

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH30165-LUFqq-38 (02/15)

Short Title: Establish Music Therapy Practice Act.

(Public)

Sponsors: Representatives Insko, Rapp, and Keever (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE MUSIC THERAPY PRACTICE ACT.

3 Whereas, The University of North Carolina System offers degrees in music therapy
4 at two State universities, Appalachian State University (ASU) and East Carolina University
5 (ECU), and the State is vested in these music therapy programs through the bachelor's and
6 master's degree programs the universities offer; and

7 Whereas, most of the music therapy graduates from ASU and ECU are from North
8 Carolina and are employed as music therapists upon graduation, however, they obtain
9 employment in other states rather than in North Carolina; and

10 Whereas, recently there has been an increase in people referring to themselves as
11 music therapists with no training or degree in music therapy, no code of ethics to comply with,
12 and no State regulatory agency to which consumers can report grievances; and

13 Whereas, there have been reports of unprofessional, invasive, and poor quality
14 treatment from some individuals offering "music therapy" services; and

15 Whereas, currently there is no protection for employers or consumers against
16 unqualified individuals who offer "music therapy" or against the risk of application of
17 contraindicated procedures that could harm consumers; and

18 Whereas, licensing individuals who seek to practice as music therapists would give
19 the citizens of North Carolina a consistent standard when receiving music therapy services in
20 this State; Now, therefore,

21 The General Assembly of North Carolina enacts:

22 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new
23 Article to read:

24 "Article 18E.

25 "Music Therapy.

26 "**§ 90-270.85. Title.**

27 This Article shall be known and may be cited as the 'North Carolina Music Therapy
28 Practice Act.'

29 "**§ 90-270.86. Purpose.**

30 The North Carolina Music Therapy Practice Act is established to safeguard the public
31 health, safety, and welfare, to protect the public from being harmed by unqualified persons, to
32 assure the highest degree of professional services and conduct on the part of music therapists,
33 to provide for the establishment of licensure requirements, and to ensure the availability of
34 music therapy services of high quality to persons in need of such services. It is the purpose of



1 this Article to provide for the regulation of persons offering music therapy services to the
2 public.

3 **"§ 90-270.87. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Board. – The North Carolina Board of Music Therapy.
6 (2) Music therapist. – An individual licensed to practice music therapy under
7 this Article.
8 (3) Music Therapist-Board Certified. – An individual practicing music therapy
9 who has been credentialed as having passed a national examination
10 administered by the Certification Board for Music Therapists, an accredited
11 health certifying agency.
12 (4) Music therapy. – The clinical and evidence-based use of music interventions
13 to accomplish individualized goals within a therapeutic relationship by a
14 credentialed professional who has completed an approved music therapy
15 program, including (i) assessment of a client's emotional, physical, and
16 spiritual health, social functioning, communication abilities, and cognitive
17 skills through the client's history and the observation and interaction of the
18 client in music and nonmusic settings; (ii) development and implementation
19 of treatment plans, based on a client's assessed needs, using music
20 interventions, including music improvisation, receptive music listening, song
21 writing, lyric discussion, music and imagery, music performance, learning
22 through music, and movement to music; and (iii) evaluation and
23 documentation of the client's response to treatment.
24 (5) Music therapy services. – The provision of services to accomplish music
25 therapy goals, including (i) conducting an individualized assessment for the
26 purpose of collecting systematic, comprehensive, and accurate data
27 necessary to determine the course of action subsequent to the individualized
28 treatment plan; (ii) planning and developing the individualized music
29 therapy treatment plan that identifies an individual's goals, objectives, and
30 potential treatment intervention strategies; (iii) implementing the
31 individualized music therapy treatment plan consistent with the individual's
32 overall treatment program; (iv) systematically evaluating and comparing the
33 individual's response to the individualized music therapy treatment plan and
34 suggesting modifications, as appropriate; (v) developing a discharge plan in
35 collaboration with the individual, the individual's family, treatment team,
36 and other identified support networks, when appropriate; (vi) minimizing the
37 impact of environmental constraints as a barrier to participation in least
38 restrictive environments for individuals engaging in music therapy; (vii)
39 collaborating with and educating the individual, family, caregiver, and others
40 to foster an environment responsive to the developmental needs of the
41 individual as addressed in music therapy; and (viii) consulting with groups,
42 programs, organizations, or communities to improve accessibility to music
43 therapy services.

