COMMITTEE REPORT

January 28, 2016

**S. 589**

Introduced by Senators Lourie and Leatherman

S. Printed 1/28/16--S.

Read the first time March 24, 2015.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 589) 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 striking all after the enacting words and inserting:

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

“CHAPTER 85

Music Therapists

Section 40‑85‑110. 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 40‑85‑120. As used in this chapter, the term:

(1) ‘Board’ means the Music Therapy Board.

(2) ‘Board‑certified music therapist’ means an individual who has completed the education and clinical training requirements established by the American Music Therapy Association, has passed the Certification Board for Music Therapists certification examination or transitioned into board certification, and remains actively certified by the Certification Board for Music Therapists.

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

(4) ‘Music therapist’ means a person licensed to practice music therapy pursuant to this chapter.

(5) ‘Music therapy’ means the clinical and evidence‑based use of music interventions to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan for the client that identifies the goals, objectives, and potential strategies of the music therapy services appropriate for the client using music therapy interventions, which may include music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music. This term may include:

(a) accepting referrals for music therapy services from medical, developmental, mental health, or education professionals; family members; clients; or caregivers. Before providing music therapy services to a client for a medical, developmental, or mental health condition, the licensee shall collaborate, as applicable, with the client’s physician, psychologist, or mental health professional to review the client’s diagnosis, treatment needs, and treatment plan. During the provision of music therapy services to a client, the licensee shall collaborate, as applicable, with the client’s treatment team the client’s speech-language pathologist, occupational therapist, physical therapist, audiologist, or other medical or developmental professional to review the client’s diagnosis, treatment needs, and treatment plan;

(b) conducting a music therapy assessment of a client to collect systematic, comprehensive, and accurate information necessary to determine the appropriate type of music therapy services to provide for the client;

(c) developing an individualized music therapy treatment plan for the client;

(d) carrying out an individualized music therapy treatment plan that is consistent with another medical, developmental, mental health, or educational service being provided to the client;

(e) evaluating the client’s response to music therapy and the individualized music therapy treatment plan and suggesting modifications, as appropriate;

(f) developing a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, a physician, or other provider of health care or education of the client, an appropriate member of the family of the client, and any other appropriate person upon whom the client relies for support;

(g) minimizing barriers so that the client may receive music therapy services in the least restrictive environment; and

(h) collaborating with and educating the client and the family or caregiver of the client or another appropriate person about the needs of the client that are being addressed in music therapy and the manner in which the music therapy addresses those needs.

Section 40‑85‑130. (A) There is created the South Carolina Music Therapy Board to be composed of five members appointed by the Governor, with the advice and consent of the Senate, including three practicing music therapists in this State, one licensed health care provider who is not a music therapist, and one consumer.

(B) The board must consist of people familiar with the practice of music therapy to provide the director with the expertise and assistance in carrying out his duties pursuant to this chapter.

(C) Members may receive for their services mileage, expenses, subsistence, and per diem as provided by law for members of state boards, committees, and commissions.

(D) Members may serve consecutive terms at the will of the governor. A vacancy must be filled in the manner of the orginal appointment for the unexpired term.

Section 40‑85‑140. (A) The board shall meet at least once each year and as otherwise called by the director.

(B) The director shall consult with the board prior to setting or changing fees in this chapter.

(C) The board may facilitate the development of materials that the director may use to educate the public concerning music therapist licensure, the benefits of music therapy, and utilization of music therapy by individuals and in facilities or institutional settings.

(D) The board may act as a facilitator of statewide dissemination of information between music therapists, the American Music Therapy Association or any successor organization, the Certification Board for Music Therapists or any successor organization, and the director.

(E) The board shall provide analysis of disciplinary actions taken, appeals and denials, or revocation of licenses at least once each year.

(F) The director shall seek the advice of the board for issues related to music therapy.

Section 40‑85‑150. Beginning one year after the effective date of this chapter, no person without a license as a music therapist may use the title ‘music therapist’ or similar title or practice music therapy. Nothing in this chapter may be construed to prohibit or restrict the practice, services, or activities of the following:

(1) a person licensed, certified, or regulated under the laws of this State in another profession or occupation performing work, including the use of music, incidental to the practice of his licensed, certified, or regulated profession or occupation, if that person does not represent himself as a music therapist;

(2) a person whose training and national certification attests to the individual’s preparation and ability to practice his certified profession or occupation, if that person does not represent himself as a music therapist;

(3) the practice of music therapy as an integral part of a program of study for students enrolled in an accredited music therapy program, if the student does not represent himself as a music therapist; or

(4) a person who practices music therapy under the supervision of a licensed music therapist, if the person does not represent himself as a music therapist.

