INTRODUCED BY VOGEL, BLAKE, BREWSTER, COSTA, DiSANTO, GORDNER, HAYWOOD, HUTCHINSON, SABATINA, SCHWANK, STEFANO AND J. WARD, JUNE 14, 2019

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, JUNE 14, 2019

AN ACT

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

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

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

AN ACT

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

Section 1.  Short title.  

This act shall be known and may be cited as the Social Workers, Marriage and Family Therapists and Professional Counselors Act.
Counselors and Professional Music Therapists Act.

Section 2. Legislative intent.

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

Section 2. The definition of "board" in section 3 of the act, amended June 29, 2018 (P.L.505, No.76), is amended and the section is amended by adding definitions to read:

Section 3. Definitions.

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

* * *

"Board." The State Board of Social Workers, Marriage and Family Therapists [and] Professional Counselors and Professional Music Therapists under the Bureau of Professional and Occupational Affairs within the Department of State.
"Licensed professional music therapist." An individual who
engages in the practice of music therapy and who holds a current
license under this act.

"Practice of music therapy." As follows:

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

(2) The term includes:

   (i) Accepting referrals for music therapy services
from medical, developmental, mental health or education
professionals, family members, clients or caregivers,
provided that prior to providing music therapy services
to a client for a medical, developmental or mental health
condition, the licensed professional therapist
collaborates, as applicable, with the client's physician,
psychologist or mental health professional to review the
client's diagnosis, treatment needs and treatment plan
and, during the provision of music therapy services to a
client, the licensee collaborates, as applicable, with
the client's treatment team.
(ii) Conducting a music therapy assessment of a client to collect systematic, comprehensive and accurate information necessary to determine the appropriate type of music therapy services to provide for the client.

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

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

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

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

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

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

(3) The term does not include the following:

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

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

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

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

* * *

Section 3. Sections 4, 5 heading, (a), (c) and (l) and 6(2) and (3) of the act are amended to read:

Section 4. License required.

It shall be unlawful for any person to hold himself or herself forth as a licensed bachelor social worker, licensed social worker, licensed clinical social worker, licensed marriage and family therapist or licensed professional counselor or licensed professional music therapist unless he or she shall first have obtained a license pursuant to this act.

Section 5. State Board of Social Workers, Marriage and Family Therapists and Professional Counselors and Professional Music Therapists.

(a) Creation.--There is hereby created the State Board of Social Workers, Marriage and Family Therapists and
Professional Counselors and Professional Music Therapists, a departmental administrative board in the Department of State. The board shall consist of 15 members who are citizens of the United States and who have been residents of this Commonwealth for a two-year period, two of whom shall be public members; five of whom shall be licensed social workers, at least one of whom shall be a licensed clinical social worker and at least one of whom shall be a licensed social worker; two of whom shall be licensed marriage and family therapists; two of whom shall be licensed professional counselors; two of whom shall be licensed professional music therapists with a master's degree in music therapy; one of whom shall be either a licensed marriage and family therapist or a licensed professional counselor whose membership shall rotate between those professions at the expiration of the member's second term; and one of whom shall be the Commissioner of Professional and Occupational Affairs.

* * *

(c) Initial appointments.--Within 90 days of the effective date of this act, the Governor shall nominate one professional member to serve as a clinical social worker member of the board; three professional members to serve as professional counselor members of the board, one of whom shall serve a two-year term, one of whom shall serve a three-year term and one of whom shall serve a four-year term; two professional members to serve as the marriage and family therapist members of the board, one of whom shall serve a two-year term and one of whom shall serve a four-year term; and two professional members to serve as the licensed professional music therapist members of the board, one of whom shall serve a two-year term and one of whom shall serve a four-year term. The professional members of the board
initially appointed pursuant to this subsection need not be
licensed by the licensure examination adopted by the board but,
at the time of appointment, must have satisfied the education
and experience requirements of this act for licensure as a
clinical social worker, a marriage and family therapist or a
professional counselor or a licensed professional music
therapist.

* * *

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

Section 6. Powers and functions of board.

The board shall have the following powers:

* * *

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

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

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Section 4. Section 7 of the act is amended by adding a subsection to read:

Section 7. Qualifications for license.

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

(1) The applicant is of good moral character.

(2) The applicant has completed the education and clinical training requirements established by the American Music Therapy Association or any successor organization.

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

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

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

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

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

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

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

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

Section 5. Section 8(b) of the act is amended to read:

Section 8. Procedures for licensing.

* * *

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

Section 6. Section 10(a) of the act, amended June 29, 2018 (P.L.505, No.76), is amended to read:

Section 10. Reciprocity.

(a) General rule.--The board shall have the power to grant a reciprocal license to an applicant who is licensed or certified as a bachelor social worker, social worker, clinical social worker, marriage and family therapist or professional counselor or a licensed professional music therapist in another state and has demonstrated qualifications which equal or exceed those required pursuant to this act in the determination of the board, provided that no license shall be granted under this section to an applicant unless the state in which the applicant is licensed affords reciprocal treatment to persons who are residents of this Commonwealth and who are licensed pursuant to this act.

* * *

Section 7. Section 10.1 of the act is amended by adding a subsection to read:

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

* * *

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

(1) The applicant is of good moral character.

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

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

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

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

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

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

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

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

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

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

Section 8. Section 12 of the act is amended to read:

Section 12. Reinstatement of license.

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

Section 9. The act is amended by adding a section to read:

Section 16.5. Restrictions on use of title "Licensed Professional Music Therapist."

(a) Use of title.—Only individuals who have received licenses as licensed professional music therapists under this act may style themselves as licensed professional music therapists and use the letters "L.P.M.T." in connection with their names, and it shall be unlawful for an individual to style himself or herself as a licensed professional music therapist, a music therapist or use any words or symbols indicating or tending to indicate that the individual is a licensed professional music therapist or a music therapist without holding a license in good standing under this act.
(b) Construction.--Nothing in this section shall be construed to prohibit a person who is licensed or certified to practice a profession by a Commonwealth agency or board from practicing within the scope of that license or certificate or as otherwise authorized by law so long as the person does not represent himself or herself as a licensed professional music therapist.

Section 10. Section 17(b) of the act, amended June 29, 2018 (P.L.505, No.76), is amended to read:

Section 17. Penalties.

* * *

(b) Civil penalty.--In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of three members, whichever is greater, may levy a civil penalty of up to $10,000 on any current licensee who violates any provision of this act, on any person who engages in the independent practice of clinical social work, the independent practice of marriage and family therapy or the independent practice of professional counseling without being licensed pursuant to this act or on any person who holds himself or herself out as a licensed bachelor social worker, licensed social worker, licensed clinical social worker, licensed marriage and family therapist, licensed professional counselor or marriage and family therapist or licensed professional music therapist without being so licensed pursuant to this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as
provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

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Section 11. Section 18(b) of the act is amended to read:

Section 18. License renewal; records and fees.

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

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Section 12. Section 20(a) of the act, amended June 29, 2018 (P.L.505, No.76), is amended to read:

Section 20. Unlawful practice.

(a) Unlawful practice prohibited.--It shall be unlawful for any person to engage in the independent practice of clinical social work, the independent practice of marriage and family therapy or the independent practice of professional counseling or hold himself or herself out as a licensed bachelor social worker, licensed social worker, licensed clinical social worker, marriage and family therapist, professional counselor, and licensed professional music therapist without possessing a valid, unexpired, unrevoked and unsuspended license issued under this act.

* * *

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