

By: Representatives Currie, Hopkins

To: Public Health and Human
Services

HOUSE BILL NO. 419

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 GROUNDS 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



(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: interpretation of referrals; 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



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 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



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.

(* * * i) "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.

(* * * j) "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.

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

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



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

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

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

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

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

(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 3. 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 or accreditation eligible physical therapist or physical therapist assistant educational programs, while engaged in completing a clinical requirement for graduation, which must be performed under the direct, on-site supervision of a licensed physical therapist;

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



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

(d) Physical therapists or physical therapist assistants licensed in other 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 evaluation and treatment of patients is minimal.

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



(f) Licensees who exercise the privilege to practice under the terms and provisions of the Physical Therapy Licensure Compact provided for in Section 73-23-101.

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

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



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

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



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

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



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;



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

(p) To participate in or conduct performance audits;

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

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



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

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

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



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

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

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

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

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



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

SECTION 6. Section 73-23-51, Mississippi Code of 1972, is amended 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 * * * been licensed by a similar lawfully authorized examining agency or board in physical therapy of another state or the District of Columbia * * * or a territory of the United States, if all other requirements established by rules of the board have been met. 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 and who: (a) is of good moral character; (b) holds a diploma from an educational program for physical therapists approved by the 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



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

* * *

SECTION 8. 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;



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;



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

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

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

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

(u) Failing to supervise physical therapist assistants 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.



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, 2021.

