

By Senator Clemens

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1 A bill to be entitled
2 An act relating to music therapists; amending s.
3 20.43, F.S.; establishing the music therapist
4 profession within the Division of Medical Quality
5 Assurance; creating part XVII of ch. 468, F.S.,
6 entitled "Music Therapists"; creating s. 468.851,
7 F.S.; providing legislative intent; creating s.
8 468.852, F.S.; defining terms; creating s. 468.853,
9 F.S.; creating the Music Therapy Advisory Committee;
10 providing for membership and terms of members;
11 creating s. 468.854, F.S.; establishing requirements
12 for licensure as a music therapist; creating s.
13 468.855, F.S.; providing application requirements;
14 exempting certain applicants from the examination
15 requirement; requiring certain fees to be deposited
16 into the Medical Quality Assurance Trust Fund;
17 creating s. 468.856, F.S.; establishing a licensure
18 renewal process; creating s. 468.857, F.S.; providing
19 for disciplinary grounds and actions; authorizing
20 investigations by the division for allegations of
21 misconduct; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (g) of subsection (3) of section
26 20.43, Florida Statutes, is amended to read:

27 20.43 Department of Health.—There is created a Department
28 of Health.

29 (3) The following divisions of the Department of Health are

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30 established:

31 (g) Division of Medical Quality Assurance, which is
32 responsible for the following boards and professions established
33 within the division:

34 1. The Board of Acupuncture, created under chapter 457.

35 2. The Board of Medicine, created under chapter 458.

36 3. The Board of Osteopathic Medicine, created under chapter
37 459.

38 4. The Board of Chiropractic Medicine, created under
39 chapter 460.

40 5. The Board of Podiatric Medicine, created under chapter
41 461.

42 6. Naturopathy, as provided under chapter 462.

43 7. The Board of Optometry, created under chapter 463.

44 8. The Board of Nursing, created under part I of chapter
45 464.

46 9. Nursing assistants, as provided under part II of chapter
47 464.

48 10. The Board of Pharmacy, created under chapter 465.

49 11. The Board of Dentistry, created under chapter 466.

50 12. Midwifery, as provided under chapter 467.

51 13. The Board of Speech-Language Pathology and Audiology,
52 created under part I of chapter 468.

53 14. The Board of Nursing Home Administrators, created under
54 part II of chapter 468.

55 15. The Board of Occupational Therapy, created under part
56 III of chapter 468.

57 16. Respiratory therapy, as provided under part V of
58 chapter 468.

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- 59 17. Dietetics and nutrition practice, as provided under
60 part X of chapter 468.
- 61 18. The Board of Athletic Training, created under part XIII
62 of chapter 468.
- 63 19. The Board of Orthotists and Prosthetists, created under
64 part XIV of chapter 468.
- 65 20. Music therapists, as provided under part XVII of
66 chapter 468.
- 67 ~~21.20.~~ Electrolysis, as provided under chapter 478.
- 68 ~~22.21.~~ The Board of Massage Therapy, created under chapter
69 480.
- 70 ~~23.22.~~ The Board of Clinical Laboratory Personnel, created
71 under part III of chapter 483.
- 72 ~~24.23.~~ Medical physicists, as provided under part IV of
73 chapter 483.
- 74 ~~25.24.~~ The Board of Opticianry, created under part I of
75 chapter 484.
- 76 ~~26.25.~~ The Board of Hearing Aid Specialists, created under
77 part II of chapter 484.
- 78 ~~27.26.~~ The Board of Physical Therapy Practice, created
79 under chapter 486.
- 80 ~~28.27.~~ The Board of Psychology, created under chapter 490.
- 81 ~~29.28.~~ School psychologists, as provided under chapter 490.
- 82 ~~30.29.~~ The Board of Clinical Social Work, Marriage and
83 Family Therapy, and Mental Health Counseling, created under
84 chapter 491.
- 85 ~~31.30.~~ Emergency medical technicians and paramedics, as
86 provided under part III of chapter 401.
- 87 Section 2. Part XVII of chapter 468, Florida Statutes,

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88 consisting of ss. 468.851-468.857, Florida Statutes, is created
89 and entitled "Music Therapists."