44 **"§ 90-270.88. License required; exemptions.**

45 (a) On or after January 1, 2012, no person shall practice or offer to practice music
46 therapy as defined in this Article, use the title 'Music Therapist-Board Certified/Licensed' or
47 'Licensed Music Therapist,' use the letters 'MT-BC/L' or 'LMT,' or any other title or
48 abbreviation that would otherwise indicate or imply that the person is a licensed music therapist
49 unless that person is currently licensed as provided under this Article.

50 (b) The provisions of this Article shall not apply to the following:

1 (1) Any person registered, certified, credentialed, or licensed to engage in
2 another profession or occupation or any person working under the
3 supervision of a person registered, certified, credentialed, or licensed to
4 engage in another profession or occupation in this State if the person is
5 performing work incidental to the practice of that profession or occupation
6 and the person does not represent himself or herself as a licensed music
7 therapist.

8 (2) A student enrolled in an approved music therapy education program if music
9 therapy services performed by the student are an integral part of the student's
10 course of study and are performed under the direct supervision of a
11 professional licensed in this State.

12 (3) A music therapist employed by the United States government when
13 performing duties associated with that employment.

14 **"§ 90-270.89. North Carolina Board of Music Therapy.**

15 (a) Creation. – The North Carolina Board of Music Therapy is created.

16 (b) Composition and Terms. – The Board shall consist of three members who shall
17 serve staggered terms. Two members shall be licensed music therapists, and one member shall
18 represent the public at large.

19 The initial Board members shall be appointed on or before October 1, 2011, as follows:

20 (1) The General Assembly, upon the recommendation of the Speaker of the
21 House of Representatives, shall appoint one music therapist who shall serve
22 for a term of three years.

23 (2) The General Assembly, upon the recommendation of the President Pro
24 Tempore of the Senate, shall appoint one music therapist who shall serve for
25 a term of two years.

26 (3) The Governor shall appoint one public member who shall serve for a
27 one-year term.

28 Initial music therapist Board members do not have to be licensed upon appointment. However,
29 once licensure requirements are established, those initial Board members shall satisfy the
30 applicable requirements for licensure pursuant to this Article.

31 Upon the expiration of the terms of the initial Board members, each member shall be
32 appointed for a term of three years and shall serve until a successor is appointed. No member
33 may serve more than two consecutive full terms.

34 (c) Qualifications. – The music therapist members shall hold current licenses and shall
35 reside or be employed in North Carolina. They shall have at least five years' experience as
36 music therapists, including the three years immediately preceding appointment to the Board,
37 and shall remain in active practice and in good standing with the Board as a licensee during
38 their terms. Public members of the Board shall not be (i) trained or experienced in the practice
39 of music therapy, (ii) an agent or employee of a person engaged in the practice of music
40 therapy, (iii) a health care professional licensed under this Article or a person enrolled in a
41 program to become a licensed health care professional, (iv) an agent or employee of a health
42 care institution, a health care insurer, or a health care professional school, (v) a member of an
43 allied health profession or a person enrolled in a program to become a member of an allied
44 health profession, or (vi) a spouse of an individual who may not serve as a public member of
45 the Board.

46 (d) Vacancies. – A vacancy shall be filled in the same manner as the original
47 appointment, except that all unexpired terms of Board members appointed by the General
48 Assembly shall be filled in accordance with G.S. 120-122 and shall be filled within 45 days
49 after the vacancy occurs. Appointees to fill vacancies shall serve the remainder of the
50 unexpired term and until their successors have been duly appointed and qualified.

