

1 **SENATE FLOOR VERSION**

2 April 4, 2016

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2820

6 By: Denney, Russ and Wright of
7 the House

8 and

9 Bice of the Senate

10 **[professions and occupations - Music Therapy
11 Practice Act - persons to be licensed - Music Therapy
12 Committee - licensure - misdemeanor and penalty for
13 violation - codification - effective date]**

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 889 of Title 59 unless there is
17 created a duplication in numbering, reads as follows:

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

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 889.1 of Title 59, unless there
22 is created a duplication in numbering, reads as follows:

23 As used in the Music Therapy Practice Act:

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

1 2. "Board-certified music therapist" means an individual who
2 has completed the education and clinical training requirements
3 established by the American Music Therapy Association, and who holds
4 current board certification from the Certification Board for Music
5 Therapists;

6 3. "Committee" means the Music Therapy Committee;

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

9 5. "Music therapy" means the clinical and evidence-based use of
10 music interventions to accomplish individualized goals for people of
11 all ages and ability levels within a therapeutic relationship
12 between a patient and a practitioner who is licensed pursuant to the
13 Music Therapy Practice Act; and

14 6. "Practice of music therapy" includes the development of
15 individualized music therapy treatment plans specific to the needs
16 and strengths of the client who may be seen individually or in
17 groups. The goals, objectives and potential strategies of the music
18 therapy services are appropriate for the client and setting. The
19 music therapy interventions may include music improvisation,
20 receptive music listening, song writing, lyric discussion, music and
21 imagery, singing, music performance, learning through music, music
22 combined with other arts, music-assisted relaxation, music-based
23 patient education, electronic music technology, adapted music
24 intervention and movement to music. The practice of music therapy

1 does not include the diagnosis or assessment of any physical, mental
2 or communication disorder. This term may include:

- 3 a. accepting referrals for music therapy services from
4 medical, developmental, mental health or education
5 professionals, family members, clients, caregivers or
6 others involved and authorized with provision of
7 client services. Before providing music therapy
8 services to a client for an identified clinical or
9 developmental need, the licensee collaborates, as
10 applicable, with the primary care provider(s) to
11 review the client's diagnosis, treatment needs and
12 treatment plan. During the provision of music therapy
13 services to a client the licensee collaborates, as
14 applicable, with the client's treatment team,
- 15 b. conducting a music therapy assessment of a client to
16 determine if treatment is indicated. If treatment is
17 indicated, the licensee collects systematic,
18 comprehensive and accurate information to determine
19 the appropriateness and type of music therapy services
20 to provide for the client,
- 21 c. developing an individualized music therapy treatment
22 plan for the client that is based upon the results of
23 the music therapy assessment. The music therapy
24 treatment plan includes individualized goals and

1 objectives that focus on the assessed needs and
2 strengths of the client and specify music therapy
3 approaches and interventions to be used to address
4 these goals and objectives,

5 d. implementing an individualized music therapy treatment
6 plan that is consistent with any other developmental,
7 rehabilitative, habilitative, medical, mental health,
8 preventive, wellness care or educational services
9 being provided to the client,

10 e. evaluating the client's response to music therapy and
11 the music therapy treatment plan, documenting change
12 and progress and suggesting modifications, as
13 appropriate,

14 f. developing a plan for determining when the provision
15 of music therapy services is no longer needed in
16 collaboration with the client, physician or other
17 provider of health care or education of the client,
18 family members of the client, and any other
19 appropriate person upon whom the client relies for
20 support,

21 g. minimizing any barriers to ensure that the client
22 receives music therapy services in the least
23 restrictive environment,
24

1 h. collaborating with and educating the client and the
2 family or caregiver of the client, or any other
3 appropriate person regarding the needs of the client
4 that are being addressed in music therapy and the
5 manner in which the music therapy treatment addresses
6 those needs, and

7 i. utilizing appropriate knowledge and skills to inform
8 practice including use of research, reasoning and
9 problem-solving skills to determine appropriate
10 actions in the context of each specific clinical
11 setting.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 889.2 of Title 59 unless there
14 is created a duplication in numbering, reads as follows:

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

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

21 1. Any person licensed, certified or regulated under the laws
22 of this state in another profession or occupation, or personnel
23 supervised by a licensed professional in this state from performing
24 work, including the use of music, incidental to the practice of the

1 person's profession or occupation, if that person does not represent
2 himself or herself as a music therapist;

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

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

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

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 889.3 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 A. There is hereby established the Music Therapy Committee to
21 advise the State Board of Medical Licensure and Supervision on all
22 matters pertaining to the licensure, education and continuing
23 education of licensed music therapists and the practice of music
24 therapy.

