

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 requiring the division director to consult with the
12 advisory committee before adopting or revising rules;
13 authorizing the division to adopt rules; creating s.
14 468.854, F.S.; establishing requirements for licensure
15 as a music therapist; creating s. 468.855, F.S.;
16 providing application requirements; exempting certain
17 applicants from the examination requirement; requiring
18 certain fees to be deposited into the Medical Quality
19 Assurance Trust Fund; creating s. 468.856, F.S.;
20 establishing a licensure renewal process; creating s.
21 468.857, F.S.; providing for disciplinary grounds and
22 actions; authorizing investigations by the division
23 for allegations of misconduct; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Paragraph (g) of subsection (3) of section
29 20.43, Florida Statutes, is amended to read:

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30 20.43 Department of Health.—There is created a Department
31 of Health.

32 (3) The following divisions of the Department of Health are
33 established:

34 (g) Division of Medical Quality Assurance, which is
35 responsible for the following boards and professions established
36 within the division:

- 37 1. The Board of Acupuncture, created under chapter 457.
- 38 2. The Board of Medicine, created under chapter 458.
- 39 3. The Board of Osteopathic Medicine, created under chapter
40 459.
- 41 4. The Board of Chiropractic Medicine, created under
42 chapter 460.
- 43 5. The Board of Podiatric Medicine, created under chapter
44 461.
- 45 6. Naturopathy, as provided under chapter 462.
- 46 7. The Board of Optometry, created under chapter 463.
- 47 8. The Board of Nursing, created under part I of chapter
48 464.
- 49 9. Nursing assistants, as provided under part II of chapter
50 464.
- 51 10. The Board of Pharmacy, created under chapter 465.
- 52 11. The Board of Dentistry, created under chapter 466.
- 53 12. Midwifery, as provided under chapter 467.
- 54 13. The Board of Speech-Language Pathology and Audiology,
55 created under part I of chapter 468.
- 56 14. The Board of Nursing Home Administrators, created under
57 part II of chapter 468.
- 58 15. The Board of Occupational Therapy, created under part

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59 III of chapter 468.

60 16. Respiratory therapy, as provided under part V of
61 chapter 468.

62 17. Dietetics and nutrition practice, as provided under
63 part X of chapter 468.

64 18. The Board of Athletic Training, created under part XIII
65 of chapter 468.

66 19. The Board of Orthotists and Prosthetists, created under
67 part XIV of chapter 468.

68 20. Music therapists, as provided under part XVII of
69 chapter 468.

70 21.20. Electrolysis, as provided under chapter 478.

71 22.21. The Board of Massage Therapy, created under chapter
72 480.

73 23.22. The Board of Clinical Laboratory Personnel, created
74 under part III of chapter 483.

75 24.23. Medical physicists, as provided under part IV of
76 chapter 483.

77 25.24. The Board of Opticianry, created under part I of
78 chapter 484.

79 26.25. The Board of Hearing Aid Specialists, created under
80 part II of chapter 484.

81 27.26. The Board of Physical Therapy Practice, created
82 under chapter 486.

83 28.27. The Board of Psychology, created under chapter 490.

84 29.28. School psychologists, as provided under chapter 490.

85 30.29. The Board of Clinical Social Work, Marriage and
86 Family Therapy, and Mental Health Counseling, created under
87 chapter 491.

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88 31.30- Emergency medical technicians and paramedics, as
89 provided under part III of chapter 401.

90 Section 2. Part XVII of chapter 468, Florida Statutes,
91 consisting of ss. 468.851-468.857, Florida Statutes, is created
92 and entitled "Music Therapists."

93 Section 3. Section 468.851, Florida Statutes, is created to
94 read:

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

101 Section 4. Section 468.852, Florida Statutes, is created to
102 read:

103 468.852 Definitions.-As used in this part, the term:

104 (1) "Advisory committee" means the Music Therapy Advisory
105 Committee created under s. 468.853.

