

By: Flaggs

To: Public Health and
Welfare

HOUSE BILL NO. 35

1 AN ACT TO PROVIDE FOR THE LICENSURE AND REGULATION OF
2 KINESICAL THERAPISTS BY THE STATE BOARD OF HEALTH; TO PROVIDE
3 QUALIFICATIONS AND ELIGIBILITY THEREFOR; TO PROVIDE FOR THE
4 SUSPENSION AND REVOCATION OF THOSE LICENSES; TO CREATE AND EMPOWER
5 A MISSISSIPPI ADVISORY COUNCIL IN KINESICAL THERAPY; TO AUTHORIZE
6 FEES; TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ACT;
7 AND FOR RELATED PURPOSES.

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

9 SECTION 1. This act shall be known and may be cited as the
10 "Mississippi Kinesical Therapy Practice Act of 2000."

11 SECTION 2. The following words and phrases shall have the
12 following meanings, unless the context requires otherwise:

13 (a) "Association" means the Mississippi Association of
14 Kinesical Therapists.

15 (b) "Board" means the State Board of Health.

16 (c) "Council" means the Mississippi Advisory Council in
17 Kinesical Therapy.

18 (d) "Kinesical therapy" or "kinesiotherapy," used
19 interchangeably in this act, means a medical service of an
20 auxiliary medical specialty concerned with the effective uses of
21 resourceful modifiability of physical human efforts and the
22 applicable underlying principles and concepts derived from the
23 anatomical, physiological, kinesiological, psychological,

24 nutritional, sports, exercise and life sciences for the purpose of
25 evaluation, measurement, interpretation, assessment, treatment and
26 planning and the administering of treatment of problems of people
27 who are afflicted with disabilities confronting the medical
28 service as the result of lessening of efficiency because of the
29 effects of abnormalities intercurrenting in clinical medicine that
30 affect the body in its ability to mobilize the actual physical
31 powers needed to deal with situations in which the functional
32 capacity, physiologic potentials and reserves are impaired, or
33 prevent disablement, forestall disability, promote health and
34 discipline, in order to elicit maximum recovery and make the
35 patient independent.

36 The practice of kinesical therapy evaluation, treatment,
37 instruction and consultation services; and it means the practice
38 of the medical specialty including rendering adaptive training
39 drills considered to be of critical importance to deal with
40 certain aspects of everyday life or factors affecting life;
41 helping meet demands confronting the muscular system; developing
42 drills to increase or decrease mobilizing powers or forces;
43 producing adaptations, vitalizations, volatilizations and
44 levelizations through repetition or training; using specially
45 designed exercises and modifiabilities to improve functional
46 capacity, physiologic potentials and reserves so as to engender
47 enhanced the chronically diseased or disordered body's ability to
48 deal with situations that elicit them; applying a lifelong
49 exercise regime of total concentrated conditioning programs proven
50 singularly effective as prophylactic measures for people
51 recovering from myocardial or acquired illnesses, or against the
52 progression of disability and to reverse the effects of its
53 sequela, including performing tests and assessing physical
54 performance once integrated for the purpose of correcting an

55 impairment, improving musculoskeletal functions and maintaining
56 well-being, within the scope of kinesical therapy. The services
57 are provided to individuals or groups through private clinics,
58 hospitals, nursing home systems, schools and rehabilitation
59 centers, with or without exercise machine or apparatus.

60 (e) "Kinesical therapist" means a person licensed to
61 practice kinesical therapy and whose license is in good standing.

62 (f) "Person" means any individual, partnership,
63 unincorporated organization or corporate body, except that only an
64 individual may be licensed under this act.

65 SECTION 3. The State Board of Health, established and
66 empowered by Section 41-3-1 et seq., shall discharge the
67 provisions of this act in the examination, licensure and
68 regulation of persons who provide services of kinesical therapy.

69 SECTION 4. From and after July 1, 2000, no person shall
70 practice kinesical therapy or hold himself or herself out as a
71 kinesical therapist or as being able to practice kinesical therapy
72 or to render kinesical therapy services in the state unless he or
73 she is licensed in accordance with the provisions of this act.

74 SECTION 5. Nothing in this act shall be construed as
75 preventing or restricting the services or activities of:

76 (a) Any person licensed or registered in this state
77 under another law carrying out the therapy or practice for which
78 he or she is duly licensed or registered.

79 (b) Schools, YMCAs, athletic clubs and similar
80 organizations furnishing services to their players and members,
81 provided they do not represent themselves as providing kinesical
82 therapy services.

