**A** **BILL**

TO ENACT THE “MUSIC THERAPY PRACTICE ACT”; TO AMEND TITLE 40 OF THE 1976 CODE, RELATING TO PROFESSIONS AND OCCUPATIONS, BY ADDING CHAPTER 85, TO REGULATE THE PRACTICE OF MUSIC THERAPY, TO CREATE THE SOUTH CAROLINA MUSIC THERAPY BOARD TO ASSIST THE DIRECTOR OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION IN THE REGULATION OF THE PROFESSION OF MUSIC THERAPY, TO PROVIDE CRITERIA FOR LICENSURE, TO PROVIDE FOR THE USE OF A PROFESSIONAL DESIGNATION, AMONG OTHER THINGS, TO PROHIBIT THE PRACTICE OF MUSIC THERAPY WITHOUT A LICENSE, AND TO DEFINE NECESSARY TERMS.

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, Title 40 applies to music therapists; however, if there is a conflict between this chapter and Article 1, Chapter 1, Title 40, then the provisions of this chapter control.

Section 40‑85‑120. As used in this chapter:

(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) ‘Client’ means a person receiving music therapy services.

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

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

(6)(a) ‘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 a 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, music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music. ‘Music therapy’ may include:

(i) accepting referrals for music therapy services from physicians, psychologists, speech‑language pathologists, occupational therapists, physical therapists, audiologists, or other medical, developmental, or mental health professionals; education professionals; family members; clients; or caregivers. Before providing music therapy services to a client for a medical, developmental, or mental health condition, a music therapist 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 for a medical, developmental, or mental health condition, the music therapist shall collaborate, as applicable, with 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;

(ii) conducting a music therapy clinical 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;

(iii) developing an individualized music therapy treatment plan for a client;

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

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

(vi) 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;

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

(viii) collaborating with and educating a 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.

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

Section 40‑85‑130. (A) There is created the South Carolina Music Therapy Board to be composed of five members appointed by the Governor, upon 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 individuals familiar with the practice of music therapy who shall provide the director with expertise and assistance in carrying out his duties pursuant to this chapter.

(C) Members may receive 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 original 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 pursuant to 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 the utilization of music therapy by individuals and in facilities or institutional settings.

(D) The board may act as a facilitator of the 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 an analysis of disciplinary actions taken, appeals and denials, or the 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. 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 a student 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) 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

(4) 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 if 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 for Music Therapists or any successor organization and any other continuing education requirements established by the director.

(B) A music therapist shall notify the board in writing within fifteen business days of any change of address. A music therapist 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 the written request of a music therapist, the director may place an active license on an inactive status subject to an inactive status fee established by the director. The music therapist, upon request and payment of the inactive license fee, may continue on inactive status for a period of 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 40‑85‑190. (A) The following acts are prohibited and subject to sanctions by the director:

(1) ineligibility for licensure, including, but not limited to, falsification of the information submitted for licensure or a failure to maintain the status of 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 engagement in sexual contact with a client; or

(7) disciplinary action by another jurisdiction.

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

(C) A person who violates the provisions of this chapter may be subject to:

(1) suspension of his music therapy license;

(2) revocation of his music therapy license;

(3) denial of a music therapy license;

(4) refusal to renew a music therapy license;

(5) probation with conditions;

(6) reprimand; or

(7) a fine of not less than one hundred dollars and not 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. Beginning one year after the effective date of this act, no person without a license as a music therapist may use the title “music therapist” or similar title or may practice music therapy. For two years after the effective date of this act, the director of the Department of Labor, Licensing and Regulation shall waive the examination requirement for an applicant for a music therapy license pursuant to Section 40‑85‑160 who is a board‑certified music therapist.

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