**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2019**

**SESSION LAW \_\_\_\_\_**

**HOUSE BILL \_\_\_\_**

AN ACT TO ESTABLISH THE ART tHERAPY PRACTICE aCT.

The General Assembly of North Carolina enacts:

  **SECTION 1.**  Chapter 90 of the General Statutes is amended by adding a new Article to read:

 “Article 43.

 “Art Therapy Practice Act.

"**§ 90-726.  Short title.**

 This act shall be known and may be cited as the “North Carolina Art Therapy Practice Act**.”**

"**§ 90-727.  Purpose.**

It is the purpose of this Article to safeguard the public health, safety and welfare and to protect the public from being harmed by unqualified persons by providing for the licensure and regulation of persons engaged in the practice of art therapy and by establishment of standards of education, training, and competency for persons engaged in the practice of art therapy.

"**§ 90-728.  Definitions.**

The following definitions apply to this Article:

(1) ‘Art therapist’ means a person licensed to practice art therapy under the provisions of this Article.

(2) ‘Art therapy certified supervisor’ means a certified art therapist holding the art therapy certified supervisor (ATCS) credential from the Art Therapy Credentials Board, Inc.

(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 cognitive and sensory- motor functions, increase self-awareness and self-esteem, cope with grief and traumatic experience, resolve conflicts and distress, and enhance social functioning.

(4) ‘Associate art therapist’ means a person licensed to practice art therapy under supervision issued under the provisions of this Article.

(5) ‘Board’ means the North Carolina Board of Art Therapy.

(6) ‘Certified art therapist’ means a person who holds national board certification in art therapy in good standing from the Art Therapy Credentials Board, Inc., or any successor of said board.

(7) ‘Client’ means an individual who is the recipient of any of the art therapy services described in this Article.

(8) ‘Licensee’ means a person who holds an active license as an art therapist or an associate art therapist issued under the provisions of this Article.

(9) ‘Practice of art therapy’ means holding oneself out to the public as an art therapist providing or offering to provide art therapy and appraisal activities as an independent or adjunctive therapist using the application of art therapy principles and methods in the assessment, prevention, treatment and amelioration of psychological problems and cognitive, developmental and behavioral conditions. The term includes therapeutic interventions to facilitate alternative modes of receptive and expressive communication and evaluation and assessment to define and implement art-based treatment plans to address a client’s cognitive, behavioral, developmental, and emotional needs.

(10) ‘Privileged communication’ means any information, including, but not limited to, client records, artwork, verbal and/or artistic expressions, assessment results, or assessment interpretations developed during a professional relationship between an art therapist and a client.

(11) ‘Supervision’ means the regular oversight of the functions and activities of a student enrolled in an art therapy program as part of an internship or practicum experience, or of an art therapy graduate who holds an associate license issued under the provisions of this Article to engage in the practice of art therapy to satisfy the requirements for licensure as an art therapist under the provisions of this Article.

(12) ‘Supervisor’ means an art therapy certified supervisor, an art therapist licensed under the provisions of this Article, a certified art therapist, or an equivalently and actively licensed mental health professional, as determined by the Board, who meets the qualifications established by the Board.

"**§ 90-729.  License required; exemptions.**

(a) On or after January 1, 2020, it shall be unlawful for any person to engage in the practice of art therapy, use the title ‘Licensed Art Therapist’ or ‘Art Therapist,’ use the letters ‘LAT,’ or use any other title or abbreviation that would otherwise indicate or imply that the person is a licensed art therapist unless that person is currently licensed as provided under this Article.

(b) The provisions of this section shall not be construed to require a license under this Article for:

(1) A student enrolled in an art therapy academic program with an accredited educational institution while practicing art therapy under supervision if such practice constitutes part of the student’s approved course of study.

(2) An ordained minister, priest, rabbi, or other member of the clergy providing any services described in the Article while acting in a ministerial capacity who does not charge a fee for the service, or any person invited by a religious organization to conduct, lead, or provide art therapy to its members when the service is not performed for more than 30 days in any calendar year.

(3) A person employed by the federal government or any federal agency if the individual is performing any act or service described in this Article that are associated with that employment.

(4) A nonresident temporarily employed in this State to provide art therapy services for not more than 30 days during any calendar year, if the person holds a license as an art therapist or its equivalent under the law of their state of residence.

