COMMITTEE REPORT

February 28, 2012

**H. 3093**

Introduced by Rep. Allison

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Read the first time January 11, 2011.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3093) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 85 to Title 40 so as to enact the “Music Therapy Practice Act” to regulate the practice, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting SECTION 1 in its entirety and inserting:

/ SECTION 1. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 30

Music Therapy Practice Act

Section 37‑30‑10. (A) This chapter must be known and may be cited as the ‘Music Therapy Practice Act’.

(B) In order to safeguard the public health, safety, and welfare, to protect the public from incompetent and unauthorized people, to assure the highest degree of professional conduct on the part of music therapists, and to ensure the availability of music therapy services of high quality to people in need of these services, the purpose of this chapter is to register a person offering music therapy services to the public.

Section 37‑30‑20. As used in this chapter:

(1) ‘AMTA’ means the American Music Therapy Association.

(2) ‘CBMT’ means the Certification Board for Music Therapists.

(3) ‘Department’ means the Department of Consumer Affairs.

(4) ‘Registered music therapist’ means a person registered to practice music therapy in this State under the provisions of this chapter.

(5) ‘Music therapy’ means the clinical‑based 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 and met the credentialing standards determined by the CBMT.

(a) For the purpose of accomplishing music therapy goals, music therapy may include the:

(i) assessment of a client’s emotional and physical health, 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 non‑music settings;

(ii) development and implementation of treatment plans, based on a client’s assessed needs, using music interventions including, but not limited to, music improvisation, receptive music listening, song writing, lyric analysis, music and imagery, music performance, learning through music, and movement to music; and

(iii) evaluation and documentation of the client’s response to treatment.

(b) For the purpose of accomplishing music therapy goals, music therapy services include, but are not limited to:

(i) conducting an individualized assessment for the purpose of collecting systematic, comprehensive, and accurate data necessary to determine the course of action of a subsequent 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 and his family, treatment team, and other identified support networks where appropriate and available;

(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 and his 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, and communities to improve accessibility to music therapy services.

Section 37‑30‑30. Before commencing business of music therapy in this State, regardless of the means of doing business, any person engaged in the business of providing music therapy must register with the department as a music therapist on a form prescribed by the department. The registration must be renewed biennially no later than October first. The department may collect an initial non‑refundable registration fee of one hundred fifty dollars with biennial renewal fees of fifty dollars and may use the proceeds to offset the costs of administering and enforcing this chapter.

Section 37‑30‑40. (A) A person may not practice music therapy, provide a music therapy service, or hold himself out as being able to practice music therapy in this State unless he is registered under the provisions of this chapter. A person who renders a music therapy service on the effective date of this chapter must be registered pursuant to this chapter within six months following the effective date of this chapter.

(B) A provision in this chapter may not be construed to prevent or restrict a person from performing:

(1) work incidental to the practice of his profession or occupation; or

(2) volunteer activities, if that person does not represent himself as a music therapist.

Section 37‑30‑50. To be eligible for registration as a music therapist, an applicant must:

(1) be at least eighteen years of age;

(2) be of good moral character;

(3) abide by the CBMT Code of Professional Practice;

(4) have successfully completed an AMTA‑approved academic program with a baccalaureate degree or higher with a major in music therapy from an accredited college or university, or its equivalent;

(5) hold an active credential, Music Therapist‑Board Certified (MT‑BC) from the Certification Board for Music Therapists or have a designation contained in the National Music Therapy Registry (NMTR) including Registered Music Therapist (RMT), Certified Music Therapist (CMT) or Advanced Certified Music Therapist (ACMT); and

(6) have successfully completed a minimum of twelve thousand hours of clinical training, with at least one hundred eighty of these hours being in pre‑internship experiences and at least nine hundred of these hours in internship experiences in an internship program approved by an academic institution, the AMTA, or both, or its equivalent.

Section 37‑30‑60. (A) A consumer aggrieved by a music therapist may file a complaint with the department, and the department shall review the complaint, investigate it as the department considers appropriate, and initiate action as authorized by law.

(B) The department may conduct investigations relevant to the administration of this chapter and, to the extent necessary for this purpose, may administer oaths or affirmations, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(C) If a person’s records are located outside this State, the person, at the department’s discretion, shall either make them available to the department at a convenient location within this State or pay the reasonable and necessary expenses for the department to examine these records at the place where they are maintained. The administrator of the department may designate representatives, including comparable officials of the State in which the records are located, to inspect them on his behalf.

