MEMORANDUM

TO: The Honorable Bruce Rauner, Governor
Senator John Cullerton, President of the Senate
Senator Christine Radogno, Minority Leader of the Senate
Representative Michael Madigan, Speaker of the House of Representatives
Representative Jim Durkin, Minority Leader of the House of Representatives
Bryan A. Schneider, Secretary of the Department of Financial and Professional Regulation

FROM: The Illinois Music Therapy Advisory Board
Jessica Baer, Chairperson, Director of the Division of Professional Regulation
Andrea M. Crimmins, Board Member
Louise Dimiceli-Mitran, Board Member
Kyle Fleming, Board Member
Candyce L. Gray, Board Member
Russell E. Hilliard, Board Member
Clifton Saper, Board Member

SUBJECT: Illinois Music Therapy Advisory Board Report and Recommendation

On behalf of the Illinois Music Therapy Advisory Board, chaired by the Director of the Division of Professional Regulation, Jessica Baer, this Report and Recommendation regarding music therapists in the State of Illinois, is hereby submitted in compliance with the Music Therapy Advisory Board Act, 20 ILCS 5070/et seq.
Illinois Music Therapy Advisory Board
Report and Recommendation

Mandated by 20 ILCS 5070/15
4/25/2017
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Illinois Psychiatric Society
Certification Board for Music Therapists & American Music Therapy Association
Illinois Music Therapy Advisory Board

Illinois Music Therapy Advisory Board Generally

The Music Therapy Advisory Board Act, 20 ILCS 5070/et seq., became effective on January 1, 2016 pursuant to Public Act 099-397, and created a seven (7) member Board which must issue a report regarding the following at minimum: (1) the best practices, curriculum, and training programs for an Illinois certification program for music therapists; (2) a certification and renewal process for music therapists and a system of approval and accreditation for curriculum and training; (3) a proposed curriculum for music therapists; and (4) best practices for reimbursement options and pathways through which secure funding for music therapists may be obtained. The Act reads in full:

Section 5. Definitions. As used in this Act:

"Board" means the Music Therapy Advisory Board.

"Music therapist” means a person who is certified by the Certification Board for Music Therapists.

"Music therapy" means 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. The 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 term "music therapy” does not include the diagnosis or assessment of any physical, mental, or communication disorder.

"Department” means the Illinois Department of Financial and Professional Regulation.

"Secretary" means the Secretary of Financial and Professional Regulation or his or her designee.

Section 10. Advisory board.

(a) There is created the Music Therapy Advisory Board within the Department. The Board shall consist of seven (7) members appointed by the Secretary for a term of two (2) years. The Secretary shall make the appointments to the Board within 90 days after the effective date of this Act. The members of the Board shall represent different racial and ethnic backgrounds, reasonably reflect the different geographic areas in Illinois, and have the qualifications as follows:

(1) three members who currently serve as music therapists in Illinois;
(2) one member who represents the Department;
(3) one member who is a licensed psychologist or professional counselor in Illinois;
(4) one member who is a licensed social worker in Illinois; and
(5) one representative of a community college, university, or educational institution that provides training to music therapists.

(b) The members of the Board shall select a chairperson from the members of the Board. The Board shall consult with additional experts as needed. Four members constitute a quorum. The Board shall hold its first meeting within 30 days after the appointment of members by the Secretary. Members of the Board shall serve without compensation. The Department shall provide administrative and staff support to the Board. The meetings of the Board are subject to the provisions of the Open Meetings Act.
(c) The Board shall consider the core competencies of a music therapist, including skills and areas of knowledge that are essential to bringing about music therapy services to communities by qualified individuals. As relating to music therapy services, the core competencies for effective music therapists may include, but are not limited to:

(1) materials to educate the public concerning music therapist licensure;
(2) the benefits of music therapy;
(3) the utilization of music therapy by individuals and in facilities or institutional settings;
(4) culturally competent communication and care;
(5) music therapy for behavior change;
(6) support from the American Music Therapy Association or any successor organization and the Certification Board for Music Therapists;
(7) clinical training; and
(8) education and continuing education requirements.

Section 15. Report.

(a) The Board shall develop a report with its recommendations regarding the certification process for music therapists. The report shall be completed no later than 12 months after the first meeting of the Board. The report shall be submitted to all members of the Board, the Secretary, the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives. The Department shall publish the report on its Internet website.

(b) The report shall at a minimum include the following:

(1) a summary of research regarding the best practices, curriculum, and training programs for designing a certification program in this State for music therapists, including a consideration of a multi-tiered education or training system, statewide certification, non-certification degree-based levels of certification, support from the American Music Therapy Association and Certification Board for Music Therapists, and the requirements for experience-based certification;
(2) recommendations regarding certification and renewal process for music therapists and a system of approval and accreditation for curriculum and training;
(3) recommendations for a proposed curriculum for music therapists that ensures the content, methodology, development, and delivery of any proposed program is appropriately based on cultural, geographic, and other specialty needs and also reflects relevant responsibilities for music therapists; and
(4) recommendations for best practices for reimbursement options and pathways through which secure funding for music therapists may be obtained.

(c) The Board shall advise the Department, the Governor, and the General Assembly on all matters that impact the effective work of music therapists.
Legal Standards and Analytical Structure

Illinois law sets policies and objective standards for legislative review of proposed licensing statutes. Illinois law calls for a structured cost-benefit policy analysis of proposals for new professional regulation. The law places upon the proponents of new regulation the burden to demonstrate the genuine necessity of that regulation to the protection of the public. 20 ILCS 2105/2105-10 of the Civil Administrative Code of Illinois, Department of Professional Regulation Law, states in pertinent part:

“The practice of the regulated professions, trades, and occupations in Illinois is hereby declared to affect the public health, safety, and welfare of the People of this State and in the public interest is subject to regulation and control by the Department of Professional Regulation. It is further declared to be a matter of public interest and concern that standards of competency and stringent penalties for those who violate the public trust be established to protect the public from unauthorized or unqualified persons representing one of the regulated professions, trades, or occupations; and to that end, the General Assembly shall appropriate the necessary funds for the ordinary and necessary expenses of these public interests and concerns as they may exceed the funding available from the revenues collected from the fees and fines from the regulated professions, trades, and occupations.”

If regulation of the profession is found necessary by the legislature based upon the criteria and is “a matter of public interest and concern that standards of competency and stringent penalties for those who violate the public trust be established,” then “the General Assembly shall appropriate necessary funds,” consistent with the public interest. Id.

The State of Illinois recognizes a hierarchy of regulation:

1. **Licensure**: Licensure, or “practice act protection,” is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency.

2. **Certification**: State certification programs are similar to licensure in that individuals must meet specified requirements and obtain a certificate through the state to practice within a profession. However, unlike licensure policies, certification programs are generally conditional on the individual obtaining certification.

3. **Registration**: Typically, registration programs create voluntary requirements for individuals working in a registered profession. Individuals who meet specified requirements are eligible to register with the State. Only registered professionals can use the title “State registered.”

4. **Title Protection**: Title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s) as set forth in law. Practitioners may not be required to register or otherwise notify the state that they are engaging in the relevant practice and practice exclusivity does not attach, unless the specific regulatory title is used. In other words, anyone may engage in the particular practice, but only those who satisfy prescribed requirements may use the enumerated title(s).
Profile of the Profession

Music therapists are skilled musicians who use music interventions to achieve therapeutic goals.\(^1\) They assess an individual's functioning through response to music; design music interventions and therapy sessions based on treatment goals, objectives, and the individual's needs; and evaluate and document treatment outcomes.\(^2\) The music therapist may be part of an interdisciplinary team including medical, mental health, occupational therapy, physical therapy, or other educational professionals. Currently, an Illinois state credential is not required to practice music therapy.\(^3\)

Music therapists are not alone in providing therapeutic interventions through music. Music thanatologists, therapeutic musicians, music practitioners, clinical musicians, therapeutic harp practitioners, healing musicians, guided music and imagery/Bonny method practitioners, and others provide comfort to the ill, injured or dying, typically by playing music in hospitals, psychiatric units, hospices, residential facilities and other settings.\(^4\) Each music modality has a training program and some are credentialed or accredited by national organizations. Native American healers, traditional healers, and other cross-cultural healers use music, song, and instruments to support a person's or family's physical, mental, or spiritual health in hospitals, hospice, and other health facilities.\(^5\) In addition, some musicians play for the sick and dying with no stated therapeutic goal other than the person's relaxation and enjoyment.\(^6\)

The practice of music therapy is not regulated in Illinois. There are several professions that use or may use music as a treatment modality or as an adjunct to treatment:

State-credentialed professions including, but not limited to:
- Psychologists
- Occupational therapists
- Speech-language pathologists
- Mental health counselors
- Marriage and family therapists
- Social workers
- Hypnotherapists
- Massage therapists

Non-state-credentialed professions:
- Music therapists
- Therapeutic musicians
- Music thanatologists
- Certified music practitioners
- Native American and other traditional healers
- Clinical musicians
- Therapeutic harp practitioners
- Healing musicians
- Guided music and imagery/Bonny method practitioner.

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\(^2\) Id.

\(^3\) Id.


\(^5\) Id.

\(^6\) Id.
A key difference between music therapy and other music modalities is that a music therapist uses music or musical instruments to rehabilitate normal functions of living or improve the quality of life through studying the effect of music on clients and promoting measurable changes in behavior or function. Other modalities use live or recorded music to provide an environment conducive to the client’s healing or transition to death. Training levels also differ. A nationally certified music therapist completes a bachelor’s degree program that may include classes in abnormal psychology, cognitive and behavioral psychology, counseling techniques, and behavioral management. Training in other music modalities varies from no formal training to graduate level educational programs.

Best Practices, Curriculum, and Training Programs

Certification Board for Music Therapists

National certification for music therapists is available from the Certification Board for Music Therapists (CBMT). The CBMT is the only organization to certify music therapists to practice music therapy nationally. Its MT-BC program has been fully accredited by the National Commission for Certifying Agencies (NCCA) since 1986. Some music therapists may hold older designations as a registered music therapist (RMT), certified music therapist (CMT), or advanced certified music therapist (ACMT) issued by the American Association of Music Therapy (AMTA) or the National Association of Music Therapy. These two groups merged into the AMTA, and designees are listed on the National Music Therapy Registry. By the year 2020, AMTA will have phased out the AMT, CMT, and ACMT designations as well as the national registry. After this time, music therapists seeking national certification must obtain a MT-BC credential.

There are currently 7,106 music therapists maintaining the MT-BC credential and participating in a program of recertification designed to measure or enhance competence in the profession of music therapy. The credential, MT-BC, is awarded by the CBMT to an individual upon successful completion of an academic and clinical training program approved by the AMTA and successful completion of a written objective examination demonstrating current competency in the profession of music therapy.

American Music Therapy Association

The American Music Therapy Association’s purpose is the progressive development of the therapeutic use of music in rehabilitation, special education, and community settings. AMTA is governed by a 15-member Board of Directors which consists of both elected and appointed officers. Membership in AMTA consists of nine categories: professional, associate, student, inactive, retired, affiliate, patron, life, and honorary life. As of February 2017, over 3,800 individuals hold current AMTA membership. Candidates for Music Therapy Board Certification must have successfully completed the academic and clinical training requirements for music therapy, or their equivalent as established by the AMTA.

Formal Education Options for a Music Therapist

Bachelor’s degrees in music therapy are available from 70 U.S. colleges and universities approved by the AMTA and accredited by the National Association of Schools of Music. The AMTA requires music therapy students to complete at least 1,200 hours of supervised clinical training and a six-month internship in a competency-based program. Music therapists who complete academic and clinical training are eligible

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to take a national exam offered by the CMBT, and upon passage earn a Music Therapist-Board Certified (MT-BC) national certification.

The education of a music therapist’s undergraduate curriculum includes coursework in music therapy, psychology, music, biological, social and behavioral sciences, disabilities, and general studies. Entry level study includes practical application of music therapy procedures and techniques learned in the classroom through required fieldwork in facilities serving individuals with disabilities in the community and or on-campus clinics. Students learn to assess the needs of clients, develop and implement treatment plans, and evaluate and document clinical changes.

Individuals who have earned a baccalaureate degree in an area other than music therapy may elect to complete the degree equivalency program in music therapy offered by most AMTA-approved universities. Under this program, the student completes only the required coursework without necessarily earning a second baccalaureate degree. Graduate programs in music therapy examine issues relevant to the clinical, professional, and academic preparation of music therapists, usually in combination with established methods of research inquiry.

Candidates for the master's degree in music therapy must hold a baccalaureate degree. Some schools require either a bachelor’s degree in music therapy, the equivalency in music therapy, or that the candidate be working concurrently toward fulfilling degree equivalency requirements. Candidates must contact individual universities for details on pre-registration and entry requirements. Although there is no AMTA-approved doctoral degree in music therapy, selected universities do offer coursework in music therapy in combination with doctoral study in related academic areas.

Educational Path/Options for a Music Therapy Degree

### If:
- You are a high school graduate, then you may be eligible for option  **A**.
- You have a Bachelor’s in a related subject (Education, Psychology, etc.) then you may be eligible for option  **A** or  **B**.
  - Subject to approval by the Program Director, individuals who have earned a baccalaureate degree in an area other than music therapy may elect to complete the equivalency program in music therapy offered by most AMTA-approved universities. Under this program, the student
completes only the required coursework necessary to satisfy professional competencies in music therapy without necessarily earning a second baccalaureate degree. Individuals who have a bachelor’s degree specifically in music are also eligible to pursue a Master’s degree in Music Therapy (C) offered by AMTA-approved degree programs, by first completing the required undergraduate music therapy coursework including the internship, (essentially the Music Therapy equivalency described above) then moving onto the master’s coursework.

