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Music Therapist Licensure in Oklahoma

By Benjamin M. Lepak

Oklahoma requires a license to practice music therapy, defined as “the clinical and evidence-based use of music interventions to accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship between a patient and a practitioner.”¹ North Dakota was the first state to license music therapy in 2011,² with Oklahoma following suit in 2016. Only a handful of states license music therapy. Oklahoma’s Music Therapy Practice Act has no sunset date.³

Current Law

The State Board of Medical Licensure and Supervision oversees the licensure of music therapists, with a Music Therapy Committee in an advisory role. A majority of the Committee is made up of music therapy practitioners.

In order to be licensed, applicants must meet an array of requirements. An applicant must (1) be 18 years of age, (2) show good moral character and fitness, (3) hold a bachelor’s degree or higher in music therapy from a program approved

by the American Music Therapy Association, (4) complete a minimum of 1,200 hours of clinical training, with at least 15 percent (180 hours) in pre-internship experiences, and at least 75 percent (900 hours) in internship experiences, (5) be in good standing based on a review of the applicant’s music therapy licensure history in other jurisdictions, and (6) pass the examination for board certification offered by the Certification Board for Music Therapists.

Three of the five members of the Music Therapy Committee must be active practitioners of music therapy, one member must be a licensed health care provider who is not a music therapist, and only one layperson is on the Committee. The Committee is appointed by the State Board of Medical Licensure and Supervision.

Practicing music therapy without a license is a misdemeanor, and the Music Therapy Committee maintains a standing agenda item at its monthly meeting to pursue enforcement against individuals practicing without a license. At its December 2018 meeting, the Committee’s agenda included the names of 11 individuals potentially practicing without a license.

Burden

An individual wishing to practice music therapy must meet an array of expensive and time-consuming

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requirements. She must complete at least a bachelor's degree in music therapy, meaning she must spend several years in college and incur the cost of college tuition. She must also complete 1,200 hours of clinical training, equivalent to 30 weeks of full-time work. All told, becoming a licensed music therapist in Oklahoma requires more education and training than is required to become a private pilot or a paramedic.

Only eight other states regulate music therapists. Of these, two require only registration of practitioners, not a license.

The Music Therapy Committee has stated that licensure is not the least restrictive means of regulating the profession, effectively acknowledging that there is no need for its own existence.⁴

Evaluating Whether to License Music Therapists

The 1889 Institute has published "Policy Maker's Guide to Evaluating Proposed and Existing Professional Licensing Laws."⁵ It argues that there are two reasons to license an occupation: (1) an occupation's practices present a real and probable risk of harm to the general public or patrons if practitioners fail to act properly; and (2) civil-law or market failure makes it difficult for patrons to obtain information, educate themselves, and judge whether an occupation's practitioners are competent.

Do music therapists inherently present a real and highly probable risk of significant harm to patrons if practitioners fail to act properly?

No. It is difficult to imagine a circumstance where a music therapist's negligence or malpractice could cause harm to a patron of her services. Perhaps by playing the music too loudly or steering the patron to music with

excessively angry or depressed lyrics, the practitioner could cause hearing damage or worsen the underlying psychological condition of the recipient of the therapy, but these dangers are present in everyday life and hardly justify the state's comprehensive regulation of the industry.

Is there a failure of civil law or free markets that makes it difficult for patrons to obtain information, educate themselves, and judge whether an occupation's practitioners are competent?

No. The American Music Therapy Association privately certifies practitioners and maintains a website with information about the practice. Moreover, it seems that the greatest risk to a music therapy patron is simply that the treatment doesn't work. At most, this creates a danger of minor pecuniary loss.

Conclusion

Licensure of music therapists cannot be justified. ***The Music Therapy Practice Act should be repealed.*** Music Therapists could be left unregulated altogether, with no discernable negative impact on the public or recipients of music therapy. At most, music therapists could be privately certified as outlined by the 21st Century Consumer Protection & Private Certification Act, available as part of "A Win-Win for Consumers and Professionals Alike: An Alternative to Occupational Licensing," available at <http://www.1889institute.org/licensing.html>. It would allow professionals who form private certifying associations to have government enforce private credentials so long as the certifying organization follows certain practices, including certain transparency and disclaimer requirements. The American Music Therapy Association already offers certification.

End Notes

¹ 59 O.S. §889.1(5).

² Caleb R. Trotter, "Time for North Dakota's Music Therapy License to Go," Pacific Legal Foundation blog post, January 1, 2017, <https://pacificlegal.org/time-for-north-dakotas-music-therapy-license-to-go/>.

³ 59 O.S. §889, *et seq.*

⁴ See Occupational Regulation Blueprint: Music Therapy, Attachment #2 to Music Therapy Committee meeting minutes for December 3, 2018 meeting (available at: http://www.okmedicalboard.org/music_therapists/meetings/rs201812.pdf).

⁵ Available at <http://www.1889institute.org/licensing.html>