

ESSB 5485 - H COMM AMD

By Committee on Health Care & Wellness

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to:

4 (1) Recognize that music therapy affects public health, safety,
5 and welfare and that the practice of music therapy should be subject
6 to regulation;

7 (2) Assure the highest degree of professional conduct on the part
8 of music therapists;

9 (3) Guarantee the availability of music therapy services provided
10 by a qualified professional to persons in need of those services; and

11 (4) Protect the public from the practice of music therapy by
12 unqualified individuals.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires
15 otherwise.

16 (1) "Advisory committee" means the music therapy advisory
17 committee.

18 (2) "Department" means the department of health.

19 (3) "Music therapist" means a person certified to practice music
20 therapy pursuant to this chapter.

21 (4) "Music therapy" means the clinical and evidence-based use of
22 music interventions to accomplish individualized goals for people of
23 all ages and ability levels within a therapeutic relationship by a
24 music therapist. Music therapists develop music therapy treatment
25 plans specific to the needs and strengths of the client who may be
26 seen individually or in groups. Music therapy treatment plans are
27 individualized for each client. The goals, objectives, and potential
28 strategies of the music therapy services are appropriate for the
29 client and setting. The music therapy interventions may include music
30 improvisation, receptive music listening, song writing, lyric

1 discussion, music and imagery, singing, music performance, learning
2 through music, music combined with other arts, music-assisted
3 relaxation, music-based patient education, electronic music
4 technology, adapted music intervention and movement to music. The
5 practice of music therapy does not include the screening, diagnosis
6 or assessment of any physical, mental, or communication disorder.
7 Music therapy may include:

8 (a) Accepting referrals for music therapy services from medical,
9 developmental, mental health, or education professionals, family
10 members, clients, caregivers, or others involved and authorized with
11 provision of client services. Before providing music therapy services
12 to a client for an identified clinical or developmental need, the
13 music therapist must review with the health care provider or
14 providers involved in the client's diagnosis, treatment needs, and
15 treatment plan. Before providing music therapy services to a student
16 for an identified educational need, the licensee must review the
17 student's diagnosis, treatment needs, and treatment plan with the
18 individual family service plan team or individualized education
19 program team. During the provision of music therapy services to a
20 client, the music therapist collaborates with the client's treatment
21 team, including a physician, psychologist, licensed clinical social
22 worker, or other mental health professional. During the provision of
23 music therapy services to a client with a communication disorder, the
24 licensee must collaborate and review the music therapy treatment plan
25 with the client's audiologist or speech-language pathologist;

26 (b) Conducting a music therapy assessment of a client to
27 determine if treatment is indicated. If treatment is indicated, the
28 music therapist collects systematic, comprehensive, and accurate
29 information to determine the appropriateness and type of music
30 therapy services to provide for the client;

31 (c) Developing an individualized music therapy treatment plan for
32 the client that is based upon the results of the music therapy
33 assessment. The music therapy treatment plan includes individualized
34 goals and objectives that focus on the assessed needs and strengths
35 of the client and specifies music therapy approaches and
36 interventions to be used to address these goals and objectives;

37 (d) Implementing an individualized music therapy treatment plan
38 that is consistent with any other developmental, rehabilitative,
39 habilitative, medical, mental health, preventive, wellness care, or
40 educational services being provided to the client;

1 (e) Evaluating the client's response to music therapy and the
2 music therapy treatment plan, documenting change and progress and
3 suggesting modifications, as appropriate;

4 (f) Developing a plan for determining when the provision of music
5 therapy services is no longer needed in collaboration with the
6 client, physician, or other provider of health care or education of
7 the client, family members of the client, or any other appropriate
8 person upon whom the client relies for support;

9 (g) Minimizing any barriers to ensure that the client receives
10 music therapy services in the least restrictive environment;

11 (h) Collaborating with and educating the client and the family,
12 caregiver of the client, or any other appropriate person regarding
13 the needs of the client that are being addressed in music therapy and
14 the manner in which the music therapy treatment addresses those
15 needs; and

16 (i) Using appropriate knowledge and skills, such as research,
17 reasoning, and problem solving to determine appropriate actions in
18 the context of each specific clinical setting.

19 (5) "Secretary" means the secretary of health or his or her
20 designee.