83 (c) Any person who is employed as a kinesical therapist
84 by the United States Armed Services, Public Health Service,
85 Veterans Administration or other federal agencies, if such person
86 engages in the practice of kinesical therapy solely within the
87 confines or under the jurisdiction of the organization by which he
88 or she is employed, and does not practice kinesical therapy
89 outside of the scope of his or her official duty. Such person
90 also may elect to be subject to this act.

91 (d) Any person pursuing a course of study leading to a
92 degree or specialization in kinesical therapy in an approved
93 educational program, if such activities and services constitute a
94 part of the supervised course of study requirements, provided that
95 such person shall be designated by a title which clearly indicates
96 the "student" or "trainee" status and his or her practice must be
97 performed under the direction and on-site supervision of a
98 kinesical therapist or physician whose license is in good
99 standing.

100 (e) Any person engaged in completing supervised
101 training experience requirements for graduation, if such
102 activities and services constitute a part of the experience
103 necessary to meet the requirement of Section 10 of this act.

104 (f) Any person performing kinesical therapy services in
105 the state, if:

106 (i) Those services are performed for no more than
107 one hundred twenty (120) days in a calendar year in association
108 with a kinesical therapist licensed under this act; or

109 (ii) The person is licensed under the law of
110 another state which has licensure requirements at least as

111 stringent as the requirement of this act; or

112 (iii) The person meets the requirements as a
113 kinesical therapist registered (KTR) and such requirement is
114 established by an educational institution accredited by the United
115 States Department of Education and the Mississippi Association of
116 Kinesiotherapists, Inc., in collaboration with the American
117 Kinesiotherapy Association.

118 SECTION 6. (1) There is established the Mississippi
119 Advisory Council in Kinesical Therapy under the jurisdiction of
120 the State Board of Health. The council shall consist of five (5)
121 members appointed by the board, four (4) of whom shall be
122 appointed from a list of names submitted by the Mississippi
123 Association of Kinesical Therapists, all of whom shall be
124 residents of this state at the time of their appointment. The
125 persons appointed from the list submitted by the association shall
126 have been engaged in rendering kinesical therapy services to the
127 public, and at least three (3) of those members shall be kinesical
128 therapists.

129 These four (4) members shall at all times be holders of valid
130 licenses for the practice of kinesical therapy in this state,
131 except for the member of the first council, who shall fulfill the
132 licensure requirements of this act. The remaining member shall be
133 a physician of another health profession or member of the public
134 with an interest in the rights of the consumers of health
135 services.

136 (2) Within sixty (60) days after July 1, 1999, the board
137 shall appoint two (2) council members for a term of one (1) year,
138 two (2) for a term of two (2) years and one (1) for a term of

139 three (3) years. Appointments made thereafter shall be for terms
140 of three (3) years, with no person being eligible to serve more
141 than two (2) full consecutive terms. Terms shall begin on the
142 first day of the calendar year and end on the last day of the
143 calendar year or until successors are appointed, except for the
144 first appointed members, who shall serve through the last calendar
145 day of the year in which they are appointed before commencing the
146 term prescribed by this section.

147 (3) Within thirty (30) days after any vacancy on the
148 council, the association may recommend at least two (2) and not
149 more than three (3) persons to fill that vacancy. The board shall
150 appoint, as soon as practicable, one (1) of those persons whom the
151 council recommends, to fill the unexpired term. If the
152 association does not provide a recommendation, the board shall
153 appoint a person to the unexpired term.

154 (4) The council shall meet during the first month of each
155 calendar year to select a chairperson and for other appropriate
156 reasons. Further meetings may be convened at the call of the
157 chairperson, or at the written request of any two (2) members of
158 the council. Three (3) members of the council shall constitute a
159 quorum for all purposes. All meetings of the council shall be
160 open to the public, except that the council may hold executive
161 sessions under the Mississippi Open Meetings Law, Section 25-41-1
162 et seq., or upon request of an applicant who fails an examination,
163 to prepare a response indicating any reason for his or her
164 failure.

165 (5) (a) It shall be grounds for removal from the council if
166 a member:

167 (i) Does not have at the time of appointment the
168 qualifications required for appointment to the council;

169 (ii) Violates a prohibition established by this
170 act; or

171 (iii) Fails to attend council meetings for a
172 period of one (1) year.

173 (b) If grounds for removal of a member from the council
174 exist, the council's actions taken during the existence of the
175 ground for removal shall be valid.

176 SECTION 7. (1) The board shall administer, coordinate and
177 enforce the provisions of this act, evaluate the qualifications
178 and approve the examinations for licensure under this act, and may
179 issue subpoenas, examine witnesses, administer oaths and
180 investigate allegations for practices violating the provisions of
181 this act.

