter
135 or with the privilege to practice. It shall be unlawful to employ
136 an unlicensed physical therapist or physical therapist assistant
137 to provide physical therapy services.

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

148 (3) * * * (a) Without a prescription or referral, a
149 physical therapist licensed or privileged to practice under this
150 chapter may perform an initial evaluation or consultation of a
151 screening nature to determine the need for physical therapy.

152 (b) For the treatment of a condition within the scope
153 of physical therapy, a physical therapist licensed or privileged
154 to practice under this chapter may implement physical therapy
155 treatment with or without a prescription or referral from a person
156 licensed as a physician, dentist, osteopath, podiatrist,



157 chiropractor, physician assistant or nurse practitioner if the
158 physical therapist meets one (1) of the following criteria:

159 (i) The physical therapist has a doctorate degree
160 in physical therapy from an accredited institution; or

161 (ii) The physical therapist has five (5) years of
162 licensed clinical practice experience.

163 (c) If the patient has not made measurable or
164 functional improvement after thirty (30) calendar days of
165 implementing physical therapy treatment under the authority of
166 this subsection (3), the physical therapist shall refer the
167 patient to an appropriate health care provider. The board shall
168 take appropriate disciplinary action against any physical
169 therapist who fails to refer a patient as required by this
170 paragraph (c).

171 (d) No physical therapist shall render a medical
172 diagnosis of a disease.

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



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

188 **SECTION 3.** Section 73-23-39, Mississippi Code of 1972, is
189 amended as follows:

190 73-23-39. The following persons shall be permitted to
191 practice physical therapy in this state without obtaining a
192 license under this chapter, upon the terms and conditions
193 specified herein:

194 (a) Students enrolled in accredited or accreditation
195 eligible physical therapist or physical therapist assistant
196 educational programs, while engaged in completing a clinical
197 requirement for graduation, which must be performed under the
198 direct, on-site supervision of a licensed physical therapist;

199 (b) Physical therapists licensed in other jurisdictions
200 while enrolled in graduate educational programs in this state that
201 include the evaluation and treatment of patients as part of their
202 experience required for credit, so long as the student is not at
203 the same time gainfully employed in this state as a physical
204 therapist;



205 (c) Practitioners of physical therapy or persons acting
206 as physical therapist assistants who are employed in the United
207 States armed services, United States Public Health Service,
208 Veterans Administration or other federal agency; however, if such
209 individual engages in the practice of physical therapy or acts as
210 a physical therapist assistant outside of the scope of official
211 duty, he must be licensed as herein provided;

212 (d) Physical therapists or physical therapist
213 assistants licensed in other jurisdictions who are teaching or
214 participating in physical therapy education projects,
215 demonstrations or courses in this state, or providing physical
216 therapy services to visiting established athletic organizations,
217 performing arts companies or volunteering to provide services to
218 competitors in events such as the Olympics or dance competitions
219 in which their participation in the evaluation and treatment of
220 patients is minimal.

221 (e) * * * A physical therapist who is licensed in a
222 jurisdiction of the United States and who enters this jurisdiction
223 to provide physical therapy during a declared local,
224 jurisdictional or national disaster or emergency. This exemption
225 applies for no longer than sixty (60) days following the
226 declaration of the emergency. In order to be eligible for this
227 exemption, the physical therapist shall notify the board of their
228 intent to practice.



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

232 **SECTION 4.** Section 73-23-41, Mississippi Code of 1972, is
233 amended as follows:

