

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 292
PROPOSED COMMITTEE SUBSTITUTE H292-PCS30486-ROf-10

Short Title: Establish Music Therapy Practice Act.

(Public)

Sponsors:

Referred to:

March 14, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE MUSIC THERAPY PRACTICE ACT.

3 Whereas, The University of North Carolina System offers degrees in music therapy
4 at two State universities, Appalachian State University (ASU) and East Carolina University
5 (ECU), and the State is vested in these music therapy programs through the bachelor's and
6 master's degree programs the universities offer; and

7 Whereas, most of the music therapy graduates from ASU and ECU are from North
8 Carolina and are employed as music therapists upon graduation, however, they obtain
9 employment in other states rather than in North Carolina; and

10 Whereas, recently there has been an increase in people referring to themselves as
11 music therapists with no training or degree in music therapy, no code of ethics to comply with,
12 and no State regulatory agency to which consumers can report grievances; and

13 Whereas, there have been reports of unprofessional, invasive, and poor quality
14 treatment from some individuals offering "music therapy" services; and

15 Whereas, currently there is no protection for employers or consumers against
16 unqualified individuals who offer "music therapy" or against the risk of application of
17 contraindicated procedures that could harm consumers; and

18 Whereas, licensing individuals who seek to practice as music therapists would give
19 the citizens of North Carolina a consistent standard when receiving music therapy services in
20 this State; Now, therefore,

21 The General Assembly of North Carolina enacts:

22 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new
23 Article to read:

24 "Article 18E.

25 "Music Therapy.

26 **"§ 90-270.85. Title.**

27 This Article shall be known and may be cited as the "North Carolina Music Therapy
28 Practice Act."

29 **"§ 90-270.86. Purpose.**

30 The North Carolina Music Therapy Practice Act is established to safeguard the public
31 health, safety, and welfare, to protect the public from being harmed by unqualified persons, to
32 assure the highest degree of professional services and conduct on the part of music therapists,
33 to provide for the establishment of licensure requirements, and to ensure the availability of
34 music therapy services of high quality to persons in need of such services. It is the purpose of
35 this Article to provide for the regulation of persons offering music therapy services to the
36 public.



* H 2 9 2 - P C S 3 0 4 8 6 - R O F - 1 0 *

"§ 90-270.87. Definitions.

The following definitions apply in this Article:

- (1) Board. – The North Carolina Board of Music Therapy.
- (2) Music therapist. – An individual licensed to practice music therapy under this Article.
- (3) Music Therapist-Board Certified. – An individual practicing music therapy who has been credentialed as having passed a national examination administered by the Certification Board for Music Therapists, an accredited health certifying agency.
- (4) Music therapy. – The clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program, including (i) assessment of a client's emotional, physical, and spiritual health, social functioning, communication abilities, and cognitive skills through the client's history and the observation and interaction of the client in music and nonmusic settings; (ii) development and implementation of treatment plans, based on a client's assessed needs, using music interventions, including music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music; and (iii) evaluation and documentation of the client's response to treatment.
- (5) Music therapy services. – The provision of services to accomplish music therapy goals, including (i) conducting an individualized assessment for the purpose of collecting systematic, comprehensive, and accurate data necessary to determine the course of action subsequent to the individualized treatment plan; (ii) planning and developing the individualized music therapy treatment plan that identifies an individual's goals, objectives, and potential treatment intervention strategies; (iii) implementing the individualized music therapy treatment plan consistent with the individual's overall treatment program; (iv) systematically evaluating and comparing the individual's response to the individualized music therapy treatment plan and suggesting modifications, as appropriate; (v) developing a discharge plan in collaboration with the individual, the individual's family, treatment team, and other identified support networks, when appropriate; (vi) minimizing the impact of environmental constraints as a barrier to participation in least restrictive environments for individuals engaging in music therapy; (vii) collaborating with and educating the individual, family, caregiver, and others to foster an environment responsive to the developmental needs of the individual as addressed in music therapy; and (viii) consulting with groups, programs, organizations, or communities to improve accessibility to music therapy services.