1 (e) Removal. – The Board may remove any of its members for neglect of duty,
2 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a
3 licensee shall be disqualified from participating in the official business of the Board until the
4 charges have been resolved.

5 (f) Compensation. – Each member of the Board shall receive per diem and
6 reimbursement for travel and subsistence as provided in G.S. 93B-5.

7 (g) Officers. – The officers of the Board shall be a chair, who shall be a licensed music
8 therapist, a vice-chair, and other officers deemed necessary by the Board to carry out the
9 purposes of this Article. All officers shall be elected annually by the Board for one-year terms
10 and shall serve until their successors are elected and qualified.

11 (h) Meetings. – The Board shall hold at least two meetings each year to conduct
12 business and to review the standards and rules for improving music therapy services. The
13 Board shall establish the procedures for calling, holding, and conducting regular and special
14 meetings. A majority of Board members constitutes a quorum.

15 **"§ 90-270.90. Powers of the Board.**

16 The Board shall have the following powers and duties:

- 17 (1) Administer this Article.
- 18 (2) Issue interpretations of this Article.
- 19 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
20 provisions of this Article.
- 21 (4) Employ and fix the compensation of personnel that the Board determines is
22 necessary to carry into effect the provisions of this Article and incur other
23 expenses necessary to effectuate this Article.
- 24 (5) Examine and determine the qualifications and fitness of applicants for
25 licensure, renewal of licensure, and reciprocal licensure.
- 26 (6) Issue, renew, deny, suspend, or revoke licenses and carry out any
27 disciplinary actions authorized by this Article.
- 28 (7) Set fees for licensure, license renewal, and other services deemed necessary
29 to carry out the purposes of this Article.
- 30 (8) Conduct investigations for the purpose of determining whether violations of
31 this Article or grounds for disciplining licensees exist.
- 32 (9) Conduct administrative hearings in accordance with Chapter 150B of the
33 General Statutes when a contested case, as defined in G.S. 150B-2(2), arises
34 under this Article.
- 35 (10) Maintain a record of all proceedings and make available to licensees and
36 other concerned parties an annual report of all Board action.
- 37 (11) Develop standards and adopt rules for the improvement of music therapy
38 services in the State.
- 39 (12) Adopt a seal containing the name of the Board for use on all licenses and
40 official reports issued by it.

41 **"§ 90-270.91. Requirements for licensure.**

42 Upon application to the Board and the payment of the required fees, an applicant may be
43 licensed as a music therapist if the applicant meets all of the following requirements:

- 44 (1) Is 18 years of age or older.
- 45 (2) Is of good moral character as determined by the Board.
- 46 (3) Has successfully completed an academic program accredited by the
47 American Music Therapy Association (AMTA), with at least a bachelor's
48 degree majoring in music therapy from an accredited college or university.
- 49 (4) Has successfully completed the board certification examination offered by
50 the Certification Board for Music Therapists or its successor organization to
51 become a Music Therapist-Board Certified (MT-BC).

(5) Has successfully completed 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. For purposes of this subdivision, the internship may be approved by an academic institution, the AMTA, or both.

"§ 90-270.92. Reciprocity.

The Board may grant, upon application and payment of proper fees, a license to a person who has been licensed to practice music therapy in another state or territory of the United States whose standards of competency are substantially equivalent to the requirements for licensure provided in this Article.

"§ 90-270.93. Expenses and fees.

(a) All salaries, compensation, and expenses incurred or allowed to carry out the purposes of this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Article or funds received from other sources. In no case shall any salary, expense, or other obligation of the Board be charged against the State treasury.

(b) The Board shall establish a schedule of fees, not to exceed the following amounts:

- (1) Issuance of a license..... \$ 100.00
- (2) License renewal (every 5 years)..... 250.00
- (3) Reinstatement of lapsed license 100.00
- (4) Reasonable charges for duplication services and material.

"§ 90-270.94. License renewal; continuing education; inactive status.

