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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1438 Session of  
2017

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INTRODUCED BY PASHINSKI, MURT, TOPPER, THOMAS, V. BROWN,  
KAVULICH, McNEILL, DONATUCCI, D. COSTA, CALTAGIRONE, KORTZ,  
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ROEBUCK, McCARTER, BRIGGS, HARKINS, BOBACK, VAZQUEZ,  
SCHLOSSBERG, CONKLIN AND MARSICO, MAY 22, 2017

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MAY 22, 2017

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AN ACT

1 Amending the act of July 9, 1987 (P.L.220, No.39), entitled "An  
2 act licensing and regulating the practice of social work;  
3 providing penalties; and making an appropriation," licensing  
4 and regulating the practice of music therapy.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. The title and sections 1 and 2 of the act of July  
8 9, 1987 (P.L.220, No.39), known as the Social Workers, Marriage  
9 and Family Therapists and Professional Counselors Act, are  
10 amended to read:

11 AN ACT

12 Licensing and regulating the practice of social work, marriage  
13 and family therapy, professional counseling and professional  
14 music therapy; providing penalties; and making an  
15 appropriation.

16 Section 1. Short title.

17 This act shall be known and may be cited as the Social

1 Workers, Marriage and Family Therapists [and], Professional  
2 Counselors and Professional Music Therapists Act.

3 Section 2. Legislative intent.

4 The practice of social work, marriage and family therapy  
5 [and], professional counseling and licensed professional music  
6 therapy within this Commonwealth is hereby declared to affect  
7 the public safety and welfare and to be subject to regulation  
8 and control in the public interest to protect the public from  
9 unprofessional, improper, unauthorized and unqualified practice  
10 of licensed social work, licensed marriage and family therapy  
11 [and], licensed professional counseling and licensed  
12 professional music therapy. This act regulates only those who  
13 hold themselves out as licensed social workers, licensed  
14 clinical social workers, licensed marriage and family therapists  
15 [or as], licensed professional counselors or as licensed  
16 professional music therapists. Acquisition of a license under  
17 this act shall not be made a condition of the employment of a  
18 person by the Commonwealth or any of its political subdivisions  
19 or by nonprofit agencies.

20 Section 2. The definition of "board" in section 3 of the act  
21 is amended and the section is amended by adding definitions to  
22 read:

23 Section 3. Definitions.

24 The following words and phrases when used in this act shall  
25 have the meanings given to them in this section unless the  
26 context clearly indicates otherwise:

27 \* \* \*

28 "Board." The State Board of Social Workers, Marriage and  
29 Family Therapists [and], Professional Counselors and  
30 Professional Music Therapists under the Bureau of Professional

1 and Occupational Affairs within the Department of State.

2 \* \* \*

3 "Licensed professional music therapist." An individual who  
4 engages in the practice of music therapy and who holds a current  
5 license under this act.

6 \* \* \*

7 "Practice of music therapy." As follows:

8 (1) The clinical and evidence-based use of music  
9 interventions to accomplish individualized goals within a  
10 therapeutic relationship through an individualized music  
11 therapy treatment plan for a client or group of clients which  
12 identifies the goals, objectives and potential strategies of  
13 the music therapy services appropriate for the client or  
14 group of clients using music therapy interventions,  
15 including, but not limited to, music improvisation, receptive  
16 music listening, song writing, lyric discussion, music and  
17 imagery, music performance, learning through music and  
18 movement to music.

19 (2) The term includes:

20 (i) Accepting referrals for music therapy services  
21 from medical, developmental, mental health or education  
22 professionals, family members, clients or caregivers,  
23 provided that prior to providing music therapy services  
24 to a client for a medical, developmental or mental health  
25 condition, the licensed professional therapist  
26 collaborates, as applicable, with the client's physician,  
27 psychologist or mental health professional to review the  
28 client's diagnosis, treatment needs and treatment plan  
29 and, during the provision of music therapy services to a  
30 client, the licensee collaborates, as applicable, with

1 the client's treatment team.