21 NEW SECTION. **Sec. 3.** (1) A music therapy advisory committee is
22 created within the department. The committee consists of five members
23 as follows: Three who practice as music therapists in Washington
24 state, one member who is a licensed health care provider but not a
25 music therapist, and one member who is or has been in a therapeutic
26 relationship with a music therapist.

27 (2) The secretary shall appoint all members of the advisory
28 committee. All members must be familiar with the practice of music
29 therapy and able to provide the secretary with expertise and
30 assistance in carrying out his or her duties pursuant to this
31 chapter.

32 (3) Members terms are for four years.

33 (4) Members serve without compensation.

34 (5) Members may serve consecutive terms at the will of the
35 secretary. The director must fill vacancies in the same manner as the
36 regular appointments.

37 NEW SECTION. **Sec. 4.** (1) The advisory committee shall meet at
38 least once per year or as otherwise called by the secretary.

1 (2) The secretary shall consult with the advisory committee prior
2 to setting or changing fees under this chapter.

3 (3) The advisory committee may facilitate the development of
4 materials that the secretary may use to educate the public concerning
5 music therapist licensure, the benefits of music therapy, and use of
6 music therapy by individuals and in facilities or institutional
7 settings.

8 (4) The advisory committee may act as a facilitator of state-wide
9 dissemination of information between music therapists, the American
10 music therapy association or any successor organization, the
11 certification board for music therapists or any successor
12 organization, and the secretary.

13 (5) The advisory committee shall provide analysis of disciplinary
14 actions taken, appeals and denials, or revocation of certificates at
15 least once per year.

16 (6) The secretary shall seek the advice of the advisory committee
17 for issues related to music therapy.

18 NEW SECTION. **Sec. 5.** Beginning January 1, 2021, a person
19 without a certificate as a music therapist may not use the title
20 "music therapist" or similar title or practice music therapy. Nothing
21 in this chapter may be construed to prohibit or restrict the
22 practice, services, or activities of the following, if that person
23 does not represent himself or herself as a music therapist:

24 (1) Any person licensed, certified, or regulated under the laws
25 of Washington state in another profession or occupation or personnel
26 supervised by a licensed professional in this state performing work,
27 including the use of music, incidental to the practice of his or her
28 licensed, certified, or regulated profession or occupation;

29 (2) Any person whose training and national certification attests
30 to the individual's preparation and ability to practice his or her
31 certified profession or occupation;

32 (3) Any practice of music therapy as an integral part of a
33 program of study for students enrolled in an accredited music therapy
34 program; or

35 (4) Any person who practices music therapy under the supervision
36 of a certified music therapist.

37 NEW SECTION. **Sec. 6.** Beginning January 1, 2021, the secretary
38 shall issue a certificate to an applicant upon his or her

1 satisfaction that the applicant has satisfied the requirements of
2 this section and paid the required certification fee. The applicant
3 must provide satisfactory evidence to the secretary that:

4 (1) (a) The applicant is at least eighteen years of age;

5 (b) The applicant holds a bachelor's degree or higher in music
6 therapy, or its equivalent, from a program approved by the secretary
7 based upon nationally recognized standards;

8 (c) The applicant completed a minimum of one thousand two hundred
9 hours of clinical training, with at least one hundred eighty hours in
10 preinternship experiences and at least nine hundred hours in
11 internship experiences, provided that the internship is approved by
12 an academic institution that has a program approved under (b) of this
13 subsection, the secretary using nationally recognized standards, or
14 both;

15 (d) If the applicant is credentialed as a music therapist in
16 another state or jurisdiction, the applicant is in good standing
17 based on a review of the applicant's music therapy licensure history
18 in other jurisdictions, including a review of any alleged misconduct
19 or neglect in the practice of music therapy on the part of the
20 applicant; and

21 (e) The applicant passed an examination approved by the
22 secretary. The secretary may approve an examination prepared or
23 administered by a private testing agency or association of licensing
24 agencies for use by the applicant in meeting the certification
25 requirements; or

26 (2) The applicant is credentialed and in good standing as a music
27 therapist in another jurisdiction where the qualifications required
28 are equal to or greater than those required in this chapter at the
29 date of application.

30 NEW SECTION. **Sec. 7.** (1) Every certificate issued under this
31 chapter must be renewed biennially. To renew a certificate, an
32 applicant must pay a renewal fee and not be in violation of any
33 requirements of this chapter. Each music therapist is responsible for
34 timely renewal of his or her certificate.

