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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 546

01/31/2019 Authored by Daniels, Lien and Bennett
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health occupations; creating licensure for music therapists; imposing
1.3 fees and civil penalties; amending Minnesota Statutes 2018, section 144.0572,
1.4 subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 148G.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2018, section 144.0572, subdivision 1, is amended to read:

1.7 Subdivision 1. Criminal history background check requirements. (a) Beginning
1.8 January 1, 2018, an applicant for initial licensure, temporary licensure, or relicensure after
1.9 a lapse in licensure as an audiologist or speech-language pathologist, or a music therapist,
1.10 or an applicant for initial certification as a hearing instrument dispenser, must submit to a
1.11 criminal history records check of state data completed by the Bureau of Criminal
1.12 Apprehension (BCA) and a national criminal history records check, including a search of
1.13 the records of the Federal Bureau of Investigation (FBI).

1.14 (b) Beginning January 1, 2020, an applicant for a renewal license or certificate as an
1.15 audiologist, speech-language pathologist, or hearing instrument dispenser who was licensed
1.16 or obtained a certificate before January 1, 2018, must submit to a criminal history records
1.17 check of state data completed by the BCA and a national criminal history records check,
1.18 including a search of the records of the FBI.

1.19 (c) An applicant must submit to a background study under chapter 245C.

1.20 (d) The criminal history records check must be structured so that any new crimes that
1.21 an applicant or licensee or certificate holder commits after the initial background check are
1.22 flagged in the BCA's or FBI's database and reported back to the commissioner of human
1.23 services.

2.1 Sec. 2. **[148G.01] DEFINITIONS.**

2.2 Subdivision 1. **Scope.** The terms defined in this section apply to this chapter.

2.3 Subd. 2. **Advisory council.** "Advisory council" means the Music Therapy Advisory
2.4 Council established in section 148G.05.

2.5 Subd. 3. **Board-certified music therapist.** "Board-certified music therapist" means a
2.6 person who has completed the education and clinical training requirements established by
2.7 the American Music Therapy Association and holds current board certification from the
2.8 Certification Board for Music Therapists.

2.9 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of health or a
2.10 designee.

2.11 Subd. 5. **Music-based interventions.** "Music-based interventions" means the use of
2.12 evidence-based approaches and techniques including but not limited to music improvisation,
2.13 receptive music listening, song writing, lyric discussion, music and imagery, singing, music
2.14 performance, learning through music, music combined with other arts, music-assisted
2.15 relaxation, music-based patient education, electronic music intervention, and movement to
2.16 music that are implemented in the context of the practice of music therapy.

2.17 Subd. 6. **Music therapist.** "Music therapist" means a person who meets the qualifications
2.18 in section 148G.15 and is licensed by the commissioner.

2.19 Subd. 7. **Music therapy.** "Music therapy" means the clinical and evidence-based use of
2.20 music-based interventions to accomplish individualized goals for persons of all ages and
2.21 ability levels within a therapeutic relationship with a board-certified music therapist.

2.22 Sec. 3. **[148G.05] MUSIC THERAPY ADVISORY COUNCIL.**

2.23 Subdivision 1. **Membership.** The commissioner shall appoint five members to the Music
2.24 Therapy Advisory Council consisting of the following:

2.25 (1) one member who is a licensed health care professional who is not a music therapist;

2.26 (2) one member who is a consumer; and

2.27 (3) three members who are licensed to practice as music therapists in this state.

2.28 Subd. 2. **Creation.** The advisory council shall be organized and administered under
2.29 section 15.059.

2.30 Subd. 3. **Duties.** The advisory council shall:

2.31 (1) advise the commissioner regarding standards for licensure of music therapists;

3.1 (2) review investigation summaries of competency violations and make recommendations
 3.2 to the commissioner as to whether the allegations of incompetency are substantiated;

3.3 (3) provide for the distribution of information regarding music therapist licensure
 3.4 standards;

3.5 (4) facilitate dissemination of information between music therapists, the American Music
 3.6 Therapy Association or any successor organization, the Certification Board for Music
 3.7 Therapists or any successor organization, and the commissioner;

3.8 (5) develop public education materials to inform the public of the benefits of music
 3.9 therapy, the use of music therapy by individuals and in facilities or institutional settings,
 3.10 and the licensure of music therapists; and

3.11 (6) perform other duties authorized for advisory councils by chapter 214, as directed by
 3.12 the commissioner.

