

By: A. Johnson of Harris

H.B. No. 2473

Substitute the following for H.B. No. 2473:

By: Klick

C.S.H.B. No. 2473

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of music therapists;
requiring an occupational license; authorizing fees.

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

SECTION 1. Section 51.2031(a), Occupations Code, is amended
to read as follows:

(a) This section applies only to the regulation of the
following professions by the department:

- (1) athletic trainers;
- (2) behavior analysts;
- (3) dietitians;
- (4) hearing instrument fitters and dispensers;
- (5) midwives;
- (6) music therapists;
- (7) orthotists and prosthetists; and
- (8) [~~(7)~~] speech-language pathologists and audiologists.

SECTION 2. Section 51.254(b), Occupations Code, is amended
to read as follows:

(b) This section applies to health-related professions
regulated by this state the administration of which is assigned to
the department by law, including the following professions:

- (1) athletic trainers regulated under Chapter 451;
- (2) behavior analysts regulated under Chapter 506;

- 1 (3) dietitians regulated under Chapter 701;
2 (4) dyslexia practitioners and dyslexia therapists
3 regulated under Chapter 403;
4 (5) hearing instrument fitters and dispensers
5 regulated under Chapter 402;
6 (6) massage therapists regulated under Chapter 455;
7 (7) midwives regulated under Chapter 203;
8 (8) music therapists regulated under Chapter 456;
9 (9) orthotists and prosthetists regulated under
10 Chapter 605;
11 (10) [~~(9)~~] podiatrists regulated under Chapter 202;
12 and
13 (11) [~~(10)~~] speech-language pathologists and
14 audiologists regulated under Chapter 401.

15 SECTION 3. Subtitle H, Title 3, Occupations Code, is
16 amended by adding Chapter 456 to read as follows:

17 CHAPTER 456. MUSIC THERAPISTS

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 456.001. SHORT TITLE. This chapter may be cited as the
20 Music Therapist Licensing Act.

21 Sec. 456.002. DEFINITIONS. In this chapter:

22 (1) "Advisory board" means the Music Therapist
23 Advisory Board created under Subchapter B.

24 (2) "Certifying entity" means the nationally
25 accredited Certification Board for Music Therapists or another
26 entity that is accredited by the National Commission for Certifying
27 Agencies or the American National Standards Institute to issue

1 credentials in the professional practice of music therapy and
2 approved by the department.

3 (3) "Commission" means the Texas Commission of
4 Licensing and Regulation.

5 (4) "Department" means the Texas Department of
6 Licensing and Regulation.

7 (5) "Executive director" means the executive director
8 of the department.

9 (6) "Music therapist" means a person who holds a music
10 therapist license issued by the department under this chapter.

11 (7) "Music therapy" means the clinical and
12 evidence-based use of music interventions by a person for a client
13 who is in a therapeutic relationship with the person to assist the
14 client in accomplishing particular goals. The music interventions
15 may include music improvisation, receptive music listening,
16 songwriting, lyric discussion, music and imagery, singing, music
17 performance, learning through music, music combined with other
18 arts, music-assisted relaxation, music-based patient education,
19 electronic music technology, adapted music intervention, and
20 movement to music. The practice of music therapy does not include
21 the diagnosis or assessment of or screening for any physical,
22 mental, or communication disorder. The term includes:

23 (A) accepting referrals for music therapy
24 services from medical, developmental, mental health, or education
25 professionals, family members, clients, caregivers, or any other
26 person involved with the provision of music therapy services;

27 (B) conducting an assessment of a client to

1 determine whether music therapy is recommended or necessary for the
2 client, including the collection of information to determine the
3 recommended or necessary manner of music therapy services;

4 (C) developing an individualized music therapy
5 treatment plan based on an assessment described by Paragraph (B),
6 including specific goals for the client, specific methods to be
7 used to achieve the goals, and a plan to ensure that the client
8 receives music therapy in the least restrictive environment;

9 (D) implementing an individualized music therapy
10 treatment plan that is consistent with any other medical,
11 developmental, mental health, educational, preventative, or
12 wellness services being provided to a client;

13 (E) evaluating a client's response to a music
14 therapy treatment plan, documenting progress, and recommending
15 changes, including terminating treatment, as appropriate;

16 (F) collaborating with any appropriate person
17 with regard to a client receiving music therapy services, including
18 the client's caretakers or family, to ensure that the music therapy
19 services are appropriate; and

20 (G) researching and applying best practices as
21 applicable to each clinical setting.

