

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/SB 204

INTRODUCER: Health Policy Committee and Senator Clemens

SUBJECT: Music Therapists

DATE: January 20, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Fav/CS
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

Please see Section IX. for Additional Information:
 COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 204 creates a new regulated profession, Music Therapists, in ch. 491, F.S., relating to Clinical, Counseling and Psychotherapy Services. Music therapists will be regulated by the Department of Health (DOH) through a registration process in order to practice music therapy or hold oneself out as a music therapist, with certain exceptions. The bill requires biennial renewal of a music therapist’s registration and authorizes the DOH to deny or revoke the registration or renewal for violations of s. 491.017, F.S.

II. Present Situation:

The Sunrise Act and Sunrise Questionnaire

The Sunrise Act (the act), codified in s. 11.62, F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation. The legislative intent in the act provides that:

- No profession or occupation be subject to regulation unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the state’s police power be exercised only to the extent necessary for that purpose; and
- No profession or occupation be regulated in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the services to the public.

The Legislature must review all legislation proposing regulation of a previously unregulated profession or occupation and make a determination for regulation based on consideration of the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The act requires the proponents of legislation for the regulation of a profession or occupation to provide specific information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees of reference.¹ This required information is traditionally compiled in a “Sunrise Questionnaire.”

Music Therapists²

Currently, music therapists are not regulated in Florida. The primary proponent seeking regulation of music therapists in Florida is the Florida Music Therapy State Task Force (task force). The task force has completed a Sunrise Questionnaire to provide information concerning the proposed regulation of a currently unregulated profession.

“Music therapy” is defined by the task force to mean “the clinical and evidence-based use of music interventions to accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program.” Music therapist serve clinical populations ranging in age from neonates in a hospital’s neonatal intensive care unit (NICU) to older adults in hospice care. Music therapy services are provided in a variety of clinical settings, including:

- Psychiatric hospitals;
- Rehabilitative facilities;
- Medical hospitals;
- Outpatient clinics;
- Day care treatment centers;
- Agencies serving persons with developmental disabilities;
- Community mental health centers;
- Drug and alcohol programs;

¹ See s. 11.62(4)(a)-(m), F.S.

² Information in this portion of this Bill Analysis is from the Florida Senate Sunrise Questionnaire completed by the Florida Music Therapy State Task Force (on file with the Senate Committee on Health Policy).

- Senior centers;
- Nursing homes;
- Hospice programs;
- Correctional facilities;
- Halfway houses;
- Schools; and
- Private practice.

According to the task force, in some settings, such as certain school districts, the absence of licensure prevents access to music therapy services.

The task force estimates that there are 253 Music Therapists-Board Certified, four Registered Music Therapists, and four Certified Music Therapists in Florida.³

Music therapy degree programs are offered at approximately 73 colleges and universities in the United States. These programs are accredited by the American Music Therapy Association (AMTA). To become a music therapist, a student must earn a bachelor's degree or higher in music therapy from an AMTA-approved college or university. These programs require academic coursework and 1,200 hours of clinical training, including an approved supervised internship. An internship may be approved by the academic institution, the AMTA, or by both. Qualified supervision of clinical training is required and coordinated or verified by the academic institution. Internship supervisors must meet minimum requirements outlined by the AMTA Education and Clinical Training Standards.⁴

Currently in Florida, Florida State University (FSU) and the University of Miami (UM) have the only accredited music therapy programs. FSU and UM both offer Bachelor's, Master's, and Doctoral degrees in Music Therapy. FSU graduates approximately 35 - 40 students annually and UM graduates 10 - 12 students annually. Additionally, Florida Gulf Coast University is developing a music therapy program and is in the accreditation process.

National Certification of Music Therapists

There are two national organizations that recognize the music therapy profession: the AMTA and the Certification Board for Music Therapists (CBMT). The CBMT is the only organization that credentials music therapists nationally. The professional credential for a Music Therapist-Board Certified (MT-BC) is granted by the CBMT to individuals who have successfully completed an AMTA-approved academic and clinical training program and have passed a written objective national examination.

³ The number of music therapists in Florida is based on information provided by the Certification Board for Music Therapists and the National Music Therapy Registry.