2 (ii) Conducting a music therapy assessment of a  
3 client to collect systematic, comprehensive and accurate  
4 information necessary to determine the appropriate type  
5 of music therapy services to provide for the client.

6 (iii) Developing an individualized music therapy  
7 treatment plan for a client.

8 (iv) Carrying out an individualized music therapy  
9 treatment plan that is consistent with any other medical,  
10 developmental, mental health or educational services  
11 being provided to a client.

12 (v) Evaluating a client's response to music therapy  
13 and the individualized music therapy treatment plan and  
14 suggesting modifications, as appropriate.

15 (vi) Developing a plan for determining when the  
16 provision of music therapy services is no longer needed  
17 in collaboration with a client, a physician or other  
18 provider of health care or education of a client, an  
19 appropriate member of the family of a client and any  
20 other appropriate person upon whom a client relies for  
21 support.

22 (vii) Minimizing any barriers so that a client may  
23 receive music therapy services in the least restrictive  
24 environment.

25 (viii) Collaborating with and educating a client and  
26 the family or caregiver of the client or any other  
27 appropriate person about the needs of the client that are  
28 being addressed in music therapy and the manner in which  
29 the music therapy addresses those needs.

30 (3) The term does not include the following:

1           (i) The diagnosis of any physical, mental or  
2           communication disorder.

3           (ii) A person licensed, certified or regulated under  
4           the laws of this Commonwealth in another profession or  
5           occupation, or personnel supervised by a licensed  
6           professional in this Commonwealth performing work,  
7           including the use of music, incidental to the practice of  
8           the person's licensed, certified or regulated profession  
9           or occupation, if the person does not represent himself  
10           or herself as a licensed professional music therapist.

11           (iii) A person whose training and national  
12           certification attests to the person's preparation and  
13           ability to practice his or her certified profession or  
14           occupation, if the person does not represent himself or  
15           herself as a licensed professional music therapist.

16           (iv) The practice of music therapy as an integral  
17           part of a program of study for a student enrolled in an  
18           accredited music therapy program, if the student does not  
19           represent himself or herself as a licensed professional  
20           music therapist.

21           (v) A person who practices music therapy under the  
22           supervision of a licensed professional music therapist,  
23           if the person does not represent himself or herself as a  
24           licensed professional music therapist.

25           \* \* \*

26           Section 3. Section 4 of the act is amended to read:

27           Section 4. License required.

28           It shall be unlawful for any person to hold himself or  
29           herself forth as a licensed bachelor social worker, licensed  
30           social worker, licensed clinical social worker, licensed

1 marriage and family therapist [or], licensed professional  
2 counselor or licensed professional music therapist unless he or  
3 she shall first have obtained a license pursuant to this act.

4 Section 4. Section 5 heading, (a), (c) and (l) of the act,  
5 amended June 23, 2016 (P.L.387, No.54), are amended to read:

6 Section 5. State Board of Social Workers, Marriage and Family  
7 Therapists [and], Professional Counselors and  
8 Professional Music Therapists.

9 (a) Creation.--There is hereby created the State Board of  
10 Social Workers, Marriage and Family Therapists [and],  
11 Professional Counselors and Professional Music Therapists, a  
12 departmental administrative board in the Department of State.  
13 The board shall consist of [13] 15 members who are citizens of  
14 the United States and who have been residents of this  
15 Commonwealth for a two-year period, two of whom shall be public  
16 members; five of whom shall be licensed social workers, at least  
17 one of whom shall be a licensed clinical social worker and at  
18 least one of whom shall be a licensed social worker; two of whom  
19 shall be licensed marriage and family therapists; two of whom  
20 shall be licensed professional counselors; one of whom shall be  
21 either a licensed marriage and family therapist or a licensed  
22 professional counselor as hereafter provided; two of whom shall  
23 be licensed professional music therapists with a master's degree  
24 in music therapy; and one of whom shall be the Commissioner of  
25 Professional and Occupational Affairs.