22 Sec. 456.003. APPLICABILITY. (a) This chapter does not
23 apply to a person who is:

24 (1) certified, or otherwise accredited, to practice an
25 occupation and who uses music within the scope of that
26 accreditation and within the scope of the person's training,
27 education, and competence, including a licensed health care worker

1 or other professional acting within the scope of the person's
2 license;

3 (2) a student who is performing activities under the
4 supervision of a license holder as part of a degree program
5 described by Section 456.153(2);

6 (3) a person employed in the service of the federal
7 government while performing duties related to that employment;

8 (4) a person who is employed by a music therapist and
9 who provides music therapy services under the direct supervision of
10 the music therapist;

11 (5) a family member or guardian of a recipient of music
12 therapy services who is implementing a treatment plan for the
13 recipient under the extended authority and direction of a licensed
14 music therapist; or

15 (6) a music therapist licensed in another jurisdiction
16 or certified by the certifying entity if the activities and
17 services conducted in this state:

18 (A) are within the music therapist's customary
19 area of practice;

20 (B) are conducted not more than 20 days in a
21 calendar year; and

22 (C) are not otherwise in violation of this
23 chapter.

24 (b) A person described by Subsection (a)(4) may not
25 represent that the person is a music therapist.

26 (c) A music therapist described by Subsection (a)(6) shall
27 inform the recipient of music therapy services, or a parent or

1 guardian of the recipient if the recipient is under 18 years of age,
2 that:

3 (1) the music therapist is not licensed in this state;

4 and

5 (2) the activities and services provided by the music
6 therapist are time-limited.

7 SUBCHAPTER B. MUSIC THERAPIST ADVISORY BOARD

8 Sec. 456.051. ADVISORY BOARD MEMBERSHIP. (a) The advisory
9 board is composed of seven members appointed by the presiding
10 officer of the commission with the approval of the commission as
11 follows:

12 (1) four licensed music therapists;

13 (2) one physician or other health professional who is
14 authorized to refer patients or clients to receive music therapy
15 services; and

16 (3) two members who represent the public and who are
17 either former recipients of music therapy services or the parent or
18 guardian of a current or former recipient of music therapy
19 services.

20 (b) To be qualified for appointment under Subsection
21 (a)(1), a person must have at least three years of experience as a
22 licensed music therapist.

23 (b-1) Notwithstanding Subsections (a)(1) and (b), a person
24 is eligible for appointment to the advisory board as a licensed
25 music therapist member if the person has practiced music therapy
26 for the period required under Subsection (b), regardless of whether
27 the person has held a license under this chapter continuously

1 during that period. This subsection expires January 31, 2025.

2 (c) Appointments to the advisory board shall be made without
3 regard to the race, color, disability, sex, religion, age, or
4 national origin of the appointee.

5 Sec. 456.052. DUTIES OF ADVISORY BOARD. The advisory board
6 shall provide advice and recommendations to the department on
7 technical matters relevant to the administration of this chapter.

8 Sec. 456.053. TERMS; VACANCY. (a) Members of the advisory
9 board serve staggered six-year terms, with the terms of two or three
10 members expiring February 1 of each odd-numbered year.

11 (b) A member may not serve more than two consecutive terms.

12 (c) If a vacancy occurs during a member's term, the
13 presiding officer of the commission, with the commission's
14 approval, shall appoint a replacement who meets the qualifications
15 for the vacant position to serve for the remainder of the term.

16 Sec. 456.054. PRESIDING OFFICER. The presiding officer of
17 the commission shall designate a member of the advisory board to
18 serve as the presiding officer of the advisory board for a term of
19 one year. The presiding officer of the advisory board may vote on
20 any matter before the advisory board.

21 Sec. 456.055. MEETINGS. (a) The advisory board shall meet
22 at least twice each year and at the call of the presiding officer of
23 the commission or the executive director.

24 (b) Notwithstanding Chapter 551, Government Code, or any
25 other law, the advisory board may meet by telephone conference
26 call, videoconference, or other similar telecommunication method.
27 A meeting held under this subsection by telephone conference call,

1 videoconference, or other similar telecommunication method is
2 subject to the requirements of Sections 551.125(c)-(f), Government
3 Code.

4 Sec. 456.056. GROUNDS FOR REMOVAL. A member of the advisory
5 board may be removed as provided by Section 51.209.

6 Sec. 456.057. COMPENSATION; REIMBURSEMENT. (a) A member
7 of the advisory board may not receive compensation for service on
8 the advisory board.

