

By: Representatives Currie, Scoggin

To: Public Health and Human Services

HOUSE BILL NO. 364

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 DETERMINE AND COLLECT, AT THE TIME OF NEW LICENSURE AND  
16 LICENSURE RENEWAL, A CORE SET OF DATA ELEMENTS DEEMED NECESSARY  
17 FOR THE PURPOSE OF WORKFORCE PLANNING; TO AMEND SECTION 73-23-51,  
18 MISSISSIPPI CODE OF 1972, TO REVISE THE PROVISIONS AUTHORIZING THE  
19 LICENSING OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS  
20 BY RECIPROCITY; TO AMEND SECTION 73-23-53, MISSISSIPPI CODE OF  
21 1972, TO DELETE THE AUTHORITY OF THE BOARD TO ISSUE A TEMPORARY  
22 LICENSE TO PHYSICAL THERAPISTS OR PHYSICAL THERAPIST ASSISTANTS  
23 LICENSED IN OTHER STATES DURING A DISASTER OR EMERGENCY; TO AMEND  
24 SECTION 73-23-59, MISSISSIPPI CODE OF 1972, TO CONFORM THE GROUNDS  
25 FOR DISCIPLINARY ACTION AGAINST A PHYSICAL THERAPIST FOR  
26 IMPLEMENTING PHYSICAL THERAPY TREATMENT WITHOUT A REFERRAL TO THE  
27 AMENDMENT TO SECTION 73-23-35 IN THIS ACT; AND FOR RELATED  
28 PURPOSES.

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

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



32           73-23-33. As used in this chapter unless the context or  
33 subject matter otherwise requires:

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

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

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

54                   (iii) Administering treatment by therapeutic  
55 exercise, neurodevelopmental procedures, therapeutic massage,  
56 mechanical devices and therapeutic agents which employ the



57 physical, chemical and other properties of air, water, heat, cold,  
58 electricity, sound and radiant energy for the purpose of  
59 correcting or alleviating any physical condition or preventing the  
60 development of any physical or mental disability. The use of  
61 roentgen rays and radium for any purpose, and the use of  
62 electricity for surgical purposes including cauterization, are not  
63 part of physical therapy \* \* \*.

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

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



81 (d) "Physical therapy aide" or "physical therapy  
82 technician" means an unlicensed person trained by or under the  
83 direction of a physical therapist who performs designated and  
84 supervised routine related to physical therapy services.

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

92 ( \* \* \*f) "Board" means the State Board of Physical  
93 Therapy established in Section 73-23-41 \* \* \*.

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

101 ( \* \* \*h) "Direct supervision" means face-to-face  
102 oversight at regular intervals of a physical therapist issued a  
103 temporary license under Section 73-23-53(1) by a licensed physical  
104 therapist. Such direct supervision shall be in accordance with  
105 the regulations adopted by the board; however, a licensed physical



106 therapist shall be authorized to have direct supervision over not  
107 more than four (4) physical therapist assistants at one time.

108 ( \* \* \*i) "Privilege to practice" means the  
109 authorization to practice as a physical therapist in this state or  
110 work as a physical therapist assistant in this state under the  
111 Physical Therapy Licensure Compact provided for in Section  
112 73-23-101.

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

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

120 73-23-35. (1) A person, corporation, association or  
121 business entity shall not use in connection with that person's or  
122 party's name or the name or activity of the business the words  
123 "physical therapy," "physical therapist," "physiotherapy,"  
124 "physiotherapist," "registered physical therapist," "doctor of  
125 physical therapy," "physical therapist assistant," the letters  
126 "PT," "DPT," "LPT," "RPT," "PTA," "LPTA," and/or any other words,  
127 abbreviations, or insignia indicating or implying directly or  
128 indirectly that physical therapy is provided or supplied unless  
129 such services are provided by or under the direction of a physical  
130 therapist or physical therapist assistant, as the case may be,



131 with a valid and current license issued pursuant to this chapter  
132 or with the privilege to practice. It shall be unlawful to employ  
133 an unlicensed physical therapist or physical therapist assistant  
134 to provide physical therapy services.

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

145 (3) Except as otherwise provided in this subsection (3) and  
146 in subsection (4) of this section, a physical therapist licensed  
147 under this chapter or privileged to practice shall not perform  
148 physical therapy services without a prescription or referral from  
149 a person licensed as a physician, dentist, osteopath, podiatrist,  
150 chiropractor, physician assistant or nurse practitioner. However,  
151 a physical therapist licensed under this chapter or privileged to  
152 practice may perform physical therapy services without a  
153 prescription or referral under the following circumstances:

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



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

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

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

163 (e) (i) To an individual for a previously diagnosed  
164 condition or conditions for which physical therapy services are  
165 appropriate after informing the health care provider rendering the  
166 diagnosis. The diagnosis must have been made within the previous  
167 one hundred eighty (180) days. The physical therapist shall  
168 provide the health care provider who rendered the diagnosis with a  
169 plan of care for physical therapy services within the first  
170 fifteen (15) days of physical therapy intervention.

