

By: Representatives Currie, Felsher, Scoggin To: Public Health and Human Services

HOUSE BILL NO. 362

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:



20 (i) Performing and interpreting tests and  
21 measurements as an aid to physical therapy treatment, for the  
22 purpose of correcting or alleviating any physical condition and to  
23 prevent the development of any physical or mental disability  
24 within the scope of physical therapy; and the performance of  
25 neuromuscular-skeletal tests and measurements as an aid in  
26 diagnosis, evaluation or determination of the existence of and the  
27 extent of any body malfunction;

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

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

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



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

57 \* \* \*

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

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

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



69 temporary license under Section 73-23-53(1) by a licensed physical  
70 therapist. Such direct supervision shall be in accordance with  
71 the regulations adopted by the board; however, a licensed physical  
72 therapist shall be authorized to have direct supervision over not  
73 more than four (4) physical therapist assistants at one time.

74 ( \* \* \*g) "Privilege to practice" means the  
75 authorization to practice as a physical therapist in this state or  
76 work as a physical therapist assistant in this state under the  
77 Physical Therapy Licensure Compact provided for in Section  
78 73-23-101.

79 ( \* \* \*h) "Licensee" means a person who has been issued  
80 a license to practice physical therapy or work as a physical  
81 therapy assistant in the state or who holds the privilege to  
82 practice physical therapy or work as a physical therapy assistant  
83 in the state.

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

86 73-23-35. (1) A person, corporation, association or  
87 business entity shall not use in connection with that person's or  
88 party's name or the name or activity of the business the words  
89 "physical therapy," "physical therapist," "physiotherapy,"  
90 "physiotherapist," "registered physical therapist," "doctor of  
91 physical therapy," "physical therapist assistant," the letters  
92 "PT," "DPT," "LPT," "RPT," "PTA," "LPAT," and/or any other words,  
93 abbreviations, or insignia indicating or implying directly or



94 indirectly that physical therapy is provided or supplied unless  
95 such services are provided by or under the direction of a physical  
96 therapist or physical therapist assistant, as the case may be,  
97 with a valid and current license issued pursuant to this chapter  
98 or with the privilege to practice. It shall be unlawful to employ  
99 an unlicensed physical therapist or physical therapist assistant  
100 to provide physical therapy services.

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

111 \* \* \*

112 **SECTION 3.** Section 73-23-59, Mississippi Code of 1972, is  
113 amended as follows:

114 73-23-59. (1) Licensees subject to this chapter shall  
115 conduct their activities, services and practice in accordance with  
116 this chapter and any rules promulgated pursuant hereto. The  
117 board, upon satisfactory proof and in accordance with the  
118 provisions of this chapter and the regulations of the board, may



119 suspend, revoke, or refuse to issue or renew any license  
120 hereunder, or revoke or suspend any privilege to practice,  
121 censure or reprimand any licensee, restrict or limit a license,  
122 and take any other action in relation to a license or privilege to  
123 practice as the board may deem proper under the circumstances upon  
124 any of the following grounds:

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

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

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

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

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



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

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

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

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

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

166 (k) Engaging in false or misleading advertising;

167 (l) Contracting, assisting or permitting unlicensed  
168 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;





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

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

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

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

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

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

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



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

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

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

227 (4) In addition to the reasons specified in subsection (1)  
228 of this section, the board shall be authorized to suspend the  
229 license or privilege to practice of any licensee for being out of  
230 compliance with an order for support, as defined in Section  
231 93-11-153. The procedure for suspension of a license or privilege  
232 to practice for being out of compliance with an order for support,  
233 and the procedure for the reissuance or reinstatement of a license  
234 or privilege to practice suspended for that purpose, and the  
235 payment of any fees for the reissuance or reinstatement of a  
236 license or privilege to practice suspended for that purpose, shall  
237 be governed by Section 93-11-157 or 93-11-163, as the case may be.  
238 If there is any conflict between any provision of Section  
239 93-11-157 or 93-11-163 and any provision of this chapter, the  
240 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
241 shall control.



242           **SECTION 4.** This act shall take effect and be in force from  
243 and after July 1, 2022.