- You have a Bachelor’s in Music, then you may be eligible for option B, C or E (online).
- You have a Bachelor’s in Music Therapy and are seeking a graduate degree, then you may be eligible for option D or F (online).
- You have a wealth of music experience and/or strong musicianship (but no degree in music), then you are eligible for option A. 11

**Bachelor’s Degree Requirements**

The music therapy degree is a professional music degree which requires an audition for acceptance into the school of music. This specialized degree is offered at over 70 colleges/universities whose degree programs are approved by the AMTA.

The degree is four or more years in length and includes 1,200 hours of clinical training, which is a combination of fieldwork experience embedded in music therapy courses and an internship after the completion of all coursework. The music therapy degree is designed to impart professional competencies in three main areas: music, music therapy, and related coursework in science and psychology. Knowledge and skills are developed through coursework and clinical training, which cover the theory and practical application of music therapy treatment procedures and techniques. The competencies are learned in the classroom, as well as in the required fieldwork with at least three different populations at facilities serving individuals with disabilities in the community and/or on campus clinics. The education and training culminate with in-depth supervised clinical training in the internship. Upon successful completion of the music therapy bachelor’s degree an individual is eligible to sit for the national certification exam to obtain the credential MT-BC which is necessary for professional practice. The national exam is administered by the CBMT.

**Academic Component**

- The bachelor’s degree in music therapy (and equivalency programs) shall be designed to impart entry-level competencies in three main areas: musical foundations, clinical foundations, and music therapy foundations and principles, as specified in the AMTA Professional Competencies.

- In compliance with NASM Standards, the bachelor's degree in music therapy shall be divided into areas of study as follows (based on 120 semester hours or its equivalent). Please note that the courses listed below each area of study are only suggested titles of possible courses or course topics.
  - Musical Foundations (45%)
  - Music Therapy (15%)
  - General Education (20-25%)
  - Electives (5%)

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Music Therapy Undergraduate Equivalency

Individuals who have earned a baccalaureate degree in an area other than music therapy may elect to complete the equivalency program in music therapy offered by most AMTA-approved universities. Under this program, the student completes only the required coursework necessary to satisfy professional competencies in music therapy without necessarily earning a second baccalaureate degree. The equivalency program consists of all core music therapy courses at the undergraduate level, all clinical training requirements including the internship, plus any related coursework in science and psychology (i.e. anatomy, abnormal psychology, and other related courses).

Upon successful completion of the music therapy equivalency program an individual is eligible to sit for the national certification exam to obtain the credential MT-BC which is comparable to the eligibility of the baccalaureate degree as cited above.

Music therapists who complete either the bachelor’s degree in music therapy or its equivalent, acquire skills that allow them to provide music therapy services within the context of a treatment team. At this level, the music therapist utilizes music therapy techniques to meet clients musically and clinically. The music therapist demonstrates basic knowledge of assessment, treatment, documentation, and evaluation; communicates empathy and establishes therapeutic relationships; and demonstrates understanding of ethical principles and current standards of practice.

Master’s Degree/Equivalency

Individuals who have a bachelor’s degree in music are eligible to pursue a Master’s degree in music therapy offered by 30 AMTA-approved degree programs, by first completing the required undergraduate music therapy coursework including the internship, (essentially the music therapy equivalency described above) then move onto the master’s coursework, which imparts further breadth and depth to the professional competencies, including advanced competencies in music therapy.

Master’s Degree

A music therapist with a bachelor's degree in music therapy can obtain a master's degree in music therapy to expand the depth and breadth of their clinical skills in advanced and specialized fields of study such as supervision, college teaching, administration, a particular method, orientation, or population. The master's degree programs offer a number of different titles which relate directly to curricular design. For example the Master of Science in Music Therapy places advanced music therapy studies within the context of allied health and the physical sciences, while the Master of Music Therapy places advanced music therapy studies within a disciplinary context of theory, research, and practice in music therapy.

Credentialed Music Therapists who obtain a master’s degree in music therapy, further expand the depth and breadth of their clinical skills. These skills added to professional practice in music therapy of sufficient duration and depth, allow the music therapist to gain a comprehensive understanding of the clinical process of the client and the therapist's impact on that process. Through such experiences the music therapist moves beyond didactic knowledge to integrate rationale, theories, treatment methods, and use of self to enhance client growth and development. Based on a comprehensive understanding and integration of theories and practices in assessment, treatment, evaluation, and termination, the advanced music therapist takes a central and independent role in client treatment plans.
Doctoral Degrees

Some music therapy academic programs offer doctoral degrees in music therapy or related disciplines, which impart advanced competence in research, theory, development, clinical practice, supervision, college teaching, and/or clinical administration, depending on the title and purpose of the degree program.

Illinois Association for Music Therapy

The Illinois Association for Music Therapy (IAMT) is a chapter of the AMTA. The IAMT promotes the advancement of music therapy as a professional discipline in the state of Illinois through public education and advocacy, and provides professional development and continuing education opportunities for its members. The purpose of IAMT is to support the goals and objectives of the AMTA and the Great Lakes Region of AMTA and their respective governing documents.

Costs for Music Therapy National Certification

The CBMT exam currently costs $325.00, with retakes costing $275.00. The online examination may be taken at sites around the country, including eleven locations throughout Illinois and one in the city of Chicago. Upon passage, the individual receives a MT-BC credential. Music therapists must complete 100 hours of continuing education every five years to maintain their MT-BC credential. The Department of Financial and Professional Regulation (IDFPR) estimates that 262 certified music therapists in Illinois could qualify for state licensure.

The Illinois Regulatory Environment

Music therapy is one of the creative arts therapies, which also include art therapy, dance therapy and drama therapy. According to the National Institute of Mental Health, creative arts therapies and expressive arts therapy are forms of psychotherapy that are “based on the idea that people can heal themselves through art, music, dance, writing or other expressive acts.”

While there are no laws specific to “music therapy,” anyone who practices psychotherapy must at a minimum be registered as a psychotherapist in Illinois. IDFPR currently regulates the following mental health professions:

- Clinical Professional Counselors and Professional Counselors;
- Marriage and Family Therapists;
- Psychiatrists;
- Clinical Psychologists;
- Sex Offender Evaluators and Treatment Providers; and
- Social Workers

Additionally, the following regulated professions may utilize music as a treatment modality:

- Audiologists and Speech-Language Pathologists;

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18 Clinical Psychologist Licensing Act (225 ILCS 15/2)(5).
Several unregulated professions in Illinois may also use music as a treatment modality, including but not limited to:

- Music Therapists;
- Therapeutic Musicians;
- Music Thanatologists;
- Traditional Healers;
- Healing Musicians;
- Therapeutic Harp Practitioners;
- Hypnotherapists; and
- Certified Drug and Alcohol Counselors

### Attorney General Complaints

On May 02, 2016, IDFPR contacted the Illinois Attorney General’s Office to assist in determining the number of complaints per year the Attorney General received regarding music therapists. IDFPR was also interested in learning about the nature of these complaints, if any. On May 17, 2016, Deborah Hagan, Chief Consumer Protection Division Illinois Attorney General’s Office confirmed that there were no complaints against any music therapists to date.

### Analysis

Based upon information contained in the music therapy advisory board report, interviews with interested parties and regulators of other counseling professions, written comments submitted by the Board, and independent legal and public health related research, the following issues were analyzed: potential harm to the public unregulated music therapy practice poses, effects of unlicensed practice, federal/state consumer protection laws, professional accreditation, insurance reimbursement, and costs.

#### A. Prevention of Public Harm

Examples of public harm provided by the Board include the following:

- Emotional harm;
- Psychological harm; and
- Unlicensed Practice.

**Emotional harm**

Music therapists often work with vulnerable populations (e.g. persons with intellectual or emotional disabilities, or persons coping with physical, mental, or terminal illness). Potential for harm exists if a nonqualified individual provides inappropriate applications of music therapy interventions that could cause emotional harm.
CBMT reported only five cases of harm throughout the entire country over a 16-year period, and there are currently about 7,106 board-certified music therapists throughout the United States.19

B. Unlicensed Practice/Misuse of Title

According to proponents of regulation, there are a growing number of unqualified individuals in the state claiming to be music therapists who do not hold a music therapy degree or MT-BC national credential. Proponents assert that individuals may misrepresent the music therapy profession, may represent themselves as being able to produce certain outcomes that are not evidence based, or may have a lack of supervised clinical training to demonstrate competency and proficiency in the practice of music therapy.

The CBMT requires any person representing himself or herself as a board certified music therapist to adhere to the standards of the music therapy profession as prescribed by the CBMT and the CBMT Code of Professional Practice.20 Any complaints made by the public against a board certified music therapist should be brought to the attention of the CBMT for investigation and possible disciplinary action as defined by the CBMT Code of Professional Practice.21

C. Consumer Protection

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Illinoisans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

Whenever a business or an individual engages in activity that is likely to mislead the public, it may be considered a “deceptive trade practice”. Deceptive trade practices are prohibited due to the negative effects they have on consumers and the general public. Federal and state laws prohibit the use of deceptive trade practices. The Federal Trade Commission Act (FTC Act) governs deceptive trade practices. The Uniform Deceptive Trade Practices Act (UDTPA) is another piece of federal legislation that regulates deceptive trade practices. All fifty states have adopted some form of the Act in their own statutes.

Federal Consumer Protection

Prior to the implementation of consumer protection acts in the U.S., theories of freedom of contract and caveat emptor – “let the buyer beware” – controlled the merchant-consumer relationship.22 The economic boom in the early and mid-twentieth century brought with it many new products and innovations, creating the need for a means to remedy breaches in the merchant-consumer relationship.23 In response to a lack of consumer protection, Congress created the Federal Trade Commission Act in 1914, which prohibited “unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce.”24 Congress limited enforcement of the FTC Act to a federal agency, rather than allowing suit by private plaintiffs, by creating the Federal Trade Commission.

21 Id.
In the 1960’s, states began to enact a series of their own consumer protection acts, both in response to the public’s view that the FTC was vastly ineffective and in response to a continuously growing marketplace that made recourse for the average consumer increasingly difficult. In 1964, the National Conference of Commissioners on Uniform State Laws and the American Bar Association approved the Uniform Unfair and Deceptive Trade Practices Act (“UDTPA”). The UDTPA prohibits unfair or deceptive acts or practices affecting commerce. According to the National Conference of Commissioners on Uniform State Laws, approximately twenty-three states have enacted statutes similar to the FTC Act; while fourteen states have enacted a version of the UDTPA.

Illinois also has a Uniform Deceptive Trade Practices (“IUDTP”) Act similar to other states’ uniform acts. The IUDTP allows businesses to recover for deceptive trade practices, while the Illinois Consumer Fraud and Deceptive Business Practices Act (CFA) focuses on individual consumer protection. The IUDTP allows for the same damages as are available for consumers under the CFA.

Illinois State Consumer Protection Laws

In Illinois, private individuals may bring actions under §10a of the Illinois Consumer Fraud and Deceptive Business Practices Act. The CFA provides protections against fraud, deceptive business practices, and other white collar crimes. Section 2 (815 ILCS 505) states in pertinent part,

"Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a) of the Federal Trade Commission Act."28

This is so “whether any person has in fact been misled, deceived or damaged thereby.”29

The language confers that it is considered a deceptive trade practice to claim to possess a degree or a title associated with a particular degree unless the person has been awarded the degree from a school that is accredited or otherwise authorized to grant degrees as specified in statute. Therefore, a person could not pose as a graduate of a music therapy program without first having a degree.

In addition to the statutory provisions contained in the CFA, the Illinois Attorney General’s Consumer Protection Division is the State agency instilled with the responsibility for protecting Illinois businesses and consumers from fraud, unfair business practices, and deception. This work is carried out by the Illinois Charitable Trust Bureau, Consumer Fraud Bureau, Franchise Bureau, Military and Veterans Rights Bureau, and the Health Care Bureau. Informal dispute resolution programs can be utilized by consumers to voice

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26 815 ILCS 510/1(5).
27 815 ILCS 505/1.
28 815 ILCS 505/2.
29 Id.
complaints. The Consumer Fraud and Health Care Bureaus oversee these programs. Law enforcement actions based on violations of the CFA are instituted by the Attorney General’s Office.

Remedies

Consumers and individuals who have been victimized through deceptive trade practices may have a variety remedies available for them in court.

Injunctive Relief and Punitive Damages

In 1990, the Illinois legislature amended the CFA to allow injunctive relief when appropriate. Illinois does not require proof of monetary damages, loss of profits, or intent to deceive to obtain injunctive relief in cases of ongoing conduct. But, a plaintiff must seek injunctive relief within the three-year statute of limitations.

The CFA does not specifically allow the courts to award punitive damages. The courts, however, have interpreted the statute to include the awarding of punitive damages. Section 10a(a) of the Consumer Fraud Act states that “any person who suffers actual damage as a result of a violation of this Act committed by any other person may bring an action against such person. The court, in its discretion may award actual economic damages or any other relief which the court deems proper...” Punitive damages must be proportionate to the nature and enormity of the wrong. These damages must be limited to an amount that would deter a person who was without pecuniary resources. One Illinois court recently held it undisputed that punitive damages are available for a violation under the Act.

D. Accreditation for Curriculum and Training

The AMTA establishes the educational and clinical training requirements of music therapists. Music therapists must have a strong foundation in music. They must also have a basic knowledge of clinical and therapeutic practice. They must be able to apply the foundations and principles of music therapy, and they must be able to perform an assessment, plan treatment, and implement, document and evaluate treatment.

