

Senate Government Operations Committee 1

Amendment No. 1 to SB0055

Roberts
Signature of Sponsor

AMEND Senate Bill No. 55*

House Bill No. 781

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-29-243(a), is amended by inserting the following as a new subdivision:

() Professional art therapist advisory committee of the board of examiners in psychology, created by § 63-11-401;

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 11, is amended by adding the following language as a new part:

63-11-401.

(a) The practice of art therapy in this state is hereby declared to affect the public health, safety, and welfare of citizens of this state.

(b) To assist the board of examiners in psychology in the performance of its duties, there is established the professional art therapist advisory committee to protect the public from:

(1) The practice of art therapy by unqualified persons; and

(2) Unprofessional, unethical, and harmful conduct by art therapy practitioners.

(c) No person shall represent to be or function as a professional art therapist in this state unless the person holds a valid license issued by the advisory committee. The committee shall also regulate the practice of art therapy.

63-11-402. As used in this part:

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(1) "Advisory committee" means the professional art therapist advisory committee of the board of examiners in psychology, created by § 63-11-401;

(2) "Appraisal activities" means selecting, administering, scoring, and interpreting art therapy instruments that are used to understand, measure, or facilitate an individual's normal human growth and development. "Appraisal activities" does not include the use of projective techniques in the assessment of personality, nor the use of psychological or clinical tests designed to identify or classify abnormal or pathological human behavior, nor the use of individually administered intelligence tests;

(3) "Art therapy" means the integrated application of psychotherapeutic principles and methods with specialized training in visual art media, the neurobiological implications of art-making and the creative process, and art-based assessment models to assist individuals, families, or groups to improve mental functioning, increase self-awareness and self-esteem, resolve conflicts and distress, and enhance social functioning;

(4) "Art therapy certified supervisor" means a person credentialed by the Art Therapy Credentials Board, Inc., to provide supervised clinical experience for an associate art therapist;

(5) "Associate art therapist" means a person holding a master's or doctoral degree in art therapy while engaged in the practice of professional art therapy under supervision as part of clinical training to fulfill the supervised experience requirement for becoming a licensed professional art therapist;

(6) "Board" means the board of examiners in psychology, created by § 63-11-101;

(7) "Certified art therapist" means a person holding national board certification (ATR-BC) from the Art Therapy Credentials Board, Inc.;

(8) "Credentialed art therapist" means a person holding credentials in good standing with the Art Therapy Credentials Board, Inc., as a registered art therapist (ATR), certified art therapist (ATR-BC), or art therapy certified supervisor;

(9) "Licensed professional art therapist" means a person who is licensed to practice professional art therapy in this state;

(10) "Practice of professional art therapy" means rendering or offering to render to individuals, groups, organizations, or the general public any service as an independent or adjunctive therapist involving the application of art therapy principles, techniques, methods, or procedures. It includes, but is not limited to, therapeutic interventions to facilitate alternative modes of receptive and expressive communication, development of treatment plans, appraisal activities, consulting and referral activities, and prevention and treatment of mental and emotional conditions; and

(11) "Supervision" means the regular observation and oversight of the functions and activities of a graduate art therapy student as part of an internship or practicum experience, or an associate art therapist engaged in the practice of art therapy to fulfill the requirements for licensure under § 63-11-405.

63-11-403.

(a) The professional art therapist advisory committee of the board of examiners in psychology consists of three (3) members appointed by the governor. The advisory committee is authorized to issue licenses to persons who meet the requirements specified in this part, and to promulgate rules for the implementation of the part, including, but not limited to, the setting of fees and the establishment of disciplinary

actions. The advisory committee shall maintain a list of all licensees, which shall be provided to any interested party on written request.

(b) Advisory committee members must be licensed professional art therapists and must be actively engaged in the practice or teaching of art therapy in this state at the time of their appointment, except that initial appointments to the advisory committee made prior to the promulgation of rules to implement this part must be certified art therapists who are residents of this state and have engaged in the practice of art therapy for not less than five (5) years.

(c) The governor shall consult with interested art therapy groups, including, but not limited to, the Tennessee Art Therapy Association, to determine qualified persons for appointment as advisory committee members.

