

2020 Regular Session

HOUSE BILL NO. 505

BY REPRESENTATIVE BISHOP

HEALTH SERVICES: Establishes the licensed profession of art therapist

1 AN ACT

2 To amend and reenact R.S. 37:1277(A)(introductory paragraph) and (1) and to enact Part IX
3 of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised
4 of R.S. 37:1360.121 through 1360.132, relative to health professions; to provide
5 relative to the profession of art therapy; to require state licensure of art therapists; to
6 provide for licensure of art therapists by the Louisiana State Board of Medical
7 Examiners; to provide for the practice of art therapy and limitations of the practice;
8 to authorize the Louisiana State Board of Medical Examiners to assess certain fees;
9 to establish qualifications for licensure as an art therapist; to provide for
10 unprofessional conduct and unlawful practice; to create and provide for duties of the
11 Art Therapy Advisory Committee; to provide for limitations of liability; to provide
12 for administrative rulemaking; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 37:1277(A)(introductory paragraph) and (1) are hereby amended and
15 reenacted and Part IX of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950,
16 comprised of R.S. 37:1360.121 through 1360.132, is hereby enacted to read as follows:

17 §1277. Louisiana State Board of Medical Examiners; authorization to obtain
18 criminal history record information

19 A. As used in this Section, the following terms ~~shall~~ have the ~~following~~
20 meaning ascribed in this Subsection:

1 (1) "Applicant" means an individual who has made application to the board
2 for the issuance, renewal, or reinstatement of any form of health care practitioner
3 licensure which the board is authorized by law to issue, including but not limited to
4 licensure as a physician or surgeon pursuant to R.S. 37:1261 et seq.; as a podiatrist
5 pursuant to R.S. 37:611 et seq.; as a physician assistant pursuant to R.S. 37:1360.21
6 et seq.; as a midwife practitioner pursuant to R.S. 37:3240 et seq.; as a respiratory
7 therapist or respiratory therapy assistant pursuant to R.S. 37:3351 et seq.; as an
8 occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 et
9 seq.; as a clinical laboratory scientist pursuant to R.S. 37:1311 et seq.; as a clinical
10 exercise physiologist pursuant to R.S. 37:3421 et seq.; as an athletic trainer pursuant
11 to R.S. 37:3301 et seq.; as an acupuncturist or acupuncturist's assistant pursuant to
12 R.S. 37:1356 et seq.; as a private radiologic technologist pursuant to R.S. 37:1292;
13 as an art therapist pursuant to R.S. 37:1360.121 et seq.; or as a dispensing physician
14 pursuant to LAC 46:XLV.6501 et seq.

15 * * *

16 PART IX. ART THERAPISTS

17 §1360.121. Legislative findings; purpose

18 A. The legislature hereby finds that art therapy is a professional practice
19 which affects the health and well-being of the citizens of this state, and that
20 appropriate regulation and control of the practice of art therapy is in the public
21 interest.

22 B. The purpose of this Part is to establish a regulatory structure and
23 procedures that will assure the highest degree of professional conduct on the part of
24 licensed art therapists and ensure that the public is protected from being misled by
25 any incompetent, unqualified, or unauthorized person purporting to practice art
26 therapy.

27 §1360.122. Definitions

28 As used in this Part, the following terms have the meaning ascribed in this
29 Section:

1 (1) "Advisory committee" means the Art Therapy Advisory Committee
2 created and provided for in R.S. 37:1360.124.

3 (2) "Art therapy" means the integrated use of psychotherapeutic principles,
4 art media, and the creative process to assist individuals, families, or groups in any
5 of the following:

6 (a) Increasing awareness of self and others.

7 (b) Coping with symptoms, stress, and traumatic experiences.

8 (c) Enhancing cognitive abilities.

9 (d) Identifying and assessing clients' needs in order to implement therapeutic
10 intervention to meet developmental, behavioral, mental, and emotional needs.

11 (3) "Board" means the Louisiana State Board of Medical Examiners.

12 (4) "Licensed art therapist" means a person to whom a license has been
13 issued pursuant to the provisions of this Part, which license is in force and not
14 expired, suspended, or revoked.

15 (5) "Practice of art therapy" means to engage professionally and for
16 compensation in art therapy and appraisal activities by providing services involving
17 the application of art therapy principles and methods in the evaluation, prevention,
18 treatment, and amelioration of psychological problems and emotional or mental
19 conditions. The practice of art therapy includes, but is not limited to, the following:

20 (a) Evaluation and treatment activities during individual, couples, family, or
21 group sessions which provide opportunities for expression through the creative
22 process.