A degree in music therapy and private board certification are credentials that offer consumers assurance of professional competency. Private certification is available to music therapists through CBMT. Only those individuals who hold this credential may represent themselves as board-certified music therapists, or place the initials MT-BC after their names. CBMT actively pursues individuals who falsely represent themselves as board-certified music therapists, and consumers can easily verify whether an individual is a board-certified music therapist.

Additionally, CBMT has the authority to deny, revoke, suspend and require additional education of board-certified music therapists who are in violation of the certification standards. This includes gross or repeated

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30 815 ILCS 505/10a(c)
31 Chicago’s Pizza, Inc. v. Chicago’s Pizza Franchise Limited USA, 384 Ill.App.3d 849 (1st Dist. 2008).
33 815 ILCS 505/10a
negligence or malpractice in professional practice including a sexual relationship with a client, and sexual, physical, social or financial exploitation.36

Private certification represents a high level of professional competency, beyond what is necessary for public protection. Unlike private certification, the purpose of state regulation is to ensure practitioners have the minimum standards necessary to protect the health, safety and welfare of the public.

E. Reimbursement Options/Pathways to secure funding for Music Therapy

Proponents of new regulation argue that a separate and freestanding music therapy license would facilitate payment by insurers, governmental healthcare payers, and public school systems.

When considering insurance reimbursement, the Affordable Care Act mandates that insurers not discriminate against licensed health care providers, including those who practice alternative medicine, such as naturopaths, massage therapists and acupuncturists.37 Health insurers can limit coverage they deem experimental or not medically necessary, and they often do. Treatments such as acupuncture, biofeedback, chiropractic care and electronic stimulation may be covered under certain policies; however, music therapy, aromatherapy, therapeutic touch massage and a long list of other interventions are usually not.38

However, since 1994 music therapy has been identified as a reimbursable service under benefits for Partial Hospitalization Programs (PHP)39. Falling under the heading of “activity therapy”, the interventions cannot be purely recreational or diversionary in nature and must be individualized and based on goals specified in the treatment plan.40 There are currently a few states that also allow payment for music therapy services through use of Medicaid Home and Community Based Care waivers with certain client groups. And in some situations, music therapy interventions qualify for coverage under existing treatment categories such as community support, rehabilitation, or habilitation services.41

The American Music Therapy Association estimates that approximately 20% of music therapists receive third party reimbursement for the services they provide.42 Music therapy is comparable to other allied health professions like occupational therapy and physical therapy in that individual assessments are provided for each client, service must be found reasonable and necessary for the individual's illness or injury and interventions include a goal-directed documented treatment plan.43 Companies like Blue Cross Blue Shield, United Healthcare, Cigna, and Aetna have all paid for music therapy services at some time.44 Success has occurred on a case-by-case basis when the therapist implements steps within the reimbursement process. Like other therapies, music therapy is reimbursable when services are pre-approved and deemed medically or behaviorally necessary to reach the individual patient's treatment goals.45

The criterion for obtaining general insurance coverage requires an extensive analysis by the third party payer of the supportive evidence and clinical protocols established for healthcare interventions.46 The music therapy profession is still defining these areas. An example of how the AMTA is tackling a specific area critical to advancing reimbursement efforts is through the research strategic priority.47 This priority and its

37 The Patient Protection and Affordable Care Act (PPACA).
38 Renter, Elizabeth, "Does Your Health Insurance Cover Alternative Medicine?" U.S. News (March 09, 2015).
40 Id.
41 Id.
42 Id.
43 Id.
44 Id.
45 Id.
46 Judy Simpson, AMTA’s Director of Government Relations, Music Therapy Reimbursement (February 2009).
47 Id.
operational plan were developed to address the direction of research in support of evidence-based music therapy practice and improved workforce demand; and to recognize and incorporate, where necessary, federal, state and other entity requirements for evidence-driven research as it relates to practice policy and reimbursement.\textsuperscript{48}

When new health related professions or health care technology is developed, insurers have to determine whether and how to incorporate them into an insurance plan. Decisions need to be made not only regarding whether to cover new treatments, but also how it should be reimbursed. Many private insurers subscribe to the services of technology assessment organizations, which evaluate the scientific evidence of emerging health technologies.\textsuperscript{49} These organizations focus on issues related to safety, efficacy, clinical indications, and when possible, comparisons of competing technology.\textsuperscript{50} Other insurers perform their own analyses rather than subscribe to an outside assessment organization.\textsuperscript{51} Furthermore, most large insurers that subscribe to an outside assessment organization perform some health technology assessment in-house, as well.

Other resources for assessment include federally funded assessment centers, most often housed at various universities. Public payers such as Medicare and Medicaid may also use the analyses of technology assessment organizations; however, their coverage and reimbursement decisions also are influenced by existing legislative requirements and legislative procedures.

It is important to note that establishing a state recognition program does not guarantee automatic inclusion in various funding streams.\textsuperscript{52} The music therapy community understands the need to provide research evidence to support reimbursement requests from different payment systems.\textsuperscript{53} AMTA and CBMT provide guidance to music therapists in differentiating between state recognition goals and benefits and the completely separate payer-based process to seek coverage for music therapy interventions.\textsuperscript{54}

\section*{F. Licensure Costs}

Appropriations for the direct and allocable indirect costs of licensing and regulating each regulated profession, trade, occupation, or industry are intended to be payable from the fees and fines that are assessed and collected from that profession, trade, occupation, or industry, to the extent that those fees and fines are sufficient.\textsuperscript{55} Section 2105-300(a) of the Civil Administrative Code of Illinois governs professions indirect cost fund; allocations; and analyses. It states in pertinent part:

“Each cost allocation analysis shall separately identify the direct and allocable indirect costs of each regulated profession, trade, occupation, or industry and the costs of the Department’s general public health and safety purposes. The analyses shall determine whether the direct and allocable indirect costs of each regulated profession, trade, occupation, or industry and the costs of the Department’s general public health and safety purposes are sufficiently financed from their respective funding sources. The Department shall prepare the cost allocation analyses in consultation with the respective regulated professions, trades, occupations, and industries and shall make copies of the analyses available to them in a timely fashion.”

Music Therapy state regulation would create a financial barrier for entry into the music therapy profession, trade, occupation, or industry. The analyses shall separately identify the direct and allocable indirect costs of each regulated profession, trade, occupation, or industry. The analyses shall determine whether the direct and allocable indirect costs of each regulated profession, trade, occupation, or industry and the costs of the Department’s general public health and safety purposes are sufficiently financed from their respective funding sources. The Department shall prepare the cost allocation analyses in consultation with the respective regulated professions, trades, occupations, and industries and shall make copies of the analyses available to them in a timely fashion.”

\textsuperscript{48} Id.
\textsuperscript{50} Id.
\textsuperscript{51} Id.
\textsuperscript{52} Id.
\textsuperscript{53} Judy Simpson, AMTA’s Director of Government Relations, \textit{Music Therapy Reimbursement}. (February 2017).
\textsuperscript{54} Id.
\textsuperscript{55} Id.
profession due to the small number of potential credential holders. Costs include processing credential applications, confirming education, examination scores, and criminal background checks. Costs also include processing renewals, responding to inquiries, investigating complaints, taking enforcement action if needed, recordkeeping, and rule making. IDFPR anticipates the number of music therapist disciplinary cases would be low. According to the Certified Board for Music Therapists, there were a total of 262 board certified music therapists in Illinois in 2017. 56 IDFPR’s 2017 fiscal cost analysis for estimated licensing fees for music therapists would be approximately $2501.74. (See IDFPR Cost Estimator Analysis).

Moreover, state regulation would prevent other practitioners in various professions from using music as a therapeutic modality since licensure prohibits people from applying elements of the practice of music therapy without certification as a music therapist. Nurses, physical therapists, speech language pathologists, and other health providers may use music as an intervention to treat patients. Several credentialed mental health providers, rehabilitative and massage therapy professionals also use music as a treatment modality or as an adjunct to therapy. Licensure may inhibit their use of music as a treatment tool. In addition, it may prohibit recreational musicians from playing for the sick and dying with no stated therapeutic goal other than the person’s relaxation and enjoyment.

**Music Therapy Licensure in Other States**

Currently, nine states regulate music therapists. Six of these states license music therapists or a broader profession that contains music therapists, with Utah having a hybrid practice and title protection act. One state of the nine that regulate music therapists, Wisconsin, requires registration rather than licensure, but this is a semantic difference. Finally, Connecticut provides for title protection.

**Georgia**

In Georgia, music therapists are licensed by the Secretary of State pursuant to statute. 57 Music therapists who obtain a Bachelor’s degree from a school accredited by the American Music Therapy Association, completes a minimum of 1,200 hours of clinical training, has passed the examination offered by the CBMT, has “satisfactory results” of a criminal background check, and is at least 18 years old, can be licensed. 58 To renew a license a music therapist must maintain the credential of the CBMT and complete at least 40 hours of continuing education as approved by the CBMT. 59 Music therapists in Georgia can be disciplined for fraud, criminal convictions, negligence, discipline by another jurisdiction, physical or mental disability, or substance abuse issues. 60

**New York**

In New York, music therapists are licensed under the blanket term “creative arts therapists” or “licensed creative arts therapists” by the Education Department of the Professions. In order to seek licensure in New York, creative arts therapists must have at least a master’s or doctoral level degree, pass an approved licensure examination, and obtain at least 1,500 clock hours of supervised experience. 61 New York does allow creative arts therapists to obtain a limited permit in order to train and obtain experience under a licensed supervisor. 62 Creative arts therapists must complete at least 36 hours of continuing education every three years unless certain exemptions apply. 63 Creative arts therapists can be disciplined in New York for

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62 There is no separate supervision license NY Code § 79-11A.
63 NY Code § 79-11.8[a]-(c).
unprofessional conduct, including but not limited to negligence, undue influence on clients, receiving or giving kickbacks, fee-sharing, fraud, failing to obtain a medical evaluation or consultation in the treatment of certain mental illnesses, prescribing or administering drugs, or using invasive procedures.64

Nevada

Music therapists in Nevada are licensed by the Nevada Bureau of Health Care Quality and Compliance, State Health Division. Music therapists are licensed to protect the public health, safety, and welfare from the practice of music therapy by unqualified or unlicensed persons.65 Music therapist applicants will be deemed qualified in Nevada if he or she obtains at least a Bachelor’s degree from a school accredited by the American Music Therapy Association, submits a fee, has a satisfactory criminal record, has passed the examination for board certification from the CBMT, and is at least 18 years old.66 Music therapists must complete at least 100 hours of continuing education as approved by the CBMT every three years to maintain licensure in Nevada.67 The Nevada State Board of Health can discipline music therapists for fraud, certain criminal convictions, substance abuse issues, unethical conduct as defined by the CBMT, and negligence.68 Additionally, music therapists must satisfy child support obligations.69

Oklahoma

Music therapists in Oklahoma only recently became licensed by the State Board of Medical Licensure and Supervision, pursuant to a law that went into effect on November 1, 2016. Music therapists in Oklahoma must hold at least a bachelor’s degree in music therapy by a program approved by the American Music Therapy Association, complete at least 1,200 hours of clinical training in an approved program, have passed the examination for board certification from the CBMT, be at least 18, and in good moral character.70 Music therapy licenses in Oklahoma expire every two years and music therapists are required to remain in good standing with the CBMT.71 Music therapists can be disciplined for practicing outside the scope of their license, certain criminal convictions, substance abuse issues, fraud, mental incompetence, negligence, or ethical violations.72

Oregon

Music therapists in Oregon are regulated by the Health Licensing Office. To obtain licensure in Oregon, a music therapist must pass the certification exam from the CBMT within the two years preceding his or her application, maintain certification with the CBMT, have a professional designation issued by the National Music Therapy Registry, and be at least 18 years of age.73 To maintain licensure, music therapists in Oregon must complete at least ten (10) continuing education credits every year.74 Music therapists in Oregon can be disciplined for failing to protect patient confidentiality, failing to comply with federal, state, or local regulations, acting unethically, negligence, or fraud.75

64 NY Code §§ 29.1 & 29.15.
65 NRS 640D.010.
66 NRS 640D.110.
67 NRS 640D.130.
68 NRS 640D.170.
69 NRS 640D.120.
70 59 O.S. § 889.5.
71 59 O.S. § 889.6.
72 59 O.S. § 889.11.
73 59 O.S. § 889.11.
75 Oregon Administrative Rules 331-320-0020.
76 Oregon Administrative Rules 331-330-0010.


Rhode Island

Music therapists in Rhode Island are regulated by the Department of Health and are termed “registered,” but the registration functions as a license. To qualify for registration as a music therapist in Rhode Island, an applicant must hold at least a bachelor’s degree in music therapy from a school approved by the American Music Therapy Association, complete at least 1,200 hours of clinical training through a program approved by the American Music Therapy Association, pass the examination for board certification from the CBMT, currently be board certified as a music therapist, and be at least 18 years of age. Registrations expire biannually and to renew successfully music therapists must remain board certified. Music therapists may be disciplined for practicing outside of the scope of his or her practice, practicing on a non-renewed license, or any other violation of the Act or Rules.

North Dakota

Music therapists in North Dakota are regulated by the North Dakota Board of Integrative Health Care, specifically the state board of integrative health care. To qualify for licensure in North Dakota, music therapists must have graduated from a board-approved program, must complete a board-approved examination, must be in good standing with either the CBMT or the National Music Therapy Registry, have the physical, mental, and professional competency to practice, and not have committed any acts that would warrant discipline. Music therapist licenses in North Dakota expire biannually and music therapists must complete forty hours of approved continuing education biannually. Music therapists in North Dakota can be disciplined for fraud, substance abuse issues, certain criminal convictions, physical or mental disability, unethical or unprofessional conduct, negligence, sexual abuse, or aiding and abetting in unlicensed practice.

