STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

HOUSE BILL 2749 By: Denney

AS INTRODUCED

An Act relating to professions and occupations; creating the Music Therapy Practice Act; defining terms; requiring certain persons to be licensed under the Music Therapy Practice Act; providing for exceptions; establishing Music Therapy Committee to assist State Board of Medical Licensure and Supervision; providing for membership on Music Therapy Committee; providing for terms of membership on Music Therapy Committee; providing for powers and duties of Board in implementing Music Therapy Practice Act; providing eligibility for licensure as music therapist; establishing term of music therapist license; establishing eligibility of renewal of music therapist license; providing certain letters that may be used by licensed music therapist; prohibiting use of certain words and letters by certain persons and businesses; providing that referral not be required prior to consultation and evaluation by licensed music therapist; providing that licensed music therapist may not be coerced to delegate activities or tasks if compromising client safety; providing that certain individuals may receive license without examination by Board; prohibiting advertisement as licensed music therapist or provider of music therapy services without license; creating misdemeanor and penalty for violation of Music Therapy Practice Act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921 of Title 59 unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Music Therapy Practice Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

In order to safeguard the public health, safety and welfare, to protect the public from being misled by incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of music therapists and to assure the availability of music therapy services of high quality to persons in need of such services, it is the purpose of the Music Therapy Practice Act to provide for the regulation of persons offering music therapy services to the public.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Music Therapy Practice Act:

1. "Licensed music therapist" means a person licensed to practice music therapy in the State of Oklahoma;

2. a. "Music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program. For purposes of accomplishing music therapy goals, music therapy may include:

(1) the assessment of a client's emotional and physical health, social functioning, communication abilities, and cognitive skills through the client's history and the observation and interaction of the client in music and nonmusic settings,

(2) the development and implementation of treatment plans, based on a client's assessed needs, using music interventions including music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music, and

(3) the evaluation and documentation of the client's response to treatment.

b. For purposes of accomplishing music therapy goals, music therapy services include, but are not limited to:

(1) conducting an individualized assessment for the purpose of collecting systematic, comprehensive, and accurate data necessary to determine the course of action and subsequent individualized treatment plan,

(2) planning and developing the individualized music therapy treatment plan that identifies an individual's goals, objectives, and potential treatment intervention strategies,

(3) implementing the individualized music therapy treatment plan that is consistent with the individual's overall treatment program,

(4) systematically evaluating and comparing the individual's response to the individualized music therapy treatment plan and suggesting modifications as appropriate,

(5) developing a discharge plan in collaboration with the individual, the individual's family, treatment team, and other identified support networks where appropriate,

(6) minimizing the impact of environmental constraints as a barrier to participation in least restrictive environments for individuals engaging in music therapy,

(7) collaborating with and educating the individual, family, caregiver, and others to foster an environment that is responsive to the developmental needs of the individual as addressed in music therapy, and

(8) consulting with groups, programs, organizations, or communities to improve accessibility to music therapy services;

3. "Board" means the State Board of Medical Licensure and Supervision; and

4. "Committee" means the Music Therapy Committee.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.3 of Title 59 unless there is created a duplication in numbering, reads as follows:

A. No person shall practice or hold himself or herself out as being able to practice music therapy or provide music therapy services in this state unless the person is licensed in accordance with the provisions of the Music Therapy Practice Act.

B. Nothing in the Music Therapy Practice Act shall be construed to prevent or restrict the practice, services, or activities of:

1. Any person of other licensed professions or personnel supervised by licensed professions in this state from performing work incidental to the practice of the person's profession or occupation, if that person does not represent himself or herself as a licensed music therapist;

2. Any person enrolled in a course of study leading to a degree in music therapy from performing music therapy services incidental to the person's course work when supervised by a licensed professional, if the person is designated by a title which clearly indicates the person's status as a student;

3. Any person whose training and national certification attests to the individual's preparation and ability to practice the person's profession, if that person does not represent himself or herself as a licensed music therapist; and

4. Any person employed by an agency, bureau or division of the federal government while in the discharge of official duties; provided, however, if such individual engages in the practice of music therapy outside the line of official duty, the individual must be licensed as herein provided.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the Music Therapy Committee to assist the State Board of Medical Licensure and Supervision in

conducting examinations for applicants and to advise the Board on all matters pertaining to the licensure, education, and continuing education of licensed music therapists and the practice of music therapy.