(a) Every license issued under this Article shall be renewed on or before January 1 every five years. The license shall be renewed upon the payment of a renewal fee if, at the time of application for renewal, the applicant is not in violation of this Article, has completed a minimum of 100 hours of music therapy practice in accordance with rules adopted by the Board, has maintained the applicant's Music Therapy-Board Certified (MT-BC) credential, and has complied with the continuing education requirements under subsection (b) of this section.

(b) As a condition of license renewal, a licensee shall complete a minimum of 100 hours of continuing education in a program approved by the Certification Board of Music Therapists and meet any other continuing education requirements established by the Board.

(c) The Board shall notify a licensee at least 30 days in advance of the expiration of his or her license. The licensee shall inform the Board of any change of the licensee's address. Each licensee is responsible for renewing his or her license before the expiration date. Licenses that are not renewed automatically lapse.

(d) The Board may provide for the late renewal of an automatically lapsed license upon the payment of a reinstatement fee. No reinstatement renewal may be granted more than five years after a license expires.

(e) In accordance with rules adopted pursuant to this Article, a licensee may request that his or her license be declared inactive and may thereafter apply for active status.

"§ 90-270.95. Disciplinary authority.

(a) The Board may deny, suspend, revoke, or refuse to renew a license or impose probationary conditions on a license if the licensee or applicant for licensure has engaged in any of the following conduct:

- (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
- (2) Engaging in unprofessional conduct pursuant to rules established by the Board.
- (3) Having been convicted of or pleaded guilty or nolo contendere to a crime involving moral turpitude or any crime which indicates that the music therapist is unfit or incompetent to practice music therapy or that the music therapist has deceived or defrauded the public.

- 1 (4) Engaging in any act or practice in violation of any of the provisions of this
2 Article or any rule adopted by the Board or aiding, abetting, or assisting any
3 person in such a violation.
4 (5) Committing an act or acts of malpractice, gross negligence, or incompetence
5 in the practice of music therapy.
6 (6) Practicing as a licensed music therapist without a current license.
7 (7) Engaging in conduct that could result in harm or injury to the public.
8 (8) Having a music therapy license revoked or suspended or other disciplinary
9 action taken whether in this State or another jurisdiction.
10 (9) Being unfit or incompetent to practice music therapy by reason of deliberate
11 or negligent acts or omissions regardless of whether actual injury to a patient
12 is established.

13 (b) The denial, refusal to renew, suspension, revocation, or imposition of probationary
14 conditions upon a license may be ordered by the Board after a hearing held in accordance with
15 Chapter 150B of the General Statutes and rules adopted by the Board. An application may be
16 made to the Board for reinstatement of a revoked license if the revocation has been in effect for
17 at least one year.

18 **"§ 90-270.96. Violation a misdemeanor.**

19 Any person who violates any provision of this Article shall be guilty of a Class 1
20 misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate
21 offense.

22 **"§ 90-270.97. Injunctive relief.**

23 The Board may make application to any appropriate court for an order enjoining violations
24 of this Article, and upon a showing by the Board that any person has violated or is about to
25 violate this Article, the court may grant an injunction, restraining order, or take other
26 appropriate action.

27 **"§ 90-270.98. Civil penalties.**

28 (a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in
29 excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the
30 violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed
31 under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
32 G.S. 115C-457.2.

33 (b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board
34 shall consider the following factors:

- 35 (1) The nature, gravity, and persistence of the particular violation.
36 (2) The appropriateness of the imposition of a civil penalty when considered
37 alone or in combination with other punishment.
38 (3) Whether the violation was willful and malicious.
39 (4) Any other factors that would tend to mitigate or aggravate the violations
40 found to exist.

41 (c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties
42 for violations of this Article and rules adopted by the Board.

43 (d) Costs. – The Board may assess the costs of disciplinary actions against any person
44 found to be in violation of this Article or rules adopted by the Board."

45 **SECTION 2.** This act is effective when it becomes law.