(D) Upon failure without lawful excuse to obey a subpoena or to give testimony, and upon reasonable notice to all persons affected, the department may apply to the Administrative Law Court for an order compelling compliance.

(E) Upon satisfactory evidence that a person has violated or failed to comply with a provision of this chapter or regulation promulgated pursuant to the authority of this chapter, the department may issue an order requiring any combination of the following:

(1) the person to cease and desist from committing violations of this chapter;

(2) administrative fines not more than five thousand dollars for each violation; and

(3) revocation, suspension, or denial of registration.

(F) A person aggrieved by an action taken by the department may file a request for a contested case hearing with the Administrative Law Court in accordance with the court’s rules of procedure. If the person fails to request a contested case hearing within the time provided in the court’s rules of procedure, the administrative order becomes final and the department may bring an action to enforce its order pursuant to Title 1, Chapter 23.

Section 37‑30‑70. The department is authorized to promulgate rules and regulations for the implementation of this chapter. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 85 TO TITLE 40 SO AS TO ENACT THE “MUSIC THERAPY PRACTICE ACT” TO REGULATE THE PRACTICE OF MUSIC THERAPY, TO PROVIDE CERTAIN DEFINITIONS, TO CREATE THE SOUTH CAROLINA BOARD OF MUSIC THERAPY TO ASSIST THE DEPARTMENT ON ALL MATTERS PERTAINING TO THE EDUCATION, EXAMINATION, LICENSURE, AND CONTINUING EDUCATION OF LICENSED MUSIC THERAPISTS AND THE PRACTICE OF MUSIC THERAPY, TO PROHIBIT THE PRACTICE OF MUSIC THERAPY WITHOUT A LICENSE, TO REQUIRE THAT THE DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL PROVIDE ADMINISTRATIVE, FISCAL, INVESTIGATIVE, INSPECTIONAL, CLERICAL, SECRETARIAL, AND LICENSE RENEWAL OPERATIONS AND ACTIVITIES OF THE BOARD, TO PROVIDE DUTIES AND RESPONSIBILITIES OF THE BOARD, TO PROVIDE CRITERIA FOR LICENSURE, AND TO PROVIDE FOR THE USE OF A PROFESSIONAL DESIGNATION, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 85

Music Therapy Practice Act

Section 40‑85‑5. Unless otherwise provided for in this chapter, Article 1, Chapter 1 of this title applies to music therapists; however, if there is a conflict between this chapter and Article 1, Chapter 1 of this title, the provisions of this chapter control.

Section 40‑85‑10. (A) This act must be known and may be cited as the ‘Music Therapy Practice Act’.

(B) In order to safeguard the public health, safety, and welfare, to protect the public from being misled by incompetent and unauthorized people, to assure the highest degree of professional conduct on the part of music therapists, and to ensure the availability of music therapy services of high quality to people in need of these services, it is the purpose of this act to regulate a person offering a music therapy service to the public.

Section 40‑85‑20. As used in this chapter:

(1) ‘AMTA’ means the American Music Therapy Association.

(2) ‘Board’ means the South Carolina Board of Music Therapy.

(3) ‘CBMT’ means the Certification Board for Music Therapists.

(4) ‘Department’ means the Department of Labor, Licensing and Regulation.

(5) ‘Licensed, board certified music therapist’ or ‘MT‑BC/L’ means a person licensed to practice music therapy in this State under the provisions of this chapter.

(6) ‘Music therapy’ means 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.

(a) For the purpose of accomplishing music therapy goals, music therapy may include the:

(i) assessment of a client’s emotional and physical health, emotional health, 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, but not limited to, 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.

(b) For the purpose of accomplishing music therapy goals, music therapy services include, but are not limited to:

(i) conducting an individualized assessment for the purpose of collecting systematic, comprehensive, and accurate data necessary to determine the course of action of a subsequent 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 and his family, treatment team, and other identified support networks where appropriate and available;

(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 and his 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.

Section 40‑85‑40. (A)(1) There is created the South Carolina Board of Music Therapy to assist the department on all matters pertaining to the education, examination, licensure, and continuing education of licensed, board certified music therapists and the practice of music therapy.