Utah

Music therapists in Utah are regulated by the Division of Occupational and Professional Licensing. To qualify for certification as a music therapist, an applicant must be in good standing with the CBMT, be of good moral character, and pay an application fee. Certificates expire biannually in Utah and to renew, a music therapist must show good standing with the CBMT. Music therapists can be disciplined for unprofessional conduct as defined by rule, being disciplined in another jurisdiction or by the CBMT, for failing to remain in good standing with the CBMT, or for using the title “state certified music therapist” without an active certification. The Utah certification system functions closer to a title protection act than a practice act; however, it does allow for more disciplinary measures than traditional title protection acts.

Wisconsin

Music therapists in Wisconsin are regulated by the Department of Safety and Professional Services. A music therapist must be board certified by the CBMT, disclose any criminal convictions or pending criminal
Illinois Music Therapy Advisory Board

chases, and pay an application fee. Registrations expire biannually and to renew a registration a music therapist must maintain certification by the CBMT. To register as a psychotherapist, which is optional in Wisconsin for music therapists, an applicant must pass an examination on the Wisconsin statutes and rules that apply to the profession, hold a master’s or doctoral level degree in music therapy from a school approved by the American Music Therapy Association, submit proof of completion of at least 3,000 hours of clinical training in the form of signed and sworn affidavits, pass the examination for certification from the CBMT, disclose any criminal convictions or pending criminal charges, and pay an application fee. Psychotherapy registrations expire biannually and music therapists must remain in good standing with the CBMT in order to renew. Music therapists can be disciplined for practicing beyond the scope of their registration, negligence, fraud, or unethical conduct.

Connecticut

Music therapists in Connecticut are not strictly regulated by any one agency; instead, a recent law creates a title protection through criminal penalties. Connecticut uses this same title protection scheme for art therapists. This is in contrast to professions that are licensed in Connecticut by the Department of Health, such as psychologists. Individuals who are not board certified by the CBMT and who have not graduated with at least a bachelor’s degree from a program accredited by the American Music Therapy Association cannot call themselves “music therapists” or “certified music therapists.” An individual who wrongly uses either title is guilty of a class D felony.

Sunrise Review in Other States

Two states have conducted a sunrise review for music therapy: Washington State in 2012 and Colorado in 2014. Neither state decided to regulate music therapists after the sunrise review was complete. In each instance, the state recognized the benefit music therapy had to the provision of care, but found the profession did not warrant licensure based on a variety of factors.

The Washington State Department of Health did not recommend the regulation of music therapy practice in its 2012 Sunrise Review Report. The sunrise report was generated at the request of the Washington State Senate to evaluate Senate Bill 6276, which would have required any individual practicing music therapy or using the title “music therapist” to be certified by the Washington State Department of Health. The proposed bill would have required music therapists to hold a bachelor’s degree in music therapy and pass an examination in order to be certified. Proponents of the bill stated certification would protect the public from improper practice, ensure competency, protect access to services through insurance reimbursement, validate the profession, establish credentialing, and provide a method to address consumer complaints or ethical violations. Washington ultimately did not support the proposal because there was no clear threat to public health or safety from unregulated practice, there was no articulated public need to ensure competency above national certification requirements, the proponents failed to show the public could not be protected by more cost-efficient means, the bill placed a large financial burden on the small pool of

87 SPS 141.01.
88 SPS 141.02.
89 SPS 141.04.
90 SPS 141.05.
91 SPS 142.05.
98 Id.
99 Id.
100 Id.
music therapists to cover the costs of regulating the profession, and the bill would prohibit the use of other music-based therapies, including traditional healers and speech-language pathologists. The proposed bill provided both practice and title protection and established a scope of practice for the profession.

Washington considered testimony given in support and in opposition of the bill, including testimony from health professionals, advocacy groups, and music-based therapy practitioners. It also considered the regulatory environment in Washington, national certification of music therapists, formal education options, the cost to become certified nationally, and how other states regulated music therapists. It weighed the potential harm to the public from continued unlicensed practice against the harm in increased regulation. Proponents of the bill stated during their testimony and written comments that regulation was needed to protect the public from the misuse of terms and techniques of music therapy due to an increasing number of unqualified individuals in Washington claiming to be music therapists. When pressed on the matter, however, the proponents could only provide unverified, anecdotal evidence and no specific situations in the state of Washington. While the proponents pointed out that there was no specific body in Washington to collect complaints, the national credentialing body at the time only received between 12 and 36 complaints per year even though there were over 5,400 credentialed music therapists at the time. Washington State did find concrete harm to the public from increased regulation due to the increased financial barriers to entry of the profession and the prevention of other licensed professionals from using music as a therapeutic modality.

The Colorado Department of Regulatory Agencies did not find a need for regulation of music therapists in its 2014 Sunrise Review Report. Colorado’s legislative process requires individuals or groups proposing legislation to regulate an occupation or profession to first submit information to the Department of Regulatory Agencies. In evaluating the proposal, the Colorado Department of Regulatory Agencies considered the Colorado regulatory environment at the time, whether other states regulate music therapy, the potential for public harm if the profession remained unregulated, need for regulation, alternatives, and collateral consequences. In weighing the potential for harm, Colorado considered a number of examples of emotional, psychological, and physical harm, misuse of the title, sexual assault, sexual misconduct, and financial exploitation. It found that in the majority of these examples, there was either no harm or that any potential harm was better addressed in ways that did not require additional regulation. In those examples where Colorado found the potential of harm, they also found the harm could be addressed in ways not requiring regulation. Colorado further remarked the instances of harm were extremely rare, with only five instances of harm over a 16 year period even though there were over 6,000 music therapists certified by the board at that time.

In evaluating whether there are alternatives to regulation, the Colorado Department of Regulatory Agencies considered recommendations to only use a title protection act. It found consumer protection laws and private credentialing to provide adequate protection to consumers without the need for additional

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101 Id.
102 Id.
103 Id.
104 Id.
105 Id.
106 Id.
107 Id.
108 Id.
109 Id.
111 C.R.S. 24-34-104.1.
113 Id.
114 Id.
115 Id.
116 Id.
117 Id.
In evaluating collateral consequences, the Colorado Department of Regulatory Agencies considered whether criminal convictions would disqualify individuals from practicing music therapy and whether there should be any disqualifications. While it recognized there were instances of music therapists committing heinous crimes, these instances were so rare it did not rise to the level of needing to regulate an entire occupation. Ultimately, Colorado did not find sufficient evidence to warrant the regulation of music therapy practice based on the lack of potential harm and the lack of a need for regulation.

**Legislation Introduced in Other States**

In 2013, the Arizona State Senate introduced a bill aimed at regulating music therapists. Senate Bill 1437 would have provided both, title and practice protection to music therapists who held at least a bachelor’s degree from a program approved by the AMTA and who were certified by the CBMT. The bill was sponsored by Senators Kelli Ward and Adam Driggs in the Arizona State Senate and Representative Justin Pierce in the Arizona State House. The bill was ultimately vetoed by prior Governor Jan Brewer, who said in a letter accompanying the veto that the bill was ambiguous and failed to create basic oversight. No legislation has been introduced since to regulate the profession in Arizona.

In 2015, Assembly Bill 1279 was introduced by California Assembly Member Chris Holden. The bill provided title protection for music therapists who held at least a bachelor’s degree from a program approved by the AMTA and is certified by the CBMT. The bill was ultimately vetoed by Governor Jerry Brown who found the certification provided by the CBMT sufficient.

In 2013, Indiana State Representative Suzanne Crouch introduced House Bill 1051. The bill would have provided title and practice for music therapists who are board certified by CBMT. The bill was vetoed by Governor Mike Pence, who cited the need for fewer licensed professions. In 2015, Indiana instead began a pilot program which established procedures for individuals to apply to a professional licensing agency to become state certified if their profession is not currently licensed by Indiana.

On January 31, 2017, Texas State Representative Sarah Davis introduced House Bill 1376, which created an advisory council to recommend whether licensure is necessary for music therapists in Texas. Currently, the bill has only been filed and has not been assigned to committee. House Bill 1376 follows a law passed in 1999 that created a carve out in the Licensed Professional Counselor Act for music therapists to practice without a licensed professional counselor license in Texas.
### Overview of Fees & Licensees in Other States

Table 1: Fees for Licensure in Other States

<table>
<thead>
<tr>
<th>State</th>
<th>Application Fee</th>
<th>Renewal Fee</th>
<th>Continuing Education Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut</td>
<td>N/A</td>
<td>N/A</td>
<td>100 credits per Certification Board</td>
</tr>
<tr>
<td>Georgia</td>
<td>$100.00</td>
<td>$50.00</td>
<td>40 Hours every 2 years</td>
</tr>
<tr>
<td>New York</td>
<td>$371.00/Limited Permit - $70.00</td>
<td>$45.00/$70.00</td>
<td>36 Hours every 3 years</td>
</tr>
<tr>
<td>Nevada</td>
<td>$200.00</td>
<td>$150.00</td>
<td>100 Units every 3 years</td>
</tr>
<tr>
<td>North Dakota</td>
<td>$150.00</td>
<td>$100.00</td>
<td>40 Hours every 2 years</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>$50.00</td>
<td>$50.00</td>
<td>Not yet set</td>
</tr>
<tr>
<td>Oregon</td>
<td>$200.00</td>
<td>$50.00</td>
<td>10 Hours per year</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>$90.00</td>
<td>Not set</td>
<td>100 credits per Certification Board</td>
</tr>
<tr>
<td>Utah</td>
<td>$70.00</td>
<td>$47.00</td>
<td>100 credits per Certification Board</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>W/Psychotherapy - $75.00</td>
<td>$107.00</td>
<td>100 credits per Certification Board</td>
</tr>
</tbody>
</table>
Music Therapy Advisory Board Guests

The following guests spoke or submitted written statements to the Board:

<table>
<thead>
<tr>
<th>Date</th>
<th>Person &amp; Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/27/2016</td>
<td>Paula Worthington, University of Chicago, Harris School of Public Policy.</td>
</tr>
<tr>
<td>6/27/2016</td>
<td>Claudia Figueroa, University of Chicago, Harris School of Public Policy.</td>
</tr>
<tr>
<td>6/27/2016</td>
<td>Raul Meija, University of Chicago, Harris School of Public Policy.</td>
</tr>
<tr>
<td>6/27/2016</td>
<td>Cecelia Black, University of Chicago, Harris School of Public Policy.</td>
</tr>
<tr>
<td>6/27/2016</td>
<td>Carolina Arguto Salazar, University of Chicago, Harris School of Public Policy.</td>
</tr>
<tr>
<td>8/30/2016</td>
<td>Leticia Metherell, State of Nevada Department of Health and Human Services Division of Public and Behavioral Health.</td>
</tr>
<tr>
<td>8/30/2016</td>
<td>Mike Simoli, Health Program Administrator, Center for Professional Licensing of the Rhode Island Department of Public Health.</td>
</tr>
<tr>
<td>8/30/2016</td>
<td>Jamie Adams, Records Management Supervisor, Wisconsin Department of Safety &amp; Professional Services.</td>
</tr>
<tr>
<td>8/30/2016</td>
<td>Vivienne Belmont, Colorado Department of Regulatory Agencies.</td>
</tr>
<tr>
<td>8/30/2016</td>
<td>Megan E. Castor, Assistant Counsel, Pennsylvania State Board of Social Workers, Marriage and Family Therapists and Professional Counselors of the Pennsylvania Department of State.</td>
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<tr>
<td>8/30/2016</td>
<td>Ari Bargil, Attorney, Institute for Justice.</td>
</tr>
<tr>
<td>8/30/2016</td>
<td>Elizabeth Kregor, Institute for Justice Clinic on Entrepreneurship.</td>
</tr>
<tr>
<td>9/26/2016</td>
<td>David Hamilton, Executive Secretary of the New York Office of the Professions.</td>
</tr>
<tr>
<td>9/26/2016</td>
<td>Jim Cleghorn, Executive Director of Georgia Board of Nursing and Music Therapists.</td>
</tr>
<tr>
<td>9/26/2016</td>
<td>Nicholas Goodwin, Office of Governor Mike Pence.</td>
</tr>
<tr>
<td>10/31/2016</td>
<td>Terrence Koller, Ph.D., ABPP, Legislative Liaison, Illinois Psychological Association.</td>
</tr>
<tr>
<td>11/28/2016</td>
<td>Dr. Firas Nakshabandi, M.D., Member Illinois Psychiatrists Association.</td>
</tr>
<tr>
<td>11/28/2016</td>
<td>Dena Register, PhD, MT-BC, Regulatory Affairs Advisor, Certification Board for Music Therapists.</td>
</tr>
<tr>
<td>11/28/2016</td>
<td>Emily Gibellina, Associate General Counsel, Office of Governor Bruce Rauner.</td>
</tr>
<tr>
<td>2/6/2017</td>
<td>Holly Schaefer, Founder &amp; Executive Director, Safe Haven School.</td>
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<tr>
<td>2/6/2017</td>
<td>Cindy Ropp, Associate Professor of Music Therapy, College of Fine Arts, Illinois State University.</td>
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<tr>
<td>2/6/2017</td>
<td>Susan Frick, LSW, Rush Alzheimer’s Disease Center.</td>
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<tr>
<td>2/6/2017</td>
<td>Martha Reggi, Chief of Business Prosecutions, IDFPR.</td>
</tr>
<tr>
<td>2/6/2017</td>
<td>Bryan Martin, Chief Financial Officer, IDFPR.</td>
</tr>
</tbody>
</table>
**Suzette Farmer**

Suzette Farmer is a PhD, RN and has been working in licensing and regulation in Utah since 2014. Prior to that, she was a nursing faculty member. The Bureau licenses eight professions and currently licenses about 50,000 individuals in Utah. Nursing is the primary profession Utah regulates. Currently only 46 hold certification as music therapists in Utah.