"§ 90-270.88. License required; exemptions.

(a) On or after January 1, 2014, no person shall practice or offer to practice music therapy as defined in this Article, use the title "Music Therapist-Board Certified/Licensed" or "Licensed Music Therapist," use the letters "MT-BC/L" or "LMT," or any other title or abbreviation that would otherwise indicate or imply that the person is a licensed music therapist unless that person is currently licensed as provided under this Article.

(b) The provisions of this Article shall not apply to the following:

- (1) Any person registered, certified, credentialed, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, credentialed, or licensed to

1 engage in another profession or occupation in this State if the person is
2 performing work incidental to the practice of that profession or occupation
3 and the person does not represent himself or herself as a licensed music
4 therapist.

5 (2) A student enrolled in an approved music therapy education program if music
6 therapy services performed by the student are an integral part of the student's
7 course of study and are performed under the direct supervision of a
8 professional licensed in this State.

9 (3) A music therapist employed by the United States government when
10 performing duties associated with that employment.

11 **"§ 90-270.89. North Carolina Board of Music Therapy.**

12 (a) Creation. – The North Carolina Board of Music Therapy is created.

13 (b) Composition and Terms. – The Board shall consist of three members who shall
14 serve staggered terms. Two members shall be licensed music therapists, and one member shall
15 represent the public at large.

16 The initial Board members shall be appointed on or before October 1, 2013, as follows:

17 (1) The General Assembly, upon the recommendation of the Speaker of the
18 House of Representatives, shall appoint one music therapist who shall serve
19 for a term of three years.

20 (2) The General Assembly, upon the recommendation of the President Pro
21 Tempore of the Senate, shall appoint one music therapist who shall serve for
22 a term of two years.

23 (3) The Governor shall appoint one public member who shall serve for a
24 one-year term.

25 Initial music therapist Board members do not have to be licensed upon appointment. However,
26 once licensure requirements are established, those initial Board members shall satisfy the
27 applicable requirements for licensure pursuant to this Article.

28 Upon the expiration of the terms of the initial Board members, each member shall be
29 appointed for a term of three years and shall serve until a successor is appointed. No member
30 may serve more than two consecutive full terms.

31 (c) Qualifications. – The music therapist members shall hold current licenses and shall
32 reside or be employed in North Carolina. They shall have at least five years' experience as
33 music therapists, including the three years immediately preceding appointment to the Board,
34 and shall remain in active practice and in good standing with the Board as a licensee during
35 their terms. Public members of the Board shall not be (i) trained or experienced in the practice
36 of music therapy, (ii) an agent or employee of a person engaged in the practice of music
37 therapy, (iii) a health care professional licensed under this Article or a person enrolled in a
38 program to become a licensed health care professional, (iv) an agent or employee of a health
39 care institution, a health care insurer, or a health care professional school, (v) a member of an
40 allied health profession or a person enrolled in a program to become a member of an allied
41 health profession, or (vi) a spouse of an individual who may not serve as a public member of
42 the Board.

43 (d) Vacancies. – A vacancy shall be filled in the same manner as the original
44 appointment, except that all unexpired terms of Board members appointed by the General
45 Assembly shall be filled in accordance with G.S. 120-122 and shall be filled within 45 days
46 after the vacancy occurs. Appointees to fill vacancies shall serve the remainder of the
47 unexpired term and until their successors have been duly appointed and qualified.

48 (e) Removal. – The Board may remove any of its members for neglect of duty,
49 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a
50 licensee shall be disqualified from participating in the official business of the Board until the
51 charges have been resolved.

1 (f) Compensation. – Each member of the Board shall receive per diem and
2 reimbursement for travel and subsistence as provided in G.S. 93B-5.

3 (g) Officers. – The officers of the Board shall be a chair, who shall be a licensed music
4 therapist, a vice-chair, and other officers deemed necessary by the Board to carry out the
5 purposes of this Article. All officers shall be elected annually by the Board for one-year terms
6 and shall serve until their successors are elected and qualified.

