

By: Senator(s) Nunnelee, Dearing, Burton,  
Thomas, Lee (35th), Morgan

To: Public Health and  
Welfare

SENATE BILL NO. 2677  
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 73-23-35 AND 73-23-59, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE A LICENSED PHYSICAL THERAPIST TO  
3 EXAMINE AND TREAT PERSONS WITH A PREVIOUS DIAGNOSIS AND REFERRAL  
4 BY A LICENSED PHYSICIAN OR PRACTITIONER WITHOUT ANOTHER REFERRAL  
5 UNDER CERTAIN CONDITIONS; TO AUTHORIZE A LICENSED PHYSICAL  
6 THERAPIST TO EXAMINE AND TREAT PERSONS WITHOUT SUCH A PREVIOUS  
7 DIAGNOSIS AND REFERRAL UNDER CERTAIN CONDITIONS; TO AMEND SECTION  
8 73-23-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LICENSED PHYSICAL  
9 THERAPISTS TO SUPERVISE UP TO FOUR PHYSICAL THERAPIST ASSISTANTS;  
10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 73-23-35, Mississippi Code of 1972, is  
13 amended as follows:

14 73-23-35. (1) It shall be unlawful for any person,  
15 corporation or association to, in any manner, represent himself or  
16 itself as a physical therapist, a physical therapist assistant or  
17 someone who provides physical therapy services, or use in  
18 connection with his or its name the words or letters  
19 physiotherapist, registered physical therapist, R.P.T., licensed  
20 physical therapist assistant, L.P.T.A., or any other letters,  
21 words, abbreviations or insignia, indicating or implying that he  
22 or it is a physical therapist, a physical therapist assistant or  
23 provides physical therapy services, without a valid existing  
24 license as a physical therapist or as a physical therapist  
25 assistant, as the case may be, issued to him or it pursuant to  
26 this chapter. It shall be unlawful to employ an unlicensed  
27 physical therapist or physical therapist assistant to provide  
28 physical therapy services.

29 (2) The board shall aid the state's attorneys of the various  
30 counties in the enforcement of the provisions of this chapter and  
31 the prosecution of any violations thereof. In addition to the

32 criminal penalties provided by this chapter, the civil remedy of  
33 injunction shall be available to restrain and enjoin violations of  
34 any provisions of this chapter without proof of actual damages  
35 sustained by any person.

36 (3) Nothing in this chapter shall prevent a physical  
37 therapist, whose license is in good standing, from examining and  
38 treating (a) any person with a previous diagnosis or prior  
39 referral by a person licensed as a physician, dentist, osteopath,  
40 chiropractor, nurse practitioner or a podiatrist whose license is  
41 in good standing; or (b) any person with a chronic illness that  
42 has been previously diagnosed by a person licensed as a physician,  
43 dentist, osteopath, chiropractor, nurse practitioner or a  
44 podiatrist whose license is in good standing.

45 (4) A physical therapist may perform physical therapy  
46 services without referral when related to conditioning, education  
47 or other activities in a wellness setting for the purpose of  
48 injury prevention, reduction of stress or promotion of fitness.

49 (5) A physical therapist may treat a person without a  
50 previous diagnosis without a referral if all of the following are  
51 met:

52 (a) The physical therapist holds a master's or  
53 doctorate degree from a professional physical therapy program that  
54 is accredited by a national accreditation agency recognized by the  
55 United States Department of Education and by the Mississippi Board  
56 of Physical Therapy or the person has completed at least two (2)  
57 years of practical experience as a licensed physical therapist.

58 (b) The physical therapist shall, upon consent of the  
59 patient, inform the patient's physician, dentist, osteopath,  
60 chiropractor, nurse practitioner or podiatrist, of the evaluation  
61 not later than five (5) business days after the evaluation is  
62 made.

63 (c) A physical therapist shall refer to a patient's  
64 physician, dentist, osteopath, chiropractor, nurse practitioner or

65 a podiatrist whose license is in good standing any person whose  
66 condition, for which physical therapy services are rendered  
67 pursuant to this subsection, has not been documented to be  
68 progressing toward documented treatment goals after fourteen (14)  
69 visits or thirty (30) days, whichever shall come first.