On June 27, 2016, Ms. Farmer testified that Utah began licensing certified Music Therapists in 2014 and had issued 46 licenses, as of June 27, 2016. The initial application fee is $70.00, with a $45.00 fee per two year renewal cycle. Applicants in Utah must be board certified and in good standing with the private Certified Board for Music. This same standard applies for renewal applicants. Currently, Utah has no licensing board and no set rulemaking process, with no administrative actions taken to date. Ms. Farmer pointed out that Utah currently offers title protection to certified Music Therapists, and that the practice act allows for unlicensed practice as long as individuals are not claiming to be state certified music therapists. Suzette answered questions from the board, stating that Utah does not have a continuing education (CE) requirement, as the Certification Board for Music Therapists already requires 100 CE hours for every five year renewal cycle.

Ms. Farmer submitted a written statement via e-mail on May 03, 2016, stating that the State of Utah does not have a board for music therapy certification and attached copies of Utah’s administrative rules and the Music Therapy Act. She reviewed Utah’s licensure of music therapists since 2014, including the current regulatory structure, application requirements, fees, and disciplinary actions.

**Sherry Thomas**

Sherry Thomas is a Policy Coordinator at the State of Washington Department of Health. Ms. Thomas is a policy analyst in the Health Systems Quality Assurance Division and coordinates the division’s legislative review process and consults on implementation of passed legislation and rule development. Ms. Thomas manages the sunrise review process to evaluate legislative proposals for new health profession credentials or increases in scopes of practice of already regulated professions. This is done using specific statutory criteria based on the belief that all individuals should be permitted to enter into a health profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession.

On June 27, 2016, Ms. Farmer explained that the sunrise review process in Washington State ended in 2012, with the final report recommendation that the profession not be certified. The proponents of regulation failed to demonstrate a “clear danger to the public” and that existing regulations at the national level protects against foreseeable public harm. The debate around the proposal to regulate focused on the scope of practice, as opponents expressed concern that regulation would overreach into or limit the scope of practice of other professions (i.e., occupational therapists, speech language pathologists). To date, Washington State shows no complaints or indication that unlicensed practice of music therapy has caused harm.

Ms. Farmer also submitted an example application for a new regulated profession used by the State of Washington and a sunrise review created by the Washington State Department of Public Health. The application asks general questions about the proposed profession and a clear statement explaining the need for regulation, the potential for public harm, and an exploration of policy alternatives to regulation, licensure, or certification.
The sunrise review ultimately concluded that the three criterion that would warrant regulation is if proponents could show that unregulated practice can harm or endanger health or safety, the public needs and will benefit from assurance of professional ability, and public protection cannot be met by other means in a more cost-beneficial manner. Based on the findings from the sunrise review, the Washington State Department of Public Health notified the state legislature that they did not support legislation requiring state certification of music therapists.

Nancy Swanson

Nancy Swanson is a board certified music therapist, with certification from the Certification Board for Music Therapists and is currently the owner of Nancy Swanson Music Therapy Services, Inc. Her company provides clinical music therapy services to a range of populations including dementia, hospice, oncology, children with special needs, and support groups. She is also the Government Relations Chair at the Illinois Association for Music Therapy.

On June 27, 2016, Ms. Swanson testified on reasons in favor of licensure, including insurance reimbursement, consumer protection, and increased consumer access to services. She also reviewed the public harm that necessitates regulation, including misrepresentation of credentials by individuals holding themselves out as music therapists, as well as types of client cases that require familiarization with medical concerns, risks, and clinical knowledge. Ms. Swanson provided an overview of the scope of practice for a music therapist and explained how the overlap with other professions works since music therapists do not perform diagnosis. She also discussed educational requirements for certification. Ms. Swanson answered Advisory Board member inquiries regarding the nature of disciplinary actions taken against music therapists, whether there are IMTA members who hold licensure in other fields, and whether there is any pending legislation in other states to license music therapists. Ms. Swanson presented a power point presentation on music therapy on the following topics:

**Music Therapy**: Music Therapy is 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. The treatment process for music therapists involves the following:

- assessing a client’s strengths and needs
- developing a treatment plan (non-musical goals)
- implementing music interventions to achieve non-musical goals
- assessing the patient’s progress
- documenting assessments, treatment plans (including goals), client process, and discharge/termination plans

With regard to scope of practice, Ms. Swanson clarified that music therapists are not involved in in diagnosing conditions and disorders. She also noted that music therapists take a “whole person” treatment approach. Ms. Swanson also discussed the overlap of scopes of practice with other professions.

**Music Therapists in Illinois**: Illinois has 252 (243 in the AMTA handout) music therapists that have served over 13,000 residents in a wide variety of setting. Ms. Swanson shared the following information from the Certification Board for Music Therapists, regarding Illinois music therapists who hold additional degrees, licenses, and credentials:
Licenses & Certifications

- 4 – Licensed Clinical Professional Counselor
- 2 – Licensed Professional Counselor
- 3 – Music Educator K-12
- 1 – Professional Educator License
- 1 – Social Work
- 1 – Special Ed. Teaching Certificate
- 1 – Licensed Massage Therapist
- 1 – Developmental Therapist
- 1 – Certified Substitute
- 1 – Early Intervention Specialist Certification

Degrees

- 33 – Master's degrees in other professions
- 61 – Master's degrees in Music Therapy
- 3 – Doctorates

Current Recognition:
Ms. Swanson provided the following chart illustrating the current recognition of music therapists across the country:

<table>
<thead>
<tr>
<th>STATE</th>
<th>TYPE</th>
<th>ESTABLISHED</th>
</tr>
</thead>
<tbody>
<tr>
<td>WISCONSIN</td>
<td>REGISTRY</td>
<td>1998</td>
</tr>
<tr>
<td>NORTH DAKOTA</td>
<td>LICENSURE</td>
<td>2011</td>
</tr>
<tr>
<td>NEVADA</td>
<td>LICENSURE</td>
<td>2011</td>
</tr>
<tr>
<td>GEORGIA</td>
<td>LICENSURE</td>
<td>2012</td>
</tr>
<tr>
<td>UTAH</td>
<td>CERTIFICATION</td>
<td>2014</td>
</tr>
<tr>
<td>RHODE ISLAND</td>
<td>REGISTRY</td>
<td>2014</td>
</tr>
<tr>
<td>OREGON</td>
<td>LICENSURE</td>
<td>2015</td>
</tr>
<tr>
<td>OKLAHOMA</td>
<td>LICENSURE</td>
<td>2016</td>
</tr>
<tr>
<td>CONNECTICUT</td>
<td>TITLE PROTECTION</td>
<td>2016</td>
</tr>
</tbody>
</table>

Ms. Swanson submitted the following documents, attached as Exhibit 2.

University of Chicago, Harris School of Public Policy

Paula Worthington is a Senior Lecturer at the Harris School of Public Policy at the University of Chicago. She received her Ph.D. in economics from Northwestern University and has taught public policy graduate students the basics of state and local government fiscal policy analysis and cost-benefit analysis. Cecelia Black received her MPP from the Harris School of Public Policy in 2016 and has worked on various projects for community organizations and state government agencies, focusing on state/local finance and government operations. Raul Mejia has a MPP from the University of Chicago – Harris School of Public Policy. He has a particular interest in the way institutions and government intervention impact competition, trade and economic development. Claudia Figueroa received her MPP from the University of Chicago – Harris School of Public Policy. Claudia was Teaching Assistant for the University of Chicago undergraduate-level Politics and Policy course. Claudia is a Fulbright Scholar and has a Master's degree in Economics and a Bachelor's degree in Economics and Business from Catholic University, Santiago, Chile. Carolina Agurto has a MPP from the University of Chicago – Harris School of Public Policy. Carolina has oriented her professional and academic work toward studying how government intervention affects the efficiency of markets, focusing on the impacts that regulations have on competition, trade, innovation and sustainability.
Ms. Worthington, Ms. Figueroa, Mr. Meija, Ms. Black, & Ms. Salazar reviewed a music therapy sunrise review project they completed for IDFPR. They discussed background information on the profession, current market conditions, regulation of music therapy in other states, and compared the scope of practice of music therapy with that of related professions. They also provided a risk analysis of the need for licensure of music therapists, along with arguments for and against licensure. Finally, they recommended that music therapists not be licensed for several reasons, primarily a lack of public harm necessitating the license. Their recommendations came in PowerPoint form and in a white paper and was presented to the Board on June 27, 2016. They suggested that the Board explore title protection as an alternative to more restrictive regulation. They answered several questions from the Advisory Board on all aspects of their sunrise review project.

The group from the University of Chicago – Harris School of Public Policy ultimately concluded that the costs of creating a regulated license for Music Therapists would outweigh its potential benefits, and that no conclusive data exists to support music therapy licensing. The lack of licensure has slowed the growth of the music therapy profession, showing a growth in the number of music therapy professionals, their average annual salary, and current reimbursement rates from the State, Medicare, and private insurance. The public safety risk is minimal, as music therapists offer minimally invasive services as a team or under the Certification Board for Music Therapists (CBMT) certification process. States that regulate music therapists (Nevada, Oregon, North Dakota, Georgia, Utah, Rhode Island, and Wisconsin) have all adopted the CBMT standards as licensing requirements. States that rejected music therapy licensure (California, Colorado, Washington) all cited that the minimal public risk. Additionally, the UChicago group has found that licensure does not guarantee access to state Medicaid funding or other funds. Furthermore, they concluded that consumer protection would be maintained through the CBMT, the Federal Trade Commission, and the Illinois Attorney General’s Office. Attached as Exhibits 3a and 3b are the following, the University of Chicago, Harris Policy School “Sunrise Review for Music Therapy”; and applicable power point presentation.

National Association of Social Workers Illinois Chapter

Kyle Hillman is the Director of Legislative Affairs for the National Association of Social Workers Illinois Chapter. NASW is the largest membership organization of professional social workers in the world with 150,000 members. The NASW Illinois Chapter is one of the association’s largest chapters with over 7,000 members in Illinois alone. NASW strives to advance social work careers, grow social work businesses, and protect the profession. Mr. Rubin is the Executive Director for the NASW Illinois Chapter. NASW is the largest membership organization of professional social workers in the world with 150,000 members. The NASW Illinois Chapter is one of the association’s largest chapters with over 7,000 members in Illinois alone.

Mr. Hillman thanked the Advisory Board for inviting him and Mr. Rubin to speak. He discussed the National Association of Social Workers’ position against the licensure of music therapists. He provided an overview of several reasons against licensure, such as a concern that the music therapist programs lack the academic or clinical training to provide mental health services, that the Music Therapist Association already has a credential that allows the public to determine qualifications, & the low number of potential licensees in the state not warranting the expense of licensure. He suggested that if the Advisory Board decides to recommend licensure, that they consider that any title protection allow for other mental health professionals to use the term music therapists & requiring (as a condition for licensure) post-graduate supervised clinical experience and independent testing similar to that of licensed social workers (“LSWs”) & licensed professional counselors (“LPCs”), both of which are the lower-level license in those fields, and that the scope of practice be severely limited without direct supervision by a clinical mental health licensed professional. Mr. Hillman & Mr. Rubin answered Advisory Board questions regarding the minimum educational and experience requirements for the lower-level social worker license. They spoke to the Board on June 27, 2016.


**Leticia Metherell**

Leticia Metherell is a Health Facilities Inspection Manager with Nevada’s Division of Public & Behavioral Health. She helped develop the music therapy regulations that were adopted by the Board of Health and are now effective in Nevada. She developed music therapist licensing policies and procedures based on Nevada’s statutes and regulations, developed the required licensure applications and currently oversees the music therapy licensing program for Nevada.

Ms. Metherell reviewed Nevada’s licensure of music therapists since 2011 including the general regulatory framework, and licensure requirements. She also discussed that there have been no disciplinary actions taken against the 16 licensees in Nevada, and no complaints of unlicensed practice. Ms. Metherell cited Nevada’s scope of practice rules and regulations and its licensure qualifications. See: NRS 640D.060 NRS 640D.110

**Mike Simoli**

Mike Simoli is a Health Program Administrator in the Center for Professional Licensing at the Rhode Island Department of Health. Mike has been with the Department of Health since 2002, and has functioned as the health program administrator for licensing since 2004. The Rhode Island Department of Health has authority over 600 license types, including health professionals, cosmetology, food protection, drinking water quality, lead/asbestos/radon, radioactive materials, and medical marijuana. Mike is also part of the technical Licensing Team which is responsible for ensuring the licensing software (System Automation’s License2000) is compliant with all statutory & regulatory changes in Rhode Island.

Mr. Simoli reviewed Rhode Island’s licensure of music therapists since 2014 including the general regulatory framework, and licensure requirements. He discussed that there are now three licensees, and answered Advisory Board member questions on the number of complaints of unlicensed practice, of which there have been none to date. Mr. Simoli cited Rhode Island’s scope of practice rules and regulations and its licensure qualifications. See: R23-20.8.1-MUS.

**Jamie Adams**

Jamie Adams is a Records Management Supervisor in the Division of Professional Credential Processing at the Wisconsin Department of Safety and Professional Services. Jamie oversees the Health Credentialing Unit within the Division of Professional Credential Processing. He oversees 10 staff members that license approximately 70 different Health professions. James has been with the Health Credentialing Unit since 2014 and with the Department since 2013.

