

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/CS/SB 204

INTRODUCER: Fiscal Policy Committee; Health Policy Committee; and Senator Clemens

SUBJECT: Music Therapists

DATE: February 18, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van Winkle	Stovall	HP	<b>Fav/CS</b>
2.	Brown	Pigott	AHS	<b>Recommend: Favorable</b>
3.	Pace	Hrdlicka	FP	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 204 creates a new regulated profession, music therapists, in ch. 468, F.S., relating to clinical, counseling, and psychotherapy services. The bill requires music therapists to be regulated by the Department of Health (DOH) through a registration process in order to practice music therapy or hold oneself out as a music therapist, with certain exceptions. The bill requires biennial renewal of a music therapist's registration and authorizes the DOH to deny or revoke the registration or renewal for violations of s. 468.85, F.S.

The bill has an indeterminate but likely insignificant fiscal impact.

**II. Present Situation:**

**The Sunrise Act and Sunrise Questionnaire**

The Sunrise Act (the act), codified in s. 11.62, F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation. The act specifies that it is the intent of the Legislature that:

- No profession or occupation be subject to regulation unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage and that the state's police power be exercised only to the extent necessary for that purpose; and

- No profession or occupation be regulated in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the services to the public.

Under the act, the Legislature must review all legislation proposing regulation of a previously unregulated profession or occupation and make a determination for regulation based on consideration of the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The act requires the proponents of legislation for the regulation of a profession or occupation to provide specific information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees of reference.<sup>1</sup> This required information is traditionally compiled in a “Sunrise Questionnaire.”

### **Music Therapists<sup>2</sup>**

Currently, music therapists are not regulated in Florida. The primary proponent seeking regulation of music therapists in Florida is the Florida Music Therapy State Task Force (task force). The task force has completed a Sunrise Questionnaire to provide information concerning the proposed regulation of a currently unregulated profession.

“Music therapy” is defined by the task force to mean “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 by a credentialed professional who has completed an approved music therapy program.” Music therapists serve clinical populations ranging in age from neonates in a hospital’s neonatal intensive care unit to older adults in hospice care. Music therapy services are provided in a variety of clinical settings, including:

- Psychiatric hospitals;
- Rehabilitative facilities;
- Medical hospitals;
- Outpatient clinics;

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<sup>1</sup> See s. 11.62(4)(a)-(m), F.S.

<sup>2</sup> Information in this portion of this Bill Analysis is from the Florida Senate Sunrise Questionnaire completed by the Florida Music Therapy State Task Force (on file with the Senate Committee on Health Policy).

- Day care treatment centers;
- Agencies serving persons with developmental disabilities;
- Community mental health centers;
- Drug and alcohol programs;
- Senior centers;
- Nursing homes;
- Hospice programs;
- Correctional facilities;
- Halfway houses;
- Schools; and
- Private practice.<sup>3</sup>

### ***Education Programs***

Music therapy degree programs are offered at approximately 73 colleges and universities in the United States. These programs are accredited by the American Music Therapy Association (AMTA). To become a music therapist, a student must earn a bachelor's degree or higher in music therapy from an AMTA-approved college or university. These programs require academic coursework and 1,200 hours of clinical training, including an approved supervised internship. An internship may be approved by the academic institution or the AMTA. Qualified supervision of clinical training is required and must be coordinated or verified by the academic institution. Internship supervisors must meet minimum requirements outlined by the AMTA Education and Clinical Training Standards.<sup>4</sup>

Currently in Florida, Florida State University (FSU) and the University of Miami (UM) have the only accredited music therapy programs. FSU and UM both offer bachelor's, master's, and doctoral degrees in music therapy. FSU graduates approximately 37 students annually and UM graduates approximately 11 students annually. Additionally, Florida Gulf Coast University is developing a music therapy program and is in the accreditation process.<sup>5</sup>

### ***National Certification of Music Therapists***

There are two national organizations that recognize the music therapy profession: the AMTA and the Certification Board for Music Therapists (CBMT). The CBMT is the only organization that credentials music therapists nationally. The professional credential for a board-certified music therapist (MT-BC) is granted by the CBMT to individuals who have successfully completed an AMTA-approved academic and clinical training program and have passed a written national examination.<sup>6</sup>

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<sup>3</sup> *Id.* at p. 5.