1 B. 1. The Board shall appoint five (5) members to the Music
2 Therapy Committee as follows:

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

8 b. one member shall be a licensed health care provider
9 who is not a music therapist, and

10 c. one member shall be a lay person.

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

18 a. The lay member and licensed health care provider
19 member shall be initially appointed to fill these two
20 new positions created pursuant to this act and shall
21 be appointed for staggered terms of office which will
22 expire July 1, 2019, and July 1, 2020. Thereafter,
23 members appointed to these positions shall serve for
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1 terms of three (3) years or until successors are
2 appointed and qualified.

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

5 3. Members of the Committee shall serve without compensation.

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

7 1. Meet at least twice a year or as otherwise called by the
8 Board;

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

12 3. Facilitate the development of materials that the Board may
13 utilize to educate the public concerning music therapist licensure,
14 the benefits of music therapy, and utilization of music therapy by
15 individuals and in facilities or institutional settings;

16 4. Facilitate the statewide dissemination of information
17 between music therapists, the American Music Therapy Association or
18 any successor organization, the Certification Board for Music
19 Therapists or any successor organization, and the Board;

20 5. Assist and advise the Board in all hearings involving music
21 therapists who are deemed to be in violation of the Music Therapy
22 Practice Act; and

23 6. Provide analysis of disciplinary actions taken, appeals and
24 denials, or revocation of licenses at least once per year.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 889.4 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 The State Board of Medical Licensure and Supervision shall:

5 1. Appoint all members of the Committee. The Committee shall
6 consist of persons familiar with the practice of music therapy to
7 provide the Board with expertise and assistance in carrying out his
8 or her duties pursuant to the Music Therapy Practice Act;

9 2. Consult with the Committee prior to setting or changing fees
10 in this act; and

11 3. Seek the advice of the Committee for issues related to music
12 therapy.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 889.5 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Except as otherwise provided by law, the State Board of
17 Medical Licensure and Supervision shall issue a license to an
18 applicant for a music therapy license when such applicant has
19 completed and submitted an application upon a form and in such
20 manner as the Board prescribes, accompanied by applicable fees, and
21 evidence satisfactory to the Board that the applicant:

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

23 2. Is of good moral character;

24

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

5 4. Successfully completed a minimum of one thousand two hundred
6 (1,200) hours of clinical training, with at least fifteen percent
7 (15%) or one hundred eighty (180) hours in preinternship
8 experiences, and at least seventy-five percent (75%) or nine hundred
9 (900) hours in internship experiences. Internship programs may be
10 approved by an academic institution, the American Music Therapy
11 Association, or both;

12 5. Is in good standing based on a review of the applicant's
13 music therapy licensure history in other jurisdictions, including a
14 review of any alleged misconduct or neglect in the practice of music
15 therapy on the part of the applicant; and

16 6. Passed the examination for board certification offered by
17 the Certification Board for Music Therapists or any successor
18 organization or is proof of being transitioned into board
19 certification, and the applicant is currently a board-certified
20 music therapist.

21 B. The Board shall issue a music therapy license to an
22 applicant when such applicant has completed and submitted an
23 application upon a form and in such manner as the Board prescribes,
24 accompanied by applicable fees, and evidence satisfactory to the

1 Board that the applicant is licensed and in good standing as a music
2 therapist in another jurisdiction where the qualifications required
3 are equal to or greater than those required in this act at the date
4 of application.

5 C. The Board shall waive the examination requirement until
6 January 1, 2020, for an applicant who is designated as a registered
7 music therapist, certified music therapist or advanced certified
8 music therapist and in good standing with the National Music Therapy
9 Registry.

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

17 SECTION 7. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 889.6 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Every license issued under the Music Therapy Practice Act
21 shall be renewed biennially. A license shall be renewed upon
22 payment of a renewal fee if the applicant is not in violation of any
23 of the terms of the Music Therapy Practice Act at the time of
24 application for renewal. Proof of maintenance of the applicant's

1 status as a board-certified music therapist shall also be required
2 for license renewal.

3 B. A licensee shall inform the Board of any changes to his or
4 her address. Each licensee shall be responsible for timely renewal
5 of his or her license.

6 C. Failure to renew a license shall result in forfeiture of the
7 license. Licenses that have been forfeited may be restored within
8 one (1) year of the expiration date upon payment of renewal and
9 restoration fees. Failure to restore a forfeited license within one
10 (1) year of the date of its expiration shall result in the automatic
11 termination of the license, and the Board may require the individual
12 to reapply for licensure as a new applicant.