Section 40‑85‑160. (A) The director shall issue a license to an applicant for a music therapy license when the applicant has completed and submitted an application upon a form and in such manner as the director prescribes, accompanied by applicable fees, and evidence satisfactory to the director that the applicant:

(1) is at least eighteen years of age;

(2) holds a bachelor’s degree or higher in music therapy, or its equivalent, from a program approved by the American Music Therapy Association or any successor organization from an accredited college or university;

(3) successfully completes 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, provided that the internship is approved by an academic institution, the American Music Therapy Association or a successor organization, or both;

(4) is in good standing based on a review of the applicant’s music therapy licensure history in other jurisdictions, including a review of alleged misconduct or neglect in the practice of music therapy on the part of the applicant; and

(5) provides proof of passing the examination for board certification offered by the Certification Board for Music Therapists or any successor organization or provides proof of being transitioned into board certification, and provides proof that the applicant is currently a board‑certified music therapist.

(B) The board may issue a license to an applicant for music therapy when the applicant has completed and submitted an application upon a form and in such manner as the director prescribes, accompanied by applicable fees, or evidence satisfactory to the director that the applicant is licensed and in good standing as a music therapist in another jurisdiction where the qualifications required are equal to or greater than those required in this chapter at the date of application.

Section 40‑85‑170. (A) Every license issued pursuant to this chapter must be renewed biennially. A license must be renewed upon payment of a renewal fee if the applicant is not in violation of any of the terms of this chapter at the time of application for renewal. The following also is required for license renewal:

(1) proof of maintenance of the applicant’s status as a board‑certified music therapist; and

(2) proof of completion of a minimum of forty hours of continuing education in a program approved by the Certification Board of Music Therapists or any successor organization and any other continuing education requirements established by the director.

(B) A licensee shall notify the board in writing within fifteen business days of any change of address. A licensee is responsible for timely renewal of his license.

(C) Failure to renew a license must result in forfeiture of the license. A license that has been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year of the date of its expiration must result in the automatic termination of the license, and the director may require the individual to reapply for licensure as a new applicant.

(D) Upon written request of a licensee, the director may place an active license on an inactive status subject to an inactive status fee established by the director. The licensee, upon request and payment of the inactive license fee, may continue on inactive status for a period up to two years. An inactive license may be reactivated by making a written request to the director and by fulfilling requirements established by the director.

Section 40‑85‑180. The director shall waive the examination requirement for an applicant for two years after the effective date of this chapter, who is:

(1) a board‑certified music therapist; or

(2) designated as a registered music therapist, certified music therapist, or advanced‑certified music therapist and in good standing with the National Music Therapy Registry.

Section 40‑85‑190. (A) The director may issue a sanction for any of the following acts:

(1) ineligibility for licensure, including, but not limited to, falsification of information submitted for licensure or failure to maintain status as a board‑certified music therapist;

(2) failure to pay fees when due;

(3) failure to provide requested information in a timely manner;

(4) conviction of a felony;

(5) conviction of a crime that reflects an inability to practice music therapy with due regard for the health and safety of clients and patients, or with due regard for the truth in filing claims with Medicare, Medicaid, or a third‑party payer;

(6) inability or failure to practice music therapy with reasonable skill and consistent with the welfare of clients and patients, including, but not limited to, negligence in the practice of music therapy; intoxication; incapacity; and abuse of or engaging in sexual contact with a client or patient; or

(7) disciplinary action by another jurisdiction.

(B) The director may conduct investigations into allegations of conduct described in subsection (A).

(C) The director may impose one or more of the following sanctions for a violation of this chapter:

(1) suspension;

(2) revocation;

(3) denial;

(4) refusal to renew a license;

(5) probation with conditions;

(6) reprimand; or

(7) a fine of not less than one hundred dollars, nor more than one thousand dollars for each violation.

Section 40‑85‑200. Regulations necessary to implement the provisions of this chapter shall be promulgated by the Director.”

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

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund or federal funds. However, other fund expenditures by the Department of Labor, Licensing and Regulation (LLR) are expected to increase by $89,000 annually.

This bill is expected to generate other fund license fee revenue of $89,000 from this new professional license requirement to offset the corresponding increased expenditures. Additionally, general fund revenue would increase by approximately $8,900, or ten percent of the additional expenditures, pursuant to Proviso 81.3 of the FY 2015 Appropriations Act.

**Explanation of Fiscal Impact**

**State Expenditure**

Senate Bill 589 amends Title 40 by adding Chapter 85 establishing the Music Therapy Practice Act. The bill creates a five-member Music Therapy Advisory Group to assist the director of the Department of Labor, Licensing and Regulation (LLR) in regulating the professional practice of music therapy. Members are to serve without compensation, but may receive mileage, and must meet at least once a year. The bill requires anyone using the title of “music therapist” to become licensed by LLR and specifies license requirements. The bill authorizes LLR to set license fees.

