

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 192
Committee Substitute Favorable 6/21/17

Short Title: Rec. and Music Therapy Licensure.

(Public)

Sponsors:

Referred to:

February 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR THE LICENSURE OF MUSIC THERAPISTS BY THE NORTH
3 CAROLINA RECREATIONAL AND MUSIC THERAPY LICENSURE BOARD.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 90C of the General Statutes reads as rewritten:

6 **"Chapter 90C.**

7 **"North Carolina Recreational and Music Therapy Licensure Act.**

8 **"§§ 90C-1 through 90C-19:** Repealed by Session Laws 2005-378, s. 1, effective October 5,
9 2005.

10 **"§ 90C-20. Short title.**

11 This Chapter shall be known as the "North Carolina Recreational and Music Therapy
12 Licensure Act".

13 **"§ 90C-21. Purpose.**

14 It is the purpose and intent of the Recreational and Music Therapy Licensure Act to
15 safeguard the health and safety of the public and to protect the public from harm by unqualified
16 persons by establishing a minimum level of education, experience, and competence to assure
17 the highest degree of professional care and conduct on the part of licensed recreational
18 ~~therapists and licensed recreational therapy assistants-therapists, licensed recreational therapy~~
19 ~~assistants, and licensed music therapists.~~

20 **"§ 90C-22. Definitions.**

21 In this Chapter, unless the context otherwise requires, the following definitions shall apply:

22 (1) Board. – The North Carolina ~~Board of Recreational Therapy~~
23 ~~Licensure~~ Recreational and Music Therapy Licensure Board.

24 (1a) Licensed music therapist. – A person licensed to practice music therapy
25 under this Chapter.

26 (2) Licensed recreational therapist. – A person who holds a license pursuant to
27 this Chapter as a recreational therapist. A person licensed as a "Recreational
28 Therapist" under this Chapter may practice in clinical, residential,
29 educational, and community settings and may:

30 a. Conduct an individualized patient or client assessment for the
31 purpose of collecting systematic, comprehensive, and accurate data
32 necessary to determine a course of action and subsequent
33 individualized treatment plan.

34 b. Plan and develop the individualized treatment plan that identifies a
35 patient or client's goals, objectives, and treatment intervention
36 strategies.



- 1 c. Implement the individualized treatment plan that is consistent with
2 the overall patient or client treatment program.
- 3 d. Systematically evaluate and compare the patient or client's response
4 to the individualized treatment plan and suggest modifications as
5 appropriate.
- 6 e. Develop a discharge plan in collaboration with the patient or client,
7 his or her family, and other treatment team members.
- 8 f. Serve as a resource for patient or client recreation opportunities to
9 promote or improve his or her general health and well-being.
- 10 g. Deliver services in accordance with the professional standards of
11 practice and codes of ethics promulgated by national or State
12 professional organizations.
- 13 h. Manage delivery of services in accordance with a written plan of
14 operation based upon standards advanced by appropriate
15 membership, regulatory, and credentialing agencies.
- 16 i. Provide professional and preprofessional education and training of
17 recreational therapists or recreational therapy assistants.
- 18 j. Conduct research in the field of recreational therapy or therapeutic
19 recreation.
- 20 (3) Licensed recreational therapy assistant. – A person who holds a license
21 pursuant to this Chapter as a recreational therapy assistant to act under the
22 supervision of a licensed recreational therapist as defined by rule. A person
23 licensed as a "Recreational Therapy Assistant" under this Chapter may assist
24 in the practice of recreational therapy in clinical, residential, and community
25 settings under the supervision of a licensed recreational therapist and in
26 accordance with a recreational therapy assistant's training, education, and
27 scope of practice, as defined by rule.
- 28 (3a) Music therapy. – The clinical and evidence-based use of music interventions
29 to accomplish individualized goals within a therapeutic relationship by a
30 credentialed professional who has completed an approved music therapy
31 program, including (i) assessment of a client's emotional, physical, and
32 spiritual health, social functioning, communication abilities, and cognitive
33 skills through the client's history and observations of and interactions with
34 the client in music and nonmusic settings; (ii) development and
35 implementation of treatment plans, based on a client's assessed needs, using
36 music interventions, including music improvisation, receptive music
37 listening, song writing, lyric discussion, music and imagery, music
38 performance, learning through music, and movement to music; and (iii)
39 evaluation and documentation of the client's response to treatment.
- 40 (4) Person. – Any individual, corporation, partnership, association, unit of
41 government, or other legal entity.
- 42 (5) Recreational therapy. – A treatment service designed to restore, remediate,
43 or rehabilitate a patient or client's level of functioning and independence in
44 life activities, as well as reduce or eliminate the activity limitations and
45 restrictions to participation in life situations caused by an illness or disabling
46 condition.
- 47 (6) Recreational therapy aide. – Any nonlicensed person who aids in the
48 provision of recreational therapy services under the provisions of this
49 Chapter, and who acts under the direction and on-site supervision of a
50 licensed recreational therapist or licensed recreational therapy assistant. A
51 recreational therapy aide may perform recreational therapy related duties and