(d)

(1) Except as provided in subdivision (d)(2), the terms of the members of the advisory committee are three (3) years.

(2) In order to stagger the terms of the newly appointed advisory committee members, initial appointments are to be made as follows:

(A) One (1) person appointed pursuant to subsection (a) shall serve an initial term of one (1) year, which shall expire on June 30, 2022;

(B) One (1) person appointed pursuant to subsection (a) shall serve an initial term of two (2) years, which shall expire on June 30, 2023;
and

(C) One (1) person appointed pursuant to subsection (a) shall serve an initial term of three (3) years, which shall expire on June 30, 2024.

(3)

(A) Following the expiration of members' initial terms as prescribed in subdivision (d)(2), all three-year terms shall begin on July 1 and terminate on June 30, three (3) years thereafter.

(B) In the event of a vacancy, the governor shall fill the vacancy for the unexpired term. Each member shall serve until a successor is duly appointed and qualified.

(C) Members are eligible for reappointment to the advisory committee following the expiration of their initial terms, but shall serve no more than two (2) consecutive three-year terms.

(e) All reimbursement for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter. Members of the advisory committee serve without compensation, but are entitled to receive necessary travel and other appropriate expenses while engaged in committee business.

(f) The advisory committee shall be provided administrative support by the division of health related boards in the department of health.

(g)

(1) The advisory committee shall meet at least twice a year and may hold additional meetings as the advisory committee may determine necessary to carry out its duties under this part.

(2) Any member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year may be removed as a member of the advisory committee.

(3) The chair of the advisory committee shall promptly notify, or cause to be notified, the appointing authority of any member who is removed for failing to satisfy the attendance requirement as prescribed in subdivision (g)(2).

(h) The advisory committee shall elect a chair from among its members at the first meeting held each fiscal year.

(i) Any actions taken in accordance with this part are only effective after adoption by majority vote of the members of the advisory committee and after adoption by a majority vote of the members of the board at the next board meeting at which administrative matters are considered following the adoption by the advisory committee.

63-11-404.

(a) The advisory committee shall:

(1) Promulgate rules for the implementation of this part, including rules to establish:

(A) Requirements and procedures for licensure and licensure renewal for licensed professional art therapists and associate art therapists;

(B) Standards of practice, ethics, and professional responsibility to govern the conduct of persons licensed under this part;

(C) Standards and requirements for engaging in private outpatient independent practice of professional art therapy;

(D) Procedures for investigating reports of professional misconduct and unlawful acts by licensed professional art therapists; and

(E) Criteria and procedures for licensure by endorsement and reciprocity, waiver of examinations, and temporary licenses;

(2) Establish reasonable and necessary fees for licensure and licensure renewal that, in the aggregate, cover the cost of administering this part; and

(3) Maintain a list of persons holding licenses under this part, to be provided to any interested party upon written request.

(b) The advisory committee shall also:

(1) Review issues related to complaints and disciplinary actions involving licensed professional art therapists;

(2) Review the qualifications of licensure applications and issue licenses to individuals who meet the requirements for licensure under this part;

(3) Establish requirements for supervised clinical practice by associate art therapists engaged in the practice of professional art therapy to fulfill requirements for licensure under this part;

(4) Establish guidelines and criteria for continuing education for the renewal of licenses; and

(5) Perform additional duties and responsibilities as requested by the board.

(c) The rules promulgated by the advisory committee for the implementation of this part must:

(1) Provide for the requirements for licensure as set forth in § 63-11-405; and

(2) Take into consideration the standards of ethics and professional conduct of the Code of Ethics, Conduct and Disciplinary Procedures of the Art Therapy Credentials Board, Inc., and other national mental health organizations in effect on January 1, 2020.

63-11-405.