**Department of Labor, Licensing and Regulation.**

The department reports that this bill would require 1.00 new FTE position for an Administrative Assistant to support the work of the advisory committee and to administer the license program. The estimated increased expenditures of $89,000 annually for salary, fringe benefits, and operating expenses would be offset by the new other fund license fees. Otherwise, this bill would have no expenditure impact on the general fund or federal funds.

**State Revenue**

Pursuant to Proviso 81.3 of the FY 2014-15 Appropriations Act, each professional and occupational licensing board must remit annually to the general fund an amount equal to ten percent of their expenditures. Since LLR estimates expenditures for this program at $89,000 it is expected that LLR will remit $8,900 from new license fees into the general fund in FY 2015-16.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**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 MUSIC THERAPY ADVISORY GROUP TO ASSIST THE DIRECTOR OF THE DEPARTMENT IN REGULATION OF THE PROFESSION OF MUSIC THERAPY; TO PROHIBIT THE PRACTICE OF MUSIC THERAPY WITHOUT A LICENSE; 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 Therapists

Section 40‑85‑110. 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 40‑85‑120. As used in this chapter, the term:

(1) ‘Advisory group’ means the Music Therapy Advisory Group.

(2) ‘Board‑certified music therapist’ means an individual who has completed the education and clinical training requirements established by the American Music Therapy Association, has passed the Certification Board for Music Therapists certification examination or transitioned into board certification, and remains actively certified by the Certification Board for Music Therapists.

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

(4) ‘Music therapist’ means a person licensed to practice music therapy pursuant to this chapter.

(5) ‘Music therapy’ means the clinical and evidence‑based use of music interventions to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan for the client that identifies the goals, objectives, and potential strategies of the music therapy services appropriate for the client using music therapy interventions, which may include music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music. This term may include:

(a) accepting referrals for music therapy services from medical, developmental, mental health, or education professionals; family members; clients; or caregivers. Before providing music therapy services to a client for a medical, developmental, or mental health condition, the licensee shall collaborate, as applicable, with the client’s physician, psychologist, or mental health professional to review the client’s diagnosis, treatment needs, and treatment plan. During the provision of music therapy services to a client, the licensee shall collaborate, as applicable, with the client’s treatment team;

(b) conducting a music therapy assessment of a client to collect systematic, comprehensive, and accurate information necessary to determine the appropriate type of music therapy services to provide for the client;

(c) developing an individualized music therapy treatment plan for the client;

(d) carrying out an individualized music therapy treatment plan that is consistent with another medical, developmental, mental health, or educational services being provided to the client;

(e) evaluating the client’s response to music therapy and the individualized music therapy treatment plan and suggesting modifications, as appropriate;

(f) developing a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, a physician, or other provider of health care or education of the client, an appropriate member of the family of the client, and any other appropriate person upon whom the client relies for support;

(g) minimizing barriers so that the client may receive music therapy services in the least restrictive environment; and

(h) collaborating with and educating the client and the family or caregiver of the client or another appropriate person about the needs of the client that are being addressed in music therapy and the manner in which the music therapy addresses those needs.

Section 40‑85‑130. (A) There is created the South Carolina Music Therapy Advisory Group which must consist of five members.

(B) The director shall appoint all members of the advisory group. The advisory group must consist of people familiar with the practice of music therapy to provide the director with expertise and assistance in carrying out his duties pursuant to this chapter.

(C) The director shall appoint members of the advisory group to serve for terms of four years, of whom:

(1) three members must practice as music therapists in this State;

(2) one member must be a licensed health care provider who is not a music therapist; and

(3) one member must be a consumer.

(D) Members shall serve without compensation, but the members may receive the usual mileage as is provided by law for members of state boards, commissions, and committees.

(E) Members may serve consecutive terms at the will of the director. A vacancy must be filled in the same manner as the regular appointments.

Section 40‑85‑140. (A) The advisory group shall meet at least once each year and as otherwise called by the director.

(B) The director shall consult with the advisory group prior to setting or changing fees in this chapter.

(C) The advisory group may facilitate the development of materials that the director may use to educate the public concerning music therapist licensure, the benefits of music therapy, and utilization of music therapy by individuals and in facilities or institutional settings.

(D) The advisory group may act as a facilitator of statewide dissemination of information between music therapists, the American Music Therapy Association or any successor organization, the Certification Board for Music Therapists or any successor organization, and the director.

(E) The advisory group shall provide analysis of disciplinary actions taken, appeals and denials, or revocation of licenses at least once each year.

(F) The director shall seek the advice of the advisory group for issues related to music therapy.

