

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

To: Public Health and  
Welfare

SENATE BILL NO. 2677  
(As Sent to Governor)

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 PROVIDE PHYSICAL THERAPY SERVICES WITHOUT A PRESCRIPTION OR  
4 REFERRAL FROM A HEALTH CARE PROVIDER UNDER CERTAIN CIRCUMSTANCES;  
5 TO AMEND SECTION 73-23-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
6 LICENSED PHYSICAL THERAPISTS TO SUPERVISE UP TO FOUR PHYSICAL  
7 THERAPIST ASSISTANTS; AND FOR RELATED PURPOSES.

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

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

11 73-23-35. (1) It shall be unlawful for any person,  
12 corporation or association to, in any manner, represent himself or  
13 itself as a physical therapist, a physical therapist assistant or  
14 someone who provides physical therapy services, or use in  
15 connection with his or its name the words or letters  
16 physiotherapist, registered physical therapist, R.P.T., licensed  
17 physical therapist assistant, L.P.T.A., or any other letters,  
18 words, abbreviations or insignia, indicating or implying that he  
19 or it is a physical therapist, a physical therapist assistant or  
20 provides physical therapy services, without a valid existing  
21 license as a physical therapist or as a physical therapist  
22 assistant, as the case may be, issued to him or it pursuant to  
23 this chapter. It shall be unlawful to employ an unlicensed  
24 physical therapist or physical therapist assistant to provide  
25 physical therapy services.

26 (2) The board shall aid the state's attorneys of the various  
27 counties in the enforcement of the provisions of this chapter and  
28 the prosecution of any violations thereof. In addition to the  
29 criminal penalties provided by this chapter, the civil remedy of

30 injunction shall be available to restrain and enjoin violations of  
31 any provisions of this chapter without proof of actual damages  
32 sustained by any person.

33 (3) A physical therapist licensed under this chapter shall  
34 not perform physical therapy services without a prescription or  
35 referral from a person licensed as a physician, dentist,  
36 osteopath, podiatrist, chiropractor or nurse practitioner.  
37 However, a physical therapist licensed under this chapter may  
38 perform physical therapy services without a prescription or  
39 referral under the following circumstances:

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

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

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

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

49 (e) (i) To an individual for a previously diagnosed  
50 condition or conditions for which physical therapy services are  
51 appropriate after informing the health care provider rendering the  
52 diagnosis. The diagnosis must have been made within the previous  
53 one hundred eighty (180) days. The physical therapist shall  
54 provide the health care provider who rendered the diagnosis with a  
55 plan of care for physical therapy services within the first  
56 fifteen (15) days of physical therapy intervention.

57 (ii) Nothing in this chapter shall create  
58 liability of any kind for the health care provider rendering the  
59 diagnosis under this paragraph (e) for a condition, illness, or  
60 injury that manifested itself after the diagnosis, or for any  
61 alleged damages as a result of physical therapy services performed  
62 without a prescription or referral from a person licensed as a

63 physician, dentist, osteopath, podiatrist, chiropractor or nurse  
64 practitioner, the diagnosis and/or prescription for physical  
65 therapy services having been rendered with reasonable care.

66 (4) Physical therapy services performed without a  
67 prescription or referral from a person licensed as a physician,  
68 dentist, osteopath, podiatrist, chiropractor or nurse practitioner  
69 shall not be construed to mandate coverage for physical therapy  
70 services under any health care plan, insurance policy, or workers'  
71 compensation or circumvent any requirement for preauthorization of  
72 services in accordance with any health care plan, insurance policy  
73 or workers' compensation.

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

81 (6) This section shall stand repealed on July 1, 2008.

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), for  
144 applying or offering to apply physical therapy, exclusive of  
145 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 (5) This section shall stand repealed on July 1, 2008.

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

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

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

192 (i) Performing and interpreting tests and  
193 measurements as an aid to physical therapy treatment, for the

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

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

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

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

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

226 plan; or therapeutic techniques beyond the skill and knowledge of  
227 the physical therapist assistant;

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

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

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

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

248 This section shall stand repealed on July 1, 2008.

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