171 (ii) Nothing in this chapter shall create  
172 liability of any kind for the health care provider rendering the  
173 diagnosis under this paragraph (e) for a condition, illness or  
174 injury that manifested itself after the diagnosis, or for any  
175 alleged damages as a result of physical therapy services performed  
176 without a prescription or referral from a person licensed as a  
177 physician, dentist, osteopath, podiatrist, chiropractor, physician  
178 assistant or nurse practitioner, the diagnosis and/or prescription  
179 for physical therapy services having been rendered with reasonable  
180 care.



181       (4) The provisions of subsection (3) of this section shall  
182 not apply in the following circumstances:

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

187           (b) For the treatment of a condition within the scope  
188 of physical therapy, a physical therapist licensed or privileged  
189 to practice under this chapter may implement physical therapy  
190 treatment with or without a prescription or referral from a person  
191 licensed as a physician, dentist, osteopath, podiatrist,  
192 chiropractor, physician assistant or nurse practitioner if the  
193 physical therapist meets one (1) of the following criteria:

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

196                   (ii) The physical therapist has ten (10) years of  
197 licensed clinical practice experience.

198           (c) If the patient has not made measurable or  
199 functional improvement after thirty (30) calendar days of  
200 implementing physical therapy treatment under the authority of  
201 this subsection (4), the physical therapist shall refer the  
202 patient to an appropriate health care provider. The board shall  
203 take appropriate disciplinary action against any physical  
204 therapist who fails to refer a patient as required by this  
205 paragraph (c).





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

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

216           ( \* \* \*6) Nothing in this section shall restrict the  
217 Division of Medicaid from setting rules and regulations regarding  
218 the coverage of physical therapy services and nothing in this  
219 section shall amend or change the Division of Medicaid's schedule  
220 of benefits, exclusions and/or limitations related to physical  
221 therapy services as determined by state or federal regulations and  
222 state and federal law.

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

225           73-23-39. The following persons shall be permitted to  
226 practice physical therapy in this state without obtaining a  
227 license under this chapter, upon the terms and conditions  
228 specified herein:

229           (a) Students enrolled in accredited or accreditation  
230 eligible physical therapist or physical therapist assistant



231 educational programs, while engaged in completing a clinical  
232 requirement for graduation, which must be performed under the  
233 direct, on-site supervision of a licensed physical therapist;

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

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

247 (d) Physical therapists or physical therapist  
248 assistants licensed in other jurisdictions who are teaching or  
249 participating in physical therapy education projects,  
250 demonstrations or courses in this state, or providing physical  
251 therapy services to visiting established athletic organizations,  
252 performing arts companies or volunteering to provide services to  
253 competitors in events such as the Olympics or dance competitions  
254 in which their participation in the evaluation and treatment of  
255 patients is minimal.



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

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

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

269 73-23-41. (1) There is established a State Board of  
270 Physical Therapy that shall consist of \* \* \* eight (8) members  
271 appointed by the Governor, with the advice and consent of the  
272 Senate. Four (4) members shall be physical therapists \* \* \* and  
273 two (2) members shall be \* \* \* physical therapist  
274 assistants, \* \* \* each of whom possesses unrestricted licenses to  
275 practice in his or her profession. The Governor shall also  
276 appoint \* \* \* two (2) members who shall be \* \* \* consumers at  
277 large who \* \* \* are not associated with or financially interested  
278 in any health care profession and who \* \* \* have an interest in  
279 consumer rights. Each of the four (4) members who are physical  
280 therapists shall be appointed from a list of three (3) persons



281 from each of the four (4) Mississippi congressional districts, as  
282 such districts currently exist, submitted by the \* \* \* American  
283 Physical Therapy Association - Mississippi, all of whom must be  
284 residents of Mississippi and must have engaged in the practice of  
285 physical therapy within the state for at least four (4) years.  
286 The terms of the members of the board shall be staggered, so that  
287 the terms of no more than two (2) members shall expire in any  
288 year. Members appointed to the board shall serve for four-year  
289 terms and until their successors are appointed and confirmed,  
290 except that members of the board who are appointed to fill  
291 vacancies which occur before the expiration of a former member's  
292 full term shall serve the unexpired portion of such term. \* \* \*