Section 40‑85‑150. One year after the effective date of this chapter, no person without a license as a music therapist may use the title ‘music therapist’ or similar title or practice music therapy. Nothing in this chapter may be construed to prohibit or restrict the practice, services, or activities of the following:

(1) a person licensed, certified, or regulated under the laws of this State in another profession or occupation performing work, including the use of music, incidental to the practice of his licensed, certified, or regulated profession or occupation, if that person does not represent himself or herself as a music therapist;

(2) a person whose training and national certification attests to the individual’s preparation and ability to practice his certified profession or occupation, if that person does not represent himself or herself as a music therapist;

(3) the practice of music therapy as an integral part of a program of study for students enrolled in an accredited music therapy program, if the student does not represent himself or herself as a music therapist; or

(4) a person who practices music therapy under the supervision of a licensed music therapist, if the person does not represent himself or herself as a music therapist.

Section 40‑85‑160. (A) The director shall issue a license to an applicant for a music therapy license when the applicant has completed and submitted an application upon a form and in such manner as the director prescribes, accompanied by applicable fees, and evidence satisfactory to the director that the applicant:

(1) is at least eighteen years of age;

(2) holds a bachelor’s degree or higher in music therapy, or its equivalent, from a program approved by the American Music Therapy Association or any successor organization within an accredited college or university;

(3) successfully completes 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, provided that the internship is approved by an academic institution, the American Music Therapy Association or a successor organization, or both;

(4) is in good standing based on a review of the applicant’s music therapy licensure history in other jurisdictions, including a review of alleged misconduct or neglect in the practice of music therapy on the part of the applicant; and

(5) provides proof of passing the examination for board certification offered by the Certification Board for Music Therapists or any successor organization or provides proof of being transitioned into board certification, and provides proof that the applicant is currently a board‑certified music therapist.

(B) The director shall issue a license to an applicant for a music therapy license when the applicant has completed and submitted an application upon a form and in such manner as the director prescribes, accompanied by applicable fees, and evidence satisfactory to the director that the applicant is licensed and in good standing as a music therapist in another jurisdiction where the qualifications required are equal to or greater than those required in this chapter at the date of application.

Section 40‑85‑170. (A) Every license issued pursuant to this chapter must be renewed biennially. A license must be renewed upon payment of a renewal fee if the applicant is not in violation of any of the terms of this chapter at the time of application for renewal. The following also must be required for license renewal:

(1) proof of maintenance of the applicant’s status as a board‑certified music therapist; and

(2) proof of completion of a minimum of forty hours of continuing education in a program approved by the Certification Board of Music Therapists or any successor organization and any other continuing education requirements established by the director.

(B) A licensee shall inform the director of a change to his address. A licensee is responsible for timely renewal of his license.

(C) Failure to renew a license must result in forfeiture of the license. A license that has been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year of the date of its expiration must result in the automatic termination of the license, and the director may require the individual to reapply for licensure as a new applicant.

(D) Upon written request of a licensee, the director may place an active license on an inactive status subject to an inactive status fee established by the director. The licensee, upon request and payment of the inactive license fee, may continue on inactive status for a period up to two years. An inactive license may be reactivated by making a written request to the director and by fulfilling requirements established by the director.

Section 40‑85‑180. The director shall waive the examination requirement for an applicant for two years after the effective date of this chapter, who is:

(1) a board‑certified music therapist; or

(2) designated as a registered music therapist, certified music therapist, or advanced‑certified music therapist and in good standing with the National Music Therapy Registry.

Section 40‑85‑190. (A) The director may issue a sanction for any of the following acts:

(1) ineligibility for licensure, including, but not limited to, falsification of information submitted for licensure or failure to maintain status as a board‑certified music therapist;

(2) failure to pay fees when due;

(3) failure to provide requested information in a timely manner;

(4) conviction of a felony;

(5) conviction of a crime that reflects an inability to practice music therapy with due regard for the health and safety of clients and patients, or with due regard for the truth in filing claims with Medicare, Medicaid, or a third party payer;

(6) inability or failure to practice music therapy with reasonable skill and consistent with the welfare of clients and patients, including, but not limited to, negligence in the practice of music therapy; intoxication; incapacity; and abuse of or engaging in sexual contact with a client or patient; or

(7) disciplinary action by another jurisdiction.

(B) The director may conduct investigations into allegations of conduct described in subsection (A).

(C) The director may impose one or more of the following sanctions for a violation of this chapter:

(1) suspension;

(2) revocation;

(3) denial;

(4) refusal to renew a license;

(5) probation with conditions;

(6) reprimand; or

(7) a fine of not less than one hundred dollars, nor more than one thousand dollars for each violation.

Section 40‑85‑200. Only the director may promulgate regulations necessary to implement the provisions of this chapter.”

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

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