35 (2) A music therapist must inform the secretary of any changes to
36 his or her address.

37 (3) Failure to renew a certificate results in forfeiture of the
38 certificate. Certificates that have been forfeited may be restored
39 within one year of the expiration date upon payment of renewal and

1 restoration fees. Failure to restore a forfeited certificate within
2 one year of the date of its expiration results in the automatic
3 termination of the certificate, and the secretary may require the
4 individual to reapply for certification as a new applicant.

5 (4) Upon written request of a music therapist, the secretary may
6 make a certificate inactive subject to an inactive status fee
7 established by the secretary. The music therapist, upon request and
8 payment of the inactive certificate fee, may continue on inactive
9 status for a period up to two years. An inactive certificate may be
10 reactivated by making a written request to the secretary and by
11 fulfilling requirements established by the secretary.

12 NEW SECTION. **Sec. 8.** (1) The secretary shall establish and
13 adopt rules governing the administration of this chapter in
14 accordance with chapter 34.05 RCW. The rules must include procedures
15 for expediting the issuance of a certificate to military personnel.

16 (2) The uniform disciplinary act, chapter 18.130 RCW, governs
17 uncertified practice, the issuance and denial of a certificate, and
18 the discipline of persons certified under this chapter. The secretary
19 is the disciplining authority under this chapter.

20 NEW SECTION. **Sec. 9.** This chapter does not require a health
21 carrier, as defined in RCW 48.43.005, to contract with a person
22 certified as a music therapist under this chapter.

23 **Sec. 10.** RCW 18.130.040 and 2017 c 336 s 18 are each amended to
24 read as follows:

25 (1) This chapter applies only to the secretary and the boards and
26 commissions having jurisdiction in relation to the professions
27 licensed under the chapters specified in this section. This chapter
28 does not apply to any business or profession not licensed under the
29 chapters specified in this section.

30 (2) (a) The secretary has authority under this chapter in relation
31 to the following professions:

32 (i) Dispensing opticians licensed and designated apprentices
33 under chapter 18.34 RCW;

34 (ii) Midwives licensed under chapter 18.50 RCW;

35 (iii) Ocularists licensed under chapter 18.55 RCW;

36 (iv) Massage therapists and businesses licensed under chapter
37 18.108 RCW;

- 1 (v) Dental hygienists licensed under chapter 18.29 RCW;
- 2 (vi) East Asian medicine practitioners licensed under chapter
3 18.06 RCW;
- 4 (vii) Radiologic technologists certified and X-ray technicians
5 registered under chapter 18.84 RCW;
- 6 (viii) Respiratory care practitioners licensed under chapter
7 18.89 RCW;
- 8 (ix) Hypnotherapists and agency affiliated counselors registered
9 and advisors and counselors certified under chapter 18.19 RCW;
- 10 (x) Persons licensed as mental health counselors, mental health
11 counselor associates, marriage and family therapists, marriage and
12 family therapist associates, social workers, social work associates—
13 advanced, and social work associates—independent clinical under
14 chapter 18.225 RCW;
- 15 (xi) Persons registered as nursing pool operators under chapter
16 18.52C RCW;
- 17 (xii) Nursing assistants registered or certified or medication
18 assistants endorsed under chapter 18.88A RCW;
- 19 (xiii) Dietitians and nutritionists certified under chapter
20 18.138 RCW;
- 21 (xiv) Chemical dependency professionals and chemical dependency
22 professional trainees certified under chapter 18.205 RCW;
- 23 (xv) Sex offender treatment providers and certified affiliate sex
24 offender treatment providers certified under chapter 18.155 RCW;
- 25 (xvi) Persons licensed and certified under chapter 18.73 RCW or
26 RCW 18.71.205;
- 27 (xvii) Orthotists and prosthetists licensed under chapter 18.200
28 RCW;
- 29 (xviii) Surgical technologists registered under chapter 18.215
30 RCW;
- 31 (xix) Recreational therapists under chapter 18.230 RCW;
- 32 (xx) Animal massage therapists certified under chapter 18.240
33 RCW;
- 34 (xxi) Athletic trainers licensed under chapter 18.250 RCW;
- 35 (xxii) Home care aides certified under chapter 18.88B RCW;
- 36 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;
- 37 (xxiv) Reflexologists certified under chapter 18.108 RCW;
- 38 (xxv) Medical assistants-certified, medical assistants-
39 hemodialysis technician, medical assistants-phlebotomist, forensic

1 phlebotomist, and medical assistants-registered certified and
2 registered under chapter 18.360 RCW; (~~and~~)
3 (xxvi) Behavior analysts, assistant behavior analysts, and
4 behavior technicians under chapter 18.380 RCW; and
5 (xxvii) Music therapists certified under chapter 18.--- RCW (the
6 new chapter created in section 12 of this act).

