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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2366

05/16/2015 Authored by Newton, Carlson, Lillie, Nornes and Erhardt
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health occupations; creating licensure for music therapists; imposing
1.3 fees and civil penalties; proposing coding for new law as Minnesota Statutes,
1.4 chapter 148G.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[148G.01] DEFINITIONS.**

1.7 Subdivision 1. **Scope.** The terms defined in this section apply to this chapter.

1.8 Subd. 2. **Advisory council.** "Advisory council" means the Music Therapy Advisory
1.9 Council established in section 148G.05.

1.10 Subd. 3. **Board-certified music therapist.** "Board-certified music therapist" means
1.11 a person who has completed the education and clinical training requirements established
1.12 by the American Music Therapy Association, and who holds current board certification
1.13 from the Certification Board for Music Therapists.

1.14 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of health or a
1.15 designee.

1.16 Subd. 5. **Music interventions.** "Music interventions" means music improvisation,
1.17 receptive music listening, song writing, lyric discussion, music and imagery, singing,
1.18 music performance, learning through music, music combined with other arts,
1.19 music-assisted relaxation, music-based patient education, electronic music intervention,
1.20 and movement to music.

1.21 Subd. 6. **Music therapist.** "Music therapist" means a person who meets the
1.22 qualifications in section 148G.15 and is licensed by the commissioner.

2.1 Subd. 7. **Music therapy.** "Music therapy" means the clinical and evidence-based
 2.2 use of music interventions to accomplish individualized goals for persons of all ages and
 2.3 ability levels within a therapeutic relationship with a board-certified music therapist.

2.4 **Sec. 2. [148G.05] MUSIC THERAPY ADVISORY COUNCIL.**

2.5 Subdivision 1. **Membership.** The commissioner shall appoint five members to the
 2.6 Music Therapy Advisory Council consisting of the following:

2.7 (1) one member who is a licensed health care professional who is not a music
 2.8 therapist;

2.9 (2) one member who is a consumer; and

2.10 (3) three members who practice as music therapists in this state.

2.11 Subd. 2. **Creation.** The advisory council shall be organized and administered
 2.12 under section 15.059.

2.13 Subd. 3. **Duties.** The advisory council shall:

2.14 (1) advise the commissioner regarding standards for licensure of music therapists;

2.15 (2) advise the commissioner on enforcement of the provisions contained in this
 2.16 chapter;

2.17 (3) review applications and make recommendations to the commissioner on granting
 2.18 or denying licensure or license renewal;

2.19 (4) review reports of investigations or complaints relating to individuals and make
 2.20 recommendations to the commissioner as to whether licensure should be denied or
 2.21 disciplinary action taken against the individual;

2.22 (5) provide for the distribution of information regarding music therapist licensure
 2.23 standards;

2.24 (6) facilitate dissemination of information between music therapists, the American
 2.25 Music Therapy Association or any successor organization, the Certification Board for
 2.26 Music Therapists or any successor organization, and the commissioner;

2.27 (7) develop public education materials to inform the public of the benefits of music
 2.28 therapy, the use of music therapy by individuals and in facilities or institutional settings,
 2.29 and the licensure of music therapists; and

2.30 (8) perform other duties authorized for advisory councils by chapter 214, as directed
 2.31 by the commissioner.

2.32 **Sec. 3. [148G.10] UNAUTHORIZED PRACTICE; PROTECTED TITLES;**
 2.33 **EXEMPT PERSONS.**

3.1 Subdivision 1. **Unlicensed practice prohibited.** Effective July 1, 2017, no person
3.2 shall engage in the practice of music therapy unless the person is licensed as a music
3.3 therapist in accordance with this chapter.

3.4 Subd. 2. **Protected titles and restrictions on use.** (a) Use of the term "music
3.5 therapy" or "music therapist" or similar titles or terms to indicate or imply that the person
3.6 is licensed by the state as a music therapist is prohibited unless that person is licensed
3.7 under this chapter.

