

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2290 Session of
2014

INTRODUCED BY SABATINA, V. BROWN, BROWNLEE, CALTAGIRONE, CLAY,
COHEN, D. COSTA, DONATUCCI, W. KELLER, McNEILL AND THOMAS,
MAY 29, 2014

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MAY 29, 2014

AN ACT

1 Providing for licensing requirements for recreational
2 therapists; establishing the State Board of Recreational
3 Therapy; providing for authorization to practice, for
4 discipline, for eligibility and for renewal; and imposing
5 penalties.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Recreational
10 Therapists Practice Act.

11 Section 2. Definitions.

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

15 "Board." The State Board of Recreational Therapy established
16 in section 3.

17 "Commissioner." The Commissioner of Professional and
18 Occupational Affairs.

19 "Department." The Department of State of the Commonwealth.

1 "Licensee." A person currently licensed to practice
2 recreational therapy in this Commonwealth.

3 "Recreational therapist." A person currently licensed to
4 practice recreational therapy, also referred to as therapeutic
5 recreation, in this Commonwealth.

6 "Recreational therapy." A service designed to treat an
7 individual affected by an illness or disabling condition in
8 order to accomplish any of the following:

9 (1) Restore, remediate or rehabilitate a person's level
10 of functioning and independence in life activities.

11 (2) Promote health and wellness.

12 (3) Reduce or eliminate limitations and restrictions to
13 participation in life situations.

14 "Recreational therapy services." The techniques used by
15 recreational therapists to treat individuals, including all of
16 the following:

17 (1) Conducting an individualized assessment for the
18 purpose of collecting systematic, comprehensive and accurate
19 data necessary to determine the course of action and
20 subsequent individualized treatment plan.

21 (2) Planning and developing an individualized
22 recreational therapy treatment plan that identifies an
23 individual's goals, objectives and potential treatment
24 intervention strategies for play, recreation, leisure and
25 community activities.

26 (3) Implementing an individualized recreational therapy
27 treatment plan that is consistent with the overall treatment
28 plan.

29 (4) Systemically evaluating and comparing the
30 individual's response to the individualized recreational

1 therapy treatment plan and making modifications as
2 appropriate.

3 (5) Developing a discharge plan in collaboration with
4 the individual and the individual's family, treatment team
5 and other identified support networks where appropriate.

6 (6) Identifying and training in the use of adaptive
7 play, recreation and leisure equipment.

8 (7) Identifying, providing and educating individuals to
9 use play, recreation, leisure and community resources that
10 support a healthy, active and engaged life.

11 (8) Providing leisure education and counseling to
12 address issues that hinder health and engagement in play,
13 leisure, recreation and community activities.

14 (9) Providing community integration, reintegration,
15 inclusion and transitioning services to maximize health and
16 participation in play, recreation, leisure and community
17 activities.

18 (10) Addressing functional skill recovery, development
19 or maintenance related to health and participation in play,
20 recreation, leisure and community activities and utilizing
21 recreation, leisure and community activities as modalities to
22 advance health and functioning.

23 (11) Assisting individuals in constructing a healthy
24 leisure lifestyle that supports continued recovery, health
25 promotion and quality of life.

26 (12) Providing play, recreation, leisure and community
27 opportunities for individuals with illness, disability or
28 challenges for therapeutic purposes.

29 (13) Minimizing personal and environmental contextual
30 barriers and maximizing personal and environmental contextual

1 facilitators to enhance health and participation in play,
2 recreation, leisure and community activities.

3 (14) Collaborating with and educating the individual,
4 family, caregiver and others to foster an environment that is
5 responsive to the health, play, recreation, leisure and
6 community engagement needs of the individual.

7 (15) Consulting with groups, programs, organizations or
8 communities to improve physical, social and programmatic
9 accessibility in play, recreation, leisure and community
10 activities.

11 Section 3. State Board of Recreational Therapy.

12 (a) Establishment and board members.--The State Board of
13 Recreational Therapy is hereby established as an administrative
14 board within the department and shall consist of the following
15 members:

16 (1) Two members who are members of the public and
17 residents of this Commonwealth for at least five years.

18 (2) Six members who are licensed to practice
19 recreational therapy in this Commonwealth and are residents
20 of this Commonwealth for at least five years.

21 (3) The commissioner shall serve as an ex officio member
22 of the board.