23 (b) Using the process and products of art creation to identify and explore the
24 inner fears, conflicts, and core issues of a client with the goal of improving physical,
25 mental, and emotional functioning and well-being.

26 (c) Using art therapy assessments to determine treatment goals and
27 implement therapeutic art interventions which meet developmental, mental, and
28 emotional needs within the limitations provided in R.S. 37:1360.123.

1 (d) Employing art media, the creative process, and the resulting artwork to
2 assist clients in all of the following:

3 (i) Reducing symptoms of depression, anxiety, post-traumatic stress
4 disorders, attachment disorders, and other behavior disorders.

5 (ii) Enhancing neurological, cognitive, and verbal abilities, developing social
6 skills, aiding sensory impairments, and moving developmental capabilities forward
7 in specific areas.

8 (iii) Coping with symptoms of stress, anxiety, traumatic experiences, and
9 grief.

10 (iv) Exploring feelings, gaining insight into behaviors, and reconciling
11 emotional conflicts.

12 (v) Improvement or restoration of functioning and a sense of personal
13 well-being.

14 (vi) Increasing coping skills, self-esteem, awareness of self, and empathy for
15 others.

16 (vii) Improving healthy channeling of anger, guilt, grief, and other
17 challenging emotions.

18 (viii) Developmentally appropriate academic and social interaction and
19 relationships.

20 (6) "Provisional licensed art therapist" means a person who has met the
21 requirements of the rules of the board for provisional licensure and has been issued
22 a provisional license to provide art therapy services and practice art therapy.
23 Provisional licensed art therapists shall be subject to the restrictions provided in R.S.
24 37:1360.128.

25 §1360.123. Practice of art therapy; limitations; construction of Part

26 Nothing in this Part shall be construed to authorize an art therapist to do any
27 of the following:

28 (1) Diagnose mental illness.

1 (2) Engage in the practice of psychology as defined and provided for in
2 Chapter 28 of this Title.

3 (3) Administer or interpret any test provided for in Chapter 28 of this Title.

4 (4) Prescribe, either orally or in writing, distribute, dispense, or administer
5 any medications.

6 §1360.124. Art Therapy Advisory Committee; creation; purpose; membership;
7 duties and functions

8 A. The Art Therapy Advisory Committee, referred to hereafter in this Part
9 as the "advisory committee", is hereby created and shall have the purpose,
10 composition, duties, and functions provided in this Section.

11 B. The purpose of the advisory committee shall be to advise and make
12 recommendations to the board regarding the practice of art therapy and the licensure
13 of art therapists.

14 C. The advisory committee shall be composed of five persons appointed by
15 the president of the board, three of whom shall be selected from a list of candidates
16 submitted to the board by the Louisiana Art Therapy Association.

17 D.(1) The board shall convene the initial meeting of the advisory committee
18 as soon as is practicable after all committee members have been appointed. At its
19 initial meeting, the advisory committee shall elect from its membership a chairman
20 and such other officers as it deems necessary.

21 (2)(a) Each member of the advisory committee shall serve a term of two
22 years after the initial terms provided for in Subparagraph (b) of this Paragraph.

23 (b) Three advisory committee members shall serve an initial term of two
24 years and two members shall serve an initial term of one year, as determined by lot
25 at the first meeting of the council.

26 (3) Any vacancy on the advisory committee which occurs prior to the
27 expiration of the term for which a member of the committee has been appointed shall
28 be filled in the same manner as the original appointment for the unexpired term.

1 (4) After the expiration of his term, a member may continue to serve on the
2 advisory committee until his successor is appointed.

3 (5) A member who is appointed after a term has begun shall serve for the
4 remainder of the term, and may continue to serve on the advisory committee beyond
5 the expiration of his term until his successor is appointed.

6 (6) No individual may serve as an advisory committee member for more than
7 two consecutive two-year terms.

8 E. No member of the advisory committee shall receive a salary for his
9 service on the committee. However, advisory committee members shall be
10 reimbursed for travel and other expenses incurred in the performance of their duties
11 in accordance with travel regulations of the division of administration.

12 F. An advisory committee member may be removed by the board for neglect
13 of duty, misconduct, or malfeasance after he has been provided with a written notice
14 of the charges against him and an opportunity to be heard before the board
15 concerning the charges.

16 G. The advisory committee shall have all of the following duties:

17 (1) To draft administrative rules and regulations for promulgation by the
18 board as are necessary to regulate the practice of art therapy.

19 (2) To draft policy for consideration by the board.

20 (3) To advise the board on budgetary matters with respect to art therapist
21 licensing and regulation.

