

CHAPTER 165
FORMERLY
SENATE SUBSTITUTE NO. 1
TO
SENATE BILL NO. 43
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE LICENSURE OF ART THERAPISTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 3006, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

(1) Appoint 1 or more credentialed art therapists to advise and assist the Board in adopting rules and regulations setting qualifications and procedures for licensing professional art therapists, evaluating credentials of applicants, adopting a code of ethics for the practice of art therapy, setting continuing education standards required for license renewal, and providing such other assistance as determined by the Board.

Section 2. Amend Chapter 30, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 3060. Definitions.

As used in this subchapter:

(1) “Art therapy” means a mental health discipline that integrates use of psychotherapeutic principles, art media, and the creative process to assist individuals, families, or groups in, doing all of the following:

- a. Increasing awareness of self and others.
- b. Coping with symptoms, stress, and traumatic experiences.
- c. Enhancing cognitive abilities.
- d. Identifying and assessing clients’ needs in order to implement therapeutic interventions to meet developmental, behavioral, mental, and emotional needs.

(2) “Art therapy services” means all of the following services:

- a. Clinical appraisal and treatment activities during individual, couples, family, or group sessions which provide opportunities for expression through art therapy.
- b. Using the process and products of art creation to tap into clients’ inner conflicts, fears, and core issues.
- c. Employing diagnostic and assessment methods, consistent with training and experience, to determine treatment goals and implement therapeutic art interventions which meet developmental, cognitive, behavioral, and emotional needs.
- d. Employing art media, the creative process, and the resulting artwork to assist clients to do all of the following:

1. Reduce psychiatric symptoms of depression, anxiety, post-traumatic stress, and attachment disorders.
2. Enhance neurological, cognitive, and verbal abilities; develop social skills; aid sensory impairments; and move developmental capabilities forward in specific areas.
3. Cope with symptoms of stress, anxiety, traumatic experiences, and grief.
4. Explore feelings, gain insight into behaviors, and reconcile emotional conflicts.
5. Improve or restore functioning and a sense of personal well-being.
6. Increase coping skills, self-esteem, awareness of self, and empathy for others.
7. Improve healthy channeling of anger and guilt.
8. Improve school performance, family functioning, and parent/child relationships.

(3) “Board” means the Board of Mental Health and Chemical Dependency Professionals established under § 3003 of this title.

(4) “Licensed professional art therapist” (LPAT) means an individual licensed to practice art therapy under this chapter who offers to individuals, families, or groups professional art therapy services directly to the general public, through public or private organizations, or through use of telemedicine in a manner deemed appropriate in regulation.

(5) “Licensed associate art therapist” (LAAT) means an individual licensed as an associate art therapist under this chapter who obtains supervised experience from a licensed professional art therapist (LPAT), or other qualified mental health professional approved by the Board for the purposes of becoming licensed as a licensed professional art therapist.

(6) “Supervised experience” means face to face consultation, on a regularly scheduled basis, between a supervisee and a licensed professional art therapist (LPAT) or other behavioral health professional approved by the Board. The Board approved supervisor is responsible for insuring that the extent, kind, and quality of the services rendered are consistent with the supervisee’s education, training, and experience.

(7) “Telemedicine” means as defined in § 3002 of this title.

Section 3. Amend Chapter 30, Title 24 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

Subchapter V. Professional Art Therapists.

§ 3061. License Required.

(a) An individual may not hold himself or herself out to the public as a licensed professional art therapist (LPAT) or licensed associate art therapist (LAAT) unless the individual is licensed in accordance with this subchapter. It is unlawful for any individual who is not licensed under this chapter, or the individual’s employees, agents, or representatives to use in connection with that individual’s name or business the words “licensed professional art therapist,” “licensed associate art therapist,” or otherwise assume or use any title or description conveying or tending to convey the impression that the individual is licensed to practice art therapy, unless such individual has been duly licensed under this chapter.

§ 3062. Qualifications of Licensed Professional Art Therapist.

(a) An applicant who is applying for licensure under this subchapter shall complete a Board-approved application, submit the application fee, and supply evidence verified by oath and satisfactory to the Board that the applicant:

(1) Has completed one of the following:

a. A master's or doctoral degree in art therapy from an accredited educational institution with a minimum of 60 credit hours of graduate course work in an art therapy program that was either 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. For those graduating with a master's degree prior to January 2013 a minimum of 48 graduate semester credit hours or 72 quarter-hour credits is required.

b. A graduate degree in an allied field from an accredited educational institution and graduate level work which is the equivalent to a master's degree in art therapy, as determined by the Board.