B. 1. The Music Therapy Committee shall consist of five (5) members who shall be appointed by the Board as follows:

a. three members shall, upon initial appointment, be qualified persons who have been actively practicing music therapy in this state for at least three (3) years; provided, their successors shall be licensed music therapists, and

b. two members shall be lay persons.

2. The professional members of the Committee shall be appointed for staggered terms of one (1), two (2) and three (3) years, respectively. Terms of office of each appointed member shall expire July 1 of that year in which they expire regardless of the calendar date when such appointments were made. Subsequent appointments shall be made for a term of three (3) years or until successors are appointed and qualified.

a. The lay members shall be appointed for staggered terms of office which will expire July 1, 2011, and July 1, 2012. Thereafter, members appointed to these positions shall serve for terms of three (3) years or until successors are appointed and qualified.

b. Vacancies shall be filled by the Board in the same manner as the original appointment.

3. Members of the Committee shall be reimbursed for all actual and necessary expenses incurred in the performance of duties required by the Music Therapy Practice Act in accordance with the provisions of the State Travel Reimbursement Act.

4. The Committee shall meet at least quarterly. At the initial meeting of the Committee, members shall elect a chair. The chair shall represent the Committee at all meetings of the Board. Three members of the Committee shall constitute a quorum for the purpose of conducting official business of the Committee.

C. The Committee shall have the power and duty to:

1. Advise the Board on all matters pertaining to the licensure, education, and continuing education requirements for and practice of music therapy in this state; and

2. Assist and advise the Board in all hearings involving music therapy specialists who are deemed to be in violation of the Music Therapy Practice Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

The State Board of Medical Licensure and Supervision shall have the power and duty to:

1. Promulgate the rules and regulations necessary for the performance of its duties pursuant to the provisions of the Music Therapy Practice Act, including the requirements for licensure, standards for training, standards for institutions for training and standards of practice after licensure, including power of revocation of a license;

2. Determine, as recommended by the Music Therapy Committee, the qualifications of applicants for licensure and determine which applicants successfully passed such examinations;

3. Determine necessary fees to carry out the provisions of the Music Therapy Practice Act;

4. Make such investigations and inspections as are necessary to ensure compliance with the Music Therapy Practice Act and the rules and regulations of the Board promulgated pursuant to this act;

5. Conduct hearings as required by the provisions of the Administrative Procedures Act;

6. Report to the district attorney having jurisdiction or the Attorney General any act committed by any person which may constitute a misdemeanor pursuant to the provisions of the Music Therapy Practice Act;

7. Initiate prosecution and civil proceedings;

8. Suspend, revoke or deny the license of any music therapy specialist for violation of any provisions of the Music Therapy

Practice Act or rules and regulations promulgated by the Board pursuant to the Music Therapy Practices Act;

9. Maintain a record listing the name of each licensed music therapist licensed in this state;

10. Compile a list of licensed music therapists licensed to practice in this state. The list shall be available to any person upon application to the Board and the payment of such fee as determined by the Board for the reasonable expense thereof pursuant to the provisions of the Music Therapy Practice Act; and

11. Make such expenditures and employ such personnel as it may deem necessary for the administration of the provisions of the Music Therapy Practice Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.6 Title 59, unless there is created a duplication in numbering, reads as follows:

A. To be eligible for licensure as a music therapist pursuant to the provisions of the Music Therapy Practice Act an applicant shall:

1. Be at least eighteen (18) years of age;

2. Be of good moral character;

3. Have successfully completed an academic program approved by the American Music Therapy Association (AMTA) with a baccalaureate degree or higher from an accredited college or university with a major in music therapy;

4. Have successfully completed a minimum of one thousand two hundred (1,200) hours of clinical training, with at least fifteen percent (15%) or one hundred eighty (180) hours in preinternship experiences, and at least seventy-five percent (75%) or nine hundred (900) hours in internship experiences. Internship programs may be approved by an academic institution, the American Music Therapy Association, or both; and

5. Have successfully completed the board certification exam offered by the Certification Board for Music Therapists.

B. The State Board of Medical Licensure and Supervision may, upon notice and opportunity for a hearing, deny an application for reinstatement of a license or reinstate the license with conditions. Conditions imposed may include a requirement for continuing education, practice under the supervision of a licensed music therapy specialist, or any other conditions deemed appropriate by the Board.