22 (4) To receive, review, and recommend to the board the approval or
23 disapproval of applications referred by the board for issuance, renewal, and
24 reinstatement of art therapist licenses.

25 (5) To retain records of its actions and proceedings in accordance with the
26 Public Records Law, R.S. 44:1 et seq.

27 (6) To perform such other functions and duties as may be requested by the
28 board to assist the board in implementing the provisions of this Part.

1 §1360.125. Louisiana State Board of Medical Examiners; regulation of art therapy

2 A. The board shall be responsible for enforcement of the provisions of this

3 Part.

4 B. The board shall adopt rules in accordance with the Administrative
5 Procedure Act that are consistent with the provisions of this Part, provide for
6 enforcement of this Part, and regulate the practice of art therapy. Such rules shall
7 provide, without limitation, for all of the following:

8 (1) Issuance of a license to an applicant who meets the applicable
9 requirements of this Part.

10 (2) Conducting of proceedings to revoke licenses or suspend, place on
11 probation, censure, or reprimand persons licensed pursuant to this Part.

12 (3) Maintenance of rosters of the names and addresses of all persons who are
13 licensed in accordance with this Part and all persons whose licenses have been
14 suspended, revoked, or denied or have lapsed. These rosters shall be available upon
15 written request and payment of the fee required by the board.

16 (4) Reviewing recommendations of the advisory committee and approving
17 those recommendations which the board deems appropriate.

18 C. The board, in accordance with the authority provided in R.S. 37:1281,
19 shall establish and collect fees for the purpose of administering the provisions of this
20 Part in a manner established by its rules.

21 §1360.126. Qualifications for licensure as an art therapist

22 A. To qualify for licensure as an art therapist, an applicant shall submit to
23 the board an application on a form issued by the board, pay the license fee required
24 by the board, and furnish evidence satisfactory to the board and the advisory
25 committee that he meets all of the following qualifications:

26 (1) Is of good moral character.

27 (2) Is a resident of Louisiana or is in the process of establishing residency
28 in this state.

1 (3) Has been determined suitable and eligible for licensure pursuant to a
2 review by the board of criminal history record information obtained by the board as
3 authorized in R.S. 37:1277.

4 B. The advisory committee shall recommend to the board that an applicant
5 who meets the qualifications of Subsection A of this Section be licensed as an art
6 therapist after he provides satisfactory evidence to the advisory committee that he
7 has done all of the following:

8 (1) Successfully completed a master's degree or a doctoral degree from a
9 regionally accredited institution of higher education in a program in art therapy
10 approved by the American Art Therapy Association, or in a substantially equivalent
11 post-graduate program approved by the board that requires a minimum of sixty
12 graduate semester hours and includes all of the following:

13 (a) Graduate-level courses and training in all areas required by the board in
14 rule.

15 (b) An art therapy internship of not less than six hundred hours that is
16 performed under supervision and is part of an approved course of study.

17 (2) Completed at least two calendar years, with a minimum of three thousand
18 hours, of supervised work experience in art therapy under an art therapy certified
19 supervisor credentialed by the Art Therapy Credentials Board or other qualified
20 supervisor approved by the Louisiana State Board of Medical Examiners. Each
21 multiple of thirty graduate semester hours completed beyond the master's degree
22 requirement may substitute for five hundred hours of supervised experience.

23 (3) Passed the board examination conducted by the Art Therapy Credentials
24 Board.

25 §1360.127. Licensure by reciprocity

26 The board may provide in rule for qualifications necessary for art therapists
27 to be licensed by reciprocity and procedures for such licensure.

1 §1360.128. Provisional licensed art therapists

2 Provisional licensed art therapists may use the title "Provisional Licensed Art
3 Therapist" and shall practice art therapy only under the direction and active
4 supervision of a board-approved supervisor and only while obtaining the
5 post-graduate degree experience required for licensure as an art therapist. A
6 provisional licensed art therapist shall not practice art therapy independently or
7 advertise that he is authorized to practice independently.

8 §1360.129. Expiration of license; renewal; fee; expired license

9 A. A license issued by the board in accordance with this Part shall be valid
10 for two years and subject to biennial renewal. Such a license shall expire and
11 become null and void unless renewed in the manner prescribed by the board.

12 B. To renew a license, a person who obtained a license in accordance with
13 this Part shall pay a renewal fee required by the board not later than the expiration
14 date of the license, and meet all other requirements for renewal provided in this Part
15 and in the rules of the board.

16 C. If an individual fails to pay a renewal fee on or before the expiration date
17 of a license, his license shall become invalid without further action by the board.