26 \* \* \*

27 (c) Initial appointments.--Within 90 days of the effective  
28 date of this act, the Governor shall nominate one professional  
29 member to serve as a clinical social worker member of the board;  
30 three professional members to serve as professional counselor

1 members of the board, one of whom shall serve a two-year term,  
2 one of whom shall serve a three-year term and one of whom shall  
3 serve a four-year term; two professional members to serve as the  
4 marriage and family therapist members of the board, one of whom  
5 shall serve a two-year term and one of whom shall serve a four-  
6 year term[.]; and two professional members to serve as the  
7 licensed professional music therapist members of the board, one  
8 of whom shall serve a two-year term and one of whom shall serve  
9 a four-year term. The professional members of the board  
10 initially appointed pursuant to this subsection need not be  
11 licensed by the licensure examination adopted by the board but,  
12 at the time of appointment, must have satisfied the education  
13 and experience requirements of this act for licensure as a  
14 clinical social worker, a marriage and family therapist [or], a  
15 professional counselor or a licensed professional music  
16 therapist.

17 \* \* \*

18 (1) Operating procedures.--The board shall meet within 30  
19 days after the appointment of its new members and set up  
20 operating procedures and develop application forms for licensing  
21 clinical social workers, marriage and family therapists [and],  
22 professional counselors and licensed professional music  
23 therapists. It shall be the responsibility of the board to  
24 circulate these forms and educate the public to the requirements  
25 of licensing in order to hold oneself out as a licensed bachelor  
26 social worker, licensed social worker, licensed clinical social  
27 worker, licensed marriage and family therapist [or], licensed  
28 professional counselor or licensed professional music therapist  
29 within the Commonwealth.

30 Section 5. Section 6(2) and (3) of the act are amended to

1 read:

2 Section 6. Powers and functions of board.

3 The board shall have the following powers:

4 \* \* \*

5 (2) To adopt and, from time to time, revise such rules  
6 and regulations as may be necessary to carry into effect the  
7 provisions of this act. Such regulations may include, but  
8 shall not be limited to, standards of professional practice  
9 and conduct for licensed bachelor social workers, licensed  
10 social workers, licensed clinical social workers, licensed  
11 marriage and family therapists [and], licensed professional  
12 counselors and licensed professional music therapists in  
13 Pennsylvania.

14 (3) To examine for, deny, approve, issue, revoke,  
15 suspend or renew licenses of bachelor social workers, social  
16 workers, clinical social workers, marriage and family  
17 therapists [and], professional counselors and professional  
18 music therapists pursuant to this act and to conduct hearings  
19 in connection therewith.

20 \* \* \*

21 Section 6. Section 7 of the act is amended by adding a  
22 subsection to read:

23 Section 7. Qualifications for license.

24 \* \* \*

25 (h) Professional music therapist license.--An applicant  
26 shall be qualified for a license to hold oneself out as a  
27 licensed professional music therapist, provided the applicant  
28 submits proof satisfactory to the board that:

29 (1) The applicant is of good moral character.

30 (2) The applicant has completed the education and

1 clinical training requirements established by the American  
2 Music Therapy Association or any successor organization.

3 (3) The applicant provides proof of passing the  
4 examination for board certification offered by the  
5 Certification Board for Music Therapists or any successor  
6 organization or of any organization transitioned into board  
7 certification and provides proof that the applicant is  
8 currently a board certified music therapist.

9 (4) The applicant remains actively certified by the  
10 Certification Board for Music Therapists.

11 (5) The applicant has submitted an application  
12 accompanied by the application fee.