C. Notwithstanding subsection A of this section, the Board may grant initial licenses to licensed music therapists who are certified by the Certification Board for Music Therapists prior to July 1, 2010, and who hold an active MT-BC credential.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.7 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Initial licenses and renewals shall be valid for five (5) years.

B. Persons licensed as licensed music therapists are eligible for renewal of their licenses if they:

1. Have completed a minimum of one hundred (100) hours of music therapy service; and

2. Have met continuing competency requirements by completing a minimum of one hundred (100) hours of Continuing Music Therapy Education (CMTE) programs as approved by the Certification Board of Music Therapists and other requirements established by rule of the State Board of Medical Licensure and Supervision.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A licensed music therapist may use the letters MT-BC/L (Music Therapist - Board Certified/Licensed) in connection with his or her name. MT-BC is contingent upon maintenance of national certification guidelines provided by the Certification Board for Music Therapists.

B. A person or business entity, its employees, agents, or representatives shall not use in conjunction with that person's name or the activity of the business the words licensed music therapist, music therapy, music therapist, the letters MT, or MT-BC, or any other words, abbreviations or insignia indicating or implying

directly or indirectly that music therapy is provided or supplied, including the billing of services labeled as music therapy, unless such services are provided under the direction of a licensed music therapist licensed pursuant to the Music Therapy Practice Act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Consultation and evaluation by a licensed music therapist may be performed without a referral. Initiation of music therapy services to individuals with medically related conditions shall be based on a referral from any qualified health care professional who, within the scope of his or her professional license, is authorized to refer for health care services.

B. Prevention, wellness, education, adaptive and related services shall not require a referral.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.10 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person shall coerce a licensed music therapist into compromising client safety by requiring the licensed therapist to delegate activities or tasks if the licensed music therapist determines that it is inappropriate to do so.

B. A licensed music therapist shall not be subject to disciplinary action by the State Board of Medical Licensure and

Supervision for refusing to delegate activities or tasks or refusing to provide the required training for delegation, if the licensed music therapist determines that the delegation may compromise client safety.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.11 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Upon payment to the State Board of Medical Licensure and Supervision of a fee as provided by the Music Therapy Practice Act and submission of a written application on forms provided by the Board, the Board may issue a license without examination to any person who is licensed or otherwise certified as a Music Therapist - Board Certified (MT-BC) by another state or national certifying body which has substantially the same standards for licensure as are required by this state pursuant to the provisions of the Music Therapy Practice Act.

B. Upon proper application and payment of fees, the Board may issue a temporary license to a person who has applied for a license and who is eligible to take the examination pursuant to the provisions of the Music Therapy Practice Act. The temporary license shall be available to an applicant only with respect to his or her first application for licensure. The temporary license shall expire upon notice that the applicant has or has not passed the examination.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1921.12 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person shall advertise, in any manner, or otherwise represent himself or herself as a licensed music therapist or as a provider of music therapy services unless the person is licensed pursuant to the provisions of the Music Therapy Practice Act.

B. It shall be a misdemeanor for a person to violate any provision of the Music Therapy Practice Act and, upon conviction, such person shall be subject to one or more of the following actions which may be taken by the Board in consultation with the Music Therapy Committee:

1. Revocation of license;

2. Suspension of license not to exceed six (6) months from the date of hearing; or

3. Invocation of restrictions in the form of probation as defined by the State Board of Medical Licensure and Supervision.

SECTION 14. This act shall become effective November 1, 2010.

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