3.13 **Sec. 4. [148G.10] UNAUTHORIZED PRACTICE; PROTECTED TITLES; EXEMPT**
 3.14 **PERSONS.**

3.15 Subdivision 1. **Unlicensed practice prohibited.** Effective July 1, 2020, no person shall
 3.16 engage in the practice of music therapy unless the person is licensed as a music therapist
 3.17 in accordance with this chapter.

3.18 Subd. 2. **Protected titles and restrictions on use.** (a) Use of the term "licensed music
 3.19 therapist" or "music therapist" or similar titles or terms to indicate or imply that the person
 3.20 is licensed by the state as a music therapist is prohibited unless that person is licensed under
 3.21 this chapter.

3.22 (b) Use of the term "board-certified music therapist" or similar titles or terms to indicate
 3.23 or imply that the person is a licensed music therapist who is certified by the Certification
 3.24 Board for Music Therapists is prohibited unless the person is licensed under this chapter
 3.25 and holds a valid certification from the Certification Board for Music Therapists.

3.26 (c) Use of the term "registered music therapist," "certified music therapist," or
 3.27 "advanced-certified music therapist" or similar titles or terms to indicate or imply that the
 3.28 person is a licensed music therapist is prohibited unless the person is licensed under this
 3.29 chapter and holds a current professional designation from the National Music Therapy
 3.30 Registry.

3.31 Subd. 3. **Exempt persons.** This chapter does not apply to:

4.1 (1) a person employed as a music therapist by the government of the United States or
4.2 any federal agency. A person who is exempt under this clause may use the protected titles
4.3 identified in subdivision 2, but only in connection with performing official duties for the
4.4 federal government;

4.5 (2) the practice of music therapy as an integral part of a program of study for students
4.6 enrolled in an accredited music therapy program;

4.7 (3) a person who practices music therapy under the supervision of a licensed music
4.8 therapist, if the person is not represented as a music therapist; or

4.9 (4) a person who is trained and certified by a nationally accredited certifying organization
4.10 as a music healing professional, and who practices within the scope of the specific training
4.11 and certification of the specific music healing profession, if the person does not hold
4.12 themselves out to the public as a music therapist.

4.13 **Sec. 5. [148G.15] LICENSURE APPLICATION REQUIREMENTS;**
4.14 **QUALIFICATIONS.**

4.15 Subdivision 1. **Application.** An applicant for licensure must apply in writing on a form
4.16 prescribed by the commissioner and submit the fee required in section 148G.45.

4.17 Subd. 2. **Qualifications.** An applicant for licensure must:

4.18 (1) be 18 years of age or older;

4.19 (2) successfully pass a background check that includes a review of the applicant's music
4.20 therapy licensure history in other jurisdictions, including a review of any alleged misconduct
4.21 or neglect in the practice of music therapy on the part of the applicant;

4.22 (3) provide proof of passing the examination for board certification offered by the
4.23 Certification Board for Music Therapists or any successor organization;

4.24 (4) provide proof that the applicant is currently a board-certified music therapist; and

4.25 (5) comply with the criminal history background check requirements under section
4.26 144.0572.

4.27 Subd. 3. **Action on application for licensure.** (a) The commissioner shall approve,
4.28 approve with conditions, or deny licensure. The commissioner shall act on an application
4.29 according to paragraphs (b) to (d).

4.30 (b) The commissioner shall determine if the applicant meets the requirements for
4.31 licensure. The commissioner, or the advisory council at the commissioner's request, may

5.1 investigate information provided by the applicant to determine whether the information is
5.2 accurate and complete.

5.3 (c) The commissioner shall notify the applicant of action taken on the application and,
5.4 if licensure is denied or approved with conditions, the grounds for the commissioner's
5.5 determination.

5.6 (d) An applicant denied licensure or granted licensure with conditions may make a
5.7 written request to the commissioner, within 30 days of the date of the commissioner's
5.8 determination, for reconsideration of the commissioner's determination. Individuals
5.9 requesting reconsideration may submit information which the applicant wants considered
5.10 in the reconsideration. After reconsideration of the commissioner's determination, the
5.11 commissioner shall determine whether the original determination should be affirmed or
5.12 modified. An applicant is allowed no more than one request in any one-year period for
5.13 reconsideration of the commissioner's determination to deny licensure or approve licensure
5.14 with conditions.

5.15 Subd. 4. **Reciprocity.** The commissioner shall issue a license to an applicant for a music
5.16 therapy license when an applicant has completed and submitted an application in a form
5.17 and manner prescribed by the commissioner, accompanied by applicable fees, and evidence
5.18 satisfactory to the commissioner that the applicant is licensed and in good standing as a
5.19 music therapist in another jurisdiction where the qualifications required are equal to or
5.20 greater than those required in this chapter at the date of application.