<sup>4</sup> A music therapy internship supervisor must have a clinical practice in music therapy (either private or institutional) and demonstrate the following: all professional level competencies; effectiveness as a music therapy clinician in at least one area of practice; general understanding of the supervisory needs of internship students, and established skills in supervision. See AMTA, *Standards for Education and Clinical Training*, available at: <http://www.musictherapy.org/members/edctstan/> (last visited Feb. 11, 2016). See also *supra* note 2 at p. 25.

<sup>5</sup> *Id.* at p. 26.

<sup>6</sup> *Id.* at p. 13.

Currently, the majority of music therapists hold the MT-BC credential. Other credentials that a music therapist may have are: registered music therapist (RMT), certified music therapist (CMT), or advanced certified music therapist (ACMT). The RMT, CMT, and ACMT credentials were granted prior to 1998 and will expire in 2020.<sup>7</sup>

The task force estimates that there are 253 board-certified music therapists (MT-BC), four registered music therapists (RMT), and four certified music therapists (CMT) in Florida.<sup>8</sup>

### ***Regulation of Music Therapists in Other States***

Currently eight states regulate music therapists through either licensure or registration.<sup>9</sup> The first state to regulate music therapists was Wisconsin in 1998, which provided a state registry for music therapists through the Wisconsin Department of Regulation and Licensing. The Wisconsin law prohibits the use of the title Wisconsin Music Therapist – Registered (WMTR) unless a music therapist is registered with the state of Wisconsin. Wisconsin does not license music therapists, and registration is voluntary.<sup>10</sup> Music therapists are licensed in North Dakota, Nevada, Georgia, Rhode Island, Utah, Oregon and New York.<sup>11</sup>

### **Licensure of Health Care Practitioners in Florida Legislature**

The DOH is responsible for the licensure of most health care practitioners in the state. In addition to the regulatory authority in the specific practice acts for each profession or occupation, ch. 456, F.S., provides general regulatory provisions for health care professions within the DOH.

Section 456.001, F.S., defines “health care practitioner” as any person licensed under chs. 457 (acupuncture); 458 (medicine); 459 (osteopathic medicine); 460 (chiropractic medicine); 461 (podiatric medicine); 462 (naturopathic medicine); 463 (optometry); 464 (nursing); 465 (pharmacy); 466 (dentistry and dental hygiene); 467 (midwifery); 478 (electrology or electrolysis); 480 (massage therapy); 484 (opticianry and hearing aid specialists); 486 (physical therapy); 490 (psychology); 491 (psychotherapy), F.S., or parts III or IV of ch. 483 (clinical laboratory personnel or medical physics), F.S.

Additionally, speech-language pathology and audiology; nursing home administration; occupational therapy; respiratory therapy; dietetics and nutrition practice; athletic trainers; and orthotics, prosthetics, and pedorthics regulated under ch. 468, F.S., are considered health care practitioners under s. 456.001, F.S.

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<sup>7</sup> *Supra* note 2 at p. 10.

<sup>8</sup> *Supra* note 2 at p. 3. Information about the number of MT-BCs was retrieved from the Certification Board for Music Therapists. Information about the number of RMTs and CMTs was retrieved from the National Music Therapy Registry.

<sup>9</sup> Certification Board for Music Therapists, *State Licensure*, available at: <http://www.cbmt.org/examination/state-licensure/> (last visited Feb. 11, 2016).

<sup>10</sup> See Wisconsin Chapter for Music Therapy, *Wisconsin Music Therapy Registry* (2015), available at <http://musictherapywisconsin.org/about-us/wmtr/> (last visited Feb. 11 2016).

<sup>11</sup> See *supra* note 9.

### III. Effect of Proposed Changes:

The bill creates s. 468.85, F.S., to recognize that music therapy affects the health, safety, and welfare of the public, and that the practice of music therapy should be subject to regulation to protect the public from the practice of music therapy by unregistered persons.

