

By: Senator(s) Blackwell

To: Public Health and
Welfare

SENATE BILL NO. 2714

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

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

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

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



106 the regulations adopted by the board; however, a licensed physical
107 therapist shall be authorized to have direct supervision over not
108 more than four (4) physical therapist assistants at one time.

109 (* * *i) "Privilege to practice" means the
110 authorization to practice as a physical therapist in this state or
111 work as a physical therapist assistant in this state under the
112 Physical Therapy Licensure Compact provided for in Section
113 73-23-101.

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

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

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



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

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

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



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

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

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

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

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

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



180 for physical therapy services having been rendered with reasonable
181 care.

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

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

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

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

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

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



205 therapist who fails to refer a patient as required by this
206 paragraph (c).

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

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

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

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

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



230 (a) Students enrolled in accredited or accreditation
231 eligible physical therapist or physical therapist assistant
232 educational programs, while engaged in completing a clinical
233 requirement for graduation, which must be performed under the
234 direct, on-site supervision of a licensed physical therapist;

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

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

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



255 in which their participation in the evaluation and treatment of
256 patients is minimal.

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

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

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

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



280 consumer rights. Each of the four (4) members who are physical
281 therapists shall be appointed from a list of three (3) persons
282 from each of the four (4) Mississippi congressional districts, as
283 such districts currently exist, submitted by the * * * American
284 Physical Therapy Association - Mississippi, all of whom must be
285 residents of Mississippi and must have engaged in the practice of
286 physical therapy within the state for at least four (4) years.
287 The terms of the members of the board shall be staggered, so that
288 the terms of no more than two (2) members shall expire in any
289 year. Members appointed to the board shall serve for four-year
290 terms and until their successors are appointed and confirmed,
291 except that members of the board who are appointed to fill
292 vacancies which occur before the expiration of a former member's
293 full term shall serve the unexpired portion of such term. * * *

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



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

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

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

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

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



329 (c) To investigate alleged or suspected violations of
330 the provisions of this chapter or other laws of this state
331 pertaining to physical therapy and any rules and regulations
332 adopted by the board;

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

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

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

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

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

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

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



- 354 (k) To set criteria for continuing * * * competence;
- 355 (l) To establish and collect fees for sustaining the
356 necessary operation and expenses of the board;
- 357 (m) To publish, at least annually, final disciplinary
358 action against a licensee;
- 359 (n) To report final disciplinary action taken against a
360 licensee to other state or federal regulatory agencies and to a
361 national disciplinary database recognized by the board or as
362 required by law;
- 363 (o) To share documents, materials, or other
364 information, including confidential and privileged documents,
365 materials, or information, received or maintained by the board
366 with other state or federal agencies, and with a national
367 disciplinary database recognized by the board or as required by
368 law provided that the recipient agrees to maintain the
369 confidentiality and privileged status of the document, material or
370 other information;
- 371 (p) To participate in or conduct performance audits;
- 372 (q) To, through its employees and/or representatives,
373 enter and make inspections of any place where physical therapy is
374 practiced and inspect and/or copy any record pertaining to clients
375 or the practice of physical therapy under this chapter;
- 376 (r) To conduct a criminal history records check on
377 licensees whose licensure is subject to investigation by the board
378 and on applicants for licensure. In order to determine the



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

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



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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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



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

504 * * *

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

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

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

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

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



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

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

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

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



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

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

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

559 (k) Engaging in false or misleading advertising;

560 (l) Contracting, assisting or permitting unlicensed
561 persons to perform services for which a license is required under
562 this chapter or privilege to practice is required under Section
563 73-23-101;

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