13 (6) The board or any director shall waive the  
14 examination requirements for an applicant until January 1,  
15 2020, who is designated as a registered music therapist,  
16 certified music therapist or advanced certified music  
17 therapist and in good standing with the national music  
18 therapy registry.

19 (7) The applicant has not been convicted of a felony  
20 under The Controlled Substance, Drug, Device and Cosmetic  
21 Act, or of an offense under the laws of another jurisdiction,  
22 which, if committed in this Commonwealth, would be a felony  
23 under The Controlled Substance, Drug, Device and Cosmetic  
24 Act, unless:

25 (i) at least ten years have elapsed from the date of  
26 conviction;

27 (ii) the applicant satisfactorily demonstrates to  
28 the board that the applicant has made significant  
29 progress in personal rehabilitation since the conviction,  
30 such that licensure of the applicant should not be

1 expected to create a substantial risk of harm to the  
2 health and safety of the applicant's clients or the  
3 public or a substantial risk of further criminal  
4 violation; and

5 (iii) the applicant otherwise satisfies the  
6 qualifications contained in or authorized by this act.

7 As used in this paragraph, the term "convicted" shall include  
8 a judgment, an admission of guilt or a plea of nolo  
9 contendere.

10 Section 7. Sections 8(b) and 10 of the act are amended to  
11 read:

12 Section 8. Procedures for licensing.

13 \* \* \*

14 (b) Issuance of license.--The board shall issue to each  
15 person who meets the licensure requirements of this act a  
16 certificate setting forth that such person is licensed to hold  
17 himself or herself out as a licensed bachelor social worker, a  
18 licensed social worker, a licensed clinical social worker, a  
19 licensed marriage and family therapist [or], a licensed  
20 professional counselor or a licensed professional music  
21 therapist.

22 Section 10. Reciprocity.

23 The board shall have the power to grant a reciprocal license  
24 to an applicant who is licensed or certified as a bachelor  
25 social worker, social worker, clinical social worker, marriage  
26 and family therapist [or], professional counselor or licensed  
27 professional music therapist in another state and has  
28 demonstrated qualifications which equal or exceed those required  
29 pursuant to this act in the determination of the board, provided  
30 that no license shall be granted under this section to an

1 applicant unless the state in which the applicant is licensed  
2 affords reciprocal treatment to persons who are residents of  
3 this Commonwealth and who are licensed pursuant to this act.

4 Section 8. Section 10.1 of the act is amended by adding a  
5 subsection to read:

6 Section 10.1. Endorsement of out-of-State licenses.

7 \* \* \*

8 (d) Professional music therapist license.--The board may  
9 issue a professional music therapist license without examination  
10 to an applicant holding a professional music therapist license  
11 in another state who submits proof satisfactory to the board of  
12 all of the following:

13 (1) The applicant is of good moral character.

14 (2) The applicant meets the educational requirements as  
15 specified in section 7(h).

16 (3) The applicant has completed a minimum of 1,200 hours  
17 of supervised clinical experience acceptable to the board.

18 (4) The applicant holds a music therapy license that is  
19 in good standing from another state.

20 (5) The applicant has, at a minimum, been actively  
21 engaged in the practice of music therapy for five of the last  
22 seven years immediately preceding the filing of the  
23 application for licensure by endorsement with the board.

24 (6) The applicant has submitted an application  
25 accompanied by the application fee.

26 (7) The applicant has not been convicted of a felony  
27 under The Controlled Substance, Drug, Device and Cosmetic  
28 Act, or of an offense under the laws of another jurisdiction,  
29 which, if committed in this Commonwealth, would be a felony  
30 under The Controlled Substance, Drug, Device and Cosmetic

1 Act, unless:

2 (i) at least ten years have elapsed from the date of  
3 conviction;

4 (ii) the applicant satisfactorily demonstrates to  
5 the board that the applicant has made significant  
6 progress in personal rehabilitation since the conviction,  
7 such that licensure of the applicant should not be  
8 expected to create a substantial risk of harm to the  
9 health and safety of the applicant's clients or the  
10 public or a substantial risk of further criminal  
11 violation; and

12 (iii) the applicant otherwise satisfies the  
13 qualifications contained in or authorized by this act.

