

AN ACT relating to recreational therapists and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. KRS CHAPTER 319D IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Board" means the Kentucky Board of Licensure for Recreational Therapy appointed by the Governor;

(2) "CTRS" means certified therapeutic recreation specialist;

(3) "NCTRC" means the National Council for Therapeutic Recreation Certification;

(4) "Practice of recreational therapy" means a treatment service designed to restore, remediate, and rehabilitate a person's level of functioning and independence in life activities, to promote health and wellness, and reduce or eliminate the activity limitations and restrictions to participation in life situations caused by an illness or disabling condition. Recreational therapy may include:

(a) Remediating or restoring an individual's participation levels that are limited due to impairment in physical, cognitive, social, or emotional abilities;

(b) Analyzing and evaluating recreational and psychosocial activities to determine the physical, social, and programmatic elements necessary for involvement and modifying those elements to promote full participation and maximization of functional independence;

(c) Using recreational modalities in designed intervention strategies to maximize physical, cognitive, social, or emotional abilities;

(d) Incorporating the individual's interests and the individual's family and community to maximize relevance to the individual's goals;

(e) Promoting the concept of healthy living into treatment strategies to decrease the potential for secondary conditions;

(f) Developing community support and encouraging attitudinal changes to

reflect dignity, self-respect, and involvement within one's community; and

(g) Fostering peer and intergenerational relationships;

(5) "Recreational therapist" means a person licensed to practice recreational therapy under this chapter; and

(6) "Recreational therapy services" include but are not limited to:

(a) 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;

(b) Planning and developing the individualized treatment plan that identifies an individual's goals, objectives, and treatment intervention strategies;

(c) Implementing the individualized treatment plan that is consistent with the overall treatment program;

(d) Systematically evaluating and comparing the individual's response to the individualized treatment plan and suggesting modifications as appropriate;

(e) Developing a discharge plan in collaboration with the individual, the individual's family, and other treatment team members;

(f) Identifying, designing, fabricating, applying, or training in the use of, adaptive recreational equipment;

(g) Identifying, applying, and evaluating the use of noninvasive and nonpharmacological approaches to reduce or alleviate pain or manage pain to minimize its impact upon participation;

(h) Identifying, providing, and educating individuals to use resources that support a healthy, active, and engaged life;

(i) Minimizing the impact of environmental constraints as a barrier to participation;

(j) Collaborating with and educating the individual, family, caregiver, and others to foster an environment that is responsive to the needs of the

individual; and

(k) Consulting with groups, programs, organizations, or communities to improve physical, social, and programmatic accessibility.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Board of Licensure for Recreational Therapy which shall consist of five (5) members appointed by the Governor.

(2) Three (3) members shall be certified recreational therapists who have actively engaged in the practice of recreational therapy in the Commonwealth of Kentucky with at least three (3) years' experience.

(3) Two (2) members shall be members of the public with an interest in the rights of consumers of health services.

(4) The initial appointments to the Kentucky Board of Licensure for Recreational Therapy shall consist of three (3) recreational therapists who are not licensed under KRS Chapter 319B but who have been engaged in their respective practices for at least three (3) years. Once licensing under KRS Chapter 319B is implemented, recreational therapists appointed to the board shall hold the requisite license.

(5) Appointments subsequent to the initial appointments for the recreational therapist positions may be made from recommendations submitted to the Governor by the board.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

The terms of the members shall be for three (3) years and until their successors are appointed and qualified, except of those first appointed when one (1) shall serve for one (1) year, two (2) shall serve for two (2) years, and two (2) shall serve for three (3) years. Vacancies shall be filled in the manner of the original appointment for the

unexpired portion of the term only. The Governor, after notice and opportunity for a hearing, may remove any member of the board for malfeasance, neglect of duty, incompetency, or revocation or suspension of a license. Members of the board shall receive no salary but shall be allowed usual mileage, subsistence, and per diem as provided by law for members of state boards, commissions, and committees. No member shall serve more than two (2) consecutive terms.

→SECTION 4. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

The board shall meet monthly and may meet at such other times as necessary to complete the business required. A majority of the members of the board shall constitute a quorum for the transaction of business. Annually the board shall elect from its membership a chair, a vice chair, and a secretary to serve for one (1) year terms.

→SECTION 5. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

The board may employ an executive director and clerical or other assistants as necessary for the proper performance of its work and may make expenditures of its funds for any purpose that the board deems necessary for proper performance of its duties, including compensation of the executive director and assistants and the premium on the executive director's bond.

→SECTION 6. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of this chapter shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board in carrying out the provisions of this chapter. No part of this revolving fund shall revert to the general fund. All expenses incurred by the board under this chapter shall be paid from this revolving fund, and shall not be a charge against the general fund.

(2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this chapter.