1 functions which are assigned and are commensurate with an aide's training
2 and competency. An aide's work shall not include responding to a
3 physician's orders; designing, conducting, or interpreting individualized
4 recreational therapy patient assessment; determining or modifying
5 recreational therapy treatment plans or interventions; or any independent
6 practice or performance of recreational therapy services.

7 (7) Scope of recreational therapy. – The practice of recreational therapy includes
8 all direct patient or client services of assessment, planning, design,
9 implementation, evaluation, and documentation of specific interventions,
10 management, consultation, research, and education for either individuals or
11 groups that require specific therapeutic recreation or recreational therapy
12 intervention representing the process and knowledge base delineated in the
13 most recent National Council for Therapeutic Recreation Certification
14 (NCTRC) Job Analysis Study and professional standards of practice. Scope
15 is inclusive of professional and preprofessional education and training in
16 recreational therapy, therapeutic recreation, and related research.

17 (8) Therapeutic recreation. – The provision of treatment services and the
18 provision of recreation services to persons with illnesses or disabling
19 conditions. The primary purposes of treatment services, which are often
20 referred to as recreational therapy, are to restore, remediate, or rehabilitate in
21 order to improve functioning and independence as well as reduce or
22 eliminate the effects of illness or disability. The primary purposes of
23 recreation services are to provide recreation resources and opportunities in
24 order to improve health and well-being. Therapeutic recreation is provided
25 by professionals who are trained and certified, registered, or licensed to
26 provided therapeutic recreation.

27 **"§ 90C-23. North Carolina Recreational and Music Therapy Licensure Board is created.**

28 (a) The North Carolina Recreational and Music Therapy Licensure Board is created.

29 (b) Composition. – The Board shall consist of ~~eight~~ ten members appointed as follows:

30 (1) Three practicing recreational therapists, one of whom shall be appointed by
31 the Governor, one of whom shall be appointed by the General Assembly
32 upon the recommendation of the President Pro Tempore of the Senate, and
33 one of whom shall be appointed by the General Assembly upon the
34 recommendation of the Speaker of the House of Representatives.

35 (2) One licensed practicing recreational therapy assistant appointed by the
36 Governor.

37 (3) One licensed practicing recreational therapist who is engaged primarily in
38 providing education or training for recreational therapists or recreational
39 therapy assistants appointed by the Governor.

40 (4) One physician licensed pursuant to Article 1 of Chapter 90 of the General
41 Statutes appointed by the Governor.

42 (5) Two public members, one of whom shall be appointed by the General
43 Assembly upon the recommendation of the President Pro Tempore of the
44 Senate and one of whom shall be appointed by the General Assembly upon
45 the recommendation of the Speaker of the House of Representatives.

46 (6) Two practicing music therapists, one of whom shall be appointed by the
47 General Assembly upon the recommendation of the President Pro Tempore
48 of the Senate and one of whom shall be appointed by the General Assembly
49 upon the recommendation of the Speaker of the House of Representatives.
50 Notwithstanding the provisions of subsection (d) of this section, the initial
51 music therapist Board member appointed by the General Assembly upon the

1 recommendation of the Speaker of the House of Representatives shall serve
2 a term of two years. Each subsequent music therapist Board member
3 appointed by the General Assembly upon the recommendation of the
4 Speaker of the House of Representatives shall serve a term in accordance
5 with subsection (d) of this section.