3.8 (b) Use of the term "board-certified music therapist" or similar titles or terms to
3.9 indicate or imply that the person is a licensed music therapist who is certified by the
3.10 Certification Board for Music Therapists is prohibited unless the person is licensed
3.11 under this chapter and holds a valid certification from the Certification Board for Music
3.12 Therapists.

3.13 (c) Use of the term "registered music therapist," "certified music therapist," or
3.14 "advanced-certified music therapist" or similar titles or terms to indicate or imply that the
3.15 person is a licensed music therapist is prohibited unless the person is licensed under this
3.16 chapter and holds a current professional designation from the National Music Therapy
3.17 Registry.

3.18 Subd. 3. **Exempt persons.** This section does not apply to:

3.19 (1) a person employed as a music therapist by the government of the United States
3.20 or any federal agency. A person who is exempt under this clause may use the protected
3.21 titles identified in subdivision 2, but only in connection with performing official duties for
3.22 the federal government;

3.23 (2) a person licensed, registered, or regulated under the laws of this state in another
3.24 profession or occupation, or a person supervised by a regulated professional in this state,
3.25 who is performing work, including the use of music, incidental to professional practice if
3.26 the person does not hold themselves out to the public as a music therapist;

3.27 (3) the practice of music therapy as an integral part of a program of study for
3.28 students enrolled in an accredited music therapy program, if the student is not represented
3.29 as a music therapist;

3.30 (4) a person who practices music therapy under the supervision of a licensed music
3.31 therapist, if the person is not represented as a music therapist; or

3.32 (5) a person who is trained and certified by a nationally accredited certifying
3.33 organization as a music healing professional, and who practices within the scope of the
3.34 specific training and certification of the specific music healing profession, if the person
3.35 does not hold themselves out to the public as a music therapist.

4.1 Sec. 4. **[148G.15] LICENSURE APPLICATION REQUIREMENTS;**
4.2 **QUALIFICATIONS.**

4.3 Subdivision 1. **Application.** An applicant for licensure must apply in writing on a
4.4 form prescribed by the commissioner and submit the fee required in section 148G.45.

4.5 Subd. 2. **Qualifications.** An applicant for licensure must:

4.6 (1) be 18 years of age or older;

4.7 (2) hold a bachelor's degree or higher in music therapy, or its equivalent, from
4.8 a program approved by the American Music Therapy Association or any successor
4.9 organization within an accredited college or university;

4.10 (3) successfully complete a minimum of 1,200 hours of clinical training, with at least
4.11 180 hours in pre-internship experiences and at least 900 hours in internship experiences,
4.12 provided that the internship is approved by an academic institution, the American Music
4.13 Therapy Association or any successor organization, or both;

4.14 (4) successfully pass a background check that includes a review of the applicant's
4.15 music therapy licensure history in other jurisdictions, including a review of any alleged
4.16 misconduct or neglect in the practice of music therapy on the part of the applicant;

4.17 (5) provide proof of passing the examination for board certification offered by the
4.18 Certification Board for Music Therapists or any successor organization; and

4.19 (6) provide proof that the applicant is currently a board-certified music therapist.

4.20 Subd. 3. **Action on application for licensure.** (a) The commissioner shall approve,
4.21 approve with conditions, or deny licensure. The commissioner shall act on an application
4.22 according to paragraphs (b) to (d).

4.23 (b) The commissioner shall determine if the applicant meets the requirements for
4.24 licensure. The commissioner, or the advisory council at the commissioner's request, may
4.25 investigate information provided by the applicant to determine whether the information
4.26 is accurate and complete.

4.27 (c) The commissioner shall notify the applicant of action taken on the application
4.28 and, if licensure is denied or approved with conditions, the grounds for the commissioner's
4.29 determination.

4.30 (d) An applicant denied licensure or granted licensure with conditions may make
4.31 a written request to the commissioner, within 30 days of the date of the commissioner's
4.32 determination, for reconsideration of the commissioner's determination. Individuals
4.33 requesting reconsideration may submit information which the applicant wants considered
4.34 in the reconsideration. After reconsideration of the commissioner's determination, the
4.35 commissioner shall determine whether the original determination should be affirmed
4.36 or modified. An applicant is allowed no more than one request in any two-year period

5.1 for reconsideration of the commissioner's determination to deny licensure or approve
5.2 licensure with conditions.