234 73-23-41. (1) There is established a State Board of
235 Physical Therapy that shall consist of * * * eight (8) members
236 appointed by the Governor, with the advice and consent of the
237 Senate. Four (4) members shall be physical therapists * * * and
238 two (2) members shall be * * * physical therapist
239 assistants, * * * each of whom possesses unrestricted licenses to
240 practice in his or her profession. The Governor shall also
241 appoint * * * two (2) members who shall be * * * consumers at
242 large who * * * are not associated with or financially interested
243 in any health care profession and who * * * have an interest in
244 consumer rights. Each of the four (4) members who are physical
245 therapists shall be appointed from a list of three (3) persons
246 from each of the four (4) Mississippi congressional districts, as
247 such districts currently exist, submitted by the * * * American
248 Physical Therapy Association - Mississippi, all of whom must be
249 residents of Mississippi and must have engaged in the practice of
250 physical therapy within the state for at least four (4) years.
251 The terms of the members of the board shall be staggered, so that
252 the terms of no more than two (2) members shall expire in any
253 year. Members appointed to the board shall serve for four-year



254 terms and until their successors are appointed and confirmed,
255 except that members of the board who are appointed to fill
256 vacancies which occur before the expiration of a former member's
257 full term shall serve the unexpired portion of such term. * * *

258 (2) The board shall annually elect a chairman, secretary and
259 treasurer. The board shall provide for the timely orientation and
260 training of new professional and public appointees to the board
261 regarding board licensing and disciplinary procedures, this
262 chapter and board rules, regulations, policies and procedures. A
263 member may be removed by the board only for due cause. Failure to
264 attend at least half of the board meetings in a fiscal year shall
265 constitute cause. The board shall meet at least once each
266 quarter, and those meetings shall be held in compliance with the
267 Open Meetings Law (Section 25-41-1 et seq.). A majority of board
268 members shall constitute a quorum for the transaction of business.
269 The board shall keep an official record of its meetings. Whenever
270 a vacancy occurs in the membership of the board before the
271 expiration of a term of office, the Governor shall appoint a
272 qualified successor to fill the unexpired term. Members of the
273 board shall receive the per diem authorized under Section 25-3-69
274 for each day spent actually discharging their official duties, and
275 shall receive reimbursement for mileage and necessary travel
276 expenses incurred as provided in Section 25-3-41. A board member
277 who acts within the scope of board duties, without malice and in



278 the reasonable belief that the member's action is warranted by law
279 is immune from civil liability.

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

282 73-23-43. (1) The board shall have the following general
283 powers and duties:

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

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

293 (c) To investigate alleged or suspected violations of
294 the provisions of this chapter or other laws of this state
295 pertaining to physical therapy and any rules and regulations
296 adopted by the board;

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

300 (e) To adopt, amend or repeal any rules or regulations
301 necessary to carry out the purposes of this chapter and the duties
302 and responsibilities of the board, in accordance with Section



303 25-43-1 et seq. Such rules, when lawfully adopted, shall have the
304 effect of law;

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

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

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

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

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

318 (k) To set criteria for continuing * * * competence;

319 (l) To establish and collect fees for sustaining the
320 necessary operation and expenses of the board;

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

323 (n) To report final disciplinary action taken against a
324 licensee to other state or federal regulatory agencies and to a
325 national disciplinary database recognized by the board or as
326 required by law;



327 (o) To share documents, materials, or other
328 information, including confidential and privileged documents,
329 materials, or information, received or maintained by the board
330 with other state or federal agencies, and with a national
331 disciplinary database recognized by the board or as required by
332 law provided that the recipient agrees to maintain the
333 confidentiality and privileged status of the document, material or
334 other information;

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

336 (q) To, through its employees and/or representatives,
337 enter and make inspections of any place where physical therapy is
338 practiced and inspect and/or copy any record pertaining to clients
339 or the practice of physical therapy under this chapter;

340 (r) To issue subpoenas for the attendance and testimony
341 of witnesses and the production of papers, records or other
342 documentary evidence. Any member of the board may administer
343 oaths or affirmations to witnesses appearing before the board. If
344 a subpoenaed person fails or refuses to attend any proceeding
345 before the board, refuses to testify, refuses to produce any books
346 and papers the production of which is called for by the subpoena,
347 or otherwise fails to comply with any subpoena issued under this
348 paragraph, the attendance of that witness and the giving of his or
349 her testimony and the production of the books and papers and
350 compliance with the subpoena shall be enforced by any court of
351 competent jurisdiction of this state in the manner provided for