7 (b) The boards and commissions having authority under this
8 chapter are as follows:

9 (i) The podiatric medical board as established in chapter 18.22
10 RCW;

11 (ii) The chiropractic quality assurance commission as established
12 in chapter 18.25 RCW;

13 (iii) The dental quality assurance commission as established in
14 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
15 licenses and registrations issued under chapter 18.260 RCW, and
16 certifications issued under chapter 18.350 RCW;

17 (iv) The board of hearing and speech as established in chapter
18 18.35 RCW;

19 (v) The board of examiners for nursing home administrators as
20 established in chapter 18.52 RCW;

21 (vi) The optometry board as established in chapter 18.54 RCW
22 governing licenses issued under chapter 18.53 RCW;

23 (vii) The board of osteopathic medicine and surgery as
24 established in chapter 18.57 RCW governing licenses issued under
25 chapters 18.57 and 18.57A RCW;

26 (viii) The pharmacy quality assurance commission as established
27 in chapter 18.64 RCW governing licenses issued under chapters 18.64
28 and 18.64A RCW;

29 (ix) The medical quality assurance commission as established in
30 chapter 18.71 RCW governing licenses and registrations issued under
31 chapters 18.71 and 18.71A RCW;

32 (x) The board of physical therapy as established in chapter 18.74
33 RCW;

34 (xi) The board of occupational therapy practice as established in
35 chapter 18.59 RCW;

36 (xii) The nursing care quality assurance commission as
37 established in chapter 18.79 RCW governing licenses and registrations
38 issued under that chapter;

39 (xiii) The examining board of psychology and its disciplinary
40 committee as established in chapter 18.83 RCW;

1 (xiv) The veterinary board of governors as established in chapter
2 18.92 RCW;

3 (xv) The board of naturopathy established in chapter 18.36A RCW;
4 and

5 (xvi) The board of denturists established in chapter 18.30 RCW.

6 (3) In addition to the authority to discipline license holders,
7 the disciplining authority has the authority to grant or deny
8 licenses. The disciplining authority may also grant a license subject
9 to conditions.

10 (4) All disciplining authorities shall adopt procedures to ensure
11 substantially consistent application of this chapter, the uniform
12 disciplinary act, among the disciplining authorities listed in
13 subsection (2) of this section.

14 **Sec. 11.** RCW 18.120.020 and 2017 c 336 s 19 are each amended to
15 read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Applicant group" includes any health professional group or
19 organization, any individual, or any other interested party which
20 proposes that any health professional group not presently regulated
21 be regulated or which proposes to substantially increase the scope of
22 practice of the profession.

23 (2) "Certificate" and "certification" mean a voluntary process by
24 which a statutory regulatory entity grants recognition to an
25 individual who (a) has met certain prerequisite qualifications
26 specified by that regulatory entity, and (b) may assume or use
27 "certified" in the title or designation to perform prescribed health
28 professional tasks.

29 (3) "Grandfather clause" means a provision in a regulatory
30 statute applicable to practitioners actively engaged in the regulated
31 health profession prior to the effective date of the regulatory
32 statute which exempts the practitioners from meeting the prerequisite
33 qualifications set forth in the regulatory statute to perform
34 prescribed occupational tasks.

35 (4) "Health professions" means and includes the following health
36 and health-related licensed or regulated professions and occupations:
37 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
38 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
39 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;