23 (b) Term of office.--Except as provided in subsection (c),
24 the members of the board shall serve for four-year terms and
25 shall be appointed by the Governor by and with the advice and
26 consent of a majority of the members elected to the Senate. In
27 appointing persons to fill vacancies in the six board positions
28 designated to be held by licensed recreational therapists, the
29 Governor may select recreational therapists who reside in
30 different regions of this Commonwealth in an effort to provide

1 Statewide representation of recreational therapists. The board
2 shall submit a list of names and addresses of qualified
3 recreational therapists willing to serve on the board for the
4 Governor's consideration prior to the making of an appointment
5 to fill the vacancy.

6 (c) Initial appointments.--Within 180 days of the effective
7 date of this section, the Governor shall nominate:

8 (1) Two professional members under subsection (a)(2) to
9 serve four-year terms.

10 (2) One public member under subsection (a)(1) and two
11 professional members under subsection (a)(2) to serve three-
12 year terms.

13 (3) One public member under subsection (a)(1) and one
14 professional member under subsection (a)(2) to serve two-year
15 terms.

16 (4) One professional member under subsection (a)(2) to
17 serve a one-year term.

18 A professional member initially appointed to the board pursuant
19 to this act need not be licensed at the time of appointment, but
20 at the time of appointment must have satisfied the eligibility
21 requirements for licensure and must have practiced recreational
22 therapy for five consecutive years or more immediately preceding
23 the appointment.

24 (d) Continuation in office.--Each board member shall
25 continue in office until a successor is appointed and qualified
26 but no longer than six months after the expiration of the term.
27 If a board member dies, resigns or otherwise becomes
28 disqualified during the term of office, a successor shall be
29 appointed in the same way and with the same qualifications as
30 set forth in this section and shall hold office for the

1 unexpired portion of the term.

2 (e) Limit on terms.--No board member may be eligible for
3 reappointment to serve more than two consecutive four-year
4 terms.

5 (f) Forfeiture of membership.--A professional or public
6 member who fails to attend three meetings in 18 months shall
7 forfeit the member's seat unless the commissioner, upon written
8 request from the member, finds that the member should be excused
9 from a meeting because of illness or death of a family member.

10 (g) Compensation.--A member of the board, except the
11 commissioner, shall receive per diem compensation at the rate of
12 \$60 when actually attending to the work of the board. Members
13 shall also receive reasonable traveling, hotel and other
14 necessary expenses incurred in the performance of their duties
15 in accordance with regulations.

16 (h) Forfeiture for nonattendance.--A public member who fails
17 to attend two consecutive statutorily mandated training seminars
18 in accordance with section 813(e) of the act of April 9, 1929
19 (P.L.177, No.175), known as The Administrative Code of 1929,
20 shall forfeit the public member's seat unless the commissioner,
21 upon written request from the public member, finds that the
22 public member should be excused from a meeting because of
23 illness or the death of a family member.

24 (i) Quorum.--A majority of the members of the board shall
25 constitute a quorum for the purposes of conducting the business
26 of the board. Except for temporary and automatic suspensions
27 under section 6(c), a member may not be counted as part of a
28 quorum or vote on any issue unless the member is physically in
29 attendance at the meeting.

30 (j) Chairperson.--The board shall annually select a

1 chairperson from among its members.

2 (k) Meetings.--The board shall meet at least two times a
3 year within this Commonwealth and at other times and places as
4 the board shall determine is necessary to conduct board
5 business.

6 (l) Operating procedures.--The board shall meet within 30
7 days after the appointment of its initial members and shall
8 institute operating procedures and an application form for
9 licensing recreational therapists. It shall be the
10 responsibility of the board to educate the public as to the
11 requirements of licensing in order to hold oneself out or to
12 practice as a licensed recreational therapist within this
13 Commonwealth.

14 Section 4. Unauthorized practice.

15 (a) General rule.--No person may practice, or hold oneself
16 out as being able to practice recreational therapy or provide
17 recreational therapy services in this Commonwealth, unless the
18 person is licensed under this act.

19 (b) Students.--Nothing in this section may be construed to
20 prohibit students enrolled in schools, or courses in
21 recreational therapy, from performing recreational therapy that
22 is incidental to their respective courses of study or supervised
23 work. The board shall adopt rules related to schools or courses
24 allowing students to practice under this section.

25 Section 5. Eligibility for licensure.

26 (a) Requirements.--To be eligible to apply for licensure as
27 a recreational therapist, an applicant must fulfill the
28 following requirements:

29 (1) Be at least 18 years of age.

30 (2) Be of good moral character.

1 (3) Successfully complete all certification requirements
2 outlined by the National Council for Therapeutic Recreation
3 Certification.

4 (4) Be an active certified therapeutic recreation
5 specialist (CTRS) in good standing with the National Council
6 for Therapeutic Recreation Certification.