352 the enforcement of attendance and testimony of witnesses in civil
353 cases in the courts of this state;

354 (* * *s) To conduct a criminal history records check
355 on licensees whose licensure is subject to investigation by the
356 board and on applicants for licensure. In order to determine the
357 applicant's or licensee's suitability for licensing, the applicant
358 or licensee shall be fingerprinted. The board shall submit the
359 fingerprints to the Department of Public Safety for a check of the
360 state criminal records and forward to the Federal Bureau of
361 Investigation for a check of the national criminal records. The
362 Department of Public Safety shall disseminate the results of the
363 state check and the national check to the board for a suitability
364 determination. The board shall be authorized to charge and
365 collect from the applicant or licensee, in addition to all other
366 applicable fees and costs, such amount as may be incurred by the
367 board in requesting and obtaining state and national criminal
368 history records information on the applicant or licensee.

369 Any and all state or national criminal history records
370 information obtained by the board that is not already a matter of
371 public record shall be deemed nonpublic and confidential
372 information restricted to the exclusive use of the board, its
373 members, officers, investigators, agents and attorneys in
374 evaluating the applicant's eligibility or disqualification for
375 licensure, and shall be exempt from the Mississippi Public Records
376 Act of 1983. Except when introduced into evidence in a hearing



377 before the board to determine licensure, no such information or
378 records related thereto shall, except with the written consent of
379 the applicant or by order of a court of competent jurisdiction, be
380 released or otherwise disclosed by the board to any other person
381 or agency; * * *

382 (t) To have the authority to determine and collect, at
383 the time of new licensure and licensure renewal, a core set of
384 data elements deemed necessary for the purpose of workforce
385 planning. The data elements shall be used to create and maintain
386 a health care workforce database. The board may enter into
387 agreements with a private or public entity to establish and
388 maintain the database, perform data analysis, and/or prepare
389 reports concerning the physical therapy workforce; and

390 (* * *u) To perform the duties prescribed by the
391 Physical Therapy Licensure Compact provided for in Section
392 73-23-101. The State Board of Physical Therapy shall be the
393 physical therapy licensing board.

394 (2) The powers and duties enumerated * * * in subsection (1)
395 of this section are granted for the purpose of enabling the board
396 to safeguard the public health, safety and welfare against
397 unqualified or incompetent practitioners of physical therapy and
398 persons acting as physical therapist assistants, and are to be
399 liberally construed to accomplish this objective * * *.

400 (* * *3) The board shall maintain a register listing the
401 name of every physical therapist and physical therapist assistant



402 licensed to practice in this state, his or her last known place of
403 business * * *, and the date and number of his or her license.
404 The board shall, at least once a year, compile a list of physical
405 therapists and physical therapist assistants licensed to practice
406 in this state and such a list shall be available to any person
407 upon application to the board and the payment of such charges as
408 may be fixed by it.

409 **SECTION 6.** Section 73-23-51, Mississippi Code of 1972, is
410 amended as follows:

411 73-23-51. (1) The board may license as a physical therapist
412 or as a physical therapist assistant, and furnish a certificate of
413 licensure without examination to, any applicant who presents
414 evidence, satisfactory to the board, of having * * * been licensed
415 by a similar lawfully authorized examining agency or board in
416 physical therapy of another state or the District of
417 Columbia * * * or a territory of the United States, if all other
418 requirements established by rules of the board have been met. The
419 issuance of a license by reciprocity to a military-trained
420 applicant or military spouse shall be subject to the provisions of
421 Section 73-50-1.

422 (2) Any person who has been trained as a physical therapist
423 in a foreign country and desires to be licensed under this chapter
424 and who: (a) is of good moral character; (b) holds a diploma from
425 an educational program for physical therapists approved by the
426 board; (c) submits documentary evidence to the board that he has



427 completed a course of professional instruction substantially
428 equivalent to that obtained by an applicant for licensure; (d)
429 demonstrates satisfactory proof of proficiency in the English
430 language; and (e) meets other requirements established by rules of
431 the board, may make application on a form furnished by the board
432 for examination as a foreign-trained physical therapist. At the
433 time of making such application, the applicant shall pay the fee
434 prescribed by the board, no portion of which shall be returned.