(3) The executive director or any other person so designated by the board shall give bond to the state in a sum as determined by the board for the faithful performance of his or her duties. The secretary shall receive and account for all moneys derived under the provisions of this chapter and shall remit such moneys to the State Treasurer, who shall keep them in the manner provided for other such agencies and boards of the Commonwealth.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

(1) The board shall:

(a) Promulgate administrative regulations, pursuant to KRS Chapter 13A, relating to professional conduct to carry out the provisions of this chapter, including but not limited to administrative regulations relating to professional licensure and holding a license to practice recreational therapy or assist in the practice of recreational therapy in the Commonwealth;

(b) Promulgate administrative regulations relative to schools or courses allowing students to practice under this chapter;

(c) Maintain a list of persons against whom the board has taken any disciplinary action. This list shall include the name of the person, the reason for disciplinary action, the date of the disciplinary action, and the nature of the disciplinary action;

(d) Keep a record of its proceedings and a register of all persons licensed as recreational therapists. The register shall show the name of every licensee, the licensee's last known place of business and last known place of residence, and the date and number of the license of each licensed

recreational therapist. The board shall, during the month of January of every year, compile and make available a list of licensed recreational therapists authorized to practice in the Commonwealth;

(e) Make an annual report to the Governor and the General Assembly prior to October 1 that shall contain an account of duties performed, actions taken, and appropriate recommendations; and

(f) Conduct administrative hearings in accordance with KRS Chapter 13B.

(2) The board may:

(a) Promulgate administrative regulations to define appropriate supervision of assistants, aides, and unlicensed personnel that are delivering recreational therapy services;

(b) Approve an examination for recreational therapists and establish standards for acceptable performance;

(c) Issue and renew licenses based on evidence of initial and continued competence of persons subject to this chapter;

(d) Suspend or revoke licenses;

(e) Require the continuing professional education of persons subject to this chapter;

(f) Institute and maintain actions to restrain or enjoin any violation of this chapter and administrative regulations promulgated hereunder, notwithstanding the existence or pursuit of other civil or criminal penalties;

(g) Issue subpoenas, examine witnesses, administer oaths, and investigate allegations of practices violating the provisions of this chapter; and

(h) Seek an injunction in Franklin Circuit Court against any individual who practices recreational therapy in the Commonwealth without a license.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

- (1) It shall be unlawful for any person to practice recreational therapy, assist in the practice of recreational therapy, or render services designated as recreational therapy in the Commonwealth of Kentucky, unless licensed or supervised under the provisions of this chapter.
- (2) The licensure of recreational therapists shall extend only to individuals. A license shall not be issued to a partnership, unincorporated association, corporation, or similar business organization.
- (3) No person shall coerce a licensed recreational therapist into compromising client safety by requiring the licensed recreational therapist to delegate activities or tasks if the licensed recreational therapist determines that this action is inappropriate. A licensed recreational therapist shall not be subject to disciplinary action by the board for refusing to delegate activities or tasks or refusing to provide the required training for delegation if the licensed recreational therapist determines that the delegation may compromise client safety.
- (4) It shall be unlawful for a person to act or represent himself or herself as a recreational therapist, use the title "therapeutic recreation specialist," "therapeutic recreation," "recreational therapy," "recreational therapist," "recreation therapy," "recreation therapist," or use the letters "CTRS," "TRS," "TR," or any abbreviation, acronym, or insignia that would indicate or imply directly or indirectly that recreational therapy is provided or supplied unless the person is licensed and is in good standing in accordance with the requirements of this chapter. A person, health care institution, health care service, health plan, or other entity holding itself out to the public as providing recreational therapy services, including the billing of services, shall not use the title unless the recreational therapy services are provided under the direction of a recreational therapist licensed under this chapter.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

(1) Consultation and evaluation by a recreational therapist may be performed without a referral. Initiation of recreational 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 the professional's licensure, is authorized to refer for health care services.

(2) Prevention, wellness, education, adaptive sports and recreation, and related services shall not require a referral.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this chapter shall not be construed as preventing or restricting the practices, services, or activities of:

(a) A person pursuing a course of study leading to a degree or certificate in recreational therapy at an accredited or board-approved educational program, so long as the activities and services are part of a supervised course of study and the person is designated by a title which clearly indicates the status of student or trainee and not a licensed recreational therapist; or

(b) A person fulfilling the supervised fieldwork experience requirements of this chapter, so long as such activities and services constitute a part of the experience necessary to meet the requirements of that board-approved educational program.