182 (2) The board shall adopt such rules and regulations, not
183 inconsistent with the laws of this state, as may be necessary to
184 effectuate the provisions of this act, and may amend or repeal the
185 same as may be necessary for such purposes, with the advice of the
186 council. Such rules and regulations shall be adopted in
187 accordance with the provisions of Section 25-43-1 et seq.

188 (3) The board shall conduct hearings and keep such records
189 and minutes as are necessary to carry out its functions. It shall
190 provide reasonable public notice to the appropriate persons as to
191 the time and place of all hearings authorized under this act in
192 such a manner and at such times as it may determine by its rules
193 and regulations.

194 (4) The conferral or enumeration of specific powers

195 elsewhere in this act shall not be construed as a limitation of
196 the general functions by this section.

197 SECTION 8. (1) The administration of the provisions of this
198 act shall be financed from income accruing from fees, licenses and
199 charges assessed and collected by the board and from such other
200 funds available to the board. In addition, the board shall
201 receive and account for all funds received and shall keep such
202 funds in a special fund which is created in the State Treasury.
203 Funds collected under provisions of this act shall be used solely
204 for the expenses incurred in the administration of the provisions
205 of this act, which may include full or partial financing of the
206 continuing professional education program provided for under
207 subsection (1) of Section 13 of this act. Such funds shall be
208 subject to audit by the State Auditor.

209 (2) Members of the council shall receive no compensation for
210 their services, but shall be reimbursed for their expenses
211 actually incurred in the execution of their powers and duties,
212 including mileage, as provided in Section 25-3-41.

213 SECTION 9. (1) The board shall issue licenses and notices
214 of renewal, revocation, suspension or reinstatement, and shall
215 publish annually the names of persons licensed under this act.

216 (2) The board shall publish and disseminate to all
217 licensees, in an appropriate manner, the license standards
218 prescribed by this act, any amendments thereto, and such rules and
219 regulations as the board may adopt under the authority of Section
220 7 of this act, within sixty (60) days of their adoption.

221 SECTION 10. (1) An applicant applying for a license as a
222 kinesical therapist shall file a written application on forms

223 provided by the board, showing to the satisfaction of the board
224 that he or she:

225 (a) Is of good moral character;

226 (b) Has successfully completed the academic
227 requirements of an education program in kinesical therapy
228 recognized by the board, with a concentration of instruction in
229 the biological, behavior and applied sciences in addition to
230 clinical application of a movement health science,
231 kinesicaliological training, activities, health and neuromuscular
232 education relevant to illness, the handicapped and the
233 relationship to a variety of disabling clinical conditions,
234 kinesical therapy theory and practice. For a kinesical therapist,
235 a minimum of one thousand two hundred fifty (1,250) hours or one
236 (1) year of supervised fieldwork experience under the direct
237 supervision of a licensed kinesical therapist or a licensed
238 physician whose license is in good standing shall be required.

239 (2) The board shall approve an examination that will be used
240 for the licensure of kinesical therapists.

241 (3) Any person applying for licensure, in addition to
242 demonstrating his eligibility in accordance with the requirements
243 of this section, shall make application to the board for review of
244 proof of his eligibility on a form and in such a manner as the
245 board shall prescribe. The application shall be accompanied by
246 the fee fixed in accordance with the provisions of Section 14 of
247 this act.

248 (4) Foreign trained kinesical therapists shall satisfy the
249 examination requirements of this section. The board shall require
250 foreign trained applicants to furnish proof of good moral

251 character and completion of educational and supervised fieldwork
252 requirements substantially equal to those contained in this
253 section before taking the examination.

254 (5) The board shall waive the educational, experience and
255 examination requirements for licensure in subsections (1), (2),
256 (3) and (4) of this section for applicants for licensure who
257 present evidence to the board that they have been engaged in the
258 practice of kinesical therapy on and before July 1, 2000. Such
259 proof of actual practice shall be presented to the board in such
260 manner as it may prescribe by rule or regulation. To obtain the
261 benefit of this waiver, an applicant shall file an application for
262 licensure no later than six (6) months from July 1, 2000, and meet
263 the requirements outlined in subsections (1), (2), (3) and (4) of
264 this section.

265 SECTION 11. (1) The board shall issue a license to any
266 person who meets the requirements of this act upon payment of the
267 license fee.

268 (2) The board shall issue a temporary license to persons who
269 have completed the education and experience requirements of this
270 act upon payment of the temporary license fee. This license shall
271 allow the person to practice kinesical therapy under the
272 supervision of a kinesical therapist who holds a current license
273 in this state, and shall be valid until the date on which the
274 results of the next qualifying examination have been made public.