18 D. To renew a license issued in accordance with this Part, an applicant for
19 license renewal shall satisfy the continuing education requirements established by
20 the board in rule.

21 §1360.130. Improper and unprofessional conduct

22 A. The board may, after a hearing conducted in accordance with the
23 applicable provisions of the Administrative Procedure Act, or by consent of the
24 parties, deny or refuse to issue, revoke, suspend, or cancel a license provided for in
25 this Part or place on probation, reprimand, censure, or otherwise discipline a licensee
26 upon proof satisfactory to the board that the person has done or been any of the
27 following:

28 (1) He has obtained or attempted to obtain a license by fraud or deception.

1 (2) He has been convicted of a felony under state or federal law or
2 committed any other offense involving moral turpitude.

3 (3) He has been adjudged incompetent or to have a mental illness by a court
4 of competent jurisdiction.

5 (4) He has used illicit drugs or intoxicating liquors to an extent which
6 adversely affects his practice.

7 (5) He has engaged in unethical or unprofessional conduct including, without
8 limitation, willful acts, negligence, or incompetence in the course of professional
9 practice.

10 (6) He has violated any lawful order, rule, or regulation rendered or adopted
11 by the board.

12 (7) He has been refused issuance of a license or been disciplined in
13 connection with a license issued by any other state or country, or has surrendered a
14 license issued by another state or country when criminal or administrative charges
15 are pending or threatened against him.

16 (8) He has refused to submit to an examination and inquiry by an examining
17 committee of persons appointed by the board to inquire into his physical or mental
18 fitness and ability to practice as an art therapist with reasonable skill or safety.

19 (9) He has practiced or otherwise engaged in conduct or functions beyond
20 the scope of art therapy as defined by this Part.

21 B. Any license suspended, revoked, or otherwise restricted may be reinstated
22 by the board.

23 C. The final decision of the board in an adjudication proceeding pursuant to
24 this Section, other than by agreement or other informal disposition, shall constitute
25 a public record.

26 §1360.131. Unlawful practice; injunctive relief; penalty

27 A. An individual who does not possess a valid license issued in accordance
28 with this Part may not use the title "art therapist", "licensed art therapist", or any

1 word, letter, abbreviation, or insignia that indicates or implies that he has been issued
2 a license or has met the qualifications for licensure established by this Part.

3 B.(1) If the board believes that a person has engaged in or is going to engage
4 in an act or practice that constitutes or will constitute a violation of this Section, the
5 board may apply to a district court of appropriate jurisdiction for an order enjoining
6 the act or practice.

7 (2) If the board determines that a person has engaged in or is going to engage
8 in an act or practice that constitutes or will constitute a violation of this Section, a
9 district court of appropriate jurisdiction may grant an injunction, a restraining order,
10 or another appropriate order relative to the prohibited act or practice.

11 C. Any person who violates this Section shall, upon conviction, be guilty of
12 a misdemeanor punishable by a fine not to exceed one thousand dollars for the first
13 offense and two thousand dollars for each subsequent offense. In addition to any
14 other penalty imposed for a violation of this Section, the board may petition a district
15 court of appropriate jurisdiction to enjoin the person who violates this Section from
16 practicing art therapy.

17 §1360.132. Protected actions and communication

18 A. There shall be no liability on the part of and no action for damages
19 against any member of the board, or any agent or employee of the board, in any civil
20 action for any act performed in good faith in the execution of his duties in
21 accordance with this Part.

22 B. No person, committee, association, organization, firm, or corporation
23 shall be held liable for damages pursuant to any law of this state or any political
24 subdivision thereof for providing information to the board without malice and under
25 the reasonable belief that such information is accurate, whether providing such
26 information as a witness or otherwise.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 505 Original

2020 Regular Session

Bishop

Abstract: Establishes the licensed profession of art therapist and provides for licensure of members of the profession by the La. State Board of Medical Examiners.

Proposed law establishes the licensed profession of art therapist in La. Provides for licensure of art therapists by the La. State Board of Medical Examiners, referred to hereafter as the "board".

Proposed law provides the following definitions:

- (1) "Art therapy" means the integrated use of psychotherapeutic principles, art media, and the creative process to assist individuals, families, or groups in any of the following:
 - (a) Increasing awareness of self and others.
 - (b) Coping with symptoms, stress, and traumatic experiences.
 - (c) Enhancing cognitive abilities.
 - (d) Identifying and assessing clients' needs in order to implement therapeutic intervention to meet developmental, behavioral, mental, and emotional needs.
- (2) "Practice of art therapy" means to engage professionally and for compensation in art therapy and appraisal activities by providing services involving the application of art therapy principles and methods in the evaluation, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions. Proposed law provides a nonexclusive list of activities which comprise the practice of art therapy.