14 As used in this paragraph, the term "convicted" shall include  
15 a judgment, an admission of guilt or a plea of nolo  
16 contendere.

17 Section 9. Section 12 of act is amended to read:

18 Section 12. Reinstatement of license.

19 Unless ordered to do so by Commonwealth Court or an appeal  
20 therefrom, the board shall not reinstate the license of a person  
21 to practice as a bachelor social worker, social worker, clinical  
22 social worker, marriage and family therapist [or], professional  
23 counselor or professional music therapist pursuant to this act,  
24 which has been revoked. Any person whose license has been  
25 revoked may apply for reinstatement, after a period of at least  
26 five years, but must meet all of the licensing qualifications of  
27 this act, including the examination requirement, if he or she  
28 desires to practice as a bachelor social worker, social worker,  
29 clinical social worker, marriage and family therapist [or],  
30 professional counselor or professional music therapist pursuant

1 to this act at any time after such revocation.

2 Section 10. The act is amended by adding a section to read:

3 Section 16.5. Restrictions on use of title "Licensed

4 Professional Music Therapist."

5 Only individuals who have received licenses as licensed

6 professional music therapists under this act may style

7 themselves as licensed professional music therapists and use the

8 letters "L.P.M.T." in connection with their names, and it shall

9 be unlawful for an individual to style himself or herself as a

10 licensed professional music therapist, a music therapist, or use

11 any words or symbols indicating or tending to indicate that the

12 individual is a licensed professional music therapist or a music

13 therapist without holding a license in good standing under

14 this act.

15 Section 11. Section 17(b) of the act, amended June 23, 2016

16 (P.L.387, No.54), is amended to read:

17 Section 17. Penalties.

18 \* \* \*

19 (b) Civil penalty.--In addition to any other civil remedy or

20 criminal penalty provided for in this act, the board, by a vote

21 of the majority of the maximum number of the authorized

22 membership of the board as provided by law, or by a vote of the

23 majority of the duly qualified and confirmed membership or a

24 minimum of three members, whichever is greater, may levy a civil

25 penalty of up to \$1,000 on any current licensee who violates any

26 provision of this act or on any person who holds himself or

27 herself out as a licensed bachelor social worker, licensed

28 social worker, licensed clinical social worker, licensed

29 marriage and family therapist [or], licensed professional

30 counselor or licensed professional music therapist without being

1 so licensed pursuant to this act. The board shall levy this  
2 penalty only after affording the accused party the opportunity  
3 for a hearing, as provided in Title 2 of the Pennsylvania  
4 Consolidated Statutes (relating to administrative law and  
5 procedure).

6 \* \* \*

7 Section 12. Sections 18(b) and 20(a) of the act are amended  
8 to read:

9 Section 18. License renewal; records and fees.

10 \* \* \*

11 (b) Records.--A record of all persons licensed to practice  
12 as bachelor social workers, social workers, clinical social  
13 workers, marriage and family therapists [and], professional  
14 counselors and licensed professional music therapists in  
15 Pennsylvania shall be kept in the office of the board and shall  
16 be open to public inspection and copying upon payment of a  
17 nominal fee for copying the record.

18 \* \* \*

19 Section 20. Unlawful practice.

20 (a) Unlawful practice prohibited.--It shall be unlawful for  
21 any person to hold himself or herself out as a licensed bachelor  
22 social worker, licensed social worker, licensed clinical social  
23 worker, marriage and family therapist [and], professional  
24 counselor and licensed professional music therapist without  
25 possessing a valid, unexpired, unrevoked and unsuspended license  
26 issued under this act.

27 \* \* \*

28 Section 13. This act shall take effect in 60 days.