(c) Nothing in this Article shall be construed to prohibit or restrict the practice of any profession or occupation registered, certified, or licensed by this State by a person performing any act or service that falls within the authorized scope of practice of their profession or occupation and their professional training, if the person does not represent their practice as art therapy, or hold themselves out to the public by any title, abbreviation, or description stating or implying that they are licensed to engage in the practice of art therapy under the provisions of this Article.

"**§ 90-730. North Carolina Board of Art Therapy; composition, appointments, terms.**

(a)        For the purpose of carrying out the provisions of this Article, there is hereby created the North Carolina Board of Art Therapy which shall consist of five members appointed by the Governor in the manner hereinafter prescribed. Any State or nationally recognized professional association representing professional art therapists may submit recommendations to the Governor for Board membership. The Governor may remove any member of the Board for neglect of duty or malfeasance or conviction of a felony or other crime of moral turpitude, but for no other reason.

(b)       Four members of the Board shall be licensed art therapists except that initial appointees shall be persons who meet the educational, supervised experience, and examination requirements for licensure as art therapists under the provisions of this Article; and one member shall be a public-at-large member appointed from the general public. Composition of the Board as to the race and sex of its members shall reflect the population of the State and each member shall reside in a different congressional district.

(c)       All members of the Board shall be residents of the State of North Carolina, and, with the exception of the public-at-large members, shall be licensed by the Board under the provisions of this Article. Professional members of the Board must be actively engaged in the practice of art therapy or in the education and training of students in art therapy, and have been so engaged for at least three years prior to their appointment to the Board. The engagement in this activity during the two years preceding the appointment shall have occurred primarily in this State.

(e)       The term of office of each member of the Board shall be three years; provided, however, that of the members first appointed, one shall be appointed for a term of one year, two for terms of two years, and two for terms of three years. No member shall serve more than two consecutive three-year terms.

(f)       Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term. Appointees to the Board shall continue to serve until a successor is appointed and qualified.

(g) The Board shall hold its first meeting within 30 days after the appointment of its members and shall hold at least two meetings each year to conduct business and to review the standards and rules previously adopted by the Board. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Board members constitutes a quorum.

(h)      Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Article, at the rates prescribed in G.S. 93B-5.

(i)      The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board.

"**§ 90-730. Powers of the Board.**

The Board shall have the following powers and duties:

(1)        Administer this Article.

(2)        Issue interpretations of this Article.

(3)        Adopt, amend, or repeal rules as may be necessary to carry out the provisions of this Article,

(4)      Establish the standards, qualifications, and fitness of applicants for licensure, licensure renewal, and reciprocal licensure.

(5) Establish standards and qualifications for practice of art therapy under supervision by licensed associate art therapists

(6)        Determine the qualifications and fitness of applicants for licensure, licensure renewal, and reciprocal licensure.

(7)       Issue, renew, deny, suspend, or revoke licenses, order probation, issue reprimands, and carry out any other disciplinary actions authorized by this Article.

(8)       Set fees for licensure, reciprocal licensure, licensure renewal, and other services deemed necessary to carry out the purposes of this Article.

(9)       Establish continuing education requirements for license renewal.

(10)      Adopt a code of ethics for licensees, including standards for protecting the confidentiality of privileged communications.

(11)     Maintain a current list of all persons who have been licensed under this Article.

(12)     Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining a licensee exist.

(13)      Maintain a record of all proceedings and make available to all licensees and other concerned parties an annual report of all Board action.

(14)     Adopt a seal containing the name of the Committee for use on all official documents and reports issued by the Committee.

(15)     Summon and issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the Board.

(16)     Order a licensee whose health and effectiveness have been significantly impaired by alcohol, drug addiction, or mental illness to attend and successfully complete a treatment program as deemed necessary and appropriate.

(17) Establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

"**§ 90-731. Titles and requirements for licensure.**

(a)       Each person desiring to be licensed as an associate art therapist or an art therapist shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee.

(b)       The Board shall issue a license as a ‘licensed associate art therapist’ to a person who provides satisfactory evidence to the Board that they meet all the following requirements:

(1) Is at least 18 years of age.

(2) Is of good moral character as determined by the Board.