6 The Governor shall make appointments after consultation with the North Carolina
7 Recreational and Music Therapy Licensure Board and other interested persons.

8 (c) Qualifications. – The nonpublic recreational therapist or recreational therapy
9 assistant members of the Board shall hold a current license. Each nonpublic recreational
10 therapist or recreational therapy assistant member of the Board, at the time of his or her
11 appointment and for at least two years before, shall have been actively engaged in North
12 Carolina in the practice of recreational therapy or therapeutic recreation, in the education and
13 training of graduate or undergraduate students of recreational therapy or therapeutic recreation,
14 or in recreational therapy or therapeutic recreation research.

15 Initial music therapist Board members do not have to be licensed upon appointment.
16 However, once licensure requirements are established, those initial Board members shall satisfy
17 the applicable requirements for licensure pursuant to this Chapter.

18 One public member shall not be a licensed health care professional or an agent or employee
19 of any health care institution, health care insurer, health care professional school, or a member
20 of any allied health profession. One public member shall have received recreational ~~therapy or~~
21 ~~therapeutic recreation services.~~ therapy, therapeutic recreation services, music therapy, or
22 music therapy services. For purposes of this subsection, a person enrolled in a program to
23 prepare him or her to be a licensed health care professional or an allied health professional shall
24 not be eligible to serve as a public member of the Board. The spouse of any person who would
25 be prohibited by this subsection from serving on the Board as a public member shall not serve
26 as a public member of the Board. Public members shall reasonably reflect the population of this
27 State.

28 (d) Term. – Members of the Board shall serve three-year staggered terms and shall
29 serve until a successor is appointed and qualified. No member shall serve more than two
30 consecutive full terms.

31 (e) Vacancies. – The Governor shall fill vacancies to the Board positions for which the
32 Governor is the appointing authority within 30 days after a position is vacated. The General
33 Assembly shall fill vacancies for which it is the appointing authority in accordance with
34 G.S. 120-122. Appointees shall serve the remainder of the unexpired term and until their
35 successors have been appointed and qualified.

36 (f) Removal. – The Board may remove any of its members for gross neglect of duty,
37 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall
38 be disqualified from Board business until the charges are resolved. The Governor may also
39 remove any member for gross neglect of duty, incompetence, or unprofessional conduct.

40 (g) Compensation. – Each member of the Board shall receive such per diem
41 compensation and reimbursement for travel and subsistence as shall be set for licensing Board
42 members generally, as provided in G.S. 93B-5.

43 (h) Officers. – The officers of the Board shall be a chairman, a vice-chairman, and other
44 officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers
45 shall be elected annually by the Board for one-year terms and shall serve until their successors
46 are elected and qualified.

47 (i) Meetings. – The Board shall hold at least two meetings each year to conduct
48 business and shall adopt rules governing the calling, holding, and conducting of regular and
49 special meetings. A majority of the Board members shall constitute a quorum.

50 (j) Employees. – The Board may employ necessary personnel for the performance of
51 its functions and fix their compensation within the limits of the funds available to the Board.

1 (k) The total expense of the administration of this Chapter shall not exceed the total
2 income from fees collected pursuant to this Chapter. None of the expenses of the Board, or the
3 compensation or expenses of any officer or any employee of the Board, shall be paid or payable
4 out of the General Fund. Neither the Board nor any of its officers or employees may incur any
5 expense, debt, or other financial obligation binding upon the State.

6 **"§ 90C-24. Powers of the Board.**

7 (a) The Board shall have the following general powers and duties:

