



Ohio Legislative Service Commission

Bill Analysis

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H.B. 184

131st General Assembly
(As Introduced)

Reps. Dovilla and Antonio, Anielski, Becker, Boyd, Celebrezze, Conditt, Derickson, DeVitis, Fedor, Grossman, Henne, T. Johnson, Lepore-Hagan, Leland, Patmon, Phillips, Ramos, Rezabek, Stinziano

BILL SUMMARY

- Creates licensing requirements for the practice of music therapy and requires music therapists to be licensed by the State Medical Board.
- Prohibits unlicensed persons from providing music therapy services or using the title "music therapist."
- Specifies the activities in which a licensed music therapist is authorized to engage.
- Lists the requirements and establishes procedures for obtaining initial and renewed music therapy licenses.
- Establishes grounds and procedures for taking disciplinary action against a licensee or license applicant.
- Creates the Music Therapy Advisory Committee to provide expertise and assistance to the Medical Board in regulating the practice of music therapy.
- Authorizes the Medical Board to adopt rules to implement the bill's provisions.

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CONTENT AND OPERATION

Overview

Current law does not regulate the practice of music therapy or require music therapists to be licensed. To practice as a music therapist, the bill requires an individual to be licensed by the State Medical Board.

Unlicensed practice prohibited

Beginning one year after the bill's effective date, a person is prohibited from providing music therapy services without a valid license issued by the State Medical Board. The bill also prohibits a person from using the title "music therapist" or a similar title.¹

The bill defines "music therapy" as the clinical use of music interventions to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan developed for a client. "Music therapy services" are those provided by licensed music therapists as authorized under the bill to achieve the goals of music therapy.²

¹ R.C. 4780.02(A); Section 3.

² R.C. 4780.01(C) and (D).

Penalty

A person who violates the bill's prohibition against unlicensed practice or use of title is guilty of a fourth degree misdemeanor for the first offense and a third degree misdemeanor for each subsequent offense.³

Exemptions

The bill exempts the following persons from the requirement to obtain a license to practice music therapy, as long as the person does not represent the person's self as a music therapist:

(1) Persons performing services in an accredited music therapy program – persons who perform services or participate in activities as an integral part of a program of study in an accredited music therapy program.

(2) Persons performing services incidental to their profession – persons holding a professional license in Ohio, or their supervised employees, who use music in performing services that are incidental to the practice of the person's profession.

(3) Persons with training and national certification – persons whose training and national certification attests to the person's preparation and ability to practice the person's certified profession or occupation.

(4) Supervised persons – persons who practice music therapy under the supervision of a licensed music therapist.⁴

Scope of practice

Required action

The bill requires a licensed music therapist to collaborate with a client's physician, psychologist, primary care provider, or mental health professional, as applicable, to review the client's diagnosis, treatment needs, and treatment plan prior to providing music therapy services for a medical, developmental, or mental health condition. The music therapist must also collaborate with the client's treatment team while providing music therapy services.⁵

³ R.C. 4780.99.

⁴ R.C. 4780.02(B).

⁵ R.C. 4780.09(A).



Permissible activities

The bill authorizes a licensed music therapist to do any of the following:

- (1) Accept referrals for music therapy services from physicians, psychologists, or other medical, developmental, or mental health professionals, education professionals, clients, or family members or caregivers of prospective clients;
- (2) Conduct a music therapy assessment of a client to collect systematic, comprehensive, and accurate information necessary to determine appropriate music therapy services;
- (3) Develop an individualized treatment plan for a client that identifies the goals, objectives, and potential strategies of appropriate music therapy services for the client using music interventions for the client, including music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music;
- (4) If applicable, carry out an individualized treatment plan consistent with other medical, developmental, mental health, or education services being provided to a client;
- (5) Evaluate a client's response to music therapy and the individualized treatment plan and suggest modifications;
- (6) Develop a plan to determine when music therapy services are no longer needed in collaboration with a client, the client's treatment providers, family members, and other persons as needed;
- (7) Minimize any barriers for the client to receive music therapy services in the least restrictive environment;
- (8) Collaborate with and educate the client, the client's family or caregiver, or any other appropriate person about the client's needs being addressed through music therapy and the manner in which music therapy addresses those needs.⁶

Licensure

License requirements

To be eligible for a license to practice as a music therapist, the bill requires a person to provide proof of all of the following to the Medical Board:

⁶ R.C. 4780.09(B).