(2) Notwithstanding the requirements set forth in Section 11 of this Act, the board may grant initial licenses to recreational therapists who were certified by the NCTRC prior to July 1, 2007, and who hold an active CTRS credential.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 319D IS CREATED

TO READ AS FOLLOWS:

Individuals applying for licensure shall be required to pass a written or computer-based examination administered by the NCTRC which is designed to test the knowledge and experience necessary for the safe, effective, and professional practice of recreational therapy in Kentucky. The examination shall test the applicant's knowledge of the basic and clinical sciences related to recreational therapy theory, research, practice, ethics, and professional behavior, and such other subjects as the board may require to determine the applicant's fitness to practice.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

On the payment to the board of fees required by this chapter and administrative regulations promulgated pursuant thereto, and on submission of a written application on forms provided by the board, the board shall issue a license to a person who:

- (1) Is at least eighteen (18) years of age;
- (2) Is of good moral character;
- (3) Successfully completes the academic requirements of an educational program with a baccalaureate degree or higher from an accredited college or university with a major in therapeutic recreation or a major in recreation or leisure with an option in therapeutic recreation;
- (4) Successfully completes a period of supervised field experience as defined by the NCTRC and approved by the recognized educational institution where the applicant met the academic requirements; and
- (5) Meets the examination requirement in Section 11 of this Act.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

The board shall issue a license to an individual who has met the requirements of this chapter upon the payment of the applicable license fee. An individual who is issued a

license as a recreational therapist under the provisions of this chapter may use the title "recreational therapist licensed," or use the letters "CTRS/L" in connection with the title or place of business to denote his or her licensure.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

The board shall promulgate administrative regulations to establish fees for the following:

- (1) The processing of applications for an initial license, a nonrefundable licensure fee, not to exceed one hundred fifty dollars (\$150);
- (2) Renewal of license fee, not to exceed one hundred dollars (\$100);
- (3) Late filing of applications for license renewal, not to exceed one hundred fifty dollars (\$150);
- (4) Reinstatement of licenses after lapse fees, not to exceed one hundred dollars (\$100);
- (5) Transcribing and transferring records; and
- (6) The costs of a hearing by any governing board at which the issues of denial of or imposition of conditions on an initial license are considered, including the per diem and mileage of board members attending the hearing and the cost of a shorthand court reporter if one is used to record the hearing.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

- (1) Licenses issued under this chapter shall be valid for two (2) years and may be renewed upon the payment of a renewal fee required by administrative regulations promulgated by the board.
- (2) Persons licensed as recreational therapists are eligible for renewal of their licenses if they:
 - (a) Have not violated the provisions set forth in this chapter;

- (b) Have not demonstrated poor moral character; and
- (c) Meet the continuing competency requirements by completing a minimum of twenty-five (25) hours of continuing education in formal courses approved by the board and other requirements promulgated by the board.
- (3) The board shall accept continuing education programs that meet the recertification standards of the National Council for Therapeutic Recreation Certification.
- (4) The board shall mail materials necessary to complete renewal applications to every person to whom a license was issued during the current licensure period not less than sixty (60) days before the license expires. Failure of any licensees to receive these materials shall not relieve them of the obligation to comply with the rules of the governing boards and this section.
- (5) Applicants shall submit completed applications for renewal not less than thirty (30) days before the license expires. Completed renewal applications submitted within the thirty (30) days before the license expires shall be accompanied by a late filing fee. Licenses shall lapse when completed renewal applications have not been filed prior to the license's expiration date.
- (6) The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its administrative regulations, but a license renewal shall not be granted more than five (5) years after its expiration.
- (7) A person who fails to restore his or her license within five (5) years after its expiration may not restore it, and it shall not be restored, reissued, or reinstated thereafter. The person may apply for and obtain a new license if current requirements of this chapter are met.
- (8) Any person practicing recreational therapy after the license has expired shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of the provisions of this chapter.

- (9) A suspended license is subject to expiration and may be restored as provided in this section, but restoration shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended.
- (10) A license revoked on disciplinary grounds is subject to expiration and may not be renewed. If the license is subsequently reinstated, the licensee, as a condition of reinstatement, shall pay a reinstatement fee, the renewal fee, and any late fee that may be applicable.
- (11) Upon petition to the board, licensees may be granted inactive license status for a period of time not to exceed three (3) years. Licensees shall not practice recreational therapy or assist in the practice of recreational therapy while under inactive status. Inactive licensees may apply for an active license after paying a fee provided for by administrative regulation promulgated by the board.
- (12) Each recreational therapist licensed under this chapter shall notify the board in writing of any change in the person's name, home or office address, or employment within thirty (30) days after the change has taken place.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions if the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
- (a) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (b) Unprofessional conduct as defined by administrative regulations

promulgated by the board, or violating the code of ethics promulgated by the board;

(c) Being convicted of a felony in any court if any act for which the person was convicted is found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of a licensed recreational therapist;

(d) Violating any lawful order or administrative regulation rendered or promulgated by the board; or

(e) Violating any provision of this chapter.

(2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.

(3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by an order of the board denying, suspending, or revoking his or her license may appeal to the Franklin Circuit Court for appropriate relief within thirty (30) days after entry of the order. On the appeal, the scope of review shall be limited to an examination of the record of the board's action for the purpose of determining whether the board abused its discretion. The appellant shall furnish the court with a properly certified transcript of any evidence heard by the board, and the court may refuse to review any findings of fact made by the board unless a transcript is filed within sixty (60) days after the filing of the appeal.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO READ AS FOLLOWS:

Any person who violates the provisions of Section 8 of this Act shall be guilty of a violation for the first offense and guilty of a Class A misdemeanor for any subsequent offense.