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

439 **SECTION 7.** Section 73-23-53, Mississippi Code of 1972, is
440 amended as follows:

441 73-23-53. (1) A temporary license to practice as a physical
442 therapist or physical therapist assistant may be granted to those
443 persons meeting the requirements stated in Section 73-23-47 and
444 who (a) have not taken the approved examination, or (b) have taken
445 the approved examination but have not received the results of the
446 examination. The temporary license shall be granted for a period
447 not to exceed ninety (90) days. Any physical therapist granted a
448 temporary license under the provisions of this subsection shall
449 restrict his or her practice to the State of Mississippi and shall
450 be under the direct supervision of a physical therapist licensed
451 in Mississippi (physical therapy assistants shall be under the



452 direct on-site supervision of a Mississippi licensed physical
453 therapist). Documentation verifying the supervision shall be on
454 file with the board before a temporary license is granted.

455 (2) The board may by rule provide for the issuance of a
456 temporary license to a physical therapist or a physical therapist
457 assistant licensed in another state who is moving into the state
458 and has filed an application with the board for a permanent
459 license in this state. This temporary license will be granted for
460 a period not to exceed sixty (60) days. The issuance of a
461 temporary license to a military-trained applicant or military
462 spouse shall be subject to the provisions of Section 73-50-1.

463 (3) Any person granted a temporary license who is required
464 to take the approved examination and fails to take the exam as
465 required by the board or does not pass the required exam shall
466 have the temporary license automatically expire by operation of
467 law and without further action of the board and no license of any
468 type shall be issued until such person has passed an approved
469 examination.

470 (4) Any person who has taken but not passed the required
471 examination in this or another jurisdiction shall not be eligible
472 for a license of any type until an approved examination is passed.

473 (5) Any person who has been trained as a physical therapist
474 or physical therapist assistant in a foreign country and desires
475 to be temporarily licensed under this subsection shall, in
476 addition to satisfying such other requirements established by the



477 board, demonstrate proficiency in the English language and meet
478 the other requirements of Section 73-23-51(2) before such
479 temporary license shall be issued.

480 * * *

481 **SECTION 8.** Section 73-23-59, Mississippi Code of 1972, is
482 amended as follows:

483 73-23-59. (1) Licensees subject to this chapter shall
484 conduct their activities, services and practice in accordance with
485 this chapter and any rules promulgated pursuant hereto. The
486 board, upon satisfactory proof and in accordance with the
487 provisions of this chapter and the regulations of the board, may
488 suspend, revoke, or refuse to issue or renew any license
489 hereunder, or revoke or suspend any privilege to practice,
490 censure or reprimand any licensee, restrict or limit a license,
491 and take any other action in relation to a license or privilege to
492 practice as the board may deem proper under the circumstances upon
493 any of the following grounds:

494 (a) Negligence in the practice or performance of
495 professional services or activities;

496 (b) Engaging in dishonorable, unethical or
497 unprofessional conduct of a character likely to deceive, defraud
498 or harm the public in the course of professional services or
499 activities;



500 (c) Perpetrating or cooperating in fraud or material
501 deception in obtaining or renewing a license or attempting the
502 same or obtaining a privilege to practice;

503 (d) Being convicted of any crime which has a
504 substantial relationship to the licensee's activities and services
505 or an essential element of which is misstatement, fraud or
506 dishonesty;

507 (e) Having been convicted of or pled guilty to a felony
508 in the courts of this state or any other state, territory or
509 country. Conviction, as used in this paragraph, shall include a
510 deferred conviction, deferred prosecution, deferred sentence,
511 finding or verdict of guilt, an admission of guilty, or a plea of
512 nolo contendere;

