

West's Annotated Mississippi Code Currentness
Title 73. Professions and Vocations
 ➔ Chapter 23. Physical Therapists

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

[§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage \(approved May 26, 1980\)](#)

1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§§ 73-23-1 to 73-23-25. Repealed by Laws 1980, Ch. 543, § 18, eff. 60 days after passage (approved May 26, 1980)

§ 73-23-27. Repealed by Laws 1988, Ch. 331, § 18, eff. July 1, 1988

§ 73-23-31. Short title

This chapter shall be known and may be cited as the "Mississippi Physical Therapy Practice Law."

§ 73-23-33. Definitions

As used in this chapter unless the context or subject matter otherwise requires:

- (a) "Physical therapy" or "physiotherapy," which terms are deemed identical and interchangeable, means the art and science of a health specialty concerned with the prevention of disability, and the physical rehabilitation for congenital or acquired physical or mental disabilities, resulting from or secondary to injury or disease. The

"practice of physical therapy" means the practice of the health specialty and encompasses physical therapy evaluation, treatment planning, treatment administration, instruction and consultative services, including:

(i) Performing and interpreting tests and measurements as an aid to physical therapy treatment, for the purpose of correcting or alleviating any physical condition and to prevent the development of any physical or mental disability within the scope of physical therapy; and the performance of neuromuscular-skeletal tests and measurements as an aid in diagnosis, evaluation or determination of the existence of and the extent of any body malfunction;

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

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

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

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

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

(e) "Board" means the State Board of Physical Therapy established in [Section 73-23-41](#);

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

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

This section shall stand repealed on July 1, 2012.

[§ 73-23-35. Licensing requirement; performing services without a prescription](#)

(1) A person, corporation, association or business entity shall not use in connection with that person's or party's name or the name or activity of the business the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," "doctor of physical therapy," "physical therapist assistant," the letters "PT," "DPT," "LPT," "RPT," "PTA," "LPTA," and/or any other words, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied unless such services are provided by or under the direction of a physical therapist or physical therapist assistant, as the case may be, with a valid and current license issued pursuant to this chapter. It shall be unlawful to employ an unlicensed physical therapist or physical therapist assistant to provide physical therapy services.

(2) The board shall aid the state's attorneys of the various counties in the enforcement of the provisions of this chapter and the prosecution of any violations thereof. In addition to the criminal penalties provided by this chapter, the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person. For purposes of this chapter, the board, in seeking an injunction, need only show that the defendant violated subsection (1) of this section to establish irreparable injury or a likelihood of a continuation of the violation.

(3) A physical therapist licensed under this chapter shall not perform physical therapy services without a prescription or referral from a person licensed as a physician, dentist, osteopath, podiatrist, chiropractor, physician assistant or nurse practitioner. However, a physical therapist licensed under this chapter may perform physical therapy services without a 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) 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.

(5) 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.

(6) This section shall stand repealed on July 1, 2012.

§ 73-23-37. Scope of provisions

Nothing in this chapter shall prohibit:

- (a) Any persons licensed or registered in this state, under another law, from carrying out the therapy or practice for which they are duly licensed or registered;
- (b) Schools, YMCA's, athletic clubs and similar organizations from furnishing services to their players and members, provided that they do not represent themselves as physical therapists, as physical therapist assistants, or as providing physical therapy services;
- (c) The performance by any person of simple mechanical or machine-assisted acts in the physical care of a patient, not requiring the knowledge and skill of a physical therapist under the order or direction of a licensed doctor of medicine or dentistry or of a physical therapist assistant under the direct, on-site supervision of a licensed physical therapist.

