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DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 43

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:

1 WHEREAS, The Legislature of the State of Delaware finds that the profession of art therapy in the State of
2 Delaware affects the safety and welfare of the general public and should be subject to regulation and control in order to
3 protect the public by setting standards of qualification, ethical practice, and continuing competency of art therapists.

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

6 (11) Appoint one or more credentialed volunteer art therapists to advise and assist the Board in adopting rules and
7 regulations setting qualifications and procedures for licensing professional art therapists, evaluating credentials of
8 applicants, adopting a code of ethics for the practice of art therapy, setting continuing education standards required for
9 license renewal, and providing such other assistance as determined by the Board. An art therapy advisor appointed by the
10 Board shall serve for such period or term that the Board shall determine and shall be reimbursed for expenses incurred in
11 providing assistance requested by the Board.

12 Section 2. Add new Subchapter to Title 24 of the Delaware Code by making deletions as shown by strikethrough
13 and insertions as shown by underline as follows:

14 Subchapter V. Professional Art Therapists

15 § 3060. License Required.

16 (a) No person shall engage in the practice of art therapy, or as a licensed professional art therapist (LPAT) or
17 licensed associate art therapist (LAAT) or hold himself or herself out to the public in this State as being qualified to practice
18 art therapy; or use in connection with that person's name, or otherwise assume or use, any title or description conveying or
19 tending to convey the impression that that person is licensed to practice art therapy, unless such person has been duly
20 licensed under this chapter.

21 (b) Whenever a license to practice as an art therapist in this State has expired or been suspended or revoked, it
22 shall be unlawful for the person to practice art therapy in this State.

§ 3061. Definitions.

As used in this subchapter:

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

(a) Increasing awareness of self and others;

(b) Coping with symptoms, stress, and traumatic experiences;

(c) Enhancing cognitive abilities; and

(d) Identifying and assessing clients’ needs in order to implement therapeutic interventions to meet developmental, behavioral, mental, and emotional needs.

(2) “Art therapy certified supervisor” (ATCS) is an individual credentialed by the Art Therapy Credentials Board (ATCB) to provide supervised experience for a licensed associate art therapist for purposes of becoming licensed as a professional art therapist under this Chapter.

(3) “Art therapy services” means services that include, but are not limited to:

(a) Clinical appraisal and treatment activities during individual, couples, family or group sessions which provide opportunities for expression through the creative process.

(b) Using the process and products of art creation to tap into clients’ inner conflicts, fears and core issues with the goal of improving physical, mental and emotional functioning and well-being.

(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:

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.

(4) “Board” means the State Board of Mental Health and Chemical Dependency Professionals established pursuant to Section 3003 of this Chapter.

(5) “Credentialed art therapist” is an individual who is certified by the Art Therapy Credentials Board as a national board certified art therapist (ATR-BC).

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

(7) “Licensed associate art therapist” (LAAT) is an individual licensed as an associate art therapists under this Chapter who is obtaining supervised experience from an art therapy certified supervisor (ATCS), a licensed professional art therapist (LPAT), or other qualified mental health professional approved by the Board, for the purposes of acquiring the art therapy experience to qualify to take the board examination of the Art Therapy Credentials Board (ATCB) and to qualify for licensure as a professional art therapist.

(8) “Practice of art therapy” means to engage professionally and for compensation in providing art therapy services involving the application of art therapy principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions.

(9) “Supervised experience” means regular oversight of the functions and activities of a licensed associate art therapist (LAAT) in the performance of his or her duties and responsibilities required to obtain licensure under Section 3063(a)(2) of this Chapter, including monitoring of the extent, kind, and quality of art therapy services performed by the LAAT, ensuring compliance with laws and regulations governing the practice of art therapy; reviewing client or patient records, and monitoring and evaluating assessment, diagnosis, and treatment decisions of the LAAT.

(10) “Telemedicine” has the same meaning as defined in Section 3370 of Title 18 of the Delaware Code.
§3062. Applicability of subchapter.

(a) Nothing in the subchapter shall be construed to apply to a student, intern or trainee pursuing a course of study in art therapy in a regionally accredited institution, if performed under supervision and constituting a part of the supervised course of study.