Jamie Adams reviewed Wisconsin’s licensure of music, dance, and art therapists since 1999, including the general regulatory framework and licensure requirements. She discussed the total number of licenses issued, number of active licenses (75), and one reported case of discipline. Jaime Adams also highlighted Wisconsin’s statutory definition of psychotherapy, included in the psychology licensure statute, and its interplay with music therapy. Jamie Adams provided information regarding the scope of practice for music therapists in Wisconsin, which is set by rule at Chapter SPS 142.01 of the Wisconsin Administrative Code.

**Vivienne Belmont**

Vivienne Belmont is a public policy analyst with the Colorado Office of Policy, Research and Regulatory Reform. She has worked for the state for over ten years and is an expert in occupational and professional regulation.
Ms. Belmont reviewed Colorado's sunrise review process, in which new regulated professions are proposed, and the criteria used in formulating a recommendation. She discussed the State's sunrise review of music therapy, which was initiated by the American Music Therapy Association's sunrise review application in 2013 seeking title protection regulation. Ms. Belmont discussed the final report that was issued\(^2\), which recommended against title protection regulation of music therapists. She highlighted a few of the reasons for the recommendation, including a lack of demonstrated public interest or need, lack of demonstrated harm to the public from the unregulated practice of music therapy, and lack of complaints in the State against music therapists. Ms. Belmont answered Advisory Board inquiries regarding whether this may change in the future, and discussed the regulation of a new profession from a public protection standpoint rather than setting minimum standards for the profession. Colorado concluded that there was insufficient evidence for Colorado to separately regulation music therapists, or to protect the titles, “music therapist” or “board-certified music therapist.” It ultimately recommended against the creation of a new regulatory program, and protecting the titles “music therapist” or “board-certified music therapist” due to lack of demonstrated public interest or need.

\textit{Megan Castor}

Megan Castor, Esquire is an Assistant Counsel in the Office of General Counsel with the Bureau of Professional and Occupational Affairs for the Pennsylvania Department of State. She has been Counsel to the State Board of Social Work and State Board of Nursing since January 2014. Prior to that, she was an Assistant Counsel for the Pennsylvania Commission on Crime and Delinquency from 2011-2014. Prior to that, she practiced as a general private practitioner from 2002-2011 in the areas of custody, divorce, criminal defense, civil litigation, wills and estates, & bankruptcy.

On August 30, 2016, Ms. Castor reviewed the title protection regulation of mental health professions in Pennsylvania. She explained that there is no separate license for music therapists, and that a professional counselor license allows for the practice of music therapy. Ms. Castor reviewed the educational requirements for licensure for professional counselors, as the education in several fields meet the requirements for licensure, such as education in psychology, dance, music, and art therapy. She discussed the expense of regulating music therapists separately, and that there have been bills pending in the Pennsylvania legislature with no progress at this time.

\textit{Ari Bargil}

Ari Bargil is an attorney with the Institute for Justice ("IJ"). IJ is a national public-interest law firm, and the nation’s leading law firm for liberty. IJ litigates cases in the courts of law and public opinion in four core areas: Property Rights, School Choice, Economic Liberty, and Free Speech. Mr. Bargil joined IJ in September 2012 and litigates constitutional cases to vindicate those rights in federal and state courts nationwide. Mr. Bargil is currently involved in two pending First Amendment cases involving occupational speech. In addition to occupational licensing generally, Mr. Bargil spoke on the First Amendment issues implicated by licensing a widely-recognized and protected form of speech—music.

Mr. Bargil thanked the Advisory Board for inviting him to speak and reviewed the Institute for Justice’s position against full licensure of music therapists by highlighting several implications of licensure and suggesting less restrictive alternatives to licensure. Specifically, he discussed the First Amendment implications of regulating music as a restriction on a protected form of speech. Mr. Bargil explained how occupational licensing has led to excessive government regulation, and discussed consequences of

occupational licensing, such as limitations on opportunity, inhibitions on competition, and stifling innovation. He discussed the types of circumstances that require more government oversight through licensure, such as a risk of harm to public health & safety, & suggested a form of title protection or registration as alternatives to licensing. Mr. Bargil answered Advisory Board member questions on all aspects of his testimony. He spoke to the Board on August 30, 2016 and a copy of his testimony can be found below:

Introduction

Good morning, and thank you for the opportunity to testify before you today. My name is Ari Bargil, and I am an attorney with the Institute for Justice ("IJ"). IJ is a national public-interest law firm, and the nation's leading law firm for liberty. IJ litigates cases in the courts of law and public opinion in four core areas: Property Rights, School Choice, Economic Liberty, and Free Speech. I joined IJ in September 2012, where I litigate cutting-edge constitutional cases to vindicate those rights in federal and state courts nationwide.

In addition to occupational licensing generally, my testimony today will address the First Amendment issues implicated by this board’s consideration of licensing a widely-recognized and protected form of speech—music.128

The Consequences of Professional Regulation and Occupational Licensing

The drawbacks of occupational licensing are by now well-known. They limit opportunity, inhibit competition, and stifle innovation in the marketplace—outcomes which lead to increased prices, decreased options, and unmet demand. The occupational license has become the symbol of overzealous professional regulation in the United States. And yet, the growth of occupational licensing requirements has been exponential in last half century: According to License to Work, a 2012 study by the Institute for Justice, only one in twenty American workers needed a license to practice in a particular field in the 1950s; today, that number stands at roughly one in four.129

But by restricting entry into so many occupations—from hair braiders to interior designers—what do regulatory bodies (like this one) really accomplish? Are people really safer, or, more likely, is it just harder to compete and harder to earn a living? In recent years, the negative consequences of unnecessary occupational licensing have been criticized by groups of all stripes, ranging from my group, the Institute for Justice, to the Obama Whitehouse. The reason why there exists such uncharacteristically broad agreement on this issue, amongst such divergent groups, is simple: By requiring a license as a prerequisite to practice a trade, the government is effectively forbidding citizens from earning a living in a given field without the government’s permission. Regardless of where you fall on the political spectrum, denying any person the ability to exercise their constitutional right to earn a living is something that every individual, and certainly every entity like this one, must take seriously. At the same time, courts have started to take note of the impropriety of unnecessary licenses. As just one example, in a powerful opinion, the Texas Supreme Court recently struck down a law requiring hundreds of hours of education and an occupational license simply to be authorized to provide eyebrow threading services.130

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128 I am currently involved in two pending First Amendment cases involving occupational speech. See, e.g., Ocheesee Creamery, LLC v. Putnam, No. 4:14cv621-RH/CAS, 2016 WL 3570480 (N.D. Fla. Mar. 30, 2016) (representing a small family creamery that was forbidden from calling their all-natural skim milk “skim milk”); Wollschlaeger v. Governor of the State of Florida (a/k/a “Docs v. Glocks”), No. 12-14009, 2016 WL 2959373 (11th Cir. Feb. 3, 2016) (granting rehearing en banc) (amicus brief in support of coalition of doctors who were prohibited from asking patients whether they owned a gun).


130 Patel v. Texas Dept of Licensing & Reg., 469 S.W.3d 69, 118, 122-23 (Tex. 2015) (“Courts need not be oblivious to the iron political and economic truth that the regulatory environment is littered with rent-seeking by special interest factions who crave the exclusive, state-protected right to pursue their careers . . . [But] [e]conomic liberty is deeply rooted in this Nation’s history and tradition, and the right to engage in productive enterprise is as central to individual freedom as the right to worship as one chooses.”) (Willett, J., concurring) (internal citations omitted).
So it is with great caution that this body must consider what is being asked of it here. Indeed, licensing is perhaps the single most powerful regulatory tool available to the government, at least as it relates to individual workers. And as such, it should be used sparingly, judiciously, and only where the circumstances absolutely demand it. Those circumstances are where, and only where, without the oversight of the government, there is a risk of harm to the health or safety of the public. This is why it is perfectly appropriate to recognize the practical legitimacy and efficacy of music therapy on the one hand, and yet still elect not to license its practice on the other. To view licensure as a mere government endorsement or a mechanism for allowing practitioners to bill insurance companies is to forget why governments license in the first place. Licensing is not appropriate for protecting those who already practice; it is to be used only to protect their clientele, or the public at large.

That is not to say that the government cannot regulate any profession for any reason. What it means is that licensing must be considered for exactly what it is: A tool of last resort. And so where governments do elect to regulate a profession, they should do so responsibly—by using the least restrictive means available to further whatever the goal of the regulation may be. In most instances, the least restrictive—but still effective—means of regulation is not licensure.

In this lens, when discussing music therapy, a practice that has seen no documented cases of actual harm resulting from its unlicensed practice, licensing is not the answer. Rather, the state of Illinois, if it must adopt any regulation at all, can choose among several less restrictive alternatives to licensing, which still meet all of state’s goals. In so doing, the state must nonetheless be mindful of other constitutional rights—like the right of free speech—which are potentially implicated any time the government seeks to regulate speech (in this case music) or how a person refers to herself (in this case, as a music therapist).

First Amendment Implications

Music is speech.\textsuperscript{131} And the government, if it wishes to regulate speech, must meet an extraordinarily high burden for its regulations to be constitutional.\textsuperscript{132} Merely creating a specific definition of what constitutes music therapy does not cure the simple fact that, if Illinois elects to license music therapy, it will be illegal for an individual to play music without a license in certain circumstances. Such an outcome has obvious First Amendment implications, and thus requiring a license to practice music therapy is highly unadvisable.

Assuming the state is not interested in censoring those who wish to play music for the benefit of their specific audience, but still wishes to create a separate distinction for those desiring some sort of state-issued credential, the legislature must be mindful of the mistakes other states have made in apparent efforts to accomplish the same thing. More specifically, to the extent this body believes it is necessary to establish some sort of legislative separation, either to lend legitimacy and recognition to the practice of music therapy or, as we (have also heard/will hear) today, to create a pathway for insurance reimbursement, the state must steer clear of a separate set of possible First Amendment issues.

These First Amendment issues typically arise where states—separate from whether they have restricted who may practice—have limited how potential practitioners may refer to themselves. All too often, state governments craft laws that violate the First Amendment because they prohibit qualified, but uncredentialed, individuals from using common terms to truthfully describe themselves. The courts have repeatedly struck such titling acts down as unconstitutionally overbroad. For example, federal courts have ruled that, without regard to whether a license to practice interior design could be required, it was

\textsuperscript{131} See, e.g., \textit{Ward v. Rock Against Racism}, 491 U.S. 781, 790 (1989) ("Music is one of the oldest forms of human expression.").

\textsuperscript{132} See, e.g., \textit{Reed v. Town of Gilbert}, 135 S.Ct. 2218, 2228 (2015) (holding that courts will apply strict scrutiny to content-based restrictions on speech, even where the government provides an "innocuous justification" for the law).
nonetheless unconstitutional to prohibit all interior designers from referring to themselves as such without such a license. Likewise, a federal appeals court recently struck down a law which essentially restricted the use of the term “psychologist” to only those who had completed graduate work in psychology and were licensed to practice psychology in that particular state. The court ruled that the law was unconstitutional because it prevented a highly qualified psychologist from referring to herself as a psychologist in campaign materials. The way to avoid these problems is to go no further than the creation of a state registry of the state's music therapists. This provides an avenue for music therapists to obtain government recognition, without excluding those who do not have it from practicing. Moreover, it leaves all music therapists free to describe themselves as music therapists, while still providing for the unique designation of “registered music therapist” for those who have registered.

Conclusion

In conclusion, it is critical for the state to not only make sure that both credentialed and uncredentialed people may use music as therapeutic modality, but also that those who wish to do so are not forbidden from accurately describing themselves. What this means is that the state must not take wholesale ownership over the term “music therapy,” and thus prevent any individuals from calling themselves “music therapists” unless they first obtain whatever credential or classification the state ultimately creates. To the contrary, the state must narrowly craft any legislation to make sure that all those who offer music therapy services may still hold themselves out as music therapists. The only constitutionally permissible restriction on titling, if this state desires to go in that direction, is to restrict music therapists from describing themselves as having any government-created designation or classification, unless, of course, they actually have it. This approach creates the sort of governmental recognition that proponents of music therapy licensing seek, and provides the necessary credentialing for insurance reimbursement under most insurance plans. But it accomplishes these goals without chilling the free speech of other properly educated mental-health professionals or well-intentioned musicians, and without restricting how those same practitioners may truthfully refer to themselves. And thus this is perhaps the only way to constitutionally regulate the practice of music therapy. Thank you for the opportunity to testify.

Elizabeth Kregor

Beth Kregor is the director of the IJ Clinic on Entrepreneurship. Under Beth’s guidance, University of Chicago law students take their first steps into the practice of law by providing legal advice to lower-income entrepreneurs. Beth came to the IJ Clinic from the law firm Sidley Austin Brown & Wood. Beth received her Juris Doctor magna cum laude from the University of Michigan Law School in 1999. As an undergraduate, Ms. Kregor studied comparative literature at Yale University, graduating magna cum laude in 1996.

Ms. Kregor spoke to the Advisory board on August 30, 2016. She continued the discussion by Mr. Bargil regarding the consequences of occupational licensure, and recommended against full licensure of music therapists. She explained the exclusionary effect of licensure against disadvantaged individuals, both those who wish to practice music therapy and those who wish to receive services, leading to fewer jobs. She also discussed the exclusionary effect of licensure on innovation, by limiting diversity in the profession as a result of standardization of requirements of entry, leading to fewer developments in the field. Ms. Kregor reinforced Mr. Bargil’s suggestions for alternatives to licensure, and answered Advisory Board member inquiries regarding the position of the Institute of Justice as it applies to other professions as well. She submitted the following testimony at the August 30, 2016, Music Therapy Advisory Board Meeting.