§ 73-23-39. Exceptions to licensing requirements

The following persons shall be permitted to practice physical therapy in this state without obtaining a license under this chapter, upon the terms and conditions specified herein:

- (a) Students enrolled in accredited physical therapist or physical therapist assistant educational programs, while engaged in completing a clinical requirement for graduation, which must be performed under the direct, on-site supervision of a licensed physical therapist;
- (b) Physical therapists licensed in other jurisdictions while enrolled in graduate educational programs in this state that include the evaluation and treatment of patients as part of their experience required for credit, so long as the student is not at the same time gainfully employed in this state as a physical therapist;
- (c) Practitioners of physical therapy or persons acting as physical therapist assistants who are employed in the United States armed services, United States Public Health Service, Veterans Administration or other federal agency; however, if such individual engages in the practice of physical therapy or acts as a physical therapist assistant outside of the scope of official duty, he must be licensed as herein provided;
- (d) Physical therapists licensed in other jurisdictions who are teaching or participating in physical therapy education projects, demonstrations or courses in this state, or providing physical therapy services to visiting established athletic organizations, performing arts companies or volunteering to provide services to competitors in events such as the Olympics or dance competitions in which their participation in the evaluation and treatment of patients is minimal.
- (e) Physical therapist assistants licensed in other jurisdictions who are teaching or participating in physical therapy education projects, demonstrations or courses in this state, or providing physical therapy services to visiting established athletic organizations, performing arts companies or volunteering to provide services to competitors in

events such as the Olympics or dance competitions in which their participation in the treatment of patients is minimal.

§ 73-23-41. State Board of Physical Therapy

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

§ 73-23-43. Board powers and duties

(1) The board shall have the following general powers and duties:

- (a) To examine and determine the qualifications and fitness of applicants for licenses to practice as physical therapists and licenses to act as physical therapist assistants in this state and prepare or approve and conduct all examinations of applicants for licensure;
- (b) To issue, renew, deny, suspend or revoke licenses to practice as physical therapists and licenses to act as physical therapist assistants in this state or otherwise discipline licensed physical therapists and physical therapist assistants;
- (c) To investigate alleged or suspected violations of the provisions of this chapter or other laws of this state pertaining to physical therapy and any rules and regulations adopted by the board;

- (d) To establish reasonable fees for application for examination, certificates of licensure and renewal, and other services provided by the board;
- (e) To adopt, amend or repeal any rules or regulations necessary to carry out the purposes of this chapter and the duties and responsibilities of the board, in accordance with [Section 25-43-1 et seq.](#) Such rules, when lawfully adopted, shall have the effect of law;
- (f) To hire appropriate support personnel to carry out the provisions of this chapter;
- (g) To adopt a code of ethics for physical therapists and physical therapist assistants licensed under this chapter which may be the current code of ethics of the American Physical Therapy Association;
- (h) To regulate the practice of physical therapy by interpreting and enforcing this chapter;
- (i) To provide for the examination of physical therapists and physical therapist assistants;
- (j) To establish mechanisms for assessing the continuing professional competence of physical therapists and physical therapist assistants to practice physical therapy;
- (k) To set criteria for continuing education;
- (l) To establish and collect fees for sustaining the necessary operation and expenses of the board;
- (m) To publish, at least annually, final disciplinary action against a licensee;
- (n) To report final disciplinary action taken against a licensee to other state or federal regulatory agencies and to a national disciplinary database recognized by the board or as required by law;
- (o) To share documents, materials, or other information, including confidential and privileged documents, materials, or information, received or maintained by the board with other state or federal agencies, and with a national disciplinary database recognized by the board or as required by law provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;
- (p) To participate in or conduct performance audits;
- (q) To, through its employees and/or representatives, enter and make inspections of any place where physical therapy is practiced and inspect and/or copy any record pertaining to clients or the practice of physical therapy under this chapter; and
- (r) To conduct a criminal history records check on licensees whose licensure is subject to investigation by the board and on applicants for licensure. In order to determine the applicant's or licensee's suitability for licensing, the applicant or licensee shall be fingerprinted. The board shall submit the fingerprints to the Department of Public Safety for a check of the state criminal records and forward to the Federal Bureau of Investigation for a check of the national criminal records. The Department of Public Safety shall disseminate the results of the state check and the national check to the board for a suitability determination. The board shall be authorized to charge and collect from the applicant or licensee, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant or licensee.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The powers and duties enumerated above are granted for the purpose of enabling the board to safeguard the public health, safety and welfare against unqualified or incompetent practitioners of physical therapy and persons acting as physical therapist assistants, and are to be liberally construed to accomplish this objective;