(2) Following the completion of the master's degree, has successfully completed not less than 2 years of supervised experience. The experience must consist of not less than 3,200 hours obtained over a period of not more than 4 consecutive years.

(3) Has passed the board examination of the Art Therapy Credentials Board (ATCB).

(4) Has not done any of the following:

a. Been the recipient of any administrative penalties regarding the applicant's actions as an art therapist, including, fines; formal reprimands; license suspensions or revocations, except for license revocations for nonpayment of license renewal fees; or probationary limitations. The Board, after a hearing may determine whether such administrative penalty is grounds to deny a license.

b. Entered into any "consent agreements" which contain conditions placed by a board on the applicant's professional conduct, including any voluntary surrender of a license.

(5) Does not have any impairment related to drugs or alcohol or a finding of mental incompetence by a physician that would limit the applicant's ability to act as a licensed art therapist in a manner consistent with the safety of the public.

(6) Does not have a criminal conviction record, or pending criminal charge, relating to an offense the circumstances of which are substantially related to actions as a licensed art therapist. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination on whether the conviction or charge is substantially related to actions as a licensed art therapist. However, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver,

the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6) of this section if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.

c. The applicant is capable of practicing licensed art therapy services in a competent and professional manner.

d. The granting of the waiver will not endanger the public health, safety, or welfare.

e. The applicant has not been convicted of a felony sexual offense.

(7) Has not been penalized for any willful violation of the code of ethics adopted by the Board or a code of ethics of a recognized professional art therapist organization.

(8) Meets all requirements as may be required by the Board in its rules and regulations.

(9) Has not been convicted of a felony sex offense.

(10) a. Has submitted, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

1. A report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.

2. A report of the applicant's entire federal criminal history record under the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification is the intermediary for purposes of this paragraph and the Board of Mental Health and Chemical Dependency Professionals is the screening point for the receipt of the federal criminal history records.

b. An applicant may not be licensed as a professional art therapist or an associate art therapist until the applicant's criminal history reports have been produced. An applicant whose record shows a prior criminal conviction may not be licensed by the Board unless a waiver is granted pursuant to paragraph (a)(6) of this section. The State Bureau of Identification may release any subsequent criminal history to the Board.

c. If the Board finds that an applicant has been intentionally fraudulent or has intentionally supplied false information, the Board shall report its finding to the Attorney General for further action.

d. If an application has been refused or rejected and the applicant feels that the Board has acted without justification, has imposed higher or different standards for the applicant than for other applicants or licensees, or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§3063. Qualifications of applicant for licensed associate art therapists.

(a) An applicant who is applying for licensure as an associate art therapist under this subchapter shall submit a completed application form, pay the required fee, and furnish evidence, verified by oath and satisfactory to the Board that such person has met all the requirements established in this subchapter for licensed professional art therapists, except the requirements dealing with required experience and national certification.

(b) A plan for supervised experience of the associate art therapist must be submitted to and approved by the Board prior to the applicant's acquiring the art therapy experience necessary for licensure as a licensed professional art therapist.

(c) The associate art therapy license is effective for a period of 2 years. The license may be renewed up to 2 times.

(d) A licensed associate art therapist may submit an application for licensure as a licensed professional art therapist (LPAT) upon fulfillment of the experience requirements of this subchapter.

§3064. Licensure by Reciprocity and Endorsement.

(a) Upon payment of the application fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to each applicant who presents proof of licensure as an art therapist in good standing in another state, the District of Columbia, or territory of the United States, whose standards for such license are substantially similar to those of this State. A license in good standing is defined in § 3062(a)(4) through (8) of this title.

(b) An applicant who is licensed in a jurisdiction whose standards are not substantially similar to those of this State, but who has held a license in good standing for a minimum of 5 years in the jurisdiction from which the applicant is applying for reciprocal license, and who has taken and passed the Board examination of the Art Therapy Credentials Board (ATCB) acceptable to the Board may be licensed, provided the applicant meets all other qualifications for reciprocity.

Section 4. This Act shall become effective 180 days after its enactment into law.

Approved September 8, 2017