5.3 Subd. 4. **Reciprocity.** The commissioner shall issue a license to an applicant for a
5.4 music therapy license when an applicant has completed and submitted an application upon
5.5 a form and in the manner prescribed by the commissioner, accompanied by applicable
5.6 fees, and evidence satisfactory to the commissioner that the applicant is licensed and in
5.7 good standing as a music therapist in another jurisdiction where the qualifications required
5.8 are equal to or greater than those required in this chapter at the date of application.

5.9 Sec. 5. **[148G.20] TRANSITION PERIOD; WAIVER OF EXAMINATION.**

5.10 (a) The commissioner shall waive the examination requirement in section 148G.15,
5.11 subdivision 2, clause (5), for an applicant who is board-certified as a music therapist and is
5.12 in good standing with the Certification Board for Music Therapists as of July 1, 2016.

5.13 (b) Until January 1, 2020, the commissioner shall waive the examination requirement
5.14 in section 148G.15, subdivision 2, clause (5), for an applicant who is designated as a
5.15 registered music therapist, certified music therapist, or advanced certified music therapist
5.16 and is in good standing with the National Music Therapy Registry.

5.17 Sec. 6. **[148G.25] RENEWAL OF LICENSE; INACTIVE STATUS.**

5.18 Subdivision 1. **Renewal requirements.** To be eligible for license renewal, a
5.19 licensee must:

5.20 (1) submit a completed and signed application for license renewal on a form
5.21 provided by the commissioner;

5.22 (2) submit the renewal fee required under section 148G.45;

5.23 (3) provide proof of the licensee's status as a board-certified music therapist;

5.24 (4) submit proof of completion of a minimum of 100 hours of continuing education
5.25 in a program approved by the Certification Board of Music Therapists or its successor
5.26 organization; and

5.27 (5) submit additional information as requested by the commissioner to clarify
5.28 information presented in the renewal application.

5.29 Subd. 2. **Renewal deadline.** (a) Licenses must be renewed every five years.

5.30 (b) Each license must state an expiration date.

5.31 (c) A completed application for license renewal must be received by the
5.32 commissioner or postmarked at least 14 days prior to the license expiration date.

6.1 (d) A completed application for license renewal not received within the time required
6.2 under paragraph (c), but received on or before the expiration date, must be accompanied
6.3 by a late fee in addition to the renewal fee in section 148G.45.

6.4 Subd. 3. **Licensure renewal notice.** At least 60 calendar days before the expiration
6.5 date in subdivision 2, the commissioner must mail a renewal notice to the licensee's last
6.6 known address on file with the commissioner. The notice must include an application for
6.7 licensure renewal and notice of fees required for renewal. The licensee's failure to receive
6.8 the notice does not relieve the licensee of the obligation to meet the renewal deadline and
6.9 other requirements for licensure renewal.

6.10 Subd. 4. **Failure to renew.** (a) A licensee who fails to renew a license shall forfeit
6.11 the license. Licenses that have been forfeited may be restored within one year of the
6.12 expiration date upon completion of the requirements in subdivision 1, and payment of
6.13 the late fee in section 148G.45.

6.14 (b) A person who requests restoration of a license more than one year after the
6.15 license expiration date shall be required to reapply for licensure as a new applicant and
6.16 must comply with the requirements for new licensees at the time of application.

6.17 Subd. 5. **Inactive status.** (a) A licensee with an active license who is in good
6.18 standing and has no disciplinary or other adverse action pending may make a written
6.19 request to have the license placed on inactive status. The licensee shall be required to pay
6.20 the inactive status fee in section 148G.45.

6.21 (b) A licensee whose license has been placed on inactive status for two years or less
6.22 may reactivate the license by submitting the information required in subdivision 1.