9 (b) A member of the advisory board is entitled to
10 reimbursement for actual and necessary expenses incurred in
11 performing functions as a member of the advisory board, subject to
12 any applicable limitation on reimbursement provided by the General
13 Appropriations Act.

14 SUBCHAPTER C. POWERS AND DUTIES

15 Sec. 456.101. GENERAL POWERS AND DUTIES. (a) The
16 commission shall adopt rules consistent with this chapter for the
17 administration and enforcement of this chapter.

18 (b) The department shall:

19 (1) administer and enforce this chapter;

20 (2) evaluate the qualifications of license
21 applicants;

22 (3) provide for the examination of license applicants;

23 (4) issue licenses;

24 (5) in connection with a hearing under this chapter,
25 issue subpoenas, examine witnesses, and administer oaths under the
26 laws of this state;

27 (6) investigate persons engaging in practices that

1 violate this chapter; and

2 (7) establish standards of ethical practice.

3 (c) The commission or executive director may deny, revoke,
4 or suspend a license or may otherwise discipline a license holder in
5 accordance with Section 51.353.

6 Sec. 456.102. FEES. The commission, in consultation with
7 the advisory board, shall set fees in amounts that are reasonable
8 and necessary to cover the costs of administering and enforcing
9 this chapter.

10 SUBCHAPTER D. LICENSE REQUIREMENTS

11 Sec. 456.151. LICENSE REQUIRED. (a) Except as provided by
12 Section 456.003, a person may not practice music therapy unless the
13 person holds a license issued under this chapter.

14 (b) Unless the person holds a license issued under this
15 chapter, a person may not use in connection with the person's name,
16 including in advertisements:

17 (1) the title "licensed professional music
18 therapist"; or

19 (2) any other designation that would imply that the
20 person is a music therapist.

21 Sec. 456.152. LICENSE APPLICATION. Each applicant for a
22 license under this chapter must submit an application and the
23 required fees to the department. The application must include
24 sufficient evidence, as defined by commission rules, that the
25 applicant has successfully completed a state-approved criminal
26 background check.

27 Sec. 456.153. LICENSE ELIGIBILITY. To be eligible for a

1 license, a person must:

2 (1) be at least 18 years of age;

3 (2) hold a bachelor's or graduate degree in music
4 therapy, or an equivalent field of study, from a program approved by
5 the American Music Therapy Association, or a successor
6 organization, within an accredited public or private institution of
7 higher education and that is approved by the department;

8 (3) successfully complete any clinical training hours
9 required as part of a degree program described by Subdivision (2);

10 (4) if applicable, be in good standing with any other
11 jurisdiction from which the applicant holds a music therapy
12 license;

13 (5) pass the examination for board certification
14 offered by the certifying entity or provide proof of being
15 transitioned into board certification by the certifying entity;

16 (6) be certified as a music therapist by the
17 certifying entity;

18 (7) be in compliance with all professional, ethical,
19 and disciplinary standards established by the certifying entity;
20 and

21 (8) not be subject to any disciplinary action by the
22 certifying entity.

23 Sec. 456.154. ISSUANCE OF LICENSE. The department shall
24 issue a music therapist license to a person who meets the
25 requirements of this chapter and rules adopted under this chapter.

26 Sec. 456.155. LICENSE RENEWAL. A music therapist license
27 expires on the second anniversary of the date of issuance. The

1 commission by rule shall provide requirements and procedures for
2 the renewal of a music therapist license, including requiring a
3 license holder to provide proof of the license holder's continuing
4 certification in music therapy by the Certification Board for Music
5 Therapists or any successor organization.

6 Sec. 456.156. LICENSE HOLDER INFORMATION. A license holder
7 shall:

8 (1) notify the department of a change of the license
9 holder's residence or business address; and

10 (2) provide the department with the license holder's
11 new address not later than the 30th day after the date the address
12 change occurs.

13 SUBCHAPTER E. PRACTICE BY LICENSE HOLDER

14 Sec. 456.201. REFERRALS REQUIRED FOR CERTAIN SERVICES. (a)
15 A music therapist may provide the following music therapy services
16 without a referral from a health professional:

17 (1) consultation and evaluation;

18 (2) preventative care;

19 (3) wellness care;

20 (4) education; and

21 (5) specialized support.

22 (b) Providing music therapy services for a specific health
23 condition, other than consultation and evaluation, requires a
24 referral from a physician or other health professional acting
25 within the scope of the person's license.