(2) The board shall maintain a register listing the name of every physical therapist and physical therapist assistant licensed to practice in this state, his last known place of business and last known place of residence, and the date and number of his license. The board shall, at least once a year, compile a list of physical therapists and physical therapist assistants licensed to practice in this state and such a list shall be available to any person upon application to the board and the payment of such charges as may be fixed by it.

§ 73-23-45. Deposit of money with treasury

All fees and other monies collected or received by the board shall be paid into and credited to a special fund that is created in the State Treasury, which shall be known as the "Physical Therapy Fund." Any interest earned on the special fund shall be credited to the special fund and shall not be paid into the State General Fund. Any unexpended monies remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund. Monies in the special fund shall be expended, upon appropriation by the Legislature, exclusively for the purposes of implementing the provisions of this chapter. Disbursement of monies in the special fund shall be made only upon warrants issued by the State Fiscal Officer upon requisitions of the board or its designee. The financial records of the board shall be audited annually by the State Auditor.

§ 73-23-47. Qualifications and license examination

Any person who desires to be licensed under this chapter must: (a) be of good moral character; (b) have graduated from a physical therapy or physical therapist assistant program, as the case may be, accredited by an agency recognized by the United States Department of Education, Office on Postsecondary Education; and (c) pay a nonrefundable examination fee as set by the board; (d) pay an application fee, no part of which shall be refunded; (e) be examined for licensure by the board; and meet the requirements established by the rules of the board. The licensure examination for physical therapists and for physical therapist assistants shall be selected by the board and may also include an oral examination or practical examination or both at the discretion of the board.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with [Section 93-11-64](#).

§ 73-23-49. License application; fee schedule

(1) Any person who desires to be licensed as a physical therapist or as a physical therapist assistant shall apply to the board in writing on a form furnished by the board. He shall provide such documents as required by the application forms provided by the board. He shall pay the board at the time of filing an application fee fixed annually by the board, no part of which shall be refunded. In addition thereto, the board shall adopt a fee schedule by rule and regulation. The fee schedule may include, but is not limited to:

- (a) Application fee;
- (b) Initial license fee;
- (c) Renewal of licensure fee;
- (d) Registration fee;
- (e) Examination fee;
- (f) License issued after expiration date fee;
- (g) Late renewal fees;
- (h) Temporary license fee;
- (i) Renewal of temporary license fee;
- (j) Reinstatement fees;
- (k) Inactive license fees;
- (l) Restricted license fee;
- (m) Lapsed license fees;
- (n) Late renewal fees; and
- (o) Late penalty fees.

(2) All license, renewal, and other fees currently set by the board by rules and regulations and in effect before July 1, 2008, shall remain in effect until such time as the board, by its rule-making authority, acts to implement new fee schedules pursuant to the provisions of this section. When increased by the board fees may not be increased by more than ten percent (10%) of the previous year's fee.

(3) Notwithstanding subsections (1) and (2) of this section, in all instances where the board uses the services of a national testing service for preparation, administration, or grading of examinations, the board may charge or require the applicant to pay the actual cost of the examination services, in addition to its other fees.

(4) Every person to whom a license is issued pursuant to this chapter shall, as a condition precedent to its issuance, pay the application and any other fee prescribed by the board.

§ 73-23-51. Licensing foreign physical therapist

(1) The board may license as a physical therapist or as a physical therapist assistant, and furnish a certificate of licensure without examination to, any applicant who presents evidence, satisfactory to the board, of having passed an examination before a similar lawfully authorized examining agency or board in physical therapy of another state or the District of Columbia, if the standards for registration in physical therapy or for licensure as a physical

therapist assistant in such other state or district are determined by the board to be as high as those of this state.