(b) Nothing in this subchapter shall be construed to apply to a person licensed in the State as a psychologist, psychoanalyst, registered nurse, professional counselor of mental health, marriage and family therapist, social

worker, rehabilitation counselor, chemical dependency professional, or other professional licensed by the state, when acting within the scope of their profession and doing work consistent with their professional training, the code of ethics of their respective professions and the laws of this State provided they do not hold themselves out to the public by any title or description stating or implying that they are art therapists or associate art therapists, practice art therapy or hold a license to practice professional art therapy or associate art therapy issued in accordance with this chapter.

§3063. Qualifications of Applicants.

(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 a master's or doctoral degree in art therapy from an accredited educational institution, and shall have completed:

a. 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, or

b. A minimum of 60 credit hours of graduate course work in a related field that is substantially equivalent to a master's degree program in art therapy, as determined by the Board.

(2) Has completed not less than 2 calendar years, with a minimum of 3,200 hours, of supervised experience in art therapy approved by the Board, of which a minimum of 2,000 client contact hours under appropriate supervision shall have been completed following completion of the graduate degree.

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

(4) Has not been the recipient of any administrative penalties regarding the applicant's actions as an art therapist, including, but not limited to, fines, formal reprimands, license suspensions or revocations (except for license revocations for nonpayment of license renewal fees), probationary limitations, and/or has not 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. The Board, after a hearing, may determine whether such administrative penalty is grounds to deny a license.

(5) Does not have any impairment related to drugs, 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), 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 the ATCB Code of Ethics, Conduct, and Disciplinary Procedures.

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

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

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

- a. 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.

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

c. 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 certified 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.

d. 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.

e. Where 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 applicants may appeal to the Superior Court.

f. All individuals licensed as art therapists in this State shall be required to be fingerprinted by the State Bureau of Identification, at the licensee's expense, for the purposes of performing subsequent criminal background checks. Licensees shall submit, at the applicant's expense, fingerprints and other necessary information in order to obtain a criminal background check pursuant to paragraph (a)(10) of this section.

§3064. 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 the education requirements for licensure required under Section 3063(a)(1) of this Title and the requirements under Section 3063(a)(4) through (10) of this Title.

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

(c) The associate art therapy license shall be effective for a period of 2 years. The license may be renewed once, except that the Board may determine that individual circumstances warrant an extension or additional renewal to permit a licensee to complete the experience requirement.

(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 and attainment of the ATR-BC credential of this subchapter.

§3065. 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 shall present proof of current 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.

(1) A license in good standing is defined in Section 3063(a)(4) through (8) of this Chapter.

(2) 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 is credentialed by the ATCB, or other national certifying organization acceptable to the Board, may be licensed, provided the applicant meets all other requirements for reciprocity.

(b) The Board may waive the requirements of Section 3063(a)(1) through (3) of this Chapter for an applicant who is applying for licensure under this subchapter if, within one year after the date of enactment of this subchapter, the applicant submits evidence satisfactory to the Board that the applicant:

(1) Has completed a master's degree in art therapy from an accredited educational institution in an art therapy program that was approved by the American Art Therapy Association at the time the degree was granted;

(2) Holds national certification in good standing with Art Therapy Credentials Board (ATCB); and

(3) Has completed not less than 3,200 hours of experience in art therapy acceptable to the Board, 2000 of which are attained no less than two years after the conferment of the master's degree.

§3066. License Renewal.

(a) A license issued under this subchapter shall be renewed biennially, in such manner as determined by the Board under Section 3008 of this Chapter.

198 (b) A licensee seeking to renew a license shall submit payment of a renewal fee, a renewal form provided by the
199 Board, and proof that the licensee has met the continuing education requirements established by the Board.
200 (c) Continuing education requirements established by the Board shall be consistent with the requirements to
201 maintain art therapy credentials in good standing with the ATCB.

SYNOPSIS

This Act regulates the practice of art therapy, amending 24 Del. C. §30 by adding Subchapter 'V. Professional Art Therapists,' administered under the Delaware Board of Mental Health and Chemical Dependency Professionals. The Art Therapy Practice Act will serve and protect the public by defining the scope of practice of art therapy; setting minimum standards of qualification, education, training, and experience for art therapists; and maintaining certain standards in the delivery of art therapy services.

This bill also provides to assist the Delaware Board of Mental Health and Chemical Dependency Board in licensing art therapists by the appointment of a voluntary Art Therapy Advisory Board, amending 24 Del. C. §3006(a).

Author: Senator Simpson