7 (5) Successfully complete the proctored examination
8 administered by the National Council for Therapeutic
9 Recreation Certification.

10 (b) Current and active certification.--Notwithstanding the
11 provisions of subsection (a), the board may grant an initial
12 license to a recreational therapist who was certified by the
13 National Council for Therapeutic Recreation Certification prior
14 to the effective date of this act and who holds an active
15 certified therapeutic recreation specialist credential.

16 Section 6. License duration and renewal.

17 (a) Duration of license.--A license issued under this act
18 shall be valid for a period of two years.

19 (b) Renewal of license.--A licensee is eligible for renewal
20 of the license if the licensee meets all of the following
21 requirements:

22 (1) Has not violated this act or demonstrated poor moral
23 character.

24 (2) Completed the minimum hours of continuing education
25 and any other requirements established by the board.

26 (3) Is an active certified therapeutic recreation
27 specialist (CTRS) in good standing with the National Council
28 for Therapeutic Recreation Certification.

29 (4) Any other requirements established by the board.

30 (c) Suspension of license.--

1 (1) The board may refuse, suspend, revoke, limit or
2 restrict a license or discipline a licensee for any of the
3 following:

4 (i) Being convicted under Federal law, under the law
5 of any state or under the law of another jurisdiction of
6 a crime of moral turpitude or of an offense that, if
7 committed in this Commonwealth, would constitute a
8 felony.

9 (ii) Being found to have engaged in immoral or
10 unprofessional conduct. In proceedings based on this
11 paragraph, actual injury to the client need not be
12 established. As used in this paragraph, the term
13 "unprofessional conduct" includes a departure from or
14 failure to conform to the standards of acceptable and
15 prevailing practice.

16 (iii) Violating standards of professional practice
17 or conduct as established by board regulation.

18 (iv) Presenting false credentials or documents or
19 making a false statement of fact in support of the
20 individual's application for a license.

21 (v) Submitting a false or deceptive license renewal
22 to the board.

23 (vi) Having a license suspended, revoked or refused
24 or receiving other disciplinary action by the proper
25 licensing authority of another jurisdiction.

26 (vii) Violating a regulation promulgated by the
27 board or violating an order of the board previously
28 entered in a disciplinary proceeding.

29 (viii) Incompetence, negligence or misconduct in
30 carrying out the practice of recreational therapy.

1 (ix) Practicing beyond the licensee's defined scope
2 of practice.

3 (x) Knowingly aiding, assisting, hiring or advising
4 someone in the unlawful practice of recreational therapy.

5 (xi) Being unable to practice with reasonable skill
6 and safety by reason of illness, drunkenness, use of
7 drugs, narcotics, chemicals or any other type of material
8 or as a result of any mental or physical condition. In
9 enforcing this subparagraph, the board, upon probable
10 cause, has authority to compel a licensee to submit to a
11 mental or physical examination by a physician approved by
12 the board. Failure of a licensee to submit to an
13 examination when directed by the board, unless the
14 failure is due to circumstances beyond the licensee's
15 control, may result in a default and final order entered
16 against the licensee without the taking of testimony or
17 presentation of evidence. A licensee affected under this
18 paragraph shall be afforded an opportunity to demonstrate
19 that the licensee can resume competent practice with
20 reasonable skill and safety.

21 (2) If the board finds that the license or application
22 for license may be refused, revoked, restricted or suspended
23 under the terms of paragraph (1), the board may do any of the
24 following:

25 (i) Deny the application for a license.

26 (ii) Administer a public reprimand.

27 (iii) Revoke, suspend, limit or otherwise restrict a
28 license.

29 (iv) Require a licensee to submit to the care,
30 counseling or treatment of a physician.

1 (v) Suspend enforcement of its findings and place a
2 licensee on probation with the right to vacate the
3 probationary order for noncompliance.

4 (vi) Restore a suspended license and impose any
5 disciplinary or corrective measure which it might
6 originally have imposed.

7 (3) Actions of the board under paragraphs (1) and (2)
8 are subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to
9 practice and procedure of Commonwealth agencies) and 7 Subch.
10 A (relating to judicial review of Commonwealth agency
11 action).

