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**SUBSTITUTE SENATE BILL 5485**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Darneille, Cleveland, and Conway)

AN ACT Relating to licensure of music therapists; amending RCW 18.130.040 and 18.120.020; and adding a new chapter to Title 18 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature intends to:

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

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

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

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

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

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

(2) "Board certified music therapist" means an individual who has completed the education and clinical training requirements established by the American music therapy association, and who holds current board certification from the certification board for music therapists.

(3) "Department" means the department of health.

(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 for people of all ages and ability levels within a therapeutic relationship by a board certified music therapist. Music therapists develop music therapy treatment plans specific to the needs and strengths of the client who may be seen individually or in groups. Music therapy treatment plans are individualized for each client. The goals, objectives, and potential strategies of the music therapy services are appropriate for the client and setting. The music therapy interventions may include music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, singing, music performance, learning through music, music combined with other arts, music-assisted relaxation, music-based patient education, electronic music technology, adapted music intervention and movement to music. The practice of music therapy does not include the diagnosis or assessment of any physical, mental, or communication disorder. Music therapy may include:

(a) Accepting referrals for music therapy services from medical, developmental, mental health, or education professionals, family members, clients, caregivers, or others involved and authorized with provision of client services. Before providing music therapy services to a client for an identified clinical or developmental need, the licensee collaborates, as applicable, with the primary care provider(s) to review the client's diagnosis, treatment needs, and treatment plan. During the provision of music therapy services to a client, the licensee collaborates, as applicable, with the client's treatment team;

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

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

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

(e) Evaluating the client's response to music therapy and the music therapy treatment plan, documenting change and progress 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, physician, or other provider of health care or education of the client, family members of the client, or any other appropriate person upon whom the client relies for support;

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

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

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

(6) "Secretary" means the secretary of health or his or her designee.

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

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

(3) Members terms are for four years.

(4) Members serve without compensation.

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

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

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

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

(4) The advisory committee may act as a facilitator of state-wide 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 secretary.

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

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

NEW SECTION. **Sec.**  Beginning January 1, 2021, a person without a license as a music therapist may not 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, if that person does not represent himself or herself as a music therapist:

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

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

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

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

NEW SECTION. **Sec.**  Beginning January 1, 2021, the secretary shall issue a license to an applicant upon his or her satisfaction that the applicant has satisfied the requirements of this section and paid the required license fee. The applicant must provide satisfactory evidence to the secretary that:

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

(b) The applicant 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;

(c) The applicant completed a minimum of one thousand two 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 any successor organization, or both;

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

(e) The applicant passed 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; or

(2) 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.

NEW SECTION. **Sec.**  (1) Every license issued under this chapter must be renewed biennially. To renew a license, an applicant must: (a) Pay a renewal fee; (b) provide proof of the applicant's current status as a board certified music therapist; and (c) not be in violation of any requirements of this chapter. Each licensee is responsible for timely renewal of his or her license.

(2) A licensee must inform the secretary of any changes to his or her address.

(3) Failure to renew a license results in forfeiture of the license. Licenses that have 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 results in the automatic termination of the license, and the secretary may require the individual to reapply for licensure as a new applicant.

(4) Upon written request of a licensee, the secretary may make a license inactive subject to an inactive status fee established by the secretary. 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 secretary and by fulfilling requirements established by the secretary.

NEW SECTION. **Sec.**  (1) The secretary shall establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of a license, and the discipline of persons licensed under this chapter. The secretary is the disciplining authority under this chapter.

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

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage therapists certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

(xxii) Home care aides certified under chapter 18.88B RCW;

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((~~and~~))

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Music therapists certified under chapter 18.--- RCW (the new chapter created in section 11 of this act).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and licensed behavior analysts, licensed assistant behavior analysts, ((~~and~~)) certified behavior technicians under chapter 18.380 RCW; and music therapists certified under chapter 18.--- RCW (the new chapter created in section 11 of this act).

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

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

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

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

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

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

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

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

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

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 18 RCW.

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