293 (2) The board shall annually elect a chairman, secretary and  
294 treasurer. The board shall provide for the timely orientation and  
295 training of new professional and public appointees to the board  
296 regarding board licensing and disciplinary procedures, this  
297 chapter and board rules, regulations, policies and procedures. A  
298 member may be removed by the board only for due cause. Failure to  
299 attend at least half of the board meetings in a fiscal year shall  
300 constitute cause. The board shall meet at least once each  
301 quarter, and those meetings shall be held in compliance with the  
302 Open Meetings Law (Section 25-41-1 et seq.). A majority of board  
303 members shall constitute a quorum for the transaction of business.  
304 The board shall keep an official record of its meetings. Whenever  
305 a vacancy occurs in the membership of the board before the



306 expiration of a term of office, the Governor shall appoint a  
307 qualified successor to fill the unexpired term. Members of the  
308 board shall receive the per diem authorized under Section 25-3-69  
309 for each day spent actually discharging their official duties, and  
310 shall receive reimbursement for mileage and necessary travel  
311 expenses incurred as provided in Section 25-3-41. A board member  
312 who acts within the scope of board duties, without malice and in  
313 the reasonable belief that the member's action is warranted by law  
314 is immune from civil liability.

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

317       73-23-43. (1) The board shall have the following general  
318 powers and duties:

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

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

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



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

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

335 (e) To adopt, amend or repeal any rules or regulations  
336 necessary to carry out the purposes of this chapter and the duties  
337 and responsibilities of the board, in accordance with Section  
338 25-43-1 et seq. Such rules, when lawfully adopted, shall have the  
339 effect of law;

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

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

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

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

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

353 (k) To set criteria for continuing \* \* \* competence;



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

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

358 (n) To report final disciplinary action taken against a  
359 licensee to other state or federal regulatory agencies and to a  
360 national disciplinary database recognized by the board or as  
361 required by law;

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

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

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

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



379 or licensee shall be fingerprinted. The board shall submit the  
380 fingerprints to the Department of Public Safety for a check of the  
381 state criminal records and forward to the Federal Bureau of  
382 Investigation for a check of the national criminal records. The  
383 Department of Public Safety shall disseminate the results of the  
384 state check and the national check to the board for a suitability  
385 determination. The board shall be authorized to charge and  
386 collect from the applicant or licensee, in addition to all other  
387 applicable fees and costs, such amount as may be incurred by the  
388 board in requesting and obtaining state and national criminal  
389 history records information on the applicant or licensee.

390 Any and all state or national criminal history records  
391 information obtained by the board that is not already a matter of  
392 public record shall be deemed nonpublic and confidential  
393 information restricted to the exclusive use of the board, its  
394 members, officers, investigators, agents and attorneys in  
395 evaluating the applicant's eligibility or disqualification for  
396 licensure, and shall be exempt from the Mississippi Public Records  
397 Act of 1983. Except when introduced into evidence in a hearing  
398 before the board to determine licensure, no such information or  
399 records related thereto shall, except with the written consent of  
400 the applicant or by order of a court of competent jurisdiction, be  
401 released or otherwise disclosed by the board to any other person  
402 or agency; \* \* \*





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

411           ( \* \* \*t) To perform the duties prescribed by the  
412 Physical Therapy Licensure Compact provided for in Section  
413 73-23-101. The State Board of Physical Therapy shall be the  
414 physical therapy licensing board.

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

421           ( \* \* \*3) The board shall maintain a register listing the  
422 name of every physical therapist and physical therapist assistant  
423 licensed to practice in this state, his or her last known place of  
424 business \* \* \*, and the date and number of his or her license.  
425 The board shall, at least once a year, compile a list of physical  
426 therapists and physical therapist assistants licensed to practice  
427 in this state and such a list shall be available to any person



428 upon application to the board and the payment of such charges as  
429 may be fixed by it.

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

432 73-23-51. (1) The board may license as a physical therapist  
433 or as a physical therapist assistant, and furnish a certificate of  
434 licensure without examination to, any applicant who presents  
435 evidence, satisfactory to the board, of having \* \* \* been licensed  
436 by a similar lawfully authorized examining agency or board in  
437 physical therapy of another state or the District of  
438 Columbia \* \* \* or a territory of the United States, if all other  
439 requirements established by rules of the board have been met. The  
440 issuance of a license by reciprocity to a military-trained  
441 applicant, military spouse or person who establishes residence in  
442 this state shall be subject to the provisions of Section 73-50-1  
443 or 73-50-2, as applicable.

444 (2) Any person who has been trained as a physical therapist  
445 in a foreign country and desires to be licensed under this chapter  
446 and who: (a) is of good moral character; (b) holds a diploma from  
447 an educational program for physical therapists approved by the  
448 board; (c) submits documentary evidence to the board that he has  
449 completed a course of professional instruction substantially  
450 equivalent to that obtained by an applicant for licensure; (d)  
451 demonstrates satisfactory proof of proficiency in the English  
452 language; and (e) meets other requirements established by rules of



453 the board, may make application on a form furnished by the board  
454 for examination as a foreign-trained physical therapist. At the  
455 time of making such application, the applicant shall pay the fee  
456 prescribed by the board, no portion of which shall be returned.