- 8 (1) To administer this Chapter.
- 9 (2) To issue interpretations of this Chapter.
- 10 (3) To adopt, amend, or repeal rules and regulations in the manner prescribed by
11 Chapter 150B of the General Statutes, as may be necessary to carry out the
12 provisions of this Chapter.
- 13 (4) To establish qualifications of, employ, and set the compensation of the
14 Executive Director who shall not be a member of the Board.
- 15 (5) To employ and fix the compensation of the personnel that the Board
16 determines are necessary to carry out the provisions of this Chapter and to
17 incur other expenses necessary to effectuate this Chapter.
- 18 (6) To determine the qualifications of persons who are licensed pursuant to this
19 Chapter.
- 20 (7) To issue, renew, deny, suspend, or revoke licenses and carry out any of the
21 other actions authorized by this Chapter.
- 22 (8) To conduct investigations for the purpose of determining whether violations
23 of this Chapter are grounds for revoking, denying, suspending, or refusing to
24 renew the licenses of persons licensed pursuant to this Chapter.
- 25 (9) To maintain a record of all proceedings and make available to persons who
26 hold a license and other concerned parties an annual report of all Board
27 action.
- 28 (10) To set fees for licensure, license renewal, and other services deemed
29 necessary to carry out the purpose of this Chapter.
- 30 (11) To adopt a seal containing the name of the Board to be used on licenses and
31 official reports it issues.
- 32 (12) To issue annually a list stating the names of persons currently licensed under
33 the privilege of this Chapter.
- 34 (13) To establish or approve, as defined by rule, reasonable competency
35 requirements for licensure, including the power to adopt or use examination
36 materials, study or training courses, and standards of recognized accrediting
37 and credentialing agencies and professional associations and the power to
38 establish or approve, as defined by rule, reasonable standards for renewal of
39 licensure, including requirements for continuing recreational ~~therapy or~~
40 ~~therapeutic recreation education therapy, therapeutic recreation, or music~~
41 therapy education.

42 (b) The powers and duties enumerated above are granted for the purpose of enabling the
43 Board to protect the public from misrepresentation of licensure status as provided in this
44 Chapter and shall be liberally construed to accomplish this objective.

45 **"§ 90C-25. Executive Director.**

46 The Executive Director shall deposit all fees payable to the Board in financial institutions
47 designated by the Board as official depositories. The funds shall be deposited in the name of
48 the Board and shall be used to pay all expenses incurred by the Board in carrying out the
49 purposes of this Chapter. The State Auditor shall audit the Board annually.

50 **"§ 90C-26. The Board may accept contributions, etc.**

1 The Board may accept grants, contributions, devises, and gifts that shall be kept in a
2 separate fund and shall be used by it to publicize the licensure program and its protective
3 benefits to the public.

4 **"§ 90C-27. Requirements for licensure.**

5 (a) The Board shall license any person as a "Licensed Recreational Therapist" who
6 meets the following education, credential, and experience requirements:

- 7 (1) Passage of an appropriate examination as a therapeutic recreation specialist
8 or a recreational therapist by the North Carolina Recreational and Music
9 Therapy Licensure Board or current certification as a "Certified Therapeutic
10 Recreation Specialist" by the National Council for Therapeutic Recreation
11 Certification.
- 12 (2) A minimum level of education or experience, as defined by rules of the
13 Board, inclusive of practice competency standards or guidelines
14 promulgated by professional associations and credentialing and accrediting
15 organizations.
- 16 (3) For purposes of this subsection, an academic major or specialization shall be
17 defined by rules of the Board and shall be inclusive of information gathered
18 through surveys of educational institutions in the State having a bachelors or
19 masters degree with a specialization in recreational therapy or therapeutic
20 recreation.

21 (b) The Board shall license any person as a "Licensed Recreational Therapy Assistant"
22 who meets the following education and experience requirements:

- 23 (1) A minimum level of education or experience, as defined by rules of the
24 Board, inclusive of practice competency standards or guidelines
25 promulgated by professional associations and credentialing and accrediting
26 organizations as deemed appropriate by the Board.
- 27 (2) For purposes of this section, an academic major or specialization shall be
28 defined by rules of the Board and shall be inclusive of information gathered
29 through surveys of educational institutions in the State having associate
30 degree curricula in recreational therapy or therapeutic recreation.

31 (c) The Board shall license any person as a "Licensed Music Therapist" who meets the
32 following requirements:

- 33 (1) A minimum level of education, clinical training, and experience, as defined
34 by the rules of the Board, inclusive of practice competency standards or
35 guidelines promulgated by professional associations and credentialing and
36 accrediting organizations.
- 37 (2) Passage of an appropriate examination as a music therapist offered by the
38 North Carolina Recreational and Music Therapy Licensure Board or current
39 certification as a Music Therapist-Board Certified (MT-BC) from the
40 Certification Board for Music Therapists.