(2) Any person who has been trained as a physical therapist in a foreign country and desires to be licensed under this chapter and who; (a) is of good moral character; (b) holds a diploma from an educational program for physical therapists approved by the board; (c) submits documentary evidence to the board that he has completed a course of professional instruction substantially equivalent to that obtained by an applicant for licensure; (d) demonstrates satisfactory proof of proficiency in the English language; and (e) meets other requirements established by rules of the board, may make application on a form furnished by the board for examination as a foreign-trained physical therapist. At the time of making such application, the applicant shall pay the fee prescribed by the board, no portion of which shall be returned.

Any person who desires to be licensed under this subsection shall take an examination approved by the board and shall obtain a permanent license. If this requirement is not met, the license of the foreign-trained therapist may be revoked.

§ 73-23-53. Temporary physical therapist license

(1) A temporary license to practice as a physical therapist or physical therapist assistant may be granted to those persons meeting the requirements stated in [Section 73-23-47](#) and who (a) have not taken the approved examination, or (b) have taken the approved examination but have not received the results of the examination. The temporary license shall be granted for a period not to exceed ninety (90) days. Any physical therapist granted a temporary license under the provisions of this subsection shall restrict his practice to the State of Mississippi and shall be under the direct supervision of a physical therapist licensed in Mississippi (physical therapy assistants shall be under the direct on-site supervision of a Mississippi licensed physical therapist). Documentation verifying the supervision shall be on file with the board before a temporary license is granted.

(2) The board may by rule provide for the issuance of a temporary license to a physical therapist or a physical therapist assistant licensed in another state who is moving into the state and has filed an application with the board for a permanent license in this state. This temporary license will be granted for a period not to exceed sixty (60) days.

(3) Any person granted a temporary license who is required to take the approved examination and fails to take the exam as required by the board or does not pass the required exam shall have the temporary license automatically expire by operation of law and without further action of the board and no license of any type shall be issued until such person has passed an approved examination.

(4) Any person who has taken but not passed the required examination in this or another jurisdiction shall not be eligible for a license of any type until an approved examination is passed.

(5) Any person who has been trained as a physical therapist or physical therapist assistant in a foreign country and desires to be temporarily licensed under this subsection shall, in addition to satisfying such other requirements established by the board, demonstrate proficiency in the English language and meet the other requirements of [Section 73-23-51\(2\)](#) before such temporary license shall be issued.

(6) During a lawfully declared local, state or national disaster or emergency, the board may issue a temporary license to any otherwise qualified physical therapist or physical therapist assistant licensed and in good standing in another state or territory of the United States and who meets such other requirements as the board may prescribe by rule and regulation.

§ 73-23-55. Repealed by Laws 2002, Ch. 449, § 15, eff. July 1, 2002

§ 73-23-57. License renewal

(1) Except as provided in [Section 33-1-39](#), every licensed physical therapist and physical therapist assistant shall apply to the board for a renewal of licensure in a manner prescribed by the rules and regulations of the board, and pay the prescribed fee. Licenses that are not so renewed shall automatically lapse.

(2) The manner in which lapsed licenses shall be revived, extended or reinstated shall be established by the board.

§ 73-23-59. Disciplinary sanctions for particular acts

(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, censure or reprimand any licensee, restrict or limit a license, and take any other action in relation to a license 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;
- (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;
- (e) Having been convicted of or pled guilty to a felony in the courts of this state or any other state, territory or country. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilty, or a plea of nolo contendere;
- (f) Engaging in or permitting the performance of unacceptable services personally or by others working under the licensee's supervision due to the licensee's deliberate or negligent act or acts or failure to act, regardless of whether actual damage or damages to the public is established;
- (g) Continued practice although the licensee has become unfit to practice as a physical therapist or physical therapist assistant due to: (i) failure to keep abreast of current professional theory or practice; or (ii) physical or mental disability; the entry of an order or judgment by a court of competent jurisdiction that a licensee is in need of mental treatment or is incompetent shall constitute mental disability; or (iii) addiction or severe dependency upon alcohol or other drugs which may endanger the public by impairing the licensee's ability to practice;
- (h) Having disciplinary action taken against the 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;
- (m) Violation of any probation requirements placed on a license 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\(3\)](#), 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 of 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 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 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 for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license 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.