(1) **Age** – proof the applicant is at least 18 years old.

(2) **Education** – proof the applicant has earned a bachelor's degree or higher in music therapy approved by the American Music Therapy Association or its successor.

(3) **Board certification** – proof the applicant has either passed the board certification examination by the Certification Board for Music Therapists, or obtained certification as a music therapist by the Certification Board on January 1, 1985, and is currently board certified as a music therapist by the Certification Board

For one year beginning on the bill's effective date, the Medical Board will waive the examination requirement for licensure if the person demonstrates the person is either a board certified music therapist or is designated as a registered music therapist, certified music therapist, or advanced certified music therapist and in good standing with the National Music Therapy Registry.

The bill defines "board certified music therapist" as a person 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 obtained certification by the Certification Board on January 1, 1985, and remains actively certified by the Certification Board.⁷

(4) **Clinical training** – proof the applicant has completed at least 1,200 hours of clinical training, including at least 180 hours in preinternship experience and at least 900 hours in internship experience approved by an academic institution, the American Music Therapy Association or its successor, or both.⁸

License application and issuance

A person seeking a license to practice as a music therapist must file with the Medical Board a completed application on a form by the Board, pay an application fee of \$150 or a higher amount established by the Board, and submit to a criminal records check.⁹

If the Medical Board determines that an applicant meets the requirements for a license, the Board must issue a license to practice as a music therapist within 60 days

⁷ Section 5.

⁸ R.C. 4780.05(A).

⁹ R.C. 4780.05(A), with conforming changes in R.C. 109.572 and 4776.01.

after receiving the required information from an applicant.¹⁰ A license is valid for three years from the date of issuance and may be renewed.¹¹

After January 1, 2016, the Board may require an application fee in excess of \$150 with approval of the Controlling Board, so long as the increase does not exceed 50% of the fee and the amount necessary for the Board to carry out the bill's requirements.¹²

Reciprocity

A person who is licensed to practice as a music therapist in another jurisdiction may apply to the Medical Board to be licensed as a music therapist in Ohio. To be eligible for licensure, the person must meet the bill's requirements for an initial license and submit proof that the person's license from the other jurisdiction is in good standing.

The Medical Board must review the person's licensure history, including reviewing any misconduct or neglect in the person's practice of music therapy in that jurisdiction. The Board must issue a license to the person if the Board determines that (1) the person meet the bill's requirements for an initial license, (2) the person's license from the other jurisdiction is in good standing, and (3) the requirements for obtaining the license in the other jurisdiction are equal to or greater than those under the bill.¹³

License renewal

A person seeking to renew a music therapist license must apply for license renewal before the license expires. The Medical Board must send renewal notices at least one month prior to the license expiration date. A licensee must notify the Board in writing of any change in address.

To renew, a licensee must submit a completed renewal application and a renewal fee of \$150 or other amount prescribed by the Board. After January 1, 2016, the Board may require a fee in excess of that amount with approval of the Controlling Board, so long as the increase does not exceed 50% of the fee and the amount necessary for the licensing authority to carry out the bill's requirements.

To be eligible for renewal, a licensee must submit proof of both of the following:

¹⁰ R.C. 4780.05(C).

¹¹ R.C. 4780.07.

¹² R.C. 4780.05(D).

¹³ R.C. 4780.06.