70 (d) A physical therapist shall refer a client to  
71 appropriate health care practitioners if the physical therapist  
72 has reasonable cause to believe symptoms or conditions are present  
73 that require services beyond the scope of practice of the physical  
74 therapist.

75 (6) Nothing in this section shall restrict the Division of  
76 Medicaid from setting rules and regulations regarding the coverage  
77 of physical therapy services and nothing in this section shall  
78 amend or change the Division of Medicaid's schedule of benefits,  
79 exclusions and/or limitations related to physical therapy services  
80 as determined by state or federal regulations and state and  
81 federal law.

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

84 73-23-59. (1) Licensees subject to this chapter shall  
85 conduct their activities, services and practice in accordance with  
86 this chapter and any rules promulgated pursuant hereto. Licensees  
87 may be subject to the exercise of the disciplinary sanction  
88 enumerated in Section 73-23-64 if the board finds that a licensee  
89 is guilty of any of the following:

90 (a) Negligence in the practice or performance of  
91 professional services or activities;

92 (b) Engaging in dishonorable, unethical or  
93 unprofessional conduct of a character likely to deceive, defraud  
94 or harm the public in the course of professional services or  
95 activities;

96           (c) Perpetrating or cooperating in fraud or material  
97 deception in obtaining or renewing a license or attempting the  
98 same;

99           (d) Being convicted of any crime which has a  
100 substantial relationship to the licensee's activities and services  
101 or an essential element of which is misstatement, fraud or  
102 dishonesty;

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

105           (f) Engaging in or permitting the performance of  
106 unacceptable services personally or by others working under the  
107 licensee's supervision due to the licensee's deliberate or  
108 negligent act or acts or failure to act, regardless of whether  
109 actual damage or damages to the public is established;

110           (g) Continued practice although the licensee has become  
111 unfit to practice as a physical therapist or physical therapist  
112 assistant due to: (i) failure to keep abreast of current  
113 professional theory or practice; or (ii) physical or mental  
114 disability; the entry of an order or judgment by a court of  
115 competent jurisdiction that a licensee is in need of mental  
116 treatment or is incompetent shall constitute mental disability; or  
117 (iii) addiction or severe dependency upon alcohol or other drugs  
118 which may endanger the public by impairing the licensee's ability  
119 to practice;

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

122           (i) Making differential, detrimental treatment against  
123 any person because of race, color, creed, sex, religion or  
124 national origin;

125           (j) Engaging in lewd conduct in connection with  
126 professional services or activities;

127           (k) Engaging in false or misleading advertising;

128           (1) Contracting, assisting or permitting unlicensed  
129 persons to perform services for which a license is required under  
130 this chapter;

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

133           (n) Revealing confidential information except as may be  
134 required by law;

135           (o) Failing to inform clients of the fact that the  
136 client no longer needs the services or professional assistance of  
137 the licensee;

138           (p) Charging excessive or unreasonable fees or engaging  
139 in unreasonable collection practices;

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

143           (r) Except as authorized in Section 73-23-35(3)(4) and  
144 (5), for applying or offering to apply physical therapy, exclusive  
145 of initial evaluation or screening and exclusive of education or  
146 consultation for the prevention of physical and mental disability  
147 within the scope of physical therapy, other than upon the referral  
148 of a licensed physician, dentist, osteopath, podiatrist,  
149 chiropractor or nurse practitioner; or for acting as a physical  
150 therapist assistant other than under the direct, on-site  
151 supervision of a licensed physical therapist;

152           (s) Violations of the current codes of conduct for  
153 physical therapists and physical therapy assistants adopted by the  
154 American Physical Therapy Association;

155           (t) Violations of any rules or regulations promulgated  
156 pursuant to this chapter.

157           (2) The board may order a licensee to submit to a reasonable  
158 physical or mental examination if the licensee's physical or  
159 mental capacity to practice safely is at issue in a disciplinary  
160 proceeding.