Proposed law stipulates that nothing therein shall be construed to authorize an art therapist to do any of the following:

- (1) Diagnose mental illness.
- (2) Engage in the practice of psychology as defined in present law.
- (3) Administer or interpret any psychological tests provided for in present law.
- (4) Prescribe, either orally or in writing, distribute, dispense, or administer any medications.

Proposed law creates the Art Therapy Advisory Committee, referred to hereafter as the "advisory committee", for the purpose of advising and make recommendations to the board regarding the practice of art therapy and the licensure of art therapists. Provides that the advisory committee shall be composed of five persons appointed by the president of the board, three of whom shall be selected from a list of candidates submitted by the La. Art Therapy Association.

Proposed law provides that to qualify for licensure as an art therapist, an applicant shall submit to the board an application on a form issued by the board, pay the license fee required by the board, and furnish evidence satisfactory to the board and the advisory committee that he meets all of the following qualifications:

- (1) Is of good moral character.
- (2) Is a resident of La. or is in the process of establishing residency in this state.
- (3) Has been determined suitable and eligible for licensure pursuant to a review by the board of criminal history record information obtained by the board as authorized in proposed law.

Proposed law requires the advisory committee to recommend to the board that an applicant who meets the qualifications provided in proposed law be licensed as an art therapist after the applicant provides satisfactory evidence to the advisory committee that he has done all of the following:

- (1) Successfully completed a master's degree or a doctoral degree from a regionally accredited institution of higher education in a program in art therapy approved by the American Art Therapy Association, or in a substantially equivalent post-graduate program approved by the board that requires a minimum of 60 graduate semester hours and includes all of the following:
 - (a) Graduate-level courses and training in all areas required by the board in rule.
 - (b) An art therapy internship of not less than 600 hours that is performed under supervision and is part of an approved course of study.
- (2) Completed at least two calendar years, with a minimum of 3,000 hours, of supervised work experience in art therapy under an art therapy certified supervisor credentialed by the Art Therapy Credentials Board or other qualified supervisor approved by the La. State Board of Medical Examiners. Proposed law provides that each multiple of 30 graduate semester hours completed beyond the master's degree requirement may substitute for 500 hours of supervised experience.
- (3) Passed the board examination conducted by the Art Therapy Credentials Board.

Proposed law authorizes the board to provide in rule for qualifications necessary for art therapists to be licensed by reciprocity and procedures for such licensure.

Proposed law authorizes the board, after an administrative hearing conducted in accordance with present law, or by consent of the parties, to deny or refuse to issue, revoke, suspend, or cancel a license provided for in proposed law or place on probation, reprimand, censure, or otherwise discipline a licensee upon proof satisfactory to the board that the person has violated any provision of proposed law relative to improper and unprofessional conduct.

Proposed law provides that a license issued in accordance with its provisions shall be valid for two years and subject to biennial renewal. Provides that to renew a license, a person shall pay a renewal fee required by the board not later than the expiration date of the license, and shall satisfy the continuing education requirements established by the board in rule.

Proposed law prohibits individuals who do not possess a valid license issued in accordance with proposed law from using the title "art therapist", "licensed art therapist", or any word, letter, abbreviation, or insignia that indicates or implies that they have been issued a license or met the qualifications for licensure established by proposed law.

Proposed law stipulates that if the board believes that a person has engaged, or is going to engage, in an act or practice that constitutes or will constitute a violation of proposed law, then the board may apply to a district court of appropriate jurisdiction for an order enjoining the act or practice. Provides that in such cases, the court may grant an injunction, a restraining order, or another appropriate order relative to the prohibited act or practice.

Proposed law provides that any person who violates proposed law shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed \$1,000 for the first offense and \$2,000 for each subsequent offense. Provides that in addition to any other authorized penalty, the board may petition a district court of appropriate jurisdiction to enjoin the person who violates proposed law from practicing art therapy.

Proposed law provides that there shall be no liability on the part of and no action for damages against any member of the board, or any agent or employee of the board, in any civil action for any act performed in good faith in the execution of his duties in accordance with proposed law. Provides further that no person shall be held liable for damages pursuant to any provision of present law for providing information to the board without malice and under the reasonable belief that such information is accurate, whether providing such information as a witness or otherwise.

(Amends R.S. 37:1277(A)(intro. para.) and (1); Adds R.S. 37:1360.121 through 1360.132)