(1) Proof that the licensee has continuously maintained the licensee's certification for the previous three years by the Certification Board for Music Therapists or its successor organization and is currently board certified as a music therapist by the Certification Board;

(2) Proof that the licensee has completed at least 60 hours of continuing education approved by the Certification Board or its successor, and any other continuing education established by the Medical Board.¹⁴

License forfeiture and inactive status

A music therapy license that is not renewed on or before its expiration date is delinquent and must be forfeited to the Medical Board. The Board must notify the licensee of the delinquency by certified mail within 30 days after the license becomes delinquent. The notice must inform the licensee that the licensee's license is forfeited and explain procedures for restoring the forfeited license.

A licensee can restore a forfeited license within one year of the delinquency by meeting the bill's license renewal requirements. The Medical Board is required to terminate a forfeited license that is not restored within one year after it becomes delinquent. The Board may require a person whose license has been terminated to apply for a new license.

On written request of a licensee, the bill permits a license to be placed on inactive status for up to two years if the licensee pays an inactive fee established by the Medical Board. The license may be reactivated at any time during the two-year period if the licensee makes a request in writing and fulfills any requirements established by the Board.¹⁵

Discipline

Complaints

If a member of the Medical Board or Music Therapy Advisory Committee (see "**Music Therapy Advisory Committee**," below) becomes aware of grounds for initiating disciplinary action against a licensee, the bill requires the member to file a written complaint with the Board. As soon as practicable after receiving a complaint,

¹⁴ R.C. 4780.07.

¹⁵ R.C. 4780.08.

the Board must conduct an investigation to determine whether the complaint's allegations warrant initiating disciplinary proceedings against the licensee.¹⁶

Disciplinary actions

The bill authorizes the Medical Board to take any of the following, or a combination of the following professional disciplinary actions, alone or in combination, against a licensed music therapist or an applicant for a license:

- (1) Place a license on probation;
- (2) Administer to an applicant or licensee a public reprimand;
- (3) Refuse to issue or renew a license;
- (4) Suspend or revoke a license;
- (5) Impose an administrative fine between \$100 and \$1,000 for each violation.¹⁷

Grounds for discipline

If, after an investigation conducted by the Medical Board and after notice and hearing, the Board finds grounds to take disciplinary action against a licensee or applicant, the bill authorizes the Board to take disciplinary action for any of the following reasons:

- (1) Submitting false, fraudulent, or misleading information to the Medical Board, a state agency, another state, or the federal government;
- (2) Violating any of the bill's provisions or any rules adopted under the bill;
- (3) Being convicted of or pleading guilty to a disqualifying offense (which is an offense that is a felony having a direct nexus to the individual's field of licensure, certification, or employment) or a crime of moral turpitude, including aggravated murder, murder, and certain sexually oriented and violent offenses;
- (4) Having an impaired ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair the ability to practice;
- (5) Using fraud or deception in applying for a license;

¹⁶ R.C. 4780.10.

¹⁷ R.C. 4780.11(A).



(6) Failing to pay fees when due;

(7) Failing to timely provide requested information;

(8) Failing to practice music therapy with reasonable skill and consistent with the welfare of clients and patients, including negligence in the practice of music therapy, incapacity, and abuse of or engaging in sexual contact with a client;

(9) Being subject to disciplinary action by another jurisdiction regarding a license to practice music therapy issued by that jurisdiction.¹⁸

Injunction

The bill authorizes the Medical Board to sue to enjoin persons from violating or continuing to violate the bill's provisions or any rules adopted under it. An injunction may be issued without proof of actual damage to a person, and does not prohibit criminal prosecution and punishment of the violator.¹⁹

Child support orders

On receipt of a notice that a licensed music therapist is in default under a child support order under the procedures established under existing law, the bill requires the Medical Board to comply with the requirements of that law or rules adopted pursuant to it with respect to a license issued under the bill.²⁰

Human trafficking

On receipt of a notice that a licensed music therapist has been convicted of, pleaded guilty to, or a judicial finding of guilt of or judicial finding of guilt resulting from a plea of no contest was made to the offense of trafficking in persons, the bill requires the Medical Board to immediately suspend the music therapist's license in accordance with continuing law requirements.²¹

Orders of the licensing authority and public records

The bill permits the Medical Board to issue orders imposing discipline and may include terms, provisions, or conditions that the Board considers appropriate. The order

¹⁸ R.C. 4780.11(C), by reference to R.C. 4776.10, not in the bill.