275 The temporary license may be renewed one (1) time if the
276 applicant has failed the examination.

277 (3) Any person who is issued a license as a kinesical
278 therapist under this act may use the words "Registered Kinesical

279 Therapist" or "Kinesical Therapist Registered" or the letters
280 "RKT" or "KTR" in connection with his or her name or place of
281 business to denote licensure under this act.

282 SECTION 12. (1) The board, after notice and opportunity for
283 a hearing, has the power to deny, refuse to renew, suspend or
284 revoke the license of, or impose probationary conditions upon, any
285 licensee who has been guilty of unprofessional conduct which has
286 endangered or is likely to endanger the health, welfare or public
287 safety of the public. Such unprofessional conduct includes:

288 (a) Obtaining or attempting to obtain a license by
289 fraud, misrepresentation or concealment of material facts;

290 (b) Being guilty of unprofessional conduct as defined
291 by the rules and regulations established by the board, or
292 violating the code of ethics adopted and published by the board;

293 (c) Being convicted of a crime in any court, except for
294 minor offenses defined as "minor misdemeanors," "violations" or
295 "offenses" in any court, if the acts which he or she was convicted
296 are found by the board to have a direct bearing on whether he or
297 she should be entrusted to serve the public in the capacity of
298 kinesical therapist;

299 (d) Violating any lawful order, rule or regulation
300 rendered or adopted by the board; and

301 (e) Violating any provision of this act.

302 (2) A denial of, refusal to renew, suspension or revocation
303 of the license of, or imposition of probationary conditions upon,
304 a license may be ordered by the board after a hearing in the
305 manner provided by the rules and regulations adopted by the board.
306 An application for reinstatement may be made to the board after

307 one (1) year from the date of the revocation of a license. The
308 board may accept or reject an application for reinstatement and
309 hold a hearing to consider such reinstatement.

310 SECTION 13. (1) Any license issued under this act shall be
311 subject to annual renewal, and shall expire unless renewed in the
312 manner prescribed by the rules and regulations of the board, upon
313 the payment of a renewal fee and demonstration of completion of
314 continuing professional education. The board may provide for the
315 late renewal of a license upon the payment of a late fee in
316 accordance with its rules and regulations, but no late renewal of
317 a license may be granted more than two (2) years after its
318 expiration.

319 (2) Upon request and payment of the license fee required,
320 the board shall grant inactive status to a licensee who:

321 (a) Does not practice as a kinesical therapist; or

322 (b) Does not hold himself or herself out as a kinesical
323 therapist; or

324 (c) Does not maintain the continuing education
325 requirements.

326 (3) A suspended license is subject to expiration and may be
327 renewed as provided in this section, but such renewal shall not
328 entitle the suspended licensee to engage in the licensed activity
329 or in any other conduct or activity in violation of the order or
330 judgment by which the license was suspended. If a license revoked
331 on disciplinary grounds is reinstated, the licensee, as a
332 condition of reinstatement, shall pay the renewal fee and any late
333 fee that may be applicable.

334 SECTION 14. (1) The board is empowered to prescribe and

335 publish reasonable fees for the following purposes:

336 (a) Application fee, which is nonrefundable;

337 (b) Initial license fee;

338 (c) Renewal of license fee;

339 (d) Late renewal fee;

340 (e) Temporary license fee;

341 (f) Reinstatement of license fee;

342 (g) Inactive license fee.

343 (2) Such fees shall be commensurate to the extent feasible
344 with the cost of fulfilling the duties of the board and council as
345 defined by this act. However, no individual fee shall exceed One
346 Hundred Fifty Dollars (\$150.00).

347 SECTION 15. (1) It is unlawful for any person who is not
348 licensed as a kinesical therapist under this act, or any person
349 whose license has been suspended or revoked, to use in connection
350 with his or her name or place of business the words "Registered
351 Kinesical Therapist," or "Kinesical Therapist Registered," or the
352 letters "RKT," "KTR" or any other words, letters, abbreviations or
353 insignia indicating or implying that he or she is a kinesical
354 therapist or to show in any way, orally, in writing, in print or
355 by sign, directly or by implication, or to represent himself or
356 herself as a kinesical therapist.

357 (2) Any person who violates any provision of Section 4 of
358 this act and subsection (1) of this section shall upon conviction
359 be guilty of a misdemeanor and shall be fined not more than One
360 Thousand Dollars (\$1,000.00).

361 SECTION 16. This act shall take effect and be in force from
362 and after July 1, 2000.