90 Section 3. Section 468.851, Florida Statutes, is created to
91 read:

92 468.851 Purpose.—The Legislature finds that the practice of
93 music therapy should be subject to regulation to ensure the
94 highest degree of professional conduct and to guarantee the
95 availability of music therapy services provided by qualified
96 professionals. This part is intended to protect the public from
97 the harmful conduct of unqualified music therapists.

98 Section 4. Section 468.852, Florida Statutes, is created to
99 read:

100 468.852 Definitions.—As used in this part, the term:

101 (1) "Advisory committee" means the Music Therapy Advisory
102 Committee.

103 (2) "Board-certified music therapist" means an individual
104 who has completed the education and clinical training
105 requirements established by the American Music Therapy
106 Association and who holds current board certification from the
107 Certification Board for Music Therapists.

108 (3) "Division" means the Division of Medical Quality
109 Assurance within the Department of Health.

110 (4) "Director" means the director of the division.

111 (5) "Music therapist" means a person licensed to practice
112 music therapy pursuant to this part.

113 (6) "Music therapy" means the clinical and evidence-based
114 use of music interventions by a board-certified music therapist
115 to accomplish individualized goals for people of all ages and
116 ability levels within a therapeutic relationship. The term does

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117 not include the diagnosis or assessment of any physical, mental,
118 or communication disorder.

119 Section 5. Section 468.853, Florida Statutes, is created to
120 read:

121 468.853 Music Therapy Advisory Committee.—

122 (1) There is created within the division a Music Therapy
123 Advisory Committee, which shall consist of five members.

124 (a) The director of the division shall appoint all members
125 of the advisory committee to serve 4-year terms. The advisory
126 committee shall consist of persons familiar with the practice of
127 music therapy and provide the director with expertise and
128 assistance in carrying out his or her duties pursuant to this
129 part. The director shall appoint three members who practice as
130 music therapists in this state; one member who is a licensed
131 health care provider and is not a music therapist; and one
132 member who is a layperson.

133 (b) Members serve without compensation.

134 (c) Members may serve consecutive terms at the will of the
135 director. Any vacancy shall be filled in the same manner as the
136 regular appointment.

137 (2) The advisory committee shall meet at least annually or
138 as otherwise called by the director.

139 (3) The director shall consult with the advisory committee
140 before setting or changing fees required under this part.

141 (4) The advisory committee shall provide analysis of
142 disciplinary actions taken, appeals and denials, or revocation
143 of licenses at least annually.

144 (5) The advisory committee may facilitate:

145 (a) The development of materials that the director may

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146 utilize to educate the public concerning music therapist
147 licensure, the benefits of music therapy, and use of music
148 therapy by individuals and within facilities or institutional
149 settings.

150 (b) Statewide dissemination of information between music
151 therapists, the American Music Therapy Association or any
152 successor organization, the Certification Board for Music
153 Therapists or any successor organization, and the director.

154 Section 6. Section 468.854, Florida Statutes, is created to
155 read:

156 468.854 Licensure requirements.-

157 (1) After January 1, 2016, an individual who is not
158 licensed as a music therapist may not use the title "music
159 therapist" or a similar title and may not practice music
160 therapy. Nothing in this part may be construed as prohibiting or
161 restricting the practice, services, or activities of any of the
162 following:

163 (a) Any individual licensed, certified, or regulated under
164 the laws of this state in another profession or occupation, or
165 personnel supervised by a licensed professional in this state,
166 performing work, including the use of music, incidental to the
167 practice of his or her licensed, certified, or regulated
168 profession or occupation, if that individual does not represent
169 himself or herself as a music therapist.