1 dental anesthesia assistants under chapter 18.350 RCW; dispensing
2 opticians under chapter 18.34 RCW; hearing instruments under chapter
3 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
4 funeral directing under chapter 18.39 RCW; midwifery under chapter
5 18.50 RCW; nursing home administration under chapter 18.52 RCW;
6 optometry under chapters 18.53 and 18.54 RCW; ocularists under
7 chapter 18.55 RCW; osteopathic medicine and surgery under chapters
8 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW;
9 medicine under chapters 18.71 and 18.71A RCW; emergency medicine
10 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
11 practical nurses under chapter 18.79 RCW; psychologists under chapter
12 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
13 therapists licensed under chapter 18.59 RCW; respiratory care
14 practitioners licensed under chapter 18.89 RCW; veterinarians and
15 veterinary technicians under chapter 18.92 RCW; massage therapists
16 under chapter 18.108 RCW; East Asian medicine practitioners licensed
17 under chapter 18.06 RCW; persons registered under chapter 18.19 RCW;
18 persons licensed as mental health counselors, marriage and family
19 therapists, and social workers under chapter 18.225 RCW; dietitians
20 and nutritionists certified by chapter 18.138 RCW; radiologic
21 technicians under chapter 18.84 RCW; nursing assistants registered or
22 certified under chapter 18.88A RCW; reflexologists certified under
23 chapter 18.108 RCW; medical assistants-certified, medical assistants-
24 hemodialysis technician, medical assistants-phlebotomist, forensic
25 phlebotomist, and medical assistants-registered certified and
26 registered under chapter 18.360 RCW; and licensed behavior analysts,
27 licensed assistant behavior analysts, (~~and~~) certified behavior
28 technicians under chapter 18.380 RCW; and music therapists certified
29 under chapter 18.--- RCW (the new chapter created in section 12 of
30 this act).

31 (5) "Inspection" means the periodic examination of practitioners
32 by a state agency in order to ascertain whether the practitioners'
33 occupation is being carried out in a fashion consistent with the
34 public health, safety, and welfare.

35 (6) "Legislative committees of reference" means the standing
36 legislative committees designated by the respective rules committees
37 of the senate and house of representatives to consider proposed
38 legislation to regulate health professions not previously regulated.

39 (7) "License," "licensing," and "licensure" mean permission to
40 engage in a health profession which would otherwise be unlawful in

1 the state in the absence of the permission. A license is granted to
2 those individuals who meet prerequisite qualifications to perform
3 prescribed health professional tasks and for the use of a particular
4 title.

5 (8) "Practitioner" means an individual who (a) has achieved
6 knowledge and skill by practice, and (b) is actively engaged in a
7 specified health profession.

8 (9) "Professional license" means an individual, nontransferable
9 authorization to carry on a health activity based on qualifications
10 which include: (a) Graduation from an accredited or approved program,
11 and (b) acceptable performance on a qualifying examination or series
12 of examinations.

13 (10) "Public member" means an individual who is not, and never
14 was, a member of the health profession being regulated or the spouse
15 of a member, or an individual who does not have and never has had a
16 material financial interest in either the rendering of the health
17 professional service being regulated or an activity directly related
18 to the profession being regulated.

19 (11) "Registration" means the formal notification which, prior to
20 rendering services, a practitioner shall submit to a state agency
21 setting forth the name and address of the practitioner; the location,
22 nature and operation of the health activity to be practiced; and, if
23 required by the regulatory entity, a description of the service to be
24 provided.

25 (12) "Regulatory entity" means any board, commission, agency,
26 division, or other unit or subunit of state government which
27 regulates one or more professions, occupations, industries,
28 businesses, or other endeavors in this state.

29 (13) "State agency" includes every state office, department,
30 board, commission, regulatory entity, and agency of the state, and,
31 where provided by law, programs and activities involving less than
32 the full responsibility of a state agency.

33 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act
34 constitute a new chapter in Title 18 RCW."

35 Correct the title.

EFFECT: Changes music therapists from a licensed profession to a
certified profession. States that health carriers are not required to
contract with music therapists.

Removes the requirement that music therapists pass the examination of the Certification Board for Music Therapists and instead requires that they pass an examination approved by the Secretary of Health (Secretary). Allows the Secretary to approve an examination prepared or administered by a private testing agency or association of licensing agencies. Removes the requirement that music therapists show proof of certification with the Certification Board for Music Therapists.

Replaces the requirement that the American Music Therapy Association approve education programs and internships with the Secretary approving programs and internships based upon nationally recognized standards.

Specifies that the practice of music therapy does not include screening. Requires the music therapist to review the client's diagnosis and treatment plan with any health care provider involved in the client's care, not just a primary care provider. Requires a music therapist, before providing services to a student for an education need, to review the student's diagnosis, treatment needs, and treatment plans with the individual family service plan team or individualized education program plan. Requires music therapists to collaborate and review the music therapy treatment plan with the client's audiologist or speech-language pathologist.

--- END ---