41 **"§ 90C-28. Licensure fees.**

42 Applications for licensure shall be made on forms prescribed and furnished by the Board.
43 The Board may establish fees for the actual cost of duplication services, materials, and returned
44 bank items. All fees derived from services provided by the Board under the provisions of this
45 Chapter shall be nonrefundable. The Board shall establish the amount of fees as defined by rule
46 not to exceed the following amounts:

- | | | |
|--------|---------------------------------------|-----------|
| 47 (1) | Initial application for licensure fee | \$200.00 |
| 48 (2) | Licensure renewal fee | \$200.00 |
| 49 (3) | Record maintenance fee | \$100.00 |
| 50 (4) | Inactive fee | \$ 50.00. |

51 **"§ 90C-29. License renewal.**

1 Every license issued pursuant to this Chapter shall be renewable every two years. Within 30
2 days before the expiration date, a person who desires to continue to be licensed in the field of
3 therapeutic ~~recreation or recreational therapy~~ recreation, recreational therapy, or music therapy
4 shall apply for license renewal on forms furnished by the Board. The applicant shall meet
5 criteria for renewal, including continuing education, established by the Board as defined by rule
6 and shall pay the required fee established by the Board pursuant to this Chapter. Failure to
7 renew the license before the expiration date shall result in automatic forfeiture of any license
8 issued pursuant to this Chapter.

9 The Executive Director shall notify, in writing, every person at his or her last known
10 address of the expiration of his or her license and the amount that is required for its two-year
11 renewal.

12 **"§ 90C-30. Reinstatement.**

13 A person who has allowed his or her license to lapse by failure to renew it pursuant to this
14 Chapter must apply for licensure on a reinstatement form provided by the Board. The Board
15 shall require the applicant to return the completed reinstatement licensure form including
16 renewal requirements established by the Board as defined by rule. If the license has lapsed for
17 more than two years, the Board shall require the applicant to successfully demonstrate
18 competency as defined by rules established by the Board. If the Board determines that the
19 license should be reinstated, it shall issue a license renewal to the applicant.

20 **"§ 90C-31. Inactive list.**

21 When a person licensed by the Board submits a request for inactive status and pays the
22 inactive fee, the Board shall issue to the person a statement of inactive status and shall place the
23 person's name on the "Inactive Status" list. While on that list, the person shall not hold himself
24 or herself out as licensed pursuant to this Chapter. When that person desires to be removed
25 from the inactive list and returned to an active list, an application shall be submitted to the
26 Board on a form furnished by the Board, and the fee shall be paid for license renewal. The
27 Board shall require evidence of competency as defined by rule to resume practice before
28 returning the applicant to the active status.

29 **"§ 90C-32. Revocation, suspension, or denial of licensure.**

30 The Board may require remedial education, issue of a letter of reprimand, restrict, revoke,
31 or suspend any license issued pursuant to this Chapter or deny any application for licensure if
32 the Board determines that the licensee or applicant has done any of the following:

- 33 (1) Given false information or withheld material information from the Board in
34 procuring or attempting to procure a license pursuant to this Chapter.
- 35 (2) Been convicted of, or pleaded guilty or nolo contendere to, any crime that
36 indicates that the person is unfit or incompetent to be licensed pursuant to
37 this Chapter.
- 38 (3) Is unable to perform the functions for which a license has been issued due to
39 impairment of mental or physical faculties.
- 40 (4) Engaged in conduct that endangers the public health.
- 41 (5) Is unfit or incompetent to be licensed pursuant to this Chapter by reason of
42 deliberate or negligent acts or omissions regardless of whether active injury
43 to the patient or client is established.
- 44 (6) Engages in conduct that deceives, defrauds, or harms the public in the course
45 of claiming licensed status or practicing recreational therapy.
- 46 (7) Willfully violated any provision of this Chapter, rules, or code of ethics
47 enacted by the Board.
- 48 (8) Aided, abetted, or assisted any person in violating the provisions of this
49 Chapter.
- 50 (9) Practices music therapy without a current license.