513 (f) Engaging in or permitting the performance of
514 unacceptable services personally or by others working under the
515 licensee's supervision due to the licensee's deliberate or
516 negligent act or acts or failure to act, regardless of whether
517 actual damage or damages to the public is established;

518 (g) Continued practice although the licensee has become
519 unfit to practice as a physical therapist or physical therapist
520 assistant due to: (i) failure to keep abreast of current
521 professional theory or practice; or (ii) physical or mental
522 disability; the entry of an order or judgment by a court of
523 competent jurisdiction that a licensee is in need of mental
524 treatment or is incompetent shall constitute mental disability; or



525 (iii) addiction or severe dependency upon alcohol or other drugs
526 which may endanger the public by impairing the licensee's ability
527 to practice;

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

530 (i) Making differential, detrimental treatment against
531 any person because of race, color, creed, sex, religion or
532 national origin;

533 (j) Engaging in lewd conduct in connection with
534 professional services or activities;

535 (k) Engaging in false or misleading advertising;

536 (l) Contracting, assisting or permitting unlicensed
537 persons to perform services for which a license is required under
538 this chapter or privilege to practice is required under Section
539 73-23-101;

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

542 (n) Revealing confidential information except as may be
543 required by law;

544 (o) Failing to inform clients of the fact that the
545 client no longer needs the services or professional assistance of
546 the licensee;

547 (p) Charging excessive or unreasonable fees or engaging
548 in unreasonable collection practices;



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

552 (r) Except as authorized in Section 73-23-35(3), for
553 * * * implementing physical therapy treatment without a
554 prescription or referral * * * from a licensed physician, dentist,
555 osteopath, podiatrist, chiropractor, physician assistant or nurse
556 practitioner; or for acting as a physical therapist assistant
557 other than under the direct, on-site supervision of a licensed
558 physical therapist;

559 (s) Failing to adhere to the recognized standards of
560 ethics of the physical therapy profession as established by rules
561 of the board;

562 (t) Failing to complete continuing competence
563 requirements as established by board rule;

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

566 (v) Engaging in sexual misconduct. For the purpose of
567 this paragraph, sexual misconduct includes, but is not necessarily
568 limited to:

569 (i) Engaging in or soliciting sexual
570 relationships, whether consensual or nonconsensual, while a
571 physical therapist or physical therapist assistant/patient
572 relationship exists.



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

576 (iii) Intentionally viewing a completely or
577 partially disrobed patient in the course of treatment if the
578 viewing is not related to patient diagnosis or treatment under
579 current practice standards;

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

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

584 (y) Failing to maintain adequate patient records. For
585 the purposes of this paragraph, "adequate patient records" means
586 legible records that contain at minimum sufficient information to
587 identify the patient, an evaluation of objective findings, a
588 diagnosis, a plan of care, a treatment record and a discharge
589 plan;

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

593 (2) The board may order a licensee to submit to a reasonable
594 physical or mental examination if the licensee's physical or
595 mental capacity to practice safely is at issue in a disciplinary
596 proceeding.



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

600 (4) In addition to the reasons specified in subsection (1)
601 of this section, the board shall be authorized to suspend the
602 license or privilege to practice of any licensee for being out of
603 compliance with an order for support, as defined in Section
604 93-11-153. The procedure for suspension of a license or privilege
605 to practice for being out of compliance with an order for support,
606 and the procedure for the reissuance or reinstatement of a license
607 or privilege to practice suspended for that purpose, and the
608 payment of any fees for the reissuance or reinstatement of a
609 license or privilege to practice suspended for that purpose, shall
610 be governed by Section 93-11-157 or 93-11-163, as the case may be.
611 If there is any conflict between any provision of Section
612 93-11-157 or 93-11-163 and any provision of this chapter, the
613 provisions of Section 93-11-157 or 93-11-163, as the case may be,
614 shall control.

615 **SECTION 9.** This act shall take effect and be in force from
616 and after July 1, 2020.

