

By: Representatives Hopkins, Criswell

To: Public Health and Human Services

HOUSE BILL NO. 493

1 AN ACT TO AMEND SECTIONS 73-23-33, 73-23-35 AND 73-23-59,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE LICENSED PHYSICAL
3 THERAPISTS TO PERFORM PHYSICAL THERAPY SERVICES WITHOUT A
4 PRESCRIPTION OR REFERRAL FROM ANOTHER HEALTH CARE PROVIDER; AND
5 FOR RELATED PURPOSES.

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

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

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

11 (a) "Physical therapy" or "physiotherapy," which terms
12 are deemed identical and interchangeable, means the art and
13 science of a health specialty concerned with the prevention of
14 disability, and the physical rehabilitation for congenital or
15 acquired physical or mental disabilities, resulting from or
16 secondary to injury or disease. The "practice of physical
17 therapy" means the practice of the health specialty and
18 encompasses physical therapy evaluation, treatment planning,



19 treatment administration, instruction and consultative services,
20 including:

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

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

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

41 (b) "Physical therapist" means a person licensed in
42 this state to practice physical therapy as defined in this



43 chapter, and whose license is in good standing, or a person who
44 holds the privilege to practice * * *.

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

58 (d) "Referral" means the written or oral designation of
59 physical therapy services by a doctor of medicine, dentistry,
60 osteopathy, podiatry or chiropractic, or by a physician assistant
61 or nurse practitioner, holding a license in good standing * * *.

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

64 (f) "Direct, on-site supervision" means face-to-face
65 oversight by a licensed physical therapist or physical therapist
66 who holds the privilege to practice at regular intervals, as
67 prescribed in regulations adopted by the board, of the services



68 provided to a patient by a licensed physical therapist assistant
69 or physical therapist assistant who holds the privilege to
70 practice * * *.

71 (g) "Direct supervision" means face-to-face oversight
72 at regular intervals of a physical therapist issued a temporary
73 license under Section 73-23-53(1) by a licensed physical
74 therapist. Such direct supervision shall be in accordance with
75 the regulations adopted by the board; however, a licensed physical
76 therapist shall be authorized to have direct supervision over not
77 more than four (4) physical therapist assistants at one time.

78 (h) "Privilege to practice" means the authorization to
79 practice as a physical therapist in this state or work as a
80 physical therapist assistant in this state under the Physical
81 Therapy Licensure Compact provided for in Section 73-23-101.

82 (i) "Licensee" means a person who has been issued a
83 license to practice physical therapy or work as a physical therapy
84 assistant in the state or who holds the privilege to practice
85 physical therapy or work as a physical therapy assistant in the
86 state.

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

89 73-23-35. (1) A person, corporation, association or
90 business entity shall not use in connection with that person's or
91 party's name or the name or activity of the business the words
92 "physical therapy," "physical therapist," "physiotherapy,"



93 "physiotherapist," "registered physical therapist," "doctor of
94 physical therapy," "physical therapist assistant," the letters
95 "PT," "DPT," "LPT," "RPT," "PTA," "LPTA," and/or any other words,
96 abbreviations, or insignia indicating or implying directly or
97 indirectly that physical therapy is provided or supplied unless
98 such services are provided by or under the direction of a physical
99 therapist or physical therapist assistant, as the case may be,
100 with a valid and current license issued pursuant to this chapter
101 or with the privilege to practice. It shall be unlawful to employ
102 an unlicensed physical therapist or physical therapist assistant
103 to provide physical therapy services.

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

114 (3) A physical therapist licensed under this chapter or
115 privileged to practice * * * may perform physical therapy services
116 without a prescription or referral from a person licensed as a
117 physician, dentist, osteopath, podiatrist, chiropractor, physician



118 assistant or nurse practitioner. * * * * * Physical therapy
119 services performed without a prescription or referral from a
120 person licensed as a physician, dentist, osteopath, podiatrist,
121 chiropractor, physician assistant or nurse practitioner shall not
122 be construed to mandate coverage for physical therapy services
123 under any health care plan, insurance policy, or workers'
124 compensation or circumvent any requirement for preauthorization of
125 services in accordance with any health care plan, insurance policy
126 or workers' compensation.

127 (* * *4) Nothing in this section shall restrict the
128 Division of Medicaid from setting rules and regulations regarding
129 the coverage of physical therapy services and nothing in this
130 section shall amend or change the Division of Medicaid's schedule
131 of benefits, exclusions and/or limitations related to physical
132 therapy services as determined by state or federal regulations and
133 state and federal law.

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

136 73-23-59. (1) Licensees subject to this chapter shall
137 conduct their activities, services and practice in accordance with
138 this chapter and any rules promulgated pursuant hereto. The
139 board, upon satisfactory proof and in accordance with the
140 provisions of this chapter and the regulations of the board, may
141 suspend, revoke, or refuse to issue or renew any license
142 hereunder, or revoke or suspend any privilege to practice,



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

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

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

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

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

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

166 (f) Engaging in or permitting the performance of
167 unacceptable services personally or by others working under the



168 licensee's supervision due to the licensee's deliberate or
169 negligent act or acts or failure to act, regardless of whether
170 actual damage or damages to the public is established;

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

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

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

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

188 (k) Engaging in false or misleading advertising;

189 (l) Contracting, assisting or permitting unlicensed
190 persons to perform services for which a license is required under
191 this chapter or privilege to practice is required under Section
192 73-23-101;



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

195 (n) Revealing confidential information except as may be
196 required by law;

197 (o) Failing to inform clients of the fact that the
198 client no longer needs the services or professional assistance of
199 the licensee;

200 (p) Charging excessive or unreasonable fees or engaging
201 in unreasonable collection practices;

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

249 (4) In addition to the reasons specified in subsection (1)
250 of this section, the board shall be authorized to suspend the
251 license or privilege to practice of any licensee for being out of
252 compliance with an order for support, as defined in Section
253 93-11-153. The procedure for suspension of a license or privilege
254 to practice for being out of compliance with an order for support,
255 and the procedure for the reissuance or reinstatement of a license
256 or privilege to practice suspended for that purpose, and the
257 payment of any fees for the reissuance or reinstatement of a
258 license or privilege to practice suspended for that purpose, shall
259 be governed by Section 93-11-157 or 93-11-163, as the case may be.
260 If there is any conflict between any provision of Section
261 93-11-157 or 93-11-163 and any provision of this chapter, the
262 provisions of Section 93-11-157 or 93-11-163, as the case may be,
263 shall control.

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