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133 See, e.g., Byrum v. Landreth, 566 F.3d 442 (5th Cir. 2009); Roberts v. Farrell, 630 F.Supp.2d 242 (D.Conn. 2009); State v. Lupo, 984 So. 2d 395 (Ala. 2007).
134 Serafine v. Branaman, 810 F.3d 354 (5th Cir. 2016).
135 Id. at 360-62.
Introduction

My name is Beth Kregor. I’m the Director of the Institute for Justice Clinic on Entrepreneurship at the University of Chicago Law School. We provide free legal assistance, advocacy, and support for the low-income entrepreneurs who are using their creativity and their hard work to make over their lives, their blocks, and sometimes their industries. We also put on the South Side Pitch. We’re currently reviewing applicants from all over the south side, who want a chance to pitch their businesses at our big event in October – a little like Shark Tank – and potentially take their business ideas to the next level. We hope to showcase the positive entrepreneurial energy on the South Side and neighborhoods like it, which is often overlooked.

In my work, every day, I see how low-income entrepreneurs are affected by laws that limit who can start a business and how that business can start. I see how those laws hold people back and how important it is to cabin those laws so that they are only on the books when absolutely necessary to protect health and safety. My hope here today is to give some examples from my work that will add to my colleague’s points. Together, we recommend that the Board advise against creating a license for music therapists.

The Consequences of Licensing Music Therapists

Creating a license for music therapy would pose serious risks to the profession and to the public. The idea of creating a license, of course, is limiting who can practice music therapy. The exclusive credentials may seem desirable to people who already have them. But, I’m here today to remind the Board that the license would not only be exclusive – it would be exclusionary. It would exclude people who could be wonderful music therapists, and it would exclude new ideas and innovations. As a result, there would be fewer jobs and fewer developments in music therapy, and the people of Illinois would have fewer options to get advice about using music to heal and grow.

Excluding People

First, a law like the one proposed in Illinois last year would require extensive formal training for people to become music therapists. Getting a B.A. in music therapy requires resources, time not working, and the foresight to pick a career path early on. This disadvantages lower-income people like my clients who may not be able to afford spending years in college. It also disadvantages minorities, who are less likely to go to college. In Illinois, the racial gap for college degrees has been growing. There’s a 16% gap between whites and African-Americans, and a 26% gap between whites and Latinos. People who realize through life experience that they want to provide music therapy have to choose between working and going back to school later in life.

We should all take a lesson from interior designers. The American Society of Interior Designers urged states to create licenses for interior design practice, even though there was not a track record of customers who had been hurt by unlicensed practice. Professors who studied the difference between states that adopted the license and states that didn’t found some important consequences. In licensing states, interior designers charged more to customers, there were fewer people working as interior designers, plus minorities and older designers were disproportionately shut out by degree requirements.

Imagine what could happen in Illinois if music therapy required an expensive license. Imagine a woman living in Englewood on the South Side of Chicago. She has been working with youth to curb violence

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for years. She decides to start a program that will train young people to express themselves with rap and other music making so that they can learn how to think through their impulses and react to life non-violently. She wants to hire talented musicians who grew up in the same neighborhood. She believes that this therapy will help young people’s minds develop. But the law would make it illegal for her to communicate that to funders or potential participants.

These are the kinds of programs that entrepreneurs are starting on the South Side and the kinds of new ventures applying to South Side Pitch. These are the kind of therapies that this law would shut out.

Excluding Ideas

Another risk of licensing music therapists is the risk of shutting down innovation and creativity. When the only people who are allowed to practice music therapy have the same training and the same career path, they may respond to problems in similar ways. The law would prohibit other people from experimenting with new methods and new ideas.

Imagine a nanny who has success with a music therapy for a child who has severe social anxiety or autism. Imagine she wants to offer the method to other families struggling with similar problems. She would not be allowed to start that business unless she went back to school and had hours of training. Her insight would be lost, most likely. Or imagine a techie person who figures out an algorithm so that signs of growing anxiety are caught by a FitBit or a Facebook add-on and then recommends calming music in a playlist. That technology, which wasn’t anticipated by the licensing statute, might be against the law.

Conclusion

To make sure that the field of music therapy is open to new people and new insights, it is very important to limit the exclusionary barriers put up by the government. Where there is no grave risk that the public will be harmed by unlicensed practice – and there is a serious risk that the public will be harmed by cutting off certain music therapists who are cut from a different cloth – then the state should not get involved.

David Hamilton

David Hamilton is a licensed master social worker in New York State. Dr. Hamilton was appointed Executive Secretary to the State Board for Social Work and the State Board for Mental Health Practitioners in the New York State Education Department by the Board of Regents on March 1, 2003. Prior to that, Dr. Hamilton was the Executive Secretary for Podiatry, Physical Therapy and Ophthalmic Dispensing. He has a bachelor of science in psychology from Loyola Marymount University, a master’s in social welfare degree from the University of California, Los Angeles (1989) and a doctorate in social work from Virginia Commonwealth University. Prior to joining the Education Department, he was the Associate Director for Catholic Charities at the New York State Catholic Conference and staff associate for government relations at the National Association of Social Workers, New York State Chapter. He testified on September 26, 2016. His statement to the Board is below:

Thank you for the opportunity to share information about licensure of creative arts therapists in New York. I hope this is helpful to your discussions and questions about licensure for music therapists in Illinois. In 1891, medicine became the first profession licensed by the New York State Board of Regents. New York’s unique system of professional regulation, recognized as a model for public protection, has grown to encompass 800,000 practitioners and over 30,000 professional practice business entities in more than 50 professions.
Guided by the Regents, a 17-member citizen body elected in a joint session by the State Senate and Assembly, the professions are within New York State’s unified system of education - The University of the State of New York. This recognizes the key role education plays in both preparing licensed professionals and in ensuring their continuous development.

The State Education Department, under Regents’ direction, administers professional regulation through its Office of the Professions, assisted by the State Boards for the Professions. The State Board for Mental Health Practitioners consists of three licensees in each of the four professions (mental health counseling, marriage and family therapy, creative arts therapy and psychoanalysis), three public members and a psychiatrist. I was appointed as the Executive Secretary by the Board of Regents in February 2003 to implement the law creating these four professions.

Although New York had licensed physicians, registered professional nurses, psychologists and certified social workers (MSWs) the latter two licenses provided title-protection only. While individuals in those professions could diagnose mental illness and provide psychotherapy, so could any person—regardless of education, training or experience. This placed the public at risk from unqualified and unethical practitioners, including licensed professionals whose license was revoked, suspended or annulled by the Board of Regents, who offered services to individuals in need of care under the generic title of “psychotherapist” or “counselor.”

In 2002, Chapter 420 provided a restricted scope of practice for two MSW-level practitioners (LMSW & LCSW); Chapter 676 provided a restricted scope for licensed psychologists and established the four new mental health professions. Most importantly, this restricted the practice of psychotherapy to individuals licensed or authorized under the law, as of January 1, 2006. Chapter 676 defined the requirements for licensure and the “scope of practice” for these four professions, recognizing the unique training, education, experience and examination requirements for each title. The Board of Regents, with the assistance of the State Board, promulgated regulations in 2004 to implement the law, including special provisions for licensure without examination for certain individuals and unprofessional conduct in the practice of the professions.

Some of the key provisions of the law and regulations for those licensed under Article 163, including creative arts therapists, include:

**Education:** Receipt of a master’s degree in creative arts therapy, acceptable to the Department, in order to apply for licensure and a limited permit to practice under supervision while meeting the experience and/or examination requirements for licensure:

- Part 52.34 of the Commissioner’s Regulations establish the requirements for a program in New York that wishes to become license-qualifying for creative arts therapy. This includes preparation in one or more of the creative arts therapies, including but not limited to art, music, dance, drama, psychodrama, or poetry therapies, for the practice of creative arts therapy as defined in section 8404(1) of the Education Law. There are 11 New York schools with a program leading to licensure as a LCAT; four of those master’s degrees are in music therapy.
- Graduates of a license-qualifying program have met the education requirement; those applicants from out-of-state must undergo an individual transcript evaluation to determine if they have met the education requirements or need additional graduate course work and/or clinical internship. Only the American Art Therapy Association’s master’s degree standards have been determined acceptable to the Department.

**Limited permit:** Individuals who have submitted the application for licensure, $371 and met the education requirements, as defined in law and regulation, may apply for a limited permit to practice creative arts
therapy under the supervision of a qualified supervisor in an authorized setting, as defined in law and regulation. The applicant and supervisor must submit the permit application (Form 5) and permit fee ($70) for review by the State Board.

Chapter 676 initially authorized a two-year limited permit for applicants in mental health counseling and a one-year permit for applicants in creative arts therapy, marriage and family therapy and psychoanalysis; all were eligible to apply for a one-year extension if, in the determination of the Department, the applicant was making progress toward meeting the experience and/or examination requirements. Chapter 485 of 2013 amended the law to authorize an initial two-year permit and up to two one-year extensions, at the discretion of the Department, for all four professions.

Permit supervisors must be licensed and registered in NY (LCAT, LCSW, Psychologist, Physician or RN/NP), employed by the same setting as the permit holder, have access to the patient and patient records, and is responsible for all services provided to the patient under his/her supervision. Applicant who employ a permit supervisor or consult with a licensed professional, without consent of the employing setting and informed consent of the patient could be charged with unprofessional conduct under the law and regulations.

**Supervised Experience:** The applicant must complete 1,500 post-degree supervised hours in a legal manner in New York or in another jurisdiction. The experience must include the supervised practice of psychotherapy and assessment and evaluation using the DSM. Verification of supervised experience is submitted by the supervisor and no less than two-thirds (1,000) of the minimum 1,500 post-degree hours must include direct client contact. This regulations state remaining experience may consist of other activities that do not involve direct client contact, including but not limited to, recordkeeping, case management, supervision, and professional development, as determined by the supervisor.

**Examination:** There is no national examination for “creative arts therapy” so the regulations allow the applicant to meet the examination requirement must pass one of the following:

- “Board Certification” examination offered by the Certification Board for Music Therapists (CBMT);
- “Board Certification” examination offered by the Art Therapy Credentials Board (ATCB); or
- New York Case Narrative Examination administered by CASTLE Worldwide, Inc. This consists of two timed-narratives describing the assessment, evaluation and treatment of a patient that demonstrates the appropriate use of creative arts therapy theories and interventions. Narratives are scored by Licensed Creative Arts Therapists, most of whom are current or former members of the State Board.

New York will accept score transfers for tests taken for licensure in another jurisdiction when submitted by the examination vendor. However, New York does not accept English-as-a-Second-Language arrangements for examinations in any profession. Part 59 of the Commissioner’s Regulations require an applicant for licensure to demonstrate English language proficiency by passing a licensing examination, acceptable to the Department, given in English.

**Moral Character:** An applicant for a license or limited permit must be of good moral character, as determined by the Department. An applicant who answers “yes” to questions about misdemeanor or felony arrests or convictions; disciplinary action in another jurisdiction or profession; or termination by an employer or education program, must provide a detailed explanation. This information is reviewed by the Office of Professional Discipline and, as appropriate, may result in a telephone screening and an in-person three-member panel of Board members assigned by the Executive Secretary to determine if the applicant meets the moral character requirement.
Licensure and Registration: When all requirements have been met, the Department may issue a license to practice creative arts therapy and use the restricted title “Licensed Creative Arts Therapist.” A licensee may specify in advertising the profession in which he or she is licensed (e.g., music, art, dance/movement) and may add modalities used in his/her practice or populations that are served (e.g., children or adults). The licensee is responsible for knowing that he/she is competent, based on education, training and experience. The name of a professional corporation or “d/b/a” must include the licensed profession and comply with the laws, rules and regulations of the Department in regard to advertising. Advertising that is misleading, deceptive or inaccurate could result in charges of unprofessional conduct under Part 29 of the Regents Rules.

A New York license is valid for life, unless it is revoked, annulled, suspended by or surrendered to the Board of Regents. In 2015 the Department issued a new license to 112 creative arts therapists. As of July 1, 2016, there were 1,716 LCATs registered to practice; 1,456 at an address in New York, 252 in another part of the U.S. and 8 with a non-U.S. address. The LCAT license and title does not indicate the licensee’s modality or practice area, e.g., music therapy. The registration address may be the home or work address; although multiple settings may be registered, only the first one is counted in the registration statistics. You can access information about licensure of new LCATs from 2011 to 2015 and the geographic distribution of licensees at www.op.nysed.gov/prof/hmp/mhpcounts.htm.

The licensee must submit the registration application and triennial fee ($176) every three years to practice the profession and use the restricted title. Willful practice without registration is defined as professional misconduct. A licensee who practices without being registered may reinstate by paying the delayed fees and a $10 fee for each month of un-registered practice. Licensees are responsible for notifying the Department within 30 days of a change in name or address; registration notices are mailed 4 months prior to the end of the registration period.

Continuing Education: Effective January 1, 2017, each LCAT, LMHC, LMFT and LP must complete 36 months of continuing education from a provider approved by the Department, on the basis of an application and $900 fee. Approved providers are listed on our website and the Board is reviewing and approving applications. No organization is “deemed approved” and all must apply, pay the fee and meet all requirements in the law and regulation, in the determination of the Department. No more than one-third of the required hours may be self-study courses taken from Department-approved providers and supervision of practice is not acceptable experience.

The CE requirement is pro-rated, for those with a registration period that started prior to January 1, 2017. Licensees are exempt in the first registration period after initial licensure and when inactive. Those returning to practice must complete the hours required from January 1, 2017 (or the last date of registration after that date) to the start of the new registration period to return to practice. Failure to comply could result in disciplinary action. Licensees may apply for a one-year conditional application by paying the $241 triennial fee ($196 + $45) for the conditional period, completing all required CE and submitting verification of those hours along with an application for the two-year registration and $241 fee. Please see www.op.nysed.gov/prof/mhp/catcehome.htm.