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

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

463 73-23-53. (1) A temporary license to practice as a physical  
464 therapist or physical therapist assistant may be granted to those  
465 persons meeting the requirements stated in Section 73-23-47 and  
466 who (a) have not taken the approved examination, or (b) have taken  
467 the approved examination but have not received the results of the  
468 examination. The temporary license shall be granted for a period  
469 not to exceed ninety (90) days. Any physical therapist granted a  
470 temporary license under the provisions of this subsection shall  
471 restrict his or her practice to the State of Mississippi and shall  
472 be under the direct supervision of a physical therapist licensed  
473 in Mississippi (physical therapy assistants shall be under the  
474 direct on-site supervision of a Mississippi licensed physical  
475 therapist). Documentation verifying the supervision shall be on  
476 file with the board before a temporary license is granted.



477           (2) The board may by rule provide for the issuance of a  
478 temporary license to a physical therapist or a physical therapist  
479 assistant licensed in another state who is moving into the state  
480 and has filed an application with the board for a permanent  
481 license in this state. This temporary license will be granted for  
482 a period not to exceed sixty (60) days. The issuance of a  
483 temporary license to a military-trained applicant, military spouse  
484 or person who establishes residence in this state shall be subject  
485 to the provisions of Section 73-50-1 or 73-50-2, as applicable.

486           (3) Any person granted a temporary license who is required  
487 to take the approved examination and fails to take the exam as  
488 required by the board or does not pass the required exam shall  
489 have the temporary license automatically expire by operation of  
490 law and without further action of the board and no license of any  
491 type shall be issued until such person has passed an approved  
492 examination.

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

496           (5) Any person who has been trained as a physical therapist  
497 or physical therapist assistant in a foreign country and desires  
498 to be temporarily licensed under this subsection shall, in  
499 addition to satisfying such other requirements established by the  
500 board, demonstrate proficiency in the English language and meet



501 the other requirements of Section 73-23-51(2) before such  
502 temporary license shall be issued.

503 \* \* \*

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

506 73-23-59. (1) Licensees subject to this chapter shall  
507 conduct their activities, services and practice in accordance with  
508 this chapter and any rules promulgated pursuant hereto. The  
509 board, upon satisfactory proof and in accordance with the  
510 provisions of this chapter and the regulations of the board, may  
511 suspend, revoke, or refuse to issue or renew any license  
512 hereunder, or revoke or suspend any privilege to practice,  
513 censure or reprimand any licensee, restrict or limit a license,  
514 and take any other action in relation to a license or privilege to  
515 practice as the board may deem proper under the circumstances upon  
516 any of the following grounds:

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

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

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



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

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

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

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



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

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

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

558           (k) Engaging in false or misleading advertising;

559           (l) Contracting, assisting or permitting unlicensed  
560 persons to perform services for which a license is required under  
561 this chapter or privilege to practice is required under Section  
562 73-23-101;

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

565           (n) Revealing confidential information except as may be  
566 required by law;

567           (o) Failing to inform clients of the fact that the  
568 client no longer needs the services or professional assistance of  
569 the licensee;

570           (p) Charging excessive or unreasonable fees or engaging  
571 in unreasonable collection practices;

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



575 (r) Except as authorized in Section 73-23-35(3) and  
576 (4), for applying or offering to apply physical therapy, exclusive  
577 of initial evaluation or screening and exclusive of education or  
578 consultation for the prevention of physical and mental disability  
579 within the scope of physical therapy, other than upon the  
580 referral \* \* \* from a licensed physician, dentist, osteopath,  
581 podiatrist, chiropractor, physician assistant or nurse  
582 practitioner; or for acting as a physical therapist assistant  
583 other than under the direct, on-site supervision of a licensed  
584 physical therapist;

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

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

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

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

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





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

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

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

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

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

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

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



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

626 (4) In addition to the reasons specified in subsection (1)  
627 of this section, the board shall be authorized to suspend the  
628 license or privilege to practice of any licensee for being out of  
629 compliance with an order for support, as defined in Section  
630 93-11-153. The procedure for suspension of a license or privilege  
631 to practice for being out of compliance with an order for support,  
632 and the procedure for the reissuance or reinstatement of a license  
633 or privilege to practice suspended for that purpose, and the  
634 payment of any fees for the reissuance or reinstatement of a  
635 license or privilege to practice suspended for that purpose, shall  
636 be governed by Section 93-11-157 or 93-11-163, as the case may be.  
637 If there is any conflict between any provision of Section  
638 93-11-157 or 93-11-163 and any provision of this chapter, the  
639 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
640 shall control.

641 **SECTION 9.** This act shall take effect and be in force from  
642 and after July 1, 2022.