(3) Has successfully completed a master's or doctoral degree from an accredited college or university in a program in art therapy 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 a program that the Board determines is substantially equivalent to an approved or accredited program in art therapy according to the requirements of subsection (d) of this section.

(4) Has submitted a notarized written plan for supervised practice of art therapy to be conducted under an approved supervisor according to standards described in subsection (e) of this section.

(c) The Board shall issue a license as a ‘licensed art therapist’ to a person who provides satisfactory evidence to the Board that they meet all the following requirements:

(1)      Has met the requirements under subsection (b1), (b2), and (b3) of this section.

(2) Completed supervised, post-master's degree professional practice of art therapy that the Board determines meets the standards for supervised practice described in subsection (e) of this section.

(3) Has demonstrated competence in practice of art therapy by passing the Board Certification Examination administered by the Art Therapy Credentials Board, Inc.

(4) Has not had a professional license or credential refused, revoked, suspended, or restricted and do 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 Board finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution.

(d) For purposes of subsection (b)(3) of the section, the Board may determine that a program is substantially equivalent to an approved or accredited program in art therapy if it includes at least 60 semester credit hours, or quarter-credit equivalent, of graduate level coursework and not less than 700 hours of supervised field experience. Program content and coursework must include the mental health content and art therapy core content requirements to qualify for national art therapist registration (ATR) established by the Art Therapy Credentials Board, Inc., and in effect at the time the coursework was successfully completed.

(e) To qualify as a licensed art therapist, a person must have successfully completed a minimum of two years of post-master’s degree paid or volunteer supervised work experience and training in the practice of art therapy that meets all the following requirements:

(1) The supervised experience must include at least 1,000 hours of direct contact with clients, with at least the first 500 hours of direct client contact conducted under supervision of an art therapy certified supervisor, certified art therapist, or art therapist licensed under the provisions of this Article. The remaining hours of direct client contact may be supervised by a licensed practitioner with a master’s degree or higher in a related mental health field, as determined by the Board.

(2) Qualifying supervised experience must include not less than 100 hours of direct supervision, with not less than 50 hours of supervision provided by an art therapy certified supervisor, certified art therapist, or art therapist licensed under the provisions of this Article. Supervision must be evenly distributed over the course of the supervised experience. At least 75 percent of the required supervision hours must be received in person, and the remaining hours may include supervision by telephone or by audio or audiovisual electronic device, as determined by the Board.

(3) Supervised experience must be completed in no fewer than 24 months and not more than 72 consecutive months, as determined by the Board.

(4) An art therapy doctoral internship may be applied toward the post-graduate supervised experience requirement.

(f) The Board may waive the requirements of subsection (c) of this section and grant a license as a licensed art therapist to a person who, on or before one year from the effective date of rules adopted by the Board to carry out the provisions of this Article, submits an application upon such form and in such manner as the Board shall prescribe and provides satisfactory evidence to the Board that they meet the following requirements:

(1) Hold a credential in good standing as a certified art therapist (ATR-BC) from the Art Therapy Credentials Board, Inc.

(2) Have been engaged in the practice of art therapy or in education and training of students in art therapy for not less than 5 years, and have been so engaged in the State of North Carolina for at least two years prior to submitting an application, as determined by the Board.

(3) Have not had a professional license or credential refused, revoked, suspended, or restricted and do 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 Board finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution.

"**§ 90-732. Reciprocity.**

The Board may grant, upon application and payment of proper fees, a license to a person who has been licensed to practice art therapy in another state or territory of the United States whose standards of competency are substantially equivalent to the requirements for licensure provided in this Article.

"**§ 90-733. Renewal of licenses.**

 (a)       All licenses shall be effective upon the date of issuance by the Board, and shall expire two years after the date they were issued.

 (b)       All licenses issued hereunder shall be renewed at the times and in the manner provided by this section.  At least 45 days prior to expiration of each license, the Board shall mail a notice for license renewal to the person licensed for the current licensure period.  At least 10 days before the current license expires, the applicant must return the notice properly completed, together with a renewal fee established by the Board and evidence of continuing education as approved by the Board, upon receipt of which the Board shall issue to the person to be licensed the renewed license for the period stated on the license.