6.23 (c) A licensee whose license has been placed on inactive status for more than
6.24 two years must reapply for licensure as a new applicant and must comply with the
6.25 requirements for new licensees at the time of application.

6.26 Sec. 7. **[148G.30] CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

6.27 A licensee who changes a name, address, or employment must inform the
6.28 commissioner, in writing, of the change in name, address, employment, business address,
6.29 or business telephone number within 30 days of the change. A change in name must
6.30 be accompanied by a copy of a marriage certificate or court order. All notices or other
6.31 correspondence mailed to or served on the licensee by the commissioner at the licensee's
6.32 address on file with the commissioner shall be considered as having been received by the
6.33 licensee.

6.34 Sec. 8. **[148G.35] PRACTICE OF MUSIC THERAPY.**

7.1 (a) The practice of music therapy includes the clinical and evidence-based use of
7.2 music interventions to accomplish individualized goals for persons of all ages and ability
7.3 levels within a therapeutic relationship by a licensed music therapist. A licensed music
7.4 therapist shall develop music therapy treatment plans specific to the needs and strengths of
7.5 the client who may be seen individually or in groups. Music therapy treatment plans must
7.6 be individualized for each client. The goals, objectives, and potential strategies of the
7.7 music therapy services must be appropriate for the client and setting. The practice of music
7.8 therapy does not include the diagnosis of any physical, mental, or communication disorder.

7.9 (b) A licensed music therapist may accept referrals for music therapy services from
7.10 medical, developmental, mental health, or education professionals; family members;
7.11 clients; caregivers; or others involved and authorized to provide services to the
7.12 client. Before providing music therapy services to a client for an identified clinical
7.13 or developmental need, the licensee shall collaborate, as applicable, with the client's
7.14 primary care provider or providers to review the client's diagnosis, treatment needs, and
7.15 treatment plan. During the provision of music therapy services to a client, the licensee
7.16 shall collaborate, as applicable, with the client's treatment team.

7.17 (c) A licensed music therapist shall conduct a music therapy assessment of a client
7.18 to determine if treatment is indicated. If treatment is indicated, the licensee shall collect
7.19 systematic, comprehensive, and accurate information to determine the appropriateness and
7.20 type of music therapy services to provide for the client.

7.21 (d) A licensed music therapist shall develop an individualized music therapy
7.22 treatment plan for the client that is based upon the results of the music therapy assessment.
7.23 The music therapy treatment plan shall include individualized goals and objectives that
7.24 focus on the assessed needs and strengths of the client and shall specify music therapy
7.25 approaches and interventions to be used to address these goals and objectives.

7.26 (e) A licensed music therapist shall implement an individualized music therapy
7.27 treatment plan that is consistent with any other developmental, rehabilitative, habilitative,
7.28 medical, mental health, preventive, wellness care, or educational services being provided
7.29 to the client.

7.30 (f) A licensed music therapist shall: (1) evaluate the client's response to music
7.31 therapy and the music therapy treatment plan; (2) document any change and the client's
7.32 progress; and (3) suggest modifications, as appropriate.

7.33 (g) A licensed music therapist shall develop a plan for determining when the
7.34 provision of music therapy services is no longer needed in collaboration with the client,
7.35 the client's health care provider, family members of the client, and other appropriate
7.36 individuals upon whom the client relies for support.

8.1 (h) A licensed music therapist shall minimize any barriers to ensure that the client
 8.2 receives music therapy services in the least restrictive environment.

8.3 (i) A licensed music therapist shall collaborate with and educate the client and the
 8.4 client's family, caregiver, and any other appropriate individual regarding the needs of
 8.5 the client that are being addressed in music therapy and the manner in which the music
 8.6 therapy treatment addresses those needs.

8.7 (j) A licensed music therapist shall utilize appropriate knowledge and skills when
 8.8 providing music therapy services, including use of research, reasoning, and problem
 8.9 solving skills to determine appropriate actions in the context of each specific clinical setting.