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

164 (4) In addition to the reasons specified in subsection (1)  
165 of this section, the board shall be authorized to suspend the  
166 license of any licensee for being out of compliance with an order  
167 for support, as defined in Section 93-11-153. The procedure for  
168 suspension of a license for being out of compliance with an order  
169 for support, and the procedure for the reissuance or reinstatement  
170 of a license suspended for that purpose, and the payment of any  
171 fees for the reissuance or reinstatement of a license suspended  
172 for that purpose, shall be governed by Section 93-11-157 or  
173 93-11-163, as the case may be. If there is any conflict between  
174 any provision of Section 93-11-157 or 93-11-163 and any provision  
175 of this chapter, the provisions of Section 93-11-157 or 93-11-163,  
176 as the case may be, shall control.

177 **SECTION 3.** Section 73-23-33, Mississippi Code of 1972, is  
178 amended as follows:

179 73-23-33. As used in this chapter unless the context or  
180 subject matter otherwise requires:

181 (a) "Physical therapy" or "physiotherapy," which terms  
182 are deemed identical and interchangeable, means the art and  
183 science of a health specialty concerned with the prevention of  
184 disability, and the physical rehabilitation for congenital or  
185 acquired physical or mental disabilities, resulting from or  
186 secondary to injury or disease. The "practice of physical  
187 therapy" means the practice of the health specialty and  
188 encompasses physical therapy evaluation, treatment planning,  
189 treatment administration, instruction and consultative services,  
190 including:

191 (i) Performing and interpreting tests and  
192 measurements as an aid to physical therapy treatment, for the  
193 purpose of correcting or alleviating any physical condition and to

194 prevent the development of any physical or mental disability  
195 within the scope of physical therapy; and the performance of  
196 neuromuscular-skeletal tests and measurements as an aid in  
197 diagnosis, evaluation or determination of the existence of and the  
198 extent of any body malfunction;

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

201 (iii) Administering treatment by therapeutic  
202 exercise, neurodevelopmental procedures, therapeutic massage,  
203 mechanical devices and therapeutic agents which employ the  
204 physical, chemical and other properties of air, water, heat, cold,  
205 electricity, sound and radiant energy for the purpose of  
206 correcting or alleviating any physical condition or preventing the  
207 development of any physical or mental disability. The use of  
208 roentgen rays and radium for any purpose, and the use of  
209 electricity for surgical purposes including cauterization, are not  
210 part of physical therapy;

211 (b) "Physical therapist" means a person licensed in  
212 this state to practice physical therapy as defined in this  
213 chapter, and whose license is in good standing;

214 (c) "Physical therapist assistant" means a health care  
215 worker who assists a physical therapist in the provision of  
216 physical therapy under the direct, on-site supervision of the  
217 physical therapist. The physical therapist assistant may perform  
218 physical therapy procedures and related tasks that have been  
219 selected and delegated by the supervising physical therapist, but  
220 shall not perform the following physical therapy activities:  
221 interpretation of referrals; physical therapy initial evaluation  
222 and reevaluation; identification, determination or modification of  
223 plans of care (including goals and treatment programs); final  
224 discharge assessment/evaluation or establishment of the discharge  
225 plan; or therapeutic techniques beyond the skill and knowledge of  
226 the physical therapist assistant;

227 (d) "Referral" means the written or oral designation of  
228 physical therapy services by a doctor of medicine, dentistry,  
229 osteopathy, podiatry or chiropractic, or by a nurse practitioner,  
230 holding a license in good standing; and the instruction therefor  
231 may be as detailed or as general as the doctor or nurse  
232 practitioner in his or her sound discretion deems necessary in the  
233 particular case;

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

236 (f) "Direct, on-site supervision" means face-to-face  
237 oversight by a licensed physical therapist at regular intervals,  
238 as prescribed in regulations adopted by the board, of the services  
239 provided to a patient by a licensed physical therapist assistant.

240 (g) "Direct supervision" means face-to-face oversight  
241 at regular intervals of a physical therapist issued a temporary  
242 license under Section 73-23-53(1) by a licensed physical  
243 therapist. Such direct supervision shall be in accordance with  
244 the regulations adopted by the board; provided, however, that a  
245 licensed physical therapist shall be authorized to have direct  
246 supervision over not more than four (4) physical therapist  
247 assistants at one (1) time.

248 **SECTION 4.** This act shall take effect and be in force from  
249 and after July 1, 2006.