- 1 (10) Has a music therapy license revoked or suspended, or is subject to other
2 disciplinary action in this State or another jurisdiction.

3 The Board may reinstate a revoked license or remove licensure restrictions when it finds that
4 the reasons for revocation or restriction no longer exist and that the person can reasonably be
5 expected to safely and properly practice recreational therapy.

6 **"§ 90C-33. Reciprocity.**

7 The Board may grant a license, without examination or by special examination, to any
8 person who, at the time of application, is licensed as a recreational ~~therapist or therapeutic~~
9 ~~recreation specialist~~therapist, therapeutic recreation specialist, or music therapist by a similar
10 Board of another country, state, or territory whose licensing standards are substantially
11 equivalent to or higher than those required by this Chapter. The Board shall determine the
12 substantial equivalence upon which reciprocity is based.

13 **"§ 90C-34. Persons and practices not affected.**

14 Nothing in this Chapter shall be construed to prevent or restrict:

- 15 (1) Any person qualified, registered, certified, or licensed to engage in another
16 profession or occupation or any person working under the supervision of a
17 person registered, certified, or licensed to engage in another profession or
18 occupation in this State from performing work incidental to the practice of
19 that profession or occupation as long as that person does not represent
20 himself or herself as a recreational therapy ~~assistant or recreational~~
21 ~~therapist~~assistant, recreational therapist, or music therapist or the work to be
22 recreational ~~therapy or therapeutic recreation~~therapy, therapeutic recreation,
23 or music therapy as defined by this Chapter.
24 (2) Any person employed as a therapeutic recreation specialist, therapeutic
25 recreation ~~assistant, or recreational therapist or a recreational therapy~~
26 ~~assistant~~assistant, recreational therapist, recreational therapy assistant, or
27 music therapist by the government of the United States, if he or she provides
28 therapeutic recreation or recreational therapy solely under the direction and
29 control of the organization by which he or she is employed.
30 (3) Any person pursuing a course of study leading to a degree in recreational
31 ~~therapy or therapeutic recreation~~therapy, therapeutic recreation, or music
32 therapy at an accredited college or university that meets the minimum
33 academic requirements for a major or specialization in recreational therapy
34 as defined by the rules and regulations of the Board.
35 (4) Any person fulfilling the supervised fieldwork experience required for a
36 degree and for licensure, as defined by the rules of the Board, if the person is
37 designated by a title that clearly indicates his or her status as a student.
38 (5) Expired.

39 **"§ 90C-35. Reports; immunity from suit.**

40 Any person who has reasonable cause to suspect malpractice, misconduct, or incapacity of
41 a person who is licensed pursuant to this Chapter or who has reasonable cause to suspect that
42 any person is in violation of this Chapter should report the relevant facts to the Board. Upon
43 receipt of a charge or upon its own initiative, the Board may give notice of an administrative
44 hearing pursuant to Chapter 150B of the General Statutes or may, after diligent investigation,
45 dismiss unfounded charges. Any person making a report pursuant to this section shall be
46 immune from criminal prosecution or civil liability based on that report unless the person knew
47 the report was false or acted in reckless disregard of whether or not the report was false.

48 **"§ 90C-36. Violations and penalties.**

49 Any person not licensed under this Chapter who holds himself or herself out to be licensed
50 under this Chapter or who practices recreational therapy or therapeutic recreation shall be

1 guilty of a Class 1 misdemeanor. Any fine imposed as a result of conviction shall not exceed
2 five hundred dollars (\$500.00).

3 **"§ 90C-37. Enjoining illegal practices.**

4 (a) If the Board finds that a person is violating any of the provisions of this Chapter, it
5 may apply in its own name to the superior court for a temporary or permanent restraining order
6 or an injunction to prevent that person from continuing the illegal practices. The court is
7 empowered to grant an injunction regardless of whether criminal prosecution or other action
8 has been or may be instituted as a result of the violation. All actions by the Board shall be
9 governed by the Rules of Civil Procedure.

10 (b) The venue for actions brought under this Chapter shall be in the county where the
11 defendant resides or the county where the violation occurs."

12 **SECTION 2.** This act becomes effective January 1, 2018.