170 (b) Any individual whose training and national
171 certification attests to the individual's preparation and
172 ability to practice his or her certified profession or
173 occupation, if that individual does not represent himself or
174 herself as a music therapist.

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175 (c) Any practice of music therapy as an integral part of a
176 program of study for students enrolled in an accredited music
177 therapy program, if that student does not represent himself or
178 herself as a music therapist.

179 (d) Any individual who practices music therapy under the
180 supervision of a licensed music therapist, if that individual
181 does not represent himself or herself as a music therapist.

182 (2) A music therapist may accept referrals for music
183 therapy services from medical, developmental, mental health, or
184 education professionals, family members, clients, or other
185 caregivers.

186 (3) A music therapist must:

187 (a) Before providing music therapy services to a client for
188 an identified clinical or developmental need, collaborate, as
189 applicable, with the primary care provider to review the
190 client's diagnosis, treatment needs, and treatment plan;

191 (b) During the provision of music therapy services to a
192 client, collaborate, as applicable, with the client's treatment
193 team;

194 (c) Conduct a music therapy assessment of a client to
195 determine if treatment is indicated and, if treatment is
196 indicated, the licensee must collect systematic, comprehensive,
197 and accurate information to determine the appropriateness and
198 type of music therapy services to provide for the client;

199 (d) Develop an individualized music therapy treatment plan
200 for the client that is based upon the results of the music
201 therapy assessment. Such treatment plan must include
202 individualized goals and objectives that focus on the assessed
203 needs and strengths of the client and must specify music therapy

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204 approaches and interventions to be used to address these goals
205 and objectives;

206 (e) Implement an individualized music therapy treatment
207 plan that is consistent with any other developmental,
208 rehabilitative, habilitative, medical, mental health,
209 preventive, wellness care, or educational services being
210 provided to the client;

211 (f) Evaluate the client's response to music therapy and the
212 music therapy treatment plan, documenting change and progress
213 and suggesting modifications, as appropriate;

214 (g) Develop a plan for determining whether music therapy
215 services continue to be needed. In making this determination the
216 music therapist shall collaborate with the client, the client's
217 physician or other provider of health care or education to the
218 client and family members of the client, and any other
219 appropriate person upon whom the client relies for support;

220 (h) Minimize any barriers to ensure that the client
221 receives music therapy services in the least restrictive
222 environment;

223 (i) Collaborate with and educate the client and the family,
224 the caregiver of the client, or any other appropriate person
225 regarding the needs of the client which are being addressed in
226 music therapy and the manner in which the music therapy
227 treatment addresses those needs; and

228 (j) Use appropriate knowledge and skills to inform
229 practice, including the use of research, reasoning, and problem-
230 solving skills to determine appropriate actions in the context
231 of each specific clinical setting.

232 Section 7. Section 468.855, Florida Statutes, is created to

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233 read:

234 468.855 Issuance of licenses.-

235 (1) The division shall issue a music therapist license to
236 an applicant upon completion and submission of an application
237 upon a form and in such manner as the division prescribes,
238 accompanied by applicable fees, and evidence satisfactory to the
239 division that:

240 (a) The applicant is at least 18 years of age;

241 (b) The applicant holds a bachelor's degree or higher in
242 music therapy, or its equivalent, from a program approved by the
243 American Music Therapy Association or any successor organization
244 within an accredited college or university;

245 (c) The applicant successfully completed a minimum of 1,200
246 hours of clinical training, with at least 180 hours in pre-
247 internship experiences and at least 900 hours in internship
248 experiences, provided that the internship is approved by an
249 academic institution, the American Music Therapy Association or
250 any successor organization, or both;

251 (d) The applicant is in good standing based on a review of
252 the applicant's music therapy licensure history in other
253 jurisdictions, including a review of any alleged misconduct or
254 neglect in the practice of music therapy on the part of the
255 applicant; and

256 (e) The applicant provides proof of passing the examination
257 for board certification offered by the Certification Board for
258 Music Therapists or any successor organization or provides proof
259 of being transitioned into board certification, and provides
260 proof that the applicant is currently a board-certified music
261 therapist.