5.21 **Sec. 6. [148G.20] TRANSITION PERIOD; WAIVER OF EXAMINATION.**

5.22 (a) The commissioner shall waive the examination requirement in section 148G.15,
5.23 subdivision 2, clause (3), for an applicant who is board-certified as a music therapist and is
5.24 in good standing with the Certification Board for Music Therapists as of July 1, 2020.

5.25 (b) The commissioner shall waive the examination requirement in section 148G.15,
5.26 subdivision 2, clause (3), for an applicant who is designated as a registered music therapist,
5.27 certified music therapist, or advanced certified music therapist and is in good standing with
5.28 the National Music Therapy Registry as of July 1, 2020.

5.29 **Sec. 7. [148G.25] RENEWAL OF LICENSE; INACTIVE STATUS.**

5.30 Subdivision 1. **Renewal requirements.** To be eligible for license renewal, a licensee
5.31 must:

6.1 (1) submit a completed and signed application for license renewal on a form provided
6.2 by the commissioner;

6.3 (2) submit the renewal fee required under section 148G.45;

6.4 (3) provide proof of the licensee's status as a board-certified music therapist;

6.5 (4) submit proof of completion of a minimum of 40 hours of continuing education in a
6.6 program approved by the Certification Board of Music Therapists or its successor
6.7 organization; and

6.8 (5) submit additional information as requested by the commissioner to clarify information
6.9 presented in the renewal application.

6.10 Subd. 2. **Renewal deadline.** (a) Licenses must be renewed every two years.

6.11 (b) Each license must state an expiration date.

6.12 (c) A completed application for license renewal must be received by the commissioner
6.13 at least 14 days prior to the license expiration date.

6.14 (d) A completed application for license renewal not received within the time required
6.15 under paragraph (c), but received on or before the expiration date, must be accompanied
6.16 by a late fee in addition to the renewal fee in section 148G.45.

6.17 Subd. 3. **Licensure renewal notice.** At least 60 calendar days before the expiration date
6.18 in subdivision 2, the commissioner must mail or e-mail a renewal notice to the licensee's
6.19 last known address on file with the commissioner. The notice must include an application
6.20 for licensure renewal and notice of fees required for renewal. The licensee's failure to receive
6.21 the notice does not relieve the licensee of the obligation to meet the renewal deadline and
6.22 other requirements for licensure renewal.

6.23 Subd. 4. **Failure to renew.** (a) If a licensee fails to renew a license, the license shall be
6.24 considered lapsed, and may be restored within four years of the expiration date upon
6.25 completion of the requirements in subdivision 1, and payment of the late fee in section
6.26 148G.45.

6.27 (b) A person who requests reinstatement of a lapsed license more than four years after
6.28 the license expiration date shall be required to reapply for licensure as a new applicant and
6.29 must comply with the requirements for new licensees at the time of application.

6.30 Subd. 5. **Inactive status.** A licensee whose license has been placed on inactive status
6.31 for two years or less may reactivate the license by submitting the information required in
6.32 subdivision 1.

7.1 Sec. 8. [148G.30] CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.

7.2 A licensee who changes a name, address, or employment must inform the commissioner,
7.3 in writing, of the change in name, address, employment, business address, or business
7.4 telephone number within 30 days of the change. A change in name must be accompanied
7.5 by a copy of a marriage certificate or court order. All notices or other correspondence mailed
7.6 to or served on the licensee by the commissioner at the licensee's address on file with the
7.7 commissioner shall be considered as having been received by the licensee.

7.8 Sec. 9. [148G.35] PRACTICE OF MUSIC THERAPY.

7.9 (a) The practice of music therapy includes the clinical and evidence-based use of
7.10 music-based interventions to accomplish individualized goals for persons of all ages and
7.11 ability levels within a therapeutic relationship by a licensed music therapist. A licensed
7.12 music therapist shall develop music therapy treatment plans specific to the needs and
7.13 strengths of the client who may be seen individually or in a group. Music therapy treatment
7.14 plans must be individualized for each client. The goals, objectives, and potential strategies
7.15 of the music therapy services must be appropriate for the client and setting. The practice of
7.16 music therapy does not include the diagnosis of any physical, mental, or communication
7.17 disorder.