7 (h) Meetings. – The Board shall hold at least two meetings each year to conduct
8 business and to review the standards and rules for improving music therapy services. The
9 Board shall establish the procedures for calling, holding, and conducting regular and special
10 meetings. A majority of Board members constitutes a quorum.

11 **"§ 90-270.90. Powers of the Board.**

12 The Board shall have the following powers and duties:

- 13 (1) Administer this Article.
- 14 (2) Adopt, amend, or repeal rules as may be necessary to carry out the
15 provisions of this Article.
- 16 (3) Employ and fix the compensation of personnel that the Board determines is
17 necessary to carry into effect the provisions of this Article and incur other
18 expenses necessary to effectuate this Article.
- 19 (4) Examine and determine the qualifications and fitness of applicants for
20 licensure, renewal of licensure, and reciprocal licensure.
- 21 (5) Issue, renew, deny, suspend, or revoke licenses and carry out any
22 disciplinary actions authorized by this Article.
- 23 (6) Set fees for licensure, license renewal, and other services deemed necessary
24 to carry out the purposes of this Article.
- 25 (7) Conduct investigations for the purpose of determining whether violations of
26 this Article or grounds for disciplining licensees exist.
- 27 (8) Conduct administrative hearings in accordance with Chapter 150B of the
28 General Statutes when a contested case, as defined in G.S. 150B-2(2), arises
29 under this Article.
- 30 (9) Maintain a record of all proceedings and make available to licensees and
31 other concerned parties an annual report of all Board action.
- 32 (10) Develop standards and adopt rules for the improvement of music therapy
33 services in the State.
- 34 (11) Adopt a seal containing the name of the Board for use on all licenses and
35 official reports issued by it.

36 **"§ 90-270.91. Requirements for licensure.**

37 Upon application to the Board and the payment of the required fees, an applicant may be
38 licensed as a music therapist if the applicant meets all of the following requirements:

- 39 (1) Is 18 years of age or older.
- 40 (2) Is of good moral character as determined by the Board.
- 41 (3) Has successfully completed an academic program accredited by the
42 American Music Therapy Association (AMTA), with at least a bachelor's
43 degree majoring in music therapy from an accredited college or university.
- 44 (4) Has successfully completed the board certification examination offered by
45 the Certification Board for Music Therapists or its successor organization to
46 become a Music Therapist-Board Certified (MT-BC).
- 47 (5) Has successfully completed a minimum of 1,200 hours of clinical training,
48 with at least 180 hours in pre-internship experiences and at least 900 hours
49 in internship experiences. For purposes of this subdivision, the internship
50 may be approved by an academic institution, the AMTA, or both.

51 **"§ 90-270.92. Reciprocity.**

1 The Board may grant, upon application and payment of proper fees, a license to a person
 2 who has been licensed to practice music therapy in another state or territory of the United
 3 States whose standards of competency are substantially equivalent to the requirements for
 4 licensure provided in this Article.

5 **"§ 90-270.93. Expenses and fees.**

6 (a) All salaries, compensation, and expenses incurred or allowed to carry out the
 7 purposes of this Article shall be paid by the Board exclusively out of the fees received by the
 8 Board as authorized by this Article or funds received from other sources. In no case shall any
 9 salary, expense, or other obligation of the Board be charged against the State treasury.

10 (b) The Board shall establish a schedule of fees, not to exceed the following amounts:

- 11 (1) Issuance of a license.....\$ 100.00
- 12 (2) License renewal (every 5 years).....250.00
- 13 (3) Reinstatement of lapsed license.....100.00
- 14 (4) Reasonable charges for duplication services and material.

15 **"§ 90-270.94. License renewal; continuing education; inactive status.**

16 (a) Every license issued under this Article shall be renewed on or before January 1
 17 every five years. The license shall be renewed upon the payment of a renewal fee if, at the time
 18 of application for renewal, the applicant is not in violation of this Article, has completed a
 19 minimum of 100 hours of music therapy practice in accordance with rules adopted by the
 20 Board, has maintained the applicant's Music Therapy-Board Certified (MT-BC) credential, and
 21 has complied with the continuing education requirements under subsection (b) of this section.