The bill provides the following definitions related to music therapists:

- “Board-certified music therapist” means a person who has completed the education and clinical training requirements established by the American Music Therapy Association and who holds current board certification from the national Certification Board for Music Therapists;
- “Music therapist” means a person registered to practice music therapy pursuant to s. 491.017, F.S.; and
- “Music therapy” means the clinical and evidence-based use of music interventions by a board-certified music therapist to accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship.

Under the bill, music therapy interventions may include music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, singing, music performance, learning through music, music combined with other arts, music-assisted relaxation, music-based patient education, electronic music technology, adapted music intervention, and movement to music.

The practice of music therapy does not include the diagnosis or assessment of any physical, mental, or communication disorder.

The bill requires a person to register as a music therapist to practice music therapy or to use the title “music therapist” in Florida. The bill authorizes certain exceptions for a person who does not hold himself or herself out as a music therapist, including:

- A person who is licensed, certified, or regulated to practice a profession or occupation in Florida, or personnel supervised by a licensed professional in this state performing work, including the use of music, incidental to the practice of his or her licensed, certified, or regulated profession or occupation;
- A person whose training and national certification attests to the person’s preparation and ability to practice his or her certified profession or occupation;
- A student practicing music therapy as a part of an accredited music therapy program; or
- A person practicing music therapy under the supervision of a registered music therapist.

The bill authorizes registered music therapists to:

- Accept referrals for services from medical, developmental, mental health, or education professionals; family members; clients; caregivers; or other persons authorized to provide client services;
- Collaborate with a client’s primary care provider or treatment team before providing services to a client with an identified clinical or developmental need;

- Conduct a music therapy assessment of a client and, if treatment is indicated, collect information to determine the appropriateness and type of music therapy services to provide the client;
- Develop an individualized treatment plan for the client that is based on the results of the music therapy assessment and consistent with any other developmental, rehabilitative, habilitative, medical, mental health, preventive, wellness, or educational services being provided to the client;
- Evaluate the client's response to music therapy and modify the music therapy treatment plan, as appropriate;
- Develop a plan for determining when music therapy services are no longer needed;
- Minimize barriers to ensure that the client receives music therapy services in the least restrictive environment;
- Collaborate with and educate the client and the client's family members, caregivers, and any other appropriate persons regarding the needs of the client that are being addressed in music therapy and the manner in which the music therapy treatment addresses those needs; and
- Use appropriate knowledge and skills to determine appropriate actions in the context of each specific clinical setting.

A person must register with the DOH and renew his or her registration every 2 years. The DOH must establish application, registration, and renewal fees, not to exceed \$50. The DOH is authorized to deny or revoke a registration or renewal of registration for violations of s. 468.85, F.S. A registered music therapist must notify the DOH within 10 days of a change in address or status as a board certified music therapist.

The bill authorizes the DOH to adopt rules to implement the bill.

The bill is effective on July 1, 2016.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The bill requires music therapists to pay fees associated with application, registration, and renewal, not to exceed \$50 each.

**B. Private Sector Impact:**

Music therapists are required to pay an application fee, an initial registration fee, and a biennial renewal fee.

**C. Government Sector Impact:**

The DOH will experience an indeterminate increase in revenues based on music therapist application, registration, and renewal fees. The DOH will also incur an indeterminate increase in workload and costs associated with the regulation of music therapists and educating the public concerning music therapy and licensure.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill provides rulemaking authority to the DOH to implement the bill, including the application, registration, and renewal fee for music therapists.

**VIII. Statutes Affected:**

This bill creates section 468.85 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Fiscal Policy on February 17, 2016:**

The committee substitute establishes the registration of music therapists within Part XVII of ch. 468, F.S.

**CS by Health Policy on January 19, 2016:**

The CS establishes a title protection act for Music Therapists rather than a full licensure and regulatory structure. Application fees, and registration and renewal fees, are limited to \$50 each. Registration as a music therapist is predicated on passing a board certification examination and maintaining that certification.

**B. Amendments:**

None.