(a) Applicants for licensure as a licensed professional art therapist shall submit an application and fee to the advisory committee. The application must include evidence that the applicant meets the following requirements for licensure:

(1) The applicant has attained the age of majority;

(2) The applicant is of good moral character and conducts the applicant's professional activities in accordance with accepted professional and ethical standards;

(3) The applicant has not had a professional credential refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for unprofessional conduct, unless the advisory committee finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution;

(4) The applicant has:

(A) Received a master's degree or doctoral degree in art therapy from a program approved by the American Art Therapy Association or accredited by the Commission on Accreditation of Allied Health Education Programs at the time the degree was conferred, and has completed not less than one thousand (1,000) client contact hours of experience after the master's degree was conferred under the supervision of an art therapy certified supervisor, licensed professional art therapist, credentialed art therapist, or other licensed mental health professional approved by the advisory committee; provided, that at least one-half (1/2) of the required supervision hours must be provided by an art therapy certified supervisor, licensed professional art therapist, or certified art therapist; or

(B) Received a master's degree or doctoral degree from a college or university that was accredited by a national or regional accrediting organization recognized by the Council for Higher Education Accreditation in a program with a graduate-level course of study and clinical training

that, as determined by the advisory committee, is equivalent to an approved or accredited program in art therapy, and has completed not less than one thousand five hundred (1,500) hours of client contact experience after the qualifying degree was conferred under the supervision of an art therapy certified supervisor, licensed professional art therapist, credentialed art therapist, or other licensed mental health professional approved by the advisory committee; provided, that at least one-half (1/2) of the required supervision hours must be provided by an art therapy certified supervisor, licensed professional art therapist, or certified art therapist; and

(5) The applicant has passed the board certification examination of the Art Therapy Credentials Board, Inc.

(b) A person holding a national credential in good standing as a certified art therapist is deemed to have met the requirements of this section upon submitting an application and fee and providing evidence satisfactory to the advisory committee that the applicant:

(1) Is of good moral character and conducts the applicant's professional activities in accordance with accepted professional and ethical standards; and

(2) Has not had a professional credential refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for unprofessional conduct, unless the advisory committee finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution.

63-11-406.

(a) The advisory committee may, at its discretion, grant a license to any person residing or employed in this state who is licensed by a similar entity in another state

whose standards, as determined by the advisory committee, are not less stringent than the standards required by this part.

(b) The advisory committee may enter into a reciprocal agreement with another state or jurisdiction that licenses individuals engaged in the practice of professional art therapy, if the advisory committee determines that the other state has substantially similar or more stringent licensing requirements than this state.

63-11-407.

(a) A licensed professional art therapist license issued under this part is valid for twenty-four (24) months from the date of issuance.

(b) A licensee requesting renewal of a license shall provide the following to the advisory committee in advance of the expiration date of the license:

(1) A completed application on a form provided by the advisory committee and payment of the fee set by the advisory committee; and

(2) A certified or sworn statement to the advisory committee that the licensee:

(A) Has completed at least forty (40) hours of continuing education prior to the expiration date of the license; and

(B) Has not had a professional credential revoked, suspended, or restricted by the Art Therapy Credentials Board, Inc., and does not have a complaint, allegation, or investigation pending in this state or in any regulatory jurisdiction for unethical or unprofessional conduct.

(c) If a licensee fails to submit an application for license renewal and to pay any fee required by the advisory committee prior to the expiration date of the license, the license is automatically revoked by the advisory committee without further notice or hearing, unless renewal is completed and all fees are paid prior to the expiration of sixty (60) days from the date of the expiration of the license.

(d) A person whose license is automatically revoked under this section may apply in writing to the advisory committee for reinstatement of the license. Upon the showing of good cause by the person and submitting documentation that all continuing education requirements have been satisfied, the advisory committee may reinstate the license upon the payment of all fees set by the advisory committee.

(e) Applicants and licensees must notify the advisory committee of the following within thirty (30) days of their occurrence:

(1) A change of name, address, or other vital information;

(2) The filing of any criminal charge or civil action against the applicant or licensee;

(3) The initiation of any disciplinary charges, investigations, findings, or sanctions by a healthcare organization, federal or state agency, or other professional association against the applicant or licensee; and

(4) Any other change in information provided by the applicant or licensee to the committee.

63-11-408.

(a) No person shall use the title "licensed professional art therapist," "professional art therapist," or use any other title or abbreviation to indicate or imply that the person is licensed or qualified to practice professional art therapy in this state unless the person holds a license issued by the advisory committee under this part. This subsection (a) does not prohibit an associate art therapist from using the title "associate art therapist" in accordance with this part.