13 D. Upon written request of a licensee, the Board may place an
14 active license on an inactive status subject to an inactive status
15 license fee established by the Board. The licensee, upon request
16 and payment of the inactive status license fee, may continue on
17 inactive status for a period up to two (2) years. An inactive
18 license may be reactivated at any time by making a written request
19 to the Board and by fulfilling requirements established by the
20 Board.

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 889.7 of Title 59, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. A licensed professional music therapist may use the letters
2 "LPMT" in connection with his or her name. Use of the letters "MT-
3 BC" is contingent upon maintenance of national certification
4 guidelines provided by the Certification Board for Music Therapists.

5 B. A person or business entity, its employees, agents or
6 representatives shall not use in conjunction with that person's name
7 or the activity of the business the words licensed music therapist,
8 music therapy, music therapist, the letters MT or MT-BC, or any
9 other words, abbreviations or insignia indicating or implying
10 directly or indirectly that music therapy is provided or supplied,
11 including the billing of services labeled as music therapy, unless
12 such services are provided under the direction of a licensed music
13 therapist licensed pursuant to the Music Therapy Practice Act.

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 889.8 of Title 59, unless there
16 is created a duplication in numbering, reads as follows:

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

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1 B. Prevention, wellness, education, adaptive, related and
2 specialized instructional support and services shall not require a
3 referral.

4 SECTION 10. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 889.9 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

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

11 B. A licensed music therapist shall not be subject to
12 disciplinary action by the State Board of Medical Licensure and
13 Supervision for refusing to delegate activities or tasks or refusing
14 to provide the required training for delegation, if the licensed
15 music therapist determines that the delegation may compromise client
16 safety.

17 SECTION 11. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 889.10 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

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

24

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

6 1. Revocation of license;

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

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

11 SECTION 12. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 889.11 of Title 59, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The State Board of Medical Licensure and Supervision may
15 refuse to issue or renew, or may suspend or revoke a license to any
16 person, after notice and hearing in accordance with rules
17 promulgated pursuant to the Music Therapy Practice Act and the
18 provisions of the Administrative Procedures Act who has:

19 1. Treated or attempted to treat ailments or other health
20 conditions of human beings other than by music therapy as authorized
21 by the Music Therapy Practice Act;

22 2. Failed to refer patients to other health care providers if
23 symptoms are known to be present for which music therapy treatment
24 is inadvisable or if symptoms indicate conditions for which

1 treatment is outside the scope of Music Therapy Practice as
2 specified by the American Music Therapy Association and the
3 Certification Board for Music Therapists;

4 3. Used drugs, narcotics, medication or intoxicating liquors to
5 an extent which affects the professional competency of the applicant
6 or licensee;

7 4. Been convicted of a felony crime that substantially relates
8 to the occupation of music therapy or poses a reasonable threat to
9 public safety or of a misdemeanor crime involving moral turpitude;

10 5. Obtained or attempted to obtain a license as a music
11 therapist by fraud or deception;

12 6. Been grossly negligent in the practice of music therapy;

13 7. Been adjudged mentally incompetent by a court of competent
14 jurisdiction and has not subsequently been lawfully declared sane;

15 8. Been guilty of conduct unbecoming a person licensed as a
16 music therapist or guilty of conduct detrimental to the best
17 interests of the public or the profession;

18 9. Been guilty of any act in conflict with the ethics of the
19 profession of music therapy; or

20 10. Had a license suspended or revoked in another state.

21 B. As used in this section:

22 1. "Substantially relates" means the nature of criminal conduct
23 for which the person was convicted has a direct bearing on the
24

1 fitness or ability to perform one or more of the duties or
2 responsibilities necessarily related to the occupation; and

3 2. "Poses a reasonable threat" means the nature of criminal
4 conduct for which the person was convicted involved an act or threat
5 of harm against another and has a bearing on the fitness or ability
6 to serve the public or work with others in the occupation.

7 SECTION 13. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 889.12 of Title 59, unless there
9 is created a duplication in numbering, reads as follows:

10 The State Board of Medical Licensure and Supervision shall
11 prescribe and publish, in the manner established by its rules and
12 regulations, fees in the amounts determined by the Board, but not
13 exceeding the following maximum amounts, unless cost justification
14 is present:

15 Music Therapist License
16 and renewal thereof\$50.00

17 SECTION 14. This act shall become effective November 1, 2016.

18 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
19 April 4, 2016 - DO PASS AS AMENDED
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