

By: Senator(s) Dawkins

To: Public Health and Welfare

SENATE BILL NO. 2716

1 AN ACT TO AMEND SECTIONS 73-23-33 AND 73-23-59, MISSISSIPPI  
2 CODE OF 1972, TO DELETE THE REQUIREMENT THAT A LICENSED PHYSICAL  
3 THERAPIST MAY ONLY PROVIDE PHYSICAL THERAPY SERVICES BY THE  
4 REFERRAL OF A PHYSICIAN OR OTHER PRACTITIONER; AND FOR RELATED  
5 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;

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

57 (d) [Deleted]

58 (e) "Board" means the State Board of Physical Therapy  
59 established in Section 73-23-41;

60 (f) "Direct, on-site supervision" means face-to-face  
61 oversight by a licensed physical therapist at regular intervals,

62 as prescribed in regulations adopted by the board, of the services  
63 provided to a patient by a licensed physical therapist assistant;

64 (g) "Direct supervision" means face-to-face oversight  
65 at regular intervals of a physical therapist issued a temporary  
66 license under Section 73-23-53(1) by a licensed physical  
67 therapist. Such direct supervision shall be in accordance with  
68 the regulations adopted by the board.

69 **SECTION 2.** Section 73-23-59, Mississippi Code of 1972, is  
70 amended as follows:

71 73-23-59. (1) Licensees subject to this chapter shall  
72 conduct their activities, services and practice in accordance with  
73 this chapter and any rules promulgated pursuant hereto. Licensees  
74 may be subject to the exercise of the disciplinary sanction  
75 enumerated in Section 73-23-64 if the board finds that a licensee  
76 is guilty of any of the following:

77 (a) Negligence in the practice or performance of  
78 professional services or activities;

79 (b) Engaging in dishonorable, unethical or  
80 unprofessional conduct of a character likely to deceive, defraud  
81 or harm the public in the course of professional services or  
82 activities;

83 (c) Perpetrating or cooperating in fraud or material  
84 deception in obtaining or renewing a license or attempting the  
85 same;

86 (d) Being convicted of any crime which has a  
87 substantial relationship to the licensee's activities and services  
88 or an essential element of which is misstatement, fraud or  
89 dishonesty;

90 (e) Being convicted of any crime which is a felony  
91 under the laws of this state or the United States;

92 (f) Engaging in or permitting the performance of  
93 unacceptable services personally or by others working under the  
94 licensee's supervision due to the licensee's deliberate or

95 negligent act or acts or failure to act, regardless of whether  
96 actual damage or damages to the public is established;

97 (g) Continued practice although the licensee has become  
98 unfit to practice as a physical therapist or physical therapist  
99 assistant due to: (i) failure to keep abreast of current  
100 professional theory or practice; or (ii) physical or mental  
101 disability; the entry of an order or judgment by a court of  
102 competent jurisdiction that a licensee is in need of mental  
103 treatment or is incompetent shall constitute mental disability; or  
104 (iii) addiction or severe dependency upon alcohol or other drugs  
105 which may endanger the public by impairing the licensee's ability  
106 to practice;

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

109 (i) Making differential, detrimental treatment against  
110 any person because of race, color, creed, sex, religion or  
111 national origin;

112 (j) Engaging in lewd conduct in connection with  
113 professional services or activities;

114 (k) Engaging in false or misleading advertising;

115 (l) Contracting, assisting or permitting unlicensed  
116 persons to perform services for which a license is required under  
117 this chapter;

118 (m) Violation of any probation requirements placed on a  
119 license by the board;

120 (n) Revealing confidential information except as may be  
121 required by law;

122 (o) Failing to inform clients of the fact that the  
123 client no longer needs the services or professional assistance of  
124 the licensee;

125 (p) Charging excessive or unreasonable fees or engaging  
126 in unreasonable collection practices;

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

130 (r) \* \* \* For acting as a physical therapist assistant  
131 other than under the direct, on-site supervision of a licensed  
132 physical therapist;

133 (s) Violations of the current codes of conduct for  
134 physical therapists and physical therapy assistants adopted by the  
135 American Physical Therapy Association;

136 (t) Violations of any rules or regulations promulgated  
137 pursuant to this chapter.

138 (2) The board may order a licensee to submit to a reasonable  
139 physical or mental examination if the licensee's physical or  
140 mental capacity to practice safely is at issue in a disciplinary  
141 proceeding.

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

145 (4) In addition to the reasons specified in subsection (1)  
146 of this section, the board shall be authorized to suspend the  
147 license of any licensee for being out of compliance with an order  
148 for support, as defined in Section 93-11-153. The procedure for  
149 suspension of a license for being out of compliance with an order  
150 for support, and the procedure for the reissuance or reinstatement  
151 of a license suspended for that purpose, and the payment of any  
152 fees for the reissuance or reinstatement of a license suspended  
153 for that purpose, shall be governed by Section 93-11-157 or  
154 93-11-163, as the case may be. If there is any conflict between  
155 any provision of Section 93-11-157 or 93-11-163 and any provision  
156 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
157 as the case may be, shall control.

158 **SECTION 3.** This act shall take effect and be in force from  
159 and after July 1, 2005.