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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 849

02/21/2013 Authored by Dorholt, Carlson and Bly
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

A bill for an act

relating to health occupations; creating licensure for music therapists; imposing fees and civil penalties; proposing coding for new law as Minnesota Statutes, chapter 146C.

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

Section 1. **[146C.01] DEFINITIONS.**

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

Subd. 2. **Advisory council.** "Advisory council" means the Music Therapy Advisory Council established in section 146C.05.

Subd. 3. **Board certified music therapist.** "Board certified music therapist" means a person who has completed the education and clinical training requirements established by the American Music Therapy Association, has passed the Certification Board for Music Therapists certification examination, and remains actively certified by the Certification Board for Music Therapists.

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

Subd. 5. **Music therapist.** "Music therapist" means a person who meets the qualifications in section 146C.15 and is licensed by the commissioner.

Subd. 6. **Music therapy.** "Music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship through development of an individualized music therapy treatment plan for the client that identifies the goals, objectives, and potential strategies of the music therapy services.

Subd. 7. **Music therapy interventions.** "Music therapy interventions" means music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music.

Sec. 2. **[146C.05] MUSIC THERAPY ADVISORY COUNCIL.**

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

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

(2) one member who is a consumer; and

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

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

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

(1) advise the commissioner regarding the establishment of fees related to regulation of music therapists;

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

(3) advise the commissioner on enforcement of the provisions contained in this chapter;

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

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

(6) provide for distribution of information regarding music therapist licensure standards;

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

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

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

Sec. 3. **[146C.10] UNAUTHORIZED PRACTICE; PROTECTED TITLES; EXEMPT PERSONS.**

Subdivision 1. **Unlicensed practice prohibited.** No person shall engage in the practice of music therapy unless the person is licensed as a music therapist in accordance with this chapter.

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

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

(c) Use of the term "registered music therapist" or like terms to indicate or imply that the person is a licensed music therapist is prohibited unless the person is licensed under this chapter and holds a valid registration from the nationally recognized registration organization.

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

(1) a person employed as a music therapist by the government of the United States or any agency thereof. However, the use of the protected titles under those circumstances is allowed only in connection with performance of official duties for the federal government;

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

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

(4) any person who practices music therapy under the supervision of a licensed music therapist, if the person is not represented as a music therapist.

Subd. 4. **Transition period.** A person who is employed providing music therapy services on the date of enactment of this chapter must obtain a license within one year. A person providing music therapy services during the transition year must comply with the provisions of this chapter.

Sec. 4. **[146C.15] LICENSURE APPLICATION REQUIREMENTS; QUALIFICATIONS.**

Subdivision 1. **Application.** An applicant for licensure must apply in writing on a form prescribed by the commissioner and submit the fee required in section 146C.45.

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

(1) be 18 years of age or older;

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

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

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

(5) provide proof of passing the examination for board certification offered by the Certification Board for Music Therapists or any successor organization or provide proof of registration by the National Music Therapy Registry as a Registered Music Therapist, and provide proof that the applicant is currently a board certified or registered music therapist.

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

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

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

(d) An applicant denied licensure or granted licensure with conditions may make a written request to the commissioner, within 30 days of the date of the commissioner's determination, for reconsideration of the commissioner's determination. Individuals requesting reconsideration may submit information which the applicant wants considered in the reconsideration. After reconsideration of the commissioner's determination, the commissioner shall determine whether the original determination should be affirmed

or modified. An applicant is allowed no more than one request in any two-year period for reconsideration of the commissioner's determination to deny licensure or approve licensure with conditions.

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

Sec. 5. **[146C.20] TRANSITION PERIOD; WAIVER OF EXAMINATION.**

For one year following enactment of this chapter, the commissioner shall waive the examination requirement in section 146C.15, subdivision 2, clause (5), for an applicant who is:

(1) board certified as a music therapist and is in good standing with the Certification Board for Music Therapists; or

(2) designated as a registered music therapist, certified music therapist, or advanced certified music therapist and is in good standing with the National Music Therapy Registry.