(b) No person shall practice professional art therapy unless the person is:

(1) Licensed by the advisory committee as a licensed professional art therapist;

(2) An associate art therapist, as long as the person uses the title of "associate art therapist" and does not represent themselves to the public as a licensed professional art therapist; or

(3) Exempt from licensure under § 63-11-410.

(c) Violation of this section is a Class B misdemeanor, punishable by a fine only, the suspension or revocation of a license issued under this part, or both a fine and loss of licensure.

63-11-409.

(a) A licensed professional art therapist may practice independently for and with organizations that include, but are not limited to, addiction and rehabilitation centers, art studios and centers, behavioral health hospitals and outpatient settings, cancer treatment centers, community centers, community services boards, correctional facilities, disability services, eating disorder clinics, government agencies, medical hospitals and outpatient settings, military bases and veterans and family services, museums, nonprofits, nursing homes, physical rehabilitation, residential treatment centers, schools, senior living facilities, state programs, and wellness centers.

(b) Until the advisory committee promulgates rules to establish the requirements for private outpatient independent practice by a licensed professional art therapist, a licensed professional art therapist may only work in a private, outpatient independent setting if the patient is referred to the therapist by:

(1) A physician licensed under chapter 6 or 9 of this title;

(2) A psychologist licensed under this chapter;

(3) A professional counselor licensed under chapter 22 of this title;

(4) A professional counselor designated as a mental health service provider under chapter 22 of this title;

(5) A marital and family therapist licensed under chapter 22 of this title;

- (6) A pastoral counselor licensed under chapter 22 of this title;
 - (7) A licensed masters social worker licensed under chapter 23 of this title;
 - (8) A licensed clinical social worker licensed under chapter 23 of this title;
- or
- (9) Another advanced medical or mental health professional licensed under title 63, as determined by the board.

63-11-410.

(a) Nothing in this part:

(1) Requires licensure or restricts the activities of a student enrolled in a graduate program in art therapy approved by the advisory committee while practicing art therapy under qualified supervision and as part of an approved course of study; or

(2) Prohibits or restricts the practice of persons authorized to practice under this title who perform services consistent with the scope of practice of their profession and within the scope of their training and competence; provided, that such persons do not represent themselves to the public as a professional art therapist or as holding a license issued under this part.

(b) Nothing in this part permits any method of treatment that involves the administration or prescription of drugs or the practice of medicine in this state or permits a person licensed as a professional art therapist to perform psychological testing.

(c) Subsection (b) does not prohibit a licensed professional art therapist from conducting appraisal activities. Consistent with each licensed professional art therapist's formal education and training, licensed professional art therapists may administer and utilize appropriate art therapy assessment instruments that measure or determine

problems or dysfunctions within the context of human growth and development as part of the therapeutic process or in the development of a treatment plan.

63-11-411.

(a) The advisory committee may deny a person's application for a license, restrict, suspend, or revoke an existing license, or take other action that the advisory committee deems proper.

(b) The grounds upon which the advisory committee may exercise the powers enumerated in subsection (a) include, but are not limited to:

(1) Obtaining or attempting to obtain a license by making a false or misleading statement, failing to make a required statement, or engaging in fraud or deceit in any communication to the advisory committee;

(2) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any criminal statute of this state, any provision of this chapter, a rule promulgated by the advisory committee, or any lawful order of the advisory committee issued pursuant to rules;

(3) Gross or repeated negligence, incompetence, misconduct, or malpractice in professional work including, but not limited to:

(A) Any physical or mental condition that currently impairs a licensee's competent professional performance or that poses a substantial risk to the recipient of art therapy services;

(B) Professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the professional practice of art therapy;

(C) Abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;

(D) Professional record keeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering a service recipient's records or data; and

(E) Unauthorized disclosure of confidential client information, including, but not limited to, client records, art work, and artistic expressions; and

(4) Any other action deemed to be grounds for disciplinary action under § 63-11-215.

(c) All proceedings for disciplinary action against a licensee under this part must be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. For purposes of promulgating rules, appointing the advisory committee, and issuing licenses, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2021, the public welfare requiring it.