(5) This section shall stand repealed on July 1, 2012.

[§ 73-23-61. Penalties for violation of provisions](#)

(1) Each violation of [Section 73-23-35](#) shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not less than ten (10) days nor more than sixty (60) days, or both such fine and imprisonment.

(2) Any person who shall knowingly make a material, false statement in his application for license under this chapter or in response to any inquiry by the board, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not less than ten (10) days nor more than sixty (60) days, or both such fine and imprisonment.

[§ 73-23-63. License denial hearing; complaint procedure](#)

(1) Any person whose application for a license is denied shall be entitled to a hearing before the board if he submits a written request to the board. Such hearing shall be conducted at the earliest possible date. The board shall fix a time and place for the hearing and shall cause a written copy of the reason for denial of the license, together with a notice of the time and place fixed for the hearing to be served on the applicant requesting the hearing. For purposes of the hearing, the board shall have the power to subpoena persons and compel the production of records, papers and other documents.

(2)(a) All complaints concerning a licensee's business or professional practice shall be received by the board. Each complaint received shall be logged, recording at a minimum the following information: (i) licensee's name; (ii) name of the complaining party, if known; (iii) date of complaint; (iv) brief statement of complaint; and (v) disposition.

(b) Following the investigative process, the board may file formal charges against the licensee. Such formal complaint shall, at a minimum, inform the licensee of the facts which are the basis of the charge and which are specific enough to enable the licensee to defend against the charges.

(c) Each licensee whose conduct is the subject of a formal charge which seeks to impose disciplinary action against the licensee shall be served notice of the formal charge at least thirty (30) days before the date of the hearing, which hearing shall be presided over by the board or the board's designee. Service shall be considered to have been given if the notice was personally served on the licensee or applicant or if the notice was sent by certified, United States mail to the licensee's or applicant's last known address as listed on record with the board.

(d) The notice of the formal charge shall consist at a minimum of the following information:

(i) The time, place and date of the hearing;

(ii) That the licensee shall appear personally at the hearing and may be represented by counsel;

(iii) That the licensee shall have the right to produce witnesses and evidence in the licensee's behalf and shall have the right to cross-examine adverse witnesses and evidence;

(iv) That the hearing could result in disciplinary action being taken against the licensee's license;

(v) That rules for the conduct of these hearings exist and it may be in the licensee's best interest to obtain a copy;

(vi) That the board or its designee shall preside at the hearing and following the conclusion of the hearing shall make findings of facts, conclusions of law and recommendations, separately stated, to the board as to what disciplinary action, if any, should be imposed on the licensee;

(vii) The board or its designee shall hear evidence produced in support of the formal charges and contrary evidence produced by the licensee. At the conclusion of the hearing, the board shall issue an order; and

(viii) All proceedings pursuant to this section are matters of public record and shall be preserved pursuant to state law.

(3) In addition to other remedies provided by law or in equity, any applicant or licensee aggrieved by any action of the board may appeal the action of the board to the chancery court of the county of his residence, if he be a resident of this state, or the Chancery Court of the First Judicial District of Hinds County, Mississippi, if he be a nonresident of this state, and the court after a hearing may modify, affirm or reverse the judgment of the board or may remand the case to the board for further proceedings. An appeal shall be filed within thirty (30) days immediately following the mailing or delivery to the applicant or licensee of a copy of the order of judgment of the board, unless the court, for good cause shown, extends the time. Appeals may be had to the Supreme Court of the State of Mississippi as provided by law from any final judgment of the chancery court. If the board appeals from any judgment of the chancery court, no bond shall be required of it in order to perfect its appeal. Any appeal of a license suspension that is required by [Section 93-11-157](#) or [93-11-163](#) shall be taken in accordance with the appeal procedure specified in [Section 93-11-157](#) or [93-11-163](#), as the case may be, rather than the procedure specified in this section.