7.18 (b) A licensed music therapist may accept referrals for music therapy services from
7.19 medical, developmental, mental health, or education professionals; family members; clients;
7.20 caregivers; or others involved and authorized to provide services to the client. Before
7.21 providing music therapy services to a client for an identified clinical or developmental need,
7.22 the licensee shall collaborate, as applicable, with the client's primary care provider or
7.23 providers to review the client's diagnosis, treatment needs, and treatment plan. During the
7.24 provision of music therapy services to a client, the licensee shall collaborate, as applicable,
7.25 with the client's treatment team. The licensed music therapist may be a member of an
7.26 interdisciplinary team of health, education, and other professionals working collaboratively
7.27 to address the needs of the client.

7.28 (c) A licensed music therapist shall conduct a music therapy assessment of a client to
7.29 determine if treatment is indicated. If treatment is indicated, the licensee shall collect
7.30 systematic, comprehensive, and accurate information to determine the appropriateness and
7.31 type of music therapy services to provide for the client. A licensed music therapist shall
7.32 utilize appropriate knowledge and skills when providing music therapy services, including
7.33 the use of research, reasoning, and problem solving skills to determine appropriate actions
7.34 in the context of each specific clinical setting.

8.1 (d) A licensed music therapist shall develop an individualized music therapy treatment
8.2 plan for the client that is based upon the results of the music therapy assessment. The music
8.3 therapy treatment plan shall include individualized goals and objectives that focus on the
8.4 assessed needs and strengths of the client and shall specify music therapy approaches and
8.5 interventions to be used to address these goals and objectives. The individualized music
8.6 therapy treatment plan must be consistent with any other developmental, rehabilitative,
8.7 habilitative, medical, mental health, preventive, wellness care, or educational services being
8.8 provided to the client.

8.9 (e) A licensed music therapist shall evaluate on an ongoing basis the client's response
8.10 to music therapy and to the music therapy treatment plan, document the client's progress,
8.11 and make modifications to the plan, as appropriate. A licensed music therapist shall determine
8.12 when the provision of music therapy services is no longer needed in collaboration with the
8.13 client, the client's health care provider, family members of the client, and other appropriate
8.14 individuals upon whom the client relies for support.

8.15 (f) A licensed music therapist shall collaborate with and educate the client and the client's
8.16 family, caregiver, and any other appropriate individual regarding the needs of the client that
8.17 are being addressed in music therapy and the manner in which the music therapy treatment
8.18 addresses those needs. A licensed music therapist shall minimize any barriers to ensure that
8.19 the client receives music therapy services in the least restrictive environment.

8.20 **Sec. 10. [148G.40] DISCIPLINARY ACTION.**

8.21 Subdivision 1. **Grounds for denial of license or discipline.** The commissioner may
8.22 revoke, suspend, deny, or refuse to issue or renew a license, or may discipline a licensee
8.23 using any of the disciplinary actions listed in subdivision 5, on proof that the individual has:

8.24 (1) procured or attempted to procure a license by fraud, deceit, misrepresentation,
8.25 misleading omission, or material misstatement of fact;

8.26 (2) been convicted of violating any state or federal law, rule, or regulation that directly
8.27 relates to the practice of music therapy;

8.28 (3) been convicted of a felony-level criminal sexual offense. Any applicant or licensee
8.29 who has been convicted of any of the provisions of section 609.342, subdivision 1; 609.343,
8.30 subdivision 1; 609.344, subdivision 1, paragraphs (c) to (o); or 609.345, subdivision 1,
8.31 paragraphs (c) to (o); or a similar statute in another jurisdiction is not eligible for a license
8.32 or license renewal;

9.1 (4) willfully or negligently acted in a manner inconsistent with the health or safety of
9.2 persons in the individual's care;

9.3 (5) had a credential to practice music therapy suspended or revoked, or has otherwise
9.4 been subject to discipline relating to the individual's practice of music therapy in any other
9.5 jurisdiction;

9.6 (6) failed to perform services with reasonable judgment, skill, or safety due to the use
9.7 of alcohol or drugs, or other physical or mental impairment;

9.8 (7) violated any provisions of this chapter;

9.9 (8) not cooperated with the commissioner or the advisory council in an investigation
9.10 conducted according to subdivision 2;

9.11 (9) engaged in dishonest, unethical, or unprofessional conduct in connection with the
9.12 practice of music therapy that is likely to deceive, defraud, or harm the public;

9.13 (10) engaged in abuse or fraudulent billing practices;

9.14 (11) divided fees with, or paid or promised to pay a commission or part of a fee to, any
9.15 person who contacts the music therapist for consultation or sends patients to the music
9.16 therapist for treatment;

9.17 (12) performed music therapy services in an incompetent or negligent manner or in a
9.18 manner that falls below the community standard of care;

9.19 (13) failed to observe infection control protocols regarding the disinfection of musical
9.20 instruments used by the client;

9.21 (14) failed to comply with safety protocols regarding the transport needs and necessary
9.22 physical support of a client; or

9.23 (15) engaged in the practice of music therapy without a valid license.