Sec. 6. **[146C.25] RENEWAL OF LICENSE; INACTIVE STATUS.**

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

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

(2) submit the renewal fee required under section 146C.45;

(3) provide written verification from the Certification Board for Music Therapists that the licensee has valid board certification credentials, or provide written verification from the National Music Therapy Registry that the licensee has valid registry credentials; and

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

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

(b) Each license must state an expiration date.

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

(d) If the commissioner changes the renewal schedule and the expiration date is less than five years, the fee at the next renewal must be prorated.

(e) A completed application for license renewal not received within the time required under paragraph (c), but received on or before the expiration date, must be accompanied by a late fee in addition to the renewal fee in section 146C.45.

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

Subd. 4. **Failure to renew.** (a) An individual who fails to renew a license shall forfeit the license. Licenses that have been forfeited may be restored within one year of the expiration date upon completion of the requirements in subdivision 1, and payment of the late fee in section 146C.45.

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

Subd. 5. **Inactive status.** (a) A licensee with an active license who is in good standing and has no disciplinary or other adverse action pending may make a written request to have the license placed on inactive status. The licensee shall be required to pay the inactive status fee in section 146C.45.

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

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

Sec. 7. **[146C.30] CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.**

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

Sec. 8. **[146C.35] PRACTICE OF MUSIC THERAPY.**

(a) The practice of music therapy includes the specialized use of music and the materials of music to restore, maintain, and improve cognitive, psychological, social or emotional, affective, physical, sensory or sensorimotor, motor, communicative, and physiological areas of functioning.

(b) A licensee may accept referrals from medical, developmental, mental health, or education professionals; family members; clients; or caregivers. Before providing music therapy services to a client for a medical, developmental, or mental health condition, the licensee shall consult with the client's physician, psychologist, primary care provider, or mental health professional to review the client's diagnosis, treatment needs, and treatment plan. During the provision of services to a client, the licensee shall collaborate with the client's treatment team.

(c) A licensee shall conduct a music therapy assessment of a client to collect systematic, comprehensive, and accurate information necessary to determine the appropriate type of music therapy services to provide for the client.

(d) A licensee shall develop an individualized treatment plan for the client that identifies goals, objectives, and potential strategies of music therapy services appropriate for the client.

(e) A licensee shall carry out an individualized music therapy treatment plan in the least restrictive setting that is consistent with any other medical, developmental, mental health, or education services being provided to the client.

(f) A licensee shall evaluate the client's response to music therapy and the individualized treatment plan and suggest modifications, as appropriate.

(g) A licensee shall develop a plan for determining when the provision of services is no longer needed. The licensee shall consult with the client, any physician or other provider of health care or education of the client, any appropriate member of the family of the client, and any other person upon whom the client relies for support.

(h) A licensee shall collaborate with and educate the client and the family or caregiver of the client about the needs of the client that are being addressed in music therapy and the manner in which the therapy addresses those needs.

Sec. 9. **[146C.40] DISCIPLINARY ACTION.**

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

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

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

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

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

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

(6) violated any provisions of this chapter;

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

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

(9) engaged in abuse or fraudulent billing practices;

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

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

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

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

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

(1) refuse to grant or renew a license;

(2) approve licensure with conditions;

(3) revoke licensure;

(4) suspend licensure;

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

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

(7) any action authorized by statute.

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

Sec. 10. **[146C.45] FEES.**

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

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

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

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

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

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

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

(b) The commissioner shall prorate the initial licensure fee for first time licensees according to the number of months that have elapsed between the date the license is issued and the date the license expires or must be renewed under section 146C.25.

(c) All fees are nonrefundable.

Sec. 11. **EFFECTIVE DATE.**

Sections 1 to 10 are effective the day following final enactment.