¹⁹ R.C. 4780.14.

²⁰ R.C. 4780.12.

²¹ R.C. 4780.13 and 4776.20.

and any findings of fact and conclusions of law supporting the order are public records. The Board may not issue a private reprimand.²²

Complaints filed with the Board and all accompanying documents and information are confidential and not subject to Ohio Public Records Law, unless the person being investigated requests that the documents and information be made public records. The charging documents filed with the Board to initiate disciplinary action and information considered by the Board in determining whether to impose discipline, and the order imposing discipline, are public records.

The bill does not prohibit the Board from communicating or cooperating with, or providing any documents or information to, any other licensing board or any agency investigating a person, including law enforcement.²³

Regulatory procedures

The bill establishes additional procedures for the regulation of music therapists that are the same as procedures that apply to the other health care professionals the Medical Board regulates. The issues addressed include the following:

--Notifications provided to the Board by physicians authorized to practice medicine or surgery or professional associations or societies of those physicians regarding actions taken against a music therapist;²⁴

--Requirements relating to music therapists suffering impairment from the use of drugs or alcohol;²⁵

--A register of license applicants, and music therapy licenses issued, suspended, or revoked;²⁶

--Deposit of fees, penalties, and other funds in the state treasury to the credit of the preexisting State Medical Board Operating Fund.²⁷

²² R.C. 4780.11(B).

²³ R.C. 4780.15.

²⁴ R.C. 4721.224.

²⁵ R.C. 4731.25.

²⁶ R.C. 4731.07(B).

²⁷ R.C. 4731.24.



Music Therapy Advisory Committee

The bill creates the Music Therapy Advisory Committee to provide expertise and assistance to the Medical Board. The Committee must meet at least yearly or as called by the Board. The Committee consists of the following members:

- (1) Three persons who, one year after the bill's effective date, are licensed to practice as music therapists;
- (2) One person who is a licensed health care professional that is not a licensed music therapist;
- (3) One person who is a consumer.

The members must be appointed to the Committee within 90 days after the bill's effective date. Initially, two of the members will serve one year terms; the remaining three members will serve terms of two, three, and four years, respectively. Thereafter, terms of office are four years and end on the same day of the same month as the previous term.

Members hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. The bill includes the standard vacancy provisions. The Committee is not subject to existing law that sets expiration dates and renewal procedures for certain agencies, including committees.²⁸

Members are not compensated for service on the Committee and are not reimbursed for expenses. The Committee must be consulted prior to changing any fee established by the bill.

The Board must seek the advice of the Committee for issues related to music therapy. At least once a year, the Committee is required to provide the Board with an analysis of disciplinary actions taken, appeals and denials, and revocation of music therapy licenses. The Committee also may help develop materials to educate the public about music therapy and licensure. It may facilitate the exchange of information across Ohio between music therapists, the American Music Therapy Association or its successor, the Certification Board, and the Medical Board.²⁹

²⁸ R.C. 4780.04(A) and (F), by reference to R.C. 101.82 to 101.87, not in the bill; Section 4.

²⁹ R.C. 4780.04.



Rule-making

The bill authorizes the Medical Board to adopt rules it considers necessary to carry out the bill's provisions. The rules may include requirements for continuing education in addition to those specified in the bill. The Board is responsible for enforcing the provisions of and any rules adopted pursuant to the bill.³⁰

Register of licenses

The bill requires the Medical Board to provide a copy of the bill's required register of licenses, and licenses issued, suspended or revoked to any requestor, on request and payment of a fee established by the Board. The fee may not exceed the actual cost incurred to make the copy.³¹

HISTORY

ACTION	DATE
Introduced	05-05-15

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³⁰ R.C. 4780.03.

³¹ R.C. 4780.03.

