

By: Senator(s) Blackwell

To: Public Health and  
Welfare

SENATE BILL NO. 2072

1 AN ACT TO AMEND SECTION 73-23-35, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE CIRCUMSTANCES AND CRITERIA UNDER WHICH A PHYSICAL  
3 THERAPIST MAY IMPLEMENT PHYSICAL THERAPY TREATMENT WITHOUT A  
4 REFERRAL FROM ANOTHER HEALTH CARE PROVIDER; TO AMEND SECTION  
5 73-23-41, MISSISSIPPI CODE OF 1972, TO MAKE CERTAIN TECHNICAL  
6 NONSUBSTANTIVE CHANGES TO MODERNIZE LANGUAGE; TO AMEND SECTION  
7 73-23-59, MISSISSIPPI CODE OF 1972, TO CONFORM THE GROUNDS FOR  
8 DISCIPLINARY ACTION AGAINST A PHYSICAL THERAPIST FOR IMPLEMENTING  
9 PHYSICAL THERAPY TREATMENT WITHOUT A REFERRAL; AND FOR RELATED  
10 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) A person, corporation, association or  
15 business entity shall not use in connection with that person's or  
16 party's name or the name or activity of the business the words  
17 "physical therapy," "physical therapist," "physiotherapy,"  
18 "physiotherapist," "registered physical therapist," "doctor of  
19 physical therapy," "physical therapist assistant," the letters  
20 "PT," "DPT," "LPT," "RPT," "PTA," "LPTA," and/or any other words,  
21 abbreviations, or insignia indicating or implying directly or  
22 indirectly that physical therapy is provided or supplied unless



23 such services are provided by or under the direction of a physical  
24 therapist or physical therapist assistant, as the case may be,  
25 with a valid and current license issued pursuant to this chapter  
26 or with the privilege to practice. It shall be unlawful to employ  
27 an unlicensed physical therapist or physical therapist assistant  
28 to provide 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. For purposes of this chapter, the board,  
36 in seeking an injunction, need only show that the defendant  
37 violated subsection (1) of this section to establish irreparable  
38 injury or a likelihood of a continuation of the violation.

39 (3) Except as otherwise provided in this subsection (3) and  
40 in subsection (4) of this section, a physical therapist licensed  
41 under this chapter or privileged to practice shall not perform  
42 physical therapy services without a prescription or referral from  
43 a person licensed as a physician, dentist, osteopath, podiatrist,  
44 chiropractor, physician assistant or nurse practitioner. However,  
45 a physical therapist licensed under this chapter or privileged to  
46 practice may perform physical therapy services without a  
47 prescription or referral under the following circumstances:



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

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

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

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

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

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



for physical therapy services having been rendered with reasonable care.

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

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

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

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

(ii) The physical therapist has five (5) years of licensed clinical practice experience.

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



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

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

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

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

**SECTION 2.** Section 73-23-41, Mississippi Code of 1972, is  
amended as follows:

73-23-41. (1) There is established a State Board of  
Physical Therapy that shall consist of seven (7) members appointed  
by the Governor, with the advice and consent of the Senate. Four  
(4) members shall be physical therapists, one (1) member shall be



123 a physical therapist assistant, and one (1) member shall be a  
124 physician, each of whom possesses unrestricted licenses to  
125 practice in his or her profession. The Governor shall also  
126 appoint one (1) member who shall be a consumer at large who is not  
127 associated with or financially interested in any health care  
128 profession and who has an interest in consumer rights. Each of  
129 the four (4) members who are physical therapists shall be  
130 appointed from a list of three (3) persons from each of the four  
131 (4) Mississippi congressional districts, as such districts  
132 currently exist, submitted by the \* \* \* American Physical Therapy  
133 Association-Mississippi, all of whom must be residents of  
134 Mississippi and must have engaged in the practice of physical  
135 therapy within the state for at least four (4) years. The terms  
136 of the members of the board shall be staggered, so that the terms  
137 of no more than two (2) members shall expire in any year. Members  
138 appointed to the board shall serve for four-year terms and until  
139 their successors are appointed and confirmed, except that members  
140 of the board who are appointed to fill vacancies which occur  
141 before the expiration of a former member's full term shall serve  
142 the unexpired portion of such term. No person shall be appointed  
143 for more than two (2) consecutive four-year terms. However, any  
144 board member initially appointed for less than a full four-year  
145 term is eligible to serve for two (2) additional consecutive  
146 four-year terms.



(2) The board shall annually elect a chairman, secretary and treasurer. The board shall provide for the timely orientation and training of new professional and public appointees to the board regarding board licensing and disciplinary procedures, this chapter and board rules, regulations, policies and procedures. A member may be removed by the board only for due cause. Failure to attend at least half of the board meetings in a fiscal year shall constitute cause. The board shall meet at least once each quarter, and those meetings shall be held in compliance with the Open Meetings Law (Section 25-41-1 et seq.). A majority of board members shall constitute a quorum for the transaction of business. The board shall keep an official record of its meetings. Whenever a vacancy occurs in the membership of the board before the expiration of a term of office, the Governor shall appoint a qualified successor to fill the unexpired term. Members of the board shall receive the per diem authorized under Section 25-3-69 for each day spent actually discharging their official duties, and shall receive reimbursement for mileage and necessary travel expenses incurred as provided in Section 25-3-41. A board member who acts within the scope of board duties, without malice and in the reasonable belief that the member's action is warranted by law is immune from civil liability.

**SECTION 3.** Section 73-23-59, Mississippi Code of 1972, is amended as follows:



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

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

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

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

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





195           (e) Having been convicted of or pled guilty to a felony  
196 in the courts of this state or any other state, territory or  
197 country. Conviction, as used in this paragraph, shall include a  
198 deferred conviction, deferred prosecution, deferred sentence,  
199 finding or verdict of guilt, an admission of guilty, or a plea of  
200 nolo contendere;

201           (f) Engaging in or permitting the performance of  
202 unacceptable services personally or by others working under the  
203 licensee's supervision due to the licensee's deliberate or  
204 negligent act or acts or failure to act, regardless of whether  
205 actual damage or damages to the public is established;

206           (g) Continued practice although the licensee has become  
207 unfit to practice as a physical therapist or physical therapist  
208 assistant due to: (i) failure to keep abreast of current  
209 professional theory or practice; or (ii) physical or mental  
210 disability; the entry of an order or judgment by a court of  
211 competent jurisdiction that a licensee is in need of mental  
212 treatment or is incompetent shall constitute mental disability; or  
213 (iii) addiction or severe dependency upon alcohol or other drugs  
214 which may endanger the public by impairing the licensee's ability  
215 to practice;

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



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

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

(k) Engaging in false or misleading advertising;

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

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

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

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

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

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

(r) Except as authorized in Section 73-23-35(3) and (4), for applying or offering to apply physical therapy, exclusive of initial evaluation or screening and exclusive of education or



consultation for the prevention of physical and mental disability within the scope of physical therapy, other than upon the referral \* \* \* from a licensed physician, dentist, osteopath, podiatrist, chiropractor, physician assistant or nurse practitioner; or for acting as a physical therapist assistant other than under the direct, on-site supervision of a licensed physical therapist;

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

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

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

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

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

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



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

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

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

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

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

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

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



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

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2024.

