

By: Representatives Currie, Hopkins

To: Public Health and Human
Services

HOUSE BILL NO. 418

1 AN ACT TO AMEND SECTIONS 73-23-33, 73-23-35 AND 73-23-59,
2 MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT FOR A REFERRAL
3 BY A PHYSICIAN OR OTHER PRACTITIONER BEFORE A PHYSICAL THERAPIST
4 MAY PROVIDE PHYSICAL THERAPY SERVICES; AND FOR RELATED PURPOSES.

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

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

8 73-23-33. As used in this chapter unless the context or
9 subject matter otherwise requires:

10 (a) "Physical therapy" or "physiotherapy," which terms
11 are deemed identical and interchangeable, means the art and
12 science of a health specialty concerned with the prevention of
13 disability, and the physical rehabilitation for congenital or
14 acquired physical or mental disabilities, resulting from or
15 secondary to injury or disease. The "practice of physical
16 therapy" means the practice of the health specialty and
17 encompasses physical therapy evaluation, treatment planning,
18 treatment administration, instruction and consultative services,
19 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 diagnosis, evaluation or determination of the existence of and the extent of any body malfunction;

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

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

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



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

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(* * * d) "Board" means the State Board of Physical Therapy established in Section 73-23-41 * * *.

(* * * e) "Direct, on-site supervision" means face-to-face oversight by a licensed physical therapist or physical therapist who holds the privilege to practice at regular intervals, as prescribed in regulations adopted by the board, of the services provided to a patient by a licensed physical therapist assistant or physical therapist assistant who holds the privilege to practice * * *.

(* * * f) "Direct supervision" means face-to-face oversight at regular intervals of a physical therapist issued a



temporary 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.

(* * * g) "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 73-23-101.

(* * * h) "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 2. 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.

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SECTION 3. 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, censure or reprimand any licensee, restrict or limit a license, and take any other action in relation to a license or privilege to practice as the board may deem proper under the circumstances upon any of the following grounds:

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

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

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

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

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



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

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

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

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

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

(k) Engaging in false or misleading advertising;

(l) Contracting, assisting or permitting unlicensed persons to perform services for which a license is required under



169 this chapter or privilege to practice is required under Section
170 73-23-101;

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

173 (n) Revealing confidential information except as may be
174 required by law;

175 (o) Failing to inform clients of the fact that the
176 client no longer needs the services or professional assistance of
177 the licensee;

178 (p) Charging excessive or unreasonable fees or engaging
179 in unreasonable collection practices;

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

183 (r) * * * For acting as a physical therapist assistant
184 other than under the direct, on-site supervision of a licensed
185 physical therapist;

186 (s) Failing to adhere to the recognized standards of
187 ethics of the physical therapy profession as established by rules
188 of the board;

189 (t) Failing to complete continuing competence
190 requirements as established by board rule;

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



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

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

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

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

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

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

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



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

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

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

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



242 **SECTION 4.** This act shall take effect and be in force from
243 and after July 1, 2021.