12 (4) A license issued under this act shall be temporarily
13 suspended under circumstances determined by the board to be
14 an immediate and clear danger to the public health and
15 safety. The board shall issue an order to that effect without
16 a hearing, but upon due notice, to the licensee concerned at
17 the licensee's last known address, which shall include a
18 written statement of all allegations against the licensee.
19 The provisions of this subsection shall not apply to
20 temporary suspension. The board shall, upon temporary
21 suspension, commence formal action to suspend, revoke or
22 restrict the license of the person concerned as otherwise
23 provided for in this act. All actions shall be taken promptly
24 and without delay. Within 30 days following the issuance of
25 an order temporarily suspending a license, the board shall
26 conduct or cause to be conducted a preliminary hearing to
27 determine if there is a prima facie case supporting the
28 suspension. The licensee whose license has been temporarily
29 suspended may be present at the preliminary hearing and may
30 be represented by counsel, cross-examine witnesses, inspect

1 physical evidence, call witnesses, offer evidence and
2 testimony and make a record of the proceedings. If it is
3 determined that there is not a prima facie case, the
4 suspended license shall be immediately restored. The
5 temporary suspension shall remain in effect until vacated by
6 the board, but in no event longer than 180 days.

7 (d) Reinstatement.--The board may, upon notice and
8 opportunity for a hearing, deny an application for reinstatement
9 of a license, or reinstate the license with certain
10 requirements, which may include:

11 (1) A requirement for continuing education.

12 (2) Practice under the supervision of a licensed
13 recreational therapist.

14 (3) Any other conditions established by the board.

15 Section 7. Professional identification.

16 (a) Titles.--A licensee may use the letters "CTRS/L" in
17 connection with the licensee's name or place of business.

18 (b) Prohibited use of title.--A person or business entity,
19 its employees, agents or representatives may not use any of the
20 following words, abbreviations, or insignia in conjunction with
21 that person's name or business unless services are provided
22 under the direction of a licensee:

23 (1) Therapeutic recreation specialist, therapeutic
24 recreation, recreational therapy, recreational therapist,
25 recreation therapy or recreation therapist.

26 (2) The letters "TR," "TRS," "RT" or "CTRS/L."

27 (3) Any other words, abbreviations or insignia
28 indicating or implying that recreational therapy services are
29 provided.

30 Section 8. Violation of act.

1 (a) Criminal penalty.--A person that violates a provision of
2 this act commits a misdemeanor of the third degree and shall,
3 upon conviction, be sentenced to pay a fine of not more than
4 \$1,000 or to imprisonment for not more than six months for the
5 first violation and to pay a fine of not more than \$2,000 or to
6 imprisonment for not less than six months nor more than one
7 year, or both, for each subsequent violation.

8 (b) Civil penalty.--In addition to any other civil remedy or
9 criminal penalty provided for in this act, the board, by a vote
10 of the majority of the maximum number of the authorized
11 membership of the board or by a vote of the majority of the
12 qualified and confirmed membership or a minimum of five members,
13 whichever is greater, may levy a civil penalty of up to \$10,000
14 on any of the following:

15 (1) A recreational therapist who violates a provision of
16 this act.

17 (2) A person that employs a recreational therapist in
18 violation of this act.

19 (3) An individual who holds himself out as a licensee
20 without being properly licensed as provided in this act.

21 (4) The responsible officers or employees of a
22 corporation, partnership, firm or other entity that violates
23 a provision of this act.

24 (c) Assessment of costs of investigation.--The board may
25 assess against the respondent in a disciplinary action under
26 this act, as part of the sanction, the cost of investigation
27 underlying that disciplinary action.

28 (d) Administrative Agency Law.--Action of the board under
29 subsection (b) is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating
30 to practice and procedure of Commonwealth agencies) and 7 Subch.

1 A (relating to judicial review of Commonwealth agency action).

2 Section 9. Coercion.

3 (a) Delegated tasks and activities.--No person may coerce a
4 licensed recreational therapist to delegate activities or tasks
5 if the licensed recreational therapist determines that it is
6 inappropriate to delegate or if doing so compromises client
7 safety.

8 (b) Discipline.--A licensed recreational therapist may not
9 be subject to disciplinary action by the board for refusing to
10 delegate activities or tasks, or refusing to provide the
11 required training for delegation, if the licensed recreational
12 therapist determines that the delegation may compromise client
13 safety.

14 Section 10. Referrals.

15 (a) Consultation and evaluation.--Consultation and
16 evaluation by a recreational therapist may be performed without
17 a referral.

18 (b) Referral required.--Recreational therapy services
19 provided to individuals with medically related conditions shall
20 be based on a referral from a qualified health care professional
21 who, within the scope of the professional's licensure, is
22 authorized to make referrals for health care services.

23 (c) Exceptions.--Recreational therapy services related to
24 prevention, wellness, education, adaptive sports and recreation
25 do not require a referral.

26 Section 11. Effective date.

27 This act shall take effect in 60 days.