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

111 (3) "Director" means the director of the division.

112 (4) "Division" means the Division of Medical Quality
113 Assurance within the Department of Health.

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

116 (6) "Music therapy" means the clinical and evidence-based

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117 use of music interventions by a board-certified music therapist
118 to accomplish individualized goals for people of all ages and
119 ability levels within a therapeutic relationship. The term does
120 not include the diagnosis or assessment of any physical, mental,
121 or communication disorder.

122 Section 5. Section 468.853, Florida Statutes, is created to
123 read:

124 468.853 Music Therapy Advisory Committee.-

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

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

136 (b) Members serve without compensation.

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

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

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

144 (4) The advisory committee shall provide analysis of
145 disciplinary actions taken, appeals and denials, and license

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146 revocations at least annually.

147 (5) The advisory committee may facilitate:

148 (a) The development of materials that the director may use
149 to educate the public concerning music therapist licensure, the
150 benefits of music therapy, and the use of music therapy by
151 individuals and within facilities or institutional settings.

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

156 (6) The director shall consult with the advisory committee
157 before rules are adopted or revised pursuant to this section.

158 (7) The division may adopt rules to implement and
159 administer this part.

160 Section 6. Section 468.854, Florida Statutes, is created to
161 read:

162 468.854 Licensure requirements.-

163 (1) After January 1, 2017, an individual who is not
164 licensed as a music therapist may not use the title "music
165 therapist" or a similar title and may not practice music
166 therapy. This part may not be construed as prohibiting or
167 restricting the practice, services, or activities of any of the
168 following:

169 (a) Any individual licensed, certified, or regulated under
170 the laws of this state in another profession or occupation, or
171 personnel supervised by a licensed professional in this state,
172 performing work, including the use of music, incidental to the
173 practice of his or her licensed, certified, or regulated
174 profession or occupation, if that individual does not represent

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175 himself or herself as a music therapist.

176 (b) Any individual whose training and national
177 certification attests to the individual's preparation and
178 ability to practice his or her certified profession or
179 occupation, if that individual does not represent himself or
180 herself as a music therapist.

181 (c) Any practice of music therapy as an integral part of a
182 program of study for a student enrolled in an accredited music
183 therapy program, if that student does not represent himself or
184 herself as a music therapist.

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

188 (2) A music therapist may accept referrals for music
189 therapy services from medical, developmental, mental health, or
190 education professionals, family members, clients, or other
191 caregivers.

192 (3) A music therapist must:

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

197 (b) During the provision of music therapy services to a
198 client, collaborate, as applicable, with the client's treatment
199 team;

200 (c) Conduct a music therapy assessment of a client to
201 determine if treatment is indicated and, if treatment is
202 indicated, must collect systematic, comprehensive, and accurate
203 information to determine the appropriateness and type of music

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204 therapy services to provide for the client;

205 (d) Develop an individualized music therapy treatment plan
206 for the client which is based upon the results of the music
207 therapy assessment. Such treatment plan must include
208 individualized goals and objectives that focus on the assessed
209 needs and strengths of the client and must specify music therapy
210 approaches and interventions to be used to address these goals
211 and objectives;

212 (e) Implement an individualized music therapy treatment
213 plan that is consistent with any other developmental,
214 rehabilitative, habilitative, medical, mental health,
215 preventive, wellness care, or educational services being
216 provided to the client;

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

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

226 (h) Minimize any barriers to ensure that the client
227 receives music therapy services in the least restrictive
228 environment;

229 (i) Collaborate with and educate the client and the
230 client's family, the caregiver of the client, or any other
231 appropriate person regarding the needs of the client which are
232 being addressed in music therapy and the manner in which the

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233 music therapy treatment addresses those needs; and

234 (j) Use appropriate knowledge and skills to inform
235 practice, including the use of research, reasoning, and problem-
236 solving skills to determine appropriate actions in the context
237 of each specific clinical setting.