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262 (2) The division shall issue a license to an applicant for
263 a music therapy license when the applicant completes and submits
264 an application upon a form and in such manner as the division
265 prescribes, accompanied by applicable fees and evidence
266 satisfactory to the division that the applicant is licensed and
267 in good standing as a music therapist in another jurisdiction
268 where the qualifications required are equal to or greater than
269 those required in this part at the date of application.

270 (3) The division shall waive the examination requirement
271 until January 1, 2020, for an applicant who is designated as a
272 registered music therapist, certified music therapist, or
273 advanced certified music therapist and is in good standing with
274 the national music therapy registry.

275 (4) Fees collected pursuant to this part shall be deposited
276 into the Medical Quality Assurance Trust Fund as provided under
277 s. 456.025.

278 Section 8. Section 468.856, Florida Statutes, is created to
279 read:

280 468.856 Licensure renewal.—

281 (1) Every license issued under this part must be renewed
282 biennially. A license shall be renewed upon payment of a renewal
283 fee if the applicant is not in violation of any of the terms of
284 this part at the time of application for renewal.

285 (2) To renew a license the licensee must provide:

286 (a) Proof of maintenance of status as a board-certified
287 music therapist; and

288 (b) Proof of completion of a minimum of 40 hours of
289 continuing education in a program approved by the Certification
290 Board of Music Therapists or any successor organization and any

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291 other continuing education requirements established by the
292 division.

293 (3) A licensee shall inform the division of any changes to
294 his or her address.

295 (4) Failure to renew a license results in forfeiture of the
296 license. Licenses that have been forfeited may be restored
297 within 1 year of the expiration date upon payment of renewal and
298 restoration fees. Failure to restore a forfeited license within
299 1 year of the date of its expiration results in the automatic
300 termination of the license, and the division may require the
301 individual to reapply for licensure as a new applicant.

302 (5) Upon the written request of a licensee, the division
303 may place an active license on inactive status, subject to an
304 inactive status fee established by the division. The licensee,
305 upon request and payment of the inactive license fee, may
306 continue on inactive status for a period up to 2 years. An
307 inactive license may be reactivated at any time by making a
308 written request to the division and by fulfilling requirements
309 established by the division.

310 Section 9. Section 468.857, Florida Statutes, is created to
311 read:

312 468.857 Disciplinary grounds and actions.—

313 (1) The following acts constitute violations of this part:

314 (a) Falsification of information submitted for licensure or
315 failure to maintain status as a board-certified music therapist.

316 (b) Failure to pay fees when due.

317 (c) Failure to provide requested information in a timely
318 manner.

319 (d) Conviction of a felony.

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320 (e) Conviction of any crime that reflects an inability to
321 practice music therapy with due regard for the health and safety
322 of clients and patients, or with due regard for the truth in
323 filing claims with Medicare, Medicaid, or any third-party payor.

324 (f) Inability or failure to practice music therapy with
325 reasonable skill and consistent with the welfare of clients and
326 patients, including, but not limited to, negligence in the
327 practice of music therapy; intoxication; incapacity; and abuse
328 of or engaging in sexual contact with a client or patient.

329 (g) Any related disciplinary action by another
330 jurisdiction.

331 (2) The division may conduct investigations into alleged
332 violations of this section.

333 (3) The division may impose one or more of the following
334 sanctions for a violation of this part:

335 (a) Suspension.

336 (b) Revocation.

337 (c) Denial.

338 (d) Refusal to renew a license.

339 (e) Probation with conditions.

340 (f) Reprimand.

341 (g) A fine of at least \$100, but no more than \$1,000, for
342 each violation.

343 Section 10. This act shall take effect July 1, 2015.