9.24 Subd. 2. **Complaints.** (a) The commissioner shall establish operating procedures for
9.25 receiving and investigating complaints and imposing disciplinary or corrective action
9.26 consistent with the notifications and resolution provisions in section 214.103, subdivision
9.27 1a.

9.28 (b) The procedures may include procedures for sharing complaint information with
9.29 government agencies in this and other states. Procedures for sharing complaint information
9.30 must be consistent with the requirements for handling government data in chapter 13.

10.1 Subd. 3. **Discovery.** In all matters relating to the lawful regulation activities under this
10.2 chapter, the commissioner may issue subpoenas to require the attendance and testimony of
10.3 witnesses and production of books, records, correspondence, and other information relevant
10.4 to any matter involved in the investigation. All information pertaining to individual medical
10.5 records obtained under this section is health data under section 13.3805, subdivision 1.

10.6 Subd. 4. **Hearings.** If the commissioner proposes to take action against a licensee as
10.7 described in subdivision 5, the commissioner must first notify the person against whom the
10.8 action is proposed to be taken and provide the person with an opportunity to request a
10.9 hearing under the contested case provisions of chapter 14. Service of a notice of disciplinary
10.10 action may be made personally or by certified or first class mail, return receipt requested.
10.11 If the person does not request a hearing by notifying the commissioner within 30 days after
10.12 service of the notice of the proposed action, the commissioner may proceed with the action
10.13 without a hearing.

10.14 Subd. 5. **Disciplinary actions.** If the commissioner finds that a music therapist has
10.15 violated any provision of this chapter, the commissioner may take any one or more of the
10.16 following actions:

10.17 (1) refuse to grant or renew a license;

10.18 (2) approve licensure with conditions;

10.19 (3) revoke licensure;

10.20 (4) suspend licensure;

10.21 (5) any reasonable lesser action including but not limited to reprimand or restriction on
10.22 licensure;

10.23 (6) impose, for each violation, a civil penalty of not more than \$1,000 that deprives the
10.24 licensee of any economic advantage gained by the violation and reimburses the commissioner
10.25 for costs of the investigation and proceedings resulting in disciplinary action; or

10.26 (7) any action authorized by statute.

10.27 Subd. 6. **Authority to contract.** The commissioner shall contract with the health
10.28 professionals services program as authorized by sections 214.31 to 214.37 to provide services
10.29 to practitioners under this chapter. The health professionals services program does not affect
10.30 the authority to discipline violations of this chapter.

10.31 Sec. 11. **[148G.45] FEES.**

10.32 (a) The fees established by the commissioner shall not exceed the following amounts:

- 11.1 (1) application fee, \$.....;
- 11.2 (2) initial licensure fee, \$.....;
- 11.3 (3) licensure renewal fee, \$.....;
- 11.4 (4) licensure renewal late fee, \$.....;
- 11.5 (5) inactive license fee, \$.....; and
- 11.6 (6) duplicate license fee, \$.....
- 11.7 (b) The commissioner shall prorate the initial licensure fee for first time licensees
- 11.8 according to the number of months that have elapsed between the date the license is issued
- 11.9 and the date the license expires or must be renewed under section 148G.25.
- 11.10 (c) All fees are nonrefundable.
- 11.11 (d) Fees received under this chapter shall be deposited in the state government special
- 11.12 revenue fund.
- 11.13 **Sec. 12. INITIAL MUSIC THERAPY ADVISORY COUNCIL.**
- 11.14 (a) Notwithstanding Minnesota Statutes, section 148G.05, the first music therapist
- 11.15 members appointed to the Music Therapy Advisory Council need not be licensed under
- 11.16 Minnesota Statutes, chapter 148G, but must meet the qualifications for licensure under
- 11.17 Minnesota Statutes, section 148G.15. The commissioner shall make the initial appointments
- 11.18 to the Music Therapy Advisory Council by September 1, 2019.
- 11.19 (b) The commissioner of health shall convene the first meeting of the Music Therapy
- 11.20 Advisory Council by October 1, 2019.
- 11.21 **Sec. 13. EFFECTIVE DATE.**
- 11.22 Sections 1 to 11 are effective July 1, 2019.