⁴ A music therapy internship supervisor must have a clinical practice in music therapy (either private or institutional) and demonstrate the following: all professional level competencies; effectiveness as a music therapy clinician in at least one area of practice; general understanding of the supervisory needs of internship students, and established skills in supervision. See AMTA, *Standards for Education and Clinical Training*, "6.2 Clinical Supervisors," available at <http://www.musictherapy.org/members/edctstan/> (last visited Jan. 13, 2016).

Currently, the majority of music therapist hold the MT-BC credential. Other credentials that a music therapist may have are: Registered Music Therapist (RMT), Certified Music Therapist (CMT), or Advanced Certified Music Therapist (ACMT). The RMT, CMT, and ACMT credentials were granted prior to 1998 and will expire in 2020.⁵

Regulation of Music Therapists in Other States

Currently eight states regulate music therapists through either licensure or registration.⁶ The first state to regulate music therapists was Wisconsin in 1998, which provided a State Registry for Music Therapists through the Wisconsin Department of Regulation and Licensing. This was a title protection act that prohibits the use of the title Wisconsin Music Therapist – Registered (WMTR) unless a music therapist is registered with the state of Wisconsin. Wisconsin does not license state music therapists, and registration is voluntary.⁷

Music therapists were first licensed in the states of North Dakota and Nevada in 2011, followed by Georgia in 2012, Rhode Island and Utah in 2014, and Oregon in 2016.^{8,9} North Dakota licenses music therapists through the Board of Integrative Health. Nevada licenses music therapists through its Division of Public Health and Behavioral Health. Licensed music therapists in Georgia are overseen by the Georgia Secretary of State and an ad hoc volunteer Advisory Council. Rhode Island created a music therapy registry that is administered by the Rhode Island Department of Health. Utah established a Music Therapy State Certification designation for board certified music therapists that is granted by Utah’s Division of Occupational and Professional Licensing. Oregon recently began licensing music therapists under the umbrella of the Health Licensing Office.¹⁰

Licensure of Health Care Practitioners in Florida Legislature

The DOH is responsible for the licensure of most health care practitioners in the state. In addition to the regulatory authority in specific practice acts for each profession or occupation, ch. 456, F.S., provides the general regulatory provisions for health care professions within the DOH.

Section 456.001, F.S., defines “health care practitioner” as any person licensed under chs.457 (acupuncture); 458 (medicine); 459 (osteopathic medicine); 460 (chiropractic medicine); 461 (podiatric medicine); 462 (naturopathic medicine); 463 (optometry); 464 (nursing); 465 (pharmacy); 466 (dentistry and dental hygiene); 467 (midwifery); 478 (electrology or electrolysis); 480 (massage therapy); 484 (opticianry and hearing aid specialists); 486 (physical

⁵ American Music Therapy Association, *Therapeutic Music Services At-A-Glance*, Ver. 14.1 (Feb. 2014), available at: http://www.musictherapy.org/assets/1/7/TxMusicServicesAtAGlance_15.pdf, (last visited Jan. 13, 2016).

⁶ *State Licensure*, The Certification Board for Music Therapists, available at: <http://www.cbmt.org/examination/state-licensure/> (last visited Jan. 13, 2016). New York is the eighth state to regulate music therapists and they do so under the title of Licensed Creative Art Therapist.

⁷ See Wisconsin Chapter for Music Therapy, *Wisconsin Music Therapy Registry* (2015), available at <http://musictherapywisconsin.org/about-us/wmtr/> (last visited Jan. 13, 2016).

⁸ See note 6 supra.

⁹ New York is the eighth state to regulate music therapists and they do so under the title of Licensed Creative Art Therapist. See note 6 supra.

¹⁰ See Health Licensing Office, Music Therapy Program, available at: <http://www.oregon.gov/OHLA/MTP/Documents/MTdrafrules.pdf>, (last visited Jan. 14, 2016).

therapy); 490 (psychology); 491 (psychotherapy), F.S., or parts III or IV of ch. 483 (clinical laboratory personnel or medical physics), F.S.

Additionally, the miscellaneous professions and occupations regulated in parts I, II, III, V, X, XIII, or XIV (speech-language pathology and audiology; nursing home administration; occupational therapy; respiratory therapy; dietetics and nutrition practice; athletic trainers; and orthotics, prosthetics, and pedorthics) of ch. 468, F.S., are considered health care practitioners under s. 456.001, F.S.