8.10 **Sec. 9. [148G.40] DISCIPLINARY ACTION.**

8.11 Subdivision 1. **Grounds for denial of license or discipline.** The commissioner may
 8.12 revoke, suspend, deny, or refuse to issue or renew a license, or may discipline a licensee
 8.13 using any of the disciplinary actions listed in subdivision 3 on proof that the individual has:

8.14 (1) procured or attempted to procure a license by fraud, deceit, misrepresentation,
 8.15 misleading omission, or material misstatement of fact;

8.16 (2) been convicted of violating any state or federal law, rule, or regulation which
 8.17 directly relates to the practice of music therapy;

8.18 (3) willfully or negligently acted in a manner inconsistent with the health or safety
 8.19 of persons in the individual's care;

8.20 (4) had a credential to practice music therapy suspended or revoked, or has otherwise
 8.21 been subject to discipline relating to the individual's practice of music therapy in any
 8.22 other jurisdiction;

8.23 (5) failed to perform services with reasonable judgment, skill, or safety due to the
 8.24 use of alcohol or drugs, or other physical or mental impairment;

8.25 (6) violated any provisions of this chapter;

8.26 (7) not cooperated with the commissioner or the advisory council in an investigation
 8.27 conducted according to subdivision 2;

8.28 (8) engaged in dishonest, unethical, or unprofessional conduct in connection with
 8.29 the practice of music therapy that is likely to deceive, defraud, or harm the public;

8.30 (9) engaged in abuse or fraudulent billing practices;

8.31 (10) divided fees with, or paid or promised to pay a commission or part of a fee to,
 8.32 any person who contacts the music therapist for consultation or sends patients to the
 8.33 music therapist for treatment;

8.34 (11) performed music therapy services in an incompetent or negligent manner or in a
 8.35 manner that falls below the community standard of care; or

9.1 (12) engaged in the practice of music therapy without a valid license.

9.2 Subd. 2. **Investigation of complaints.** The commissioner, or the advisory council
9.3 when authorized by the commissioner, may initiate an investigation upon receiving a
9.4 complaint or other written or oral communication that alleges or implies that a person has
9.5 violated the provisions of this chapter. In the receipt, investigation, and hearing of a
9.6 complaint, the commissioner shall follow the procedures in section 214.13.

9.7 Subd. 3. **Disciplinary actions.** If the commissioner finds that a music therapist
9.8 should be disciplined according to subdivision 1, the commissioner may take any one
9.9 or more of the following actions:

9.10 (1) refuse to grant or renew a license;

9.11 (2) approve licensure with conditions;

9.12 (3) revoke licensure;

9.13 (4) suspend licensure;

9.14 (5) any reasonable lesser action including, but not limited to, reprimand or restriction
9.15 on licensure;

9.16 (6) impose, for each violation, a civil penalty of not less than \$100 nor more than
9.17 \$1,000 that deprives the licensee of any economic advantage gained by the violation and
9.18 reimburses the commissioner for costs of the investigation and proceedings resulting
9.19 in disciplinary action; or

9.20 (7) any action authorized by statute.

9.21 Subd. 4. **Authority to contract.** The commissioner shall contract with the health
9.22 professionals services program as authorized by sections 214.31 to 214.37 to provide
9.23 services to practitioners under this chapter. The health professionals services program
9.24 does not affect the authority to discipline violations of this chapter.

9.25 Sec. 10. **[148G.45] FEES.**

9.26 (a) The fees charged by the commissioner are fixed at the following rates:

9.27 (1) application fee, \$.....;

9.28 (2) initial licensure fee, \$.....;

9.29 (3) licensure renewal fee, \$.....;

9.30 (4) licensure renewal late fee, \$.....;

9.31 (5) inactive license fee, \$.....; and

9.32 (6) duplicate license fee, \$.....

9.33 (b) The commissioner shall prorate the initial licensure fee for first time licensees
9.34 according to the number of months that have elapsed between the date the license is issued
9.35 and the date the license expires or must be renewed under section 148G.25.

10.1 (c) All fees are nonrefundable.

10.2 Sec. 11. **EFFECTIVE DATE.**

10.3 Sections 1 to 10 are effective July 1, 2016.