238 Section 7. Section 468.855, Florida Statutes, is created to
239 read:

240 468.855 Issuance of licenses.—

241 (1) The division shall issue a music therapist license to
242 an applicant who submits an application, on a form and in the
243 manner approved by the division; applicable fees; and evidence
244 satisfactory to the division that:

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

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

250 (c) The applicant successfully completed a minimum of 1,200
251 hours of clinical training, with at least 180 hours in pre-
252 internship experiences and at least 900 hours in internship
253 experiences in an internship approved by an academic
254 institution, the American Music Therapy Association or any
255 successor organization, or both;

256 (d) The applicant is in good standing based on a review of
257 the applicant's music therapy licensure history in other
258 jurisdictions, including a review of any alleged misconduct or
259 neglect in the practice of music therapy on the part of the
260 applicant; and

261 (e) The applicant provides proof of passing the examination

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262 for board certification offered by the Certification Board for
263 Music Therapists or any successor organization or provides proof
264 of being transitioned into board certification, and provides
265 proof that the applicant is currently a board-certified music
266 therapist.

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

275 (3) The division shall waive the examination requirement
276 until January 1, 2020, for an applicant who is designated as a
277 registered music therapist, certified music therapist, or
278 advanced certified music therapist and who is in good standing
279 with the National Music Therapy Registry.

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

283 Section 8. Section 468.856, Florida Statutes, is created to
284 read:

285 468.856 Licensure renewal.—

286 (1) A license issued under this part must be renewed
287 biennially. A license shall be renewed upon payment of a renewal
288 fee if the applicant is in compliance with this part at the time
289 application for renewal is made.

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

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291 (a) Proof of maintenance of status as a board-certified
292 music therapist; and

293 (b) Proof of completion of a minimum of 40 hours of
294 continuing education in a program approved by the Certification
295 Board of Music Therapists or any successor organization, and any
296 other continuing education requirements established by the
297 division.

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

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

308 (5) Upon the written request of a licensee, the division
309 may place an active license on inactive status, subject to an
310 inactive status fee established by the division. The licensee,
311 upon request and payment of the inactive license fee, may
312 continue on inactive status for a period up to 2 years. An
313 inactive license may be reactivated at any time by making a
314 written request to the division and by fulfilling the
315 requirements established by the division.

316 Section 9. Section 468.857, Florida Statutes, is created to
317 read:

318 468.857 Disciplinary grounds and actions.—

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

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- 320 (a) Falsification of information submitted in connection
321 with licensure or failure to maintain status as a board-
322 certified music therapist.
- 323 (b) Failure to timely pay fees.
- 324 (c) Failure to provide requested information in a timely
325 manner.
- 326 (d) Conviction of a felony.
- 327 (e) Conviction of any crime that reflects an inability to
328 practice music therapy with due regard for the health and safety
329 of clients and patients, or with due regard for the truth in
330 filing claims with Medicare, Medicaid, or any third-party payor.
- 331 (f) Inability or failure to practice music therapy with
332 reasonable skill and consistent with the welfare of clients and
333 patients, including, but not limited to, negligence in the
334 practice of music therapy; intoxication; incapacity; and abuse
335 of or engaging in sexual contact with a client or patient.
- 336 (g) Any related disciplinary action by another
337 jurisdiction.
- 338 (2) The division may conduct investigations into alleged
339 violations of this section.
- 340 (3) The division may impose one or more of the following
341 sanctions for a violation of this part:
- 342 (a) Suspension of a license.
- 343 (b) Revocation of a license.
- 344 (c) Denial of a license.
- 345 (d) Refusal to renew a license.
- 346 (e) Probation with conditions.
- 347 (f) Reprimand.
- 348 (g) A fine of at least \$100, but not more than \$1,000, for

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349 each violation.

350 Section 10. This act shall take effect July 1, 2016.