[§ 73-23-64. Disciplinary license revocation or suspension](#)

(1) The board may impose any of the following sanctions, singly or in combination, when it finds an applicant or a licensee has committed any violation listed in [Section 73-23-59](#):

(a) Revocation of the license;

- (b) Suspension of the license, for any period of time;
 - (c) Censure the licensee;
 - (d) Impose a monetary penalty in an amount not to exceed Five Hundred Dollars (\$500.00) for the first violation, One Thousand Dollars (\$1,000.00) for the second violation, and Five Thousand Dollars (\$5,000.00) for the third violation and for each subsequent violation;
 - (e) Place a licensee on probationary status and require the licensee to submit to any of the following: (i) report regularly to the board, or its designee, upon matters which are the basis of probation; (ii) continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis of probation; or (iii) such other reasonable requirements or restrictions as are proper;
 - (f) Refuse to issue or renew a license;
 - (g) Revoke probation which has been granted and impose any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated;
 - (h) Restrict a license; or
 - (i) Accept a voluntary surrendering of a license based on an order of consent from the board.
- (2) The board may summarily suspend a license under this chapter without a hearing simultaneously with the filing of a formal complaint and notice for a hearing provided under this section pending proceedings before the board. If the board suspends summarily a license under the provisions of this subsection, a hearing must begin within twenty (20) days after such suspension begins, unless continued at the request of the licensee.
- (3) Disposition of any formal complaint may be made by consent order or stipulation between the board and the licensee.
- (4) The board may reinstate any licensee to good standing under this chapter if the board is satisfied that the applicant's renewed practice is in the public interest. The procedure for the reimbursement of a license that is suspended for being out of compliance with an order for support, as defined in [Section 93-11-153](#), shall be governed by [Section 93-11-157](#) or [93-11-163](#), as the case may be.
- (5) The board shall seek to achieve consistency in the application of the foregoing sanctions, and significant departure from prior decisions involving similar conduct shall be explained by the board.
- (6) In addition to any other power that it has, the board may issue an advisory letter to a licensee if it finds that the information received in a complaint or an investigation does not merit disciplinary action against the licensee.
- (7) The board may also assess and levy upon any licensee or applicant for licensure the costs incurred or expended by the board in the investigation and prosecution of any licensure or disciplinary action, including, but not limited to, the cost of process service, court reports, expert witnesses, investigators, and attorney's fees.

[§ 73-23-65. Abolition of Physical Therapy Advisory Council; transfer of powers, duties and property](#)

The Physical Therapy Advisory Council is abolished. All of the powers and duties of the State Board of Health and

the State Department of Health regarding the licensure and regulation of the profession of physical therapy in the State of Mississippi are transferred to the State Board of Physical Therapy. Any property, contractual rights and obligations and unexpended funds of the State Board of Health and the State Department of Health relating to the licensure and regulation of the profession of physical therapy in the State of Mississippi are transferred to the State Board of Physical Therapy.

§ 73-23-67. Confidentiality

The board shall keep all information relating to the receipt and investigation of complaints filed against licensees or applicants confidential until the information is disclosed in the course of the investigation or any subsequent proceeding before the board. Patient records, including clinical records, files, any other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or his or her family might be identified, or information received and records or reports kept by the board as a result of an investigation made pursuant to this chapter shall not be available to the public and shall be kept confidential by the board.

Current through End of the 2008 Regular Session and 1st Ex. Session
END OF DOCUMENT