(c) To qualify for renewal of a license, a licensed art therapist must complete at least 40 hours of approved continuing education and meet any other requirements established by the Board.

(d)       Any person licensed who allows the license to lapse for failure to apply for renewal within 45 days after notice shall be subject to the late renewal fee.  Failure to apply for renewal of a license within one year after the license's expiration date will require that a license be reissued only upon application as for an original license.

"**§ 90-734. Protection of the public.**

(a)       The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation of any person licensed under this Article on one or more of the following grounds:

(1)       Has been convicted of a felony or entered a plea of guilty or *nolo contendere* to any felony charge under the laws of the United States or of any state of the United States.

(2)       Has been convicted of or entered a plea of guilty or *nolo contendere* to any misdemeanor involving moral turpitude, misrepresentation, or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice art therapy, or a misdemeanor charge reflecting the inability to practice art therapy with due regard to the health and safety of clients or patients.

(3)       Has engaged in fraud or deceit in securing or attempting to secure or renew a license under this Article or has willfully concealed from the Board material information in connection with application for a license or renewal of a license under this Article.

(4)       Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of art therapy, the offer of art therapy services, the filing of Medicare, Medicaid, or other claims to any third-party payor, or in any manner otherwise relevant to fitness for the practice of art therapy.

(5)       Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, license renewal, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, qualifications, or fitness for the practice of art therapy to the public, any individual, the Board, or any other organization.

(6)       Has had a license or certification for the practice of art therapy in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction for conduct which would subject him or her to discipline under this Article.

(7)       Has violated any provision of this Article or any rules adopted by the Board.

(8)       Has aided or abetted the unlawful practice of art therapy counseling by any person not licensed by the Board.

(9)       Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection or in the current code of ethics of the Art Therapy Credentials Board, Inc. However, if any provision of the code of ethics is inconsistent and in conflict with the provisions of this Article, the provisions of this Article shall control.

(10)     Has practiced art therapy in such a manner as to endanger the welfare of clients.

(11)     Has demonstrated an inability to practice art therapy with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition.

(12)     Has practiced art therapy outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience.

(13)     Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the licensed art therapist, licensed associate art therapist, or a third party.

(14)     Has harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee.

(15) Has disclosed a client’s privileged communications without obtaining the written consent of the client or the client’s parent or guardian, as applicable, except where such disclosure is required by law, a judicial or administrative proceeding, or as necessary to protect the client’s or another person’s health or safety.

(16)      Has failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional associations, hospitals, or other health care organizations or educational institutions, when those organizations or entities have jurisdiction.

(17)     Has refused to appear before the Board after having been ordered to do so in writing by the chair.

 (b)      The Board may, in lieu of denial, suspension, or revocation, take any of the following disciplinary actions:

(1)       Issue a formal reprimand or formally censure the applicant or licensee.

(2)       Place the applicant or licensee on probation with the appropriate conditions on the continued practice of art therapy deemed advisable by the Board.

(3)       Require examination, remediation, or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee.

(4)       Require supervision of the art therapy services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee.

(5)       Limit or circumscribe the practice of art therapy provided by an applicant or licensee with respect to the extent, nature, or location of the art therapy services provided, as deemed advisable by the Board.

(6)       Discipline and impose any appropriate combination of the types of disciplinary action listed in this section.

(c)       The Board may impose conditions of probation or restrictions on continued practice of art therapy at the conclusion of a period of suspension or as a requirement for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to discipline, supervision, probation, remediation, rehabilitation, or practice limitation of a licensee or applicant for a license.

(d)        The Board may assess costs of disciplinary action against an applicant or licensee found to be in violation of this Article.

"**§ 90-735. Violation a misdemeanor.**

Any person violating any provision of this Article is guilty of a Class 1 misdemeanor.

**§ 90-736.  Injunction.**

The Board may make application to any appropriate court for an order enjoining violations of this Article, and upon a showing by the Board that any person has violated or is about to violate this Article, the court may grant an injunction, restraining order, or take other appropriate action. The Board shall not be required to post bond in connection with such proceeding.

 **§ 90-344.  Third-party reimbursements.**

Nothing in this Article shall be construed to require direct third-party reimbursement to persons licensed under this Article.”

**SECTION 1.**  This act is effective when it becomes law.