26 Sec. 456.202. REQUIREMENTS FOR CERTAIN CLIENTS. (a)
27 Before providing music therapy services to a client for a clinical,

1 developmental, or other health-related need diagnosed or otherwise
2 identified by a health care provider, the music therapist must
3 review with the appropriate health care provider involved in
4 providing care for that identified need the client's diagnosis,
5 treatment needs, and treatment plan.

6 (b) During the provision of music therapy services to a
7 client described by Subsection (a), the music therapist shall
8 collaborate with any licensed professional providing care for the
9 identified need, including collaborating with, as applicable, the
10 client's physician, psychologist, social worker, or other mental
11 health professional.

12 (c) Before providing music therapy services to a client for
13 an educational need, the music therapist must, if applicable,
14 review with the individuals who are implementing the client's
15 individualized family service plan or individualized education
16 program the client's diagnosis, treatment needs, and treatment
17 plan.

18 (d) A music therapist providing music therapy services to a
19 client with a communication disorder who is also receiving services
20 from an audiologist or speech-language pathologist:

21 (1) shall collaborate with and disclose the music
22 therapy treatment plan with the client's audiologist or
23 speech-language pathologist, as applicable; and

24 (2) may not provide music therapy services in a manner
25 that replaces the services provided by the audiologist or
26 speech-language pathologist.

1 SUBCHAPTER F. DISCIPLINARY GROUNDS

2 Sec. 456.251. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY
3 ACTION. After a hearing, the commission or executive director may
4 deny a license to an applicant, suspend or revoke a music
5 therapist's license, or place on probation a music therapist if the
6 applicant or music therapist:

7 (1) violates this chapter, a commission rule, or an
8 order of the commission or the executive director;

9 (2) obtains a license by means of fraud,
10 misrepresentation, or concealment of a material fact;

11 (3) sells, barter, or offers to sell or barter a
12 license;

13 (4) engages in unprofessional conduct that:

14 (A) endangers or is likely to endanger the
15 health, welfare, or safety of the public as defined by commission
16 rule; or

17 (B) violates the code of ethics adopted and
18 published by the commission;

19 (5) treats or attempts to treat a client's specific
20 health condition by means other than music therapy;

21 (6) fails to refer a client to a health care provider
22 for treatment if a music therapist recognizes symptoms for which
23 treatment by music therapy is inadvisable or which warrant
24 treatment that is outside the scope of music therapy;

25 (7) is unable to practice music therapy with
26 reasonable skill and safety because of excessive use of alcohol,
27 drugs, narcotics, chemicals, or another substance;

1 (8) is convicted of a felony that directly relates to
2 the duties and responsibilities of a music therapist or that
3 indicates that the person poses a continued threat to public
4 safety;

5 (9) practices music therapy in a grossly negligent
6 manner;

7 (10) is adjudicated as an incapacitated person by a
8 court;

9 (11) is convicted of an offense indicating that the
10 music therapist's continued practice of music therapy is
11 detrimental to the best interests of the public or profession,
12 including an offense that constitutes a violation of any applicable
13 ethical rule of the profession; or

14 (12) has had a music therapy license suspended or
15 revoked by another jurisdiction.

16 SECTION 4. As soon as practicable after the effective date
17 of this Act, the presiding officer of the Texas Commission of
18 Licensing and Regulation shall appoint seven members to the Music
19 Therapist Advisory Board in accordance with Chapter 456,
20 Occupations Code, as added by this Act. In making the initial
21 appointments, the presiding officer of the commission shall
22 designate two members for terms expiring February 1, 2023, two
23 members for terms expiring February 1, 2025, and three members for
24 terms expiring February 1, 2027.

25 SECTION 5. Not later than April 1, 2022, the Texas
26 Commission of Licensing and Regulation shall adopt the rules,
27 procedures, and fees necessary to administer Chapter 456,

1 Occupations Code, as added by this Act.

2 SECTION 6. Notwithstanding Chapter 456, Occupations Code,
3 as added by this Act, a music therapist is not required to hold a
4 license under that chapter to practice as a licensed music
5 therapist in this state before September 1, 2022.

6 SECTION 7. (a) Except as provided by Subsection (b) of this
7 section, this Act takes effect September 1, 2021.

8 (b) Section 456.151 and Subchapter F, Chapter 456,
9 Occupations Code, as added by this Act, take effect September 1,
10 2022.