III. Effect of Proposed Changes:

CS/SB 204 creates s. 491.017, F.S., in ch. 491, F.S., relating to Clinical, Counseling and Psychotherapy Services. The purpose of the legislation is, “to recognize that music therapy affects the health, safety, and welfare of the public, and that the practice of music therapy should be subject to regulation to protect the public from the practice of music therapy by unregistered persons.”

The bill provides the following definitions related to music therapists:

- “Board-certified music therapist” means a person who has completed the education and clinical training requirements established by the American Music Therapy Association and who holds current board certification from the national Certification Board for Music Therapists.
- “Music therapist” means a person registered to practice music therapy pursuant to this section.
- “Music therapy” means the clinical and evidence-based use of music interventions by a board-certified music therapist to accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship. The music therapy interventions may include:
 - music improvisation;
 - receptive music listening;
 - song writing;
 - lyric discussion;
 - music and imagery, singing;
 - music performance;
 - learning through music;
 - music combined with other arts;
 - music-assisted relaxation;
 - music-based patient education;
 - electronic music technology;
 - adapted music intervention; and
 - movement to music.

The practice of music therapy does not include the diagnosis or assessment of any physical, mental, or communication disorder.

CS/SB 204 establishes a registration process and responsibilities for music therapists. A person must be registered as a music therapist to practice musical therapy in this state or to use the title

“music therapist,” with certain exceptions for a person who does not hold himself or herself out as a music therapist. These exceptions include:

- A person who is licensed, certified, or regulated to practice a profession or occupation in Florida, or personnel supervised by a licensed professional in this state performing work, including the use of music, incidental to the practice of his or her licensed, certified, or regulated profession or occupation;
- A person whose training and national certification attests to the person’s preparation and ability to practice his or her certified profession or occupation;
- A student practicing music therapy as a part of an accredited music therapy program; or
- A person practicing music therapy under the supervision of a registered music therapist.

A music therapist may:

- Accept referrals for services from medical, developmental, mental health, or education professionals; family members; clients; caregivers; or other persons authorized to provide client services;
- Collaborate with a client’s primary care provider or treatment team before providing services to a client with an identified clinical or developmental need;
- Conduct a music therapy assessment of a client and if treatment is indicated, collect information to determine the appropriateness and type of music therapy services to provide for the client;
- Develop an individualized treatment plan for the client that is based on the results of the music therapy assessment and is consistent with any other developmental, rehabilitative, habilitative, medical, mental health, preventive, wellness, or educational services being provided to the client;
- Evaluate the client’s response to music therapy and modify the music therapy treatment plan, as appropriate;
- Develop a plan for determining when music therapy services are no longer needed;
- Minimize barriers to ensure that the client receives music therapy services in the least restrictive environment;
- Collaborate with and educate the client and the client’s family members, caregivers, and any other appropriate persons regarding the needs of the client that are being addressed in music therapy and the manner in which the music therapy treatment addresses those needs; and
- Use appropriate knowledge and skills to inform practice to determine appropriate actions in the context of each specific clinical setting.

The bill authorizes the DOH to adopt rules to implement this section and establish application, registration, and renewal fees estimated necessary to implement the provisions of this section, but specifies that each fee may not exceed \$50.

The DOH may deny or revoke a registration or renewal of registration for violations of this section.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Music therapists will be required to pay fees associated with registration and renewal not to exceed \$50 for either.

B. Private Sector Impact:

Music therapists are required to pay an initial registration fee as well as biennial renewal fees.

C. Government Sector Impact:

The DOH will experience an indeterminate increase in revenues based on music therapist registration application fees and renewal fees. The DOH will also incur a recurring increase in workload and costs associated with the regulation of music therapists and educating the public concerning music therapy and licensure.

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 491.017 of Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on January 19, 2016:

The CS establishes a title protection act for Music Therapists rather than a full licensure and regulatory structure. Application fees, and registration and renewal fees, are limited to \$50 each. Registration as a music therapist is predicated on passing a board certification examination and maintaining that certification.

- B. **Amendments:**

None.