(2)(a) The board must be composed of five members appointed as follows:

(i) two members appointed by the Speaker of the House of Representatives;

(ii) two members appointed by the President Pro Tempore of the Senate; and

(iii) one member appointed by the Governor.

(b) Two of the board members may not be licensed, board certified music therapists and the remaining three members must be licensed, board certified music therapists as follows:

(i) one must be an MT‑BC/L educator;

(ii) one must be an MT‑BC/L clinician with at least three years of clinical practice experience; and

(iii) one must be either an MT‑BC/L educator or an MT‑BC/L clinician with at least three years of clinical practice experience.

(B) The board annually shall elect a chairman to serve a one year term. Terms of office for members are for two years and until their successors are appointed and qualify. A vacancy must be filled for the unexpired term in the manner of original appointment. The board shall meet at least annually but not more than once a month. A meeting must be scheduled at the call of the chairman.

(C) The board may take no action except upon the affirmative vote of three members.

Section 40‑85‑50. (A) The board shall:

(1) adopt rules governing its proceedings and internal operations and may promulgate regulations to enforce, administer, and implement this chapter;

(2) determine the qualifications of an applicant for licensure and to determine which applicants successfully meet those qualifications; and

(3) determine fees necessary to execute the provisions of this chapter.

(B) In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Section 40‑1‑70.

Section 40‑85‑60. The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

Section 40‑85‑70. (A) A person may not practice music therapy, provide a music therapy service, hold himself out as being able to practice music therapy, or use the designations ‘MT‑BC/L’ or ‘Licensed Board‑Certified Music Therapist’ in this State unless he is licensed under the provisions of this chapter. A person who renders a music therapy service on the effective date of this chapter must be registered pursuant to this chapter within six months following the effective date of this chapter.

(B) A provision in this act may not be construed to prevent or restrict a person:

(1) of another licensed profession or personnel supervised by licensed professionals in this State from performing work incidental to the practice of his profession or occupation, if that person does not represent himself as an MT‑BC/L; or

(2) enrolled in a course of study leading to a degree in music therapy from performing a music therapy service incidental to his course work when supervised by a licensed professional, if the person is designated by a title that clearly indicates his status as a student.

Section 40‑85‑80. (A) To be eligible for licensure as a music therapist, an applicant must:

(1) be at least twenty‑one years of age;

(2) be of good moral character;

(3) abide by the CBMT Code of Professional Practice;

(4) have successfully completed an AMTA‑approved academic program with a baccalaureate degree or higher with a major in music therapy from an accredited college or university, or its equivalent;

(5) have successfully completed the board certification exam offered by the CBMT; and

(6) have successfully completed a minimum of twelve hundred hours of clinical training, with at least one hundred eighty hours in preinternship experiences and at least nine hundred hours in internship experiences in an internship program approved by an academic institution, the AMTA, or both.

(B) The board may, upon notice and opportunity for a hearing, deny an application for reinstatement of a license or grant reinstatement of a license with restrictions. A condition imposed may include a requirement for continuing education, practice under the supervision of a licensed music therapy specialist, or other conditions the board considers appropriate.

(C) Notwithstanding subsection (A) of this section, the board may grant an initial license to:

(1) an MT‑BC/L who:

(a) is certified by the Certification Board for Music Therapists on the effective date of this chapter; and

(b) holds an active Music Therapist‑Board Certified (MT‑BC) credential; or

(2) a person who does not meet the criteria in item (1) of this subsection but who has a designation contained in the AMTA Registry may receive a provisional MT‑BC/L license from the board for five years and may apply for licensure in this State within that five year period, provided the CBMT approves the applicant’s request. A designation contained in the AMTA Registry that satisfies the requirements of this item includes RMT, ACMT, and CMT designations, among others.

Section 40‑85‑90. (A) An initial license and renewal is valid for five years.

(B) An MT‑BC/L may renew his license if he satisfies continuing competency requirements by:

(1)(a) successfully completing a minimum of one hundred hours of continuing education programs approved by the CBMT; or

(b) successfully completing the recertification exam; and

(2) satisfying other requirements established by the board by regulation.”

SECTION 2. This act takes effect upon approval by the Governor.

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