22 (b) As a condition of license renewal, a licensee shall complete a minimum of 100
 23 hours of continuing education in a program approved by the Certification Board of Music
 24 Therapists and meet any other continuing education requirements established by the Board.

25 (c) The Board shall notify a licensee at least 30 days in advance of the expiration of his
 26 or her license. The licensee shall inform the Board of any change of the licensee's address. Each
 27 licensee is responsible for renewing his or her license before the expiration date. Licenses that
 28 are not renewed automatically lapse.

29 (d) The Board may provide for the late renewal of an automatically lapsed license upon
 30 the payment of a reinstatement fee. No reinstatement renewal may be granted more than five
 31 years after a license expires.

32 (e) In accordance with rules adopted pursuant to this Article, a licensee may request
 33 that his or her license be declared inactive and may thereafter apply for active status.

34 **"§ 90-270.95. Disciplinary authority.**

35 (a) The Board may deny, suspend, revoke, or refuse to renew a license or impose
 36 probationary conditions on a license if the licensee or applicant for licensure has engaged in
 37 any of the following conduct:

- 38 (1) Obtaining a license by means of fraud, misrepresentation, or concealment of
 39 material facts.
- 40 (2) Engaging in unprofessional conduct pursuant to rules established by the
 41 Board.
- 42 (3) Having been convicted of or pleaded guilty or nolo contendere to a crime
 43 involving moral turpitude or any crime which indicates that the music
 44 therapist is unfit or incompetent to practice music therapy or that the music
 45 therapist has deceived or defrauded the public.
- 46 (4) Engaging in any act or practice in violation of any of the provisions of this
 47 Article or any rule adopted by the Board or aiding, abetting, or assisting any
 48 person in such a violation.
- 49 (5) Committing an act or acts of malpractice, gross negligence, or incompetence
 50 in the practice of music therapy.
- 51 (6) Practicing as a licensed music therapist without a current license.

1 (7) Engaging in conduct that could result in harm or injury to the public.

2 (8) Having a music therapy license revoked or suspended or other disciplinary
3 action taken whether in this State or another jurisdiction.

4 (9) Being unfit or incompetent to practice music therapy by reason of deliberate
5 or negligent acts or omissions regardless of whether actual injury to a patient
6 is established.

7 (b) The denial, refusal to renew, suspension, revocation, or imposition of probationary
8 conditions upon a license may be ordered by the Board after a hearing held in accordance with
9 Chapter 150B of the General Statutes and rules adopted by the Board. An application may be
10 made to the Board for reinstatement of a revoked license if the revocation has been in effect for
11 at least one year.

12 **"§ 90-270.96. Violation a misdemeanor.**

13 Any person who violates any provision of this Article shall be guilty of a Class 1
14 misdemeanor. Each act of such unlawful practice shall constitute a distinct and separate
15 offense.

16 **"§ 90-270.97. Injunctive relief.**

17 The Board may make application to any appropriate court for an order enjoining violations
18 of this Article, and upon a showing by the Board that any person has violated or is about to
19 violate this Article, the court may grant an injunction, restraining order, or take other
20 appropriate action.

21 **"§ 90-270.98. Civil penalties.**

22 (a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in
23 excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the
24 violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed
25 under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
26 G.S. 115C-457.2.

27 (b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board
28 shall consider the following factors:

29 (1) The nature, gravity, and persistence of the particular violation.

30 (2) The appropriateness of the imposition of a civil penalty when considered
31 alone or in combination with other punishment.

32 (3) Whether the violation was willful and malicious.

33 (4) Any other factors that would tend to mitigate or aggravate the violations
34 found to exist.

35 (c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties
36 for violations of this Article and rules adopted by the Board.

37 (d) Costs. – The Board may assess the costs of disciplinary actions against any person
38 found to be in violation of this Article or rules adopted by the Board."

39 **SECTION 2.** This act is effective when it becomes law.