Professional Practice: A licensed creative arts therapist is authorized to practice the profession, as it is defined in section 8404 of the Education Law:

a) the assessment, evaluation, and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; and
b) the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services.

A licensed professional is responsible for practicing within his/her education, training and experience. New York does not require or recognize national certification as a substitute for a professional license nor does such certification change the definition of practice. A licensee who practices beyond the authorized scope could be charged with misconduct.

**Boundaries of Practice:** The Rules of the Board of Regents define unprofessional conduct in all professions (Part 29.1) and the health professions, including LCAT (Part 29.2). Section 8407 of the Education Law and Part 29.15 of the Regents Rules also set boundaries of professional conduct for LCATs and other individuals licensed under Article 163:

1) It shall be deemed practicing outside the boundaries of his or her professional competence for a person licensed pursuant to this article, in the case of treatment of any serious mental illness, to provide any mental health service for such illness on a continuous and sustained basis without a medical evaluation of the illness by, and consultation with, a physician regarding such illness. Such medical evaluation and consultation shall be to determine and advise whether any medical care is indicated for such illness. For purposes of this section, ”serious mental illness” means schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention-deficit hyperactivity disorder and autism.

2) Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

   a) prescribing or administering drugs as defined in this chapter as a treatment, therapy, or professional service in the practice of his or her profession; or

   b) using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, ”invasive procedure” means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

Complaints against licensed professionals or unlicensed practitioners may be submitted by individuals, organizations or employers. All complaints are investigated and, as appropriate, a member of the appropriate State Board is consulted and may participate in an early settlement conference. Cases that cannot be resolved at an early level may be presented to a three-member panel, appointed by the Executive Secretary. Disciplinary action that results from criminal convictions or actions by another jurisdiction are referred to the Board of Regents Review Committee for a hearing and recommendation. All consents, applications to surrender, revocations and suspensions are taken by the Board of Regents and final actions are posted on the Office of the Professions website: www.op.nysed.gov/opd/rasearch.htm.

**Diagnosis:** Early versions of legislation proposed to license creative arts therapists and others under Article 163 including the word “diagnosis.” However, this was stricken from the legislation that was approved by the Legislature and Governor. The scope of practice for a creative arts therapist does not include diagnosis. Section 8411(3) of the Education Law and 79-11.5 of the Commissioner’s Regulations allow a licensed creative arts therapist to use the Diagnostic and Statistical Manual of the American Psychiatric Association to assess an individual in order to provide appropriate services within the scope of practice. Although the licensee may use such an assessment tool, there is nothing to authorize the creative arts therapist to diagnose
mental illness. A licensee who practices beyond the scope of practice, or engages in activities that are within the scope but in which the licensee is not competent, may face charges of unprofessional conduct under Part 29 of the Regents Rules.

**Unlicensed practice:** New York restricts the ownership of professional practices to licensed professionals and authorized entities. Generally, a for-profit business may not employ licensed professionals or offer professional services to the public; this is commonly referred to as the “corporate practice restriction” in the Education Law. For instance, CVS Minute-Clinics are not authorized to employ physicians and nurses to provide medical services, although pharmacists in a New York may administer flu shots. Sections 6512 and 6513 of the Education Law define as a felony the unauthorized practice of a profession or use of a licensed title by one or individuals. A licensed professional who aids and abets illegal practice may be charged with unprofessional conduct. A not-for-profit or religious corporation may only employ licensed professionals with an operating certificate from an appropriate government agency, e.g., Department of Health or Office of Mental Health, or a waiver from the corporate practice restrictions in New York law, issued under section 6503-a of the Education Law. LCATs and others licensed under Article 163 are not authorized by the Education department to provide services in schools. Those roles are restricted to licensees credentialed as a pupil personnel service professional (e.g., school social worker, school psychologist, school nurse and school dental hygienist). Article 163 professions have been discussing with the Office of Teaching and P-12 Education in the Department whether or not those professions could be made eligible for similar PPS credentials.

**Exemption:** Article 163 includes exemptions that allow other licensed professionals to provide services that overlap with creative arts therapy, mental health counseling, marriage and family therapy and psychoanalysis, as well as CASACs, lawyers and pastoral counselors who provide services that may overlap. There are also exemptions for students enrolled in New York license-qualifying programs to allow those students to complete a supervised internship under a qualified supervisor licensed in New York. The exemptions do not authorize the use of any restricted title, so that an individual with a bachelor’s in music therapy who is providing case management and care coordination in a nursing home can engage in those activities, but cannot provide psychotherapy and counseling nor use a title to infer licensure as a “creative arts therapist.”

**Bachelor’s Educated Music Therapist:** The Assembly sponsor of the legislation that became Chapter 676 provided a memorandum that clarified his intent not to disenfranchise bachelor’s educated individuals providing music therapy services that do not require licensure. The Department developed the attached guidance in related to activities that do not require licensure and may be performed by an unlicensed individual, including an individual with a bachelor’s degree in music therapy.

Before Chapters 420 and 676 of 2002 were signed, certain executive branch agencies, including the Office of Mental Health, Office of Alcoholism & Substance Abuse Services and Office for People with Developmental Disabilities sought an exemption from licensing laws until January 1, 2010 for individuals employed in State operated programs or in those programs operated by not-for-profits regulated, funded or approved by OMH, OASAS and OPWDD. Those agencies, and others, have argued since 2009 (prior to the end of the exemption) that the oversight of the facilities is sufficient and licensure of individuals is not required; instead, they argue that licensure is only necessary for “private practice.” The exemption has been expanded and extended several times since January 1, 2010. The 2016-2017 State Fiscal Year Budget (starting April 1, 2016) extended the exemption from licensure to July 1, 2018 allowing any individual to provide creative arts therapy in exempt programs. Additional information about the license, practice and conduct of the professions is available on our website: [http://www.op.nysed.gov/prof/mhp/catlic.html](http://www.op.nysed.gov/prof/mhp/catlic.html). If you have any questions I would be happy to address those at this time.
Jim Cleghorn

Jim Cleghorn is the Executive Director for the Georgia Board of Nursing and has served in that role since August 2010. His staff also supports the licensure process for music therapists in Georgia. Prior to his work with the Board, Mr. Cleghorn served as the Business Analyst for the Office of Secretary of State of Georgia. In that role, he worked with the agency's Professional Licensing Boards Division to review licensure and discipline processes, identify inconsistencies and inefficiencies, and recommend improvements to maximize constituent services, agency productivity and protection of the public. He was appointed by the Board of Directors of the National Council of State Boards of Nursing to serve on the Commitment to Ongoing Regulatory Excellence (CORE) Committee in 2012. In 2013, the Georgia Nurses Association awarded him the Excellence in Partnership with Nursing Award. He currently serves as a member of the Board of Directors of the National Council of State Boards of Nursing.

Mr. Cleghorn, spoke to the Advisory Board on September 26, 2016 and reviewed Georgia’s title protection regulation of music therapists since 2012. He discussed the total number of active licenses (114), the seven (7) complaints (six were for unlicensed practice and one for unethical conduct), which did not relate to patient issues, and the advisory role of the State board. Mr. Cleghorn referenced Georgia law on scope of practice and licensure regulations. See: Section 43-25-1 and Rule 590.11-1.01 of the Georgia Administrative Code.

Nicholas Goodwin

Nicholas Goodwin, Deputy Legislative Director and Professional Licensing Agency Policy Director in the Office of Governor Mike Pence, spoke to the Advisory Board on September 26, 2016. Mr. Goodwin served in the administration as the Director of Communication and Legislative Affairs for the Professional Licensing Agency. Prior to that, he worked for the Indiana House of Representatives for four years.

Mr. Goodwin reviewed Indiana’s recent consideration of licensing music therapists, which did not result in licensure. He discussed legislation that was introduced in 2013 & supported by professional associations.

Legislation in Indiana: Mr. Goodwin spoke about Senate Enrolled Act 273, which was introduced during the first regular session of the 118th General Assembly, requiring state certification of music therapists. It defined music therapy as “the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship through an individualized music therapy treatment plan for the client that identifies the goals and objectives and potential strategies of the music therapy services appropriate for the client using music therapy intervention, which may include music improvisation, receptive music listening, song writing, lyric discussion, music imagery, music performance, learning through music, and movement to music.” House Enrolled Act establishes Pilot Program for State Registration of Privately Certified Individuals under an organization supporting an occupation not a regulated under Indiana law can become “state registered.” An organization must submit an application before July 1, 2017, which will be reviewed by Indiana’s professional licensing agency. A public hearing will be held before the jobs creation committee, which would then make a recommendation to the executive director. Finally, the executive director would approve the supporting organization. If he or she rejects it, an affirmative vote of two-thirds of the committee’s members, may reverse a determination made by the executive director.

Veto Message from the Governor: On May 18, 2013, Governor Michael Pence vetoed Senate Enrolled Act 273, which would have mandated state certification for music therapists. The veto message stated:
Indiana will create jobs through lower taxes and less regulation. Licensing can create barriers to the market and restrict competition. Over the last ten years, licensing has exploded in Indiana. In 2004, approximately 340,000 Hoosier held professional licenses. Currently more than 470,000 Hoosier hold some form of professional license. Some licensing opens new markets and streamlines existing practices and procedures. Senate Enrolled Act 273 does not meet that standard.

Carolyn Kahn

Carolyn Khan is the Executive Director of Bridges to New Day, nfp. The mission of the agency is to provide educational, prevention and intervention services that foster non-violence in the lives of children and adults. Ms. Khan has a master-degree in counseling from Governors State University. She is a licensed clinical professional counselor (LCPC) and a certified domestic violence professional (CDVP). Ms. Khan is past president of the Illinois Certified Domestic Violence Board and still serves on that board. She is past president and current board member of the Illinois Mental Health Counselors Board. Ms. Khan has presented numerous presentations on a variety of issues though out Illinois on such subjects as: effects of violence on children; domestic violence; interventions with children, adolescents and adults exposed to violence; interventions with adults and child; helping children/adults deal with loss and other clinical issues. Carolyn Kahn testified on September 26, 2016 and submitted the following statement on behalf of the Mental Health Counselors Association.

To Whom It May Concern,

While the Illinois Mental Health Counselor Association Professional Board understands the value that music can offer in a therapeutic setting, we have concerns regarding the legitimacy of a license/certification that does not require any clinical training before the said license/certification is obtained. In reading the legal stipulations regulating the acquisition of a Certificate in Music Therapy, we observed the requirements for musical training but saw no mention of any obligatory counselor training before the certificate is obtained. We believe that the term "Therapist" is viewed by the public as representative of someone with specific training, and therefore the term “Music Therapist” seems to indicate some level of clinical mental health knowledge. Additionally, we are concerned that without appropriate training, a person practicing music therapy could miss important clues that may indicate the presence of severe depression, suicidal thoughts, or other serious issues that require the attention of a professional licensed counselor or social worker. Dance Therapists and Art Therapists are required to have a master's degree in order to be licensed in the State of Illinois. We are concerned that Music Therapists will be viewed as though they have been trained to deal with mental health issues as do the Dance and Art Therapists.

In reviewing the options available to ensure that a Music Therapist receives an appropriate level of mental health training, we considered suggesting that several courses be added to the current certification requirements. However, it seems that in order to obtain an adequate amount of training, the necessary coursework and internship would too closely resemble current licenses. Therefore, we recommend that the following option be considered:

A person seeking a Certificate in Music therapy would also need to obtain a Master’s Degree in Counseling or Social Work with the aim of getting licensed as a professional counselor or social worker. The candidate could then work towards a Certificate in Music Counseling either during their Master’s coursework or after the degree is completed. This process would provide the candidate with the clinical training needed to practice counseling while maintaining the music therapy component.

Sincerely,
Illinois Mental Health Counselor Association Professional Board

**Tom Parton**

Tom Parton is a speech language pathologist at Normal Community West High School in Normal, IL. He also teaches an Autism Seminar class at Illinois State University. Mr. Parton’s clinical interests are in language/literacy and autism spectrum disorders. He is currently the Past-President of the Illinois Speech-Language-Hearing Association. Mr. Parton is a Fellow of the Illinois Speech Language and Hearing Association. He has been active in various local and state associations and has presented at local, state, and national conferences. The following statement was presented to the Board on September 26, 2016 on behalf of the IL Speech-Language-Hearing Association.

The 2000 members of the Illinois Speech-Language-Hearing Association are concerned about the licensing of music therapists in the state of Illinois. ISHA believes that Music Therapists participate in unlicensed practice in the areas of speech—language pathology, audiology, occupational therapy, physical therapy, and counseling among others. Music therapists should not be authorized by Illinois law to diagnose communication disorders, as currently stated in the Music Therapy Advisory Board Act, and should not be authorized to treat communication disorders.

The Certification Board for Music Therapy (CBMT) broadly defines music therapy and states music therapists can assess sensory, physical, cognitive, and communication abilities.

Music Therapists do not have a standardized assessment tool to identify individuals who may benefit from music therapy, to develop individualized treatment plans, or to determine when those plans are consistent with other medical, developmental, mental health, or educational services being provided to the client.

In defining “music therapy,” the Music Therapy Advisory Board Act states that the term “music therapy” does NOT include the diagnosis or assessment of any physical, mental or communication disorder. While ISHA supports this restriction in the Act, our members believe it does not go far enough. ISHA believes a definition of “music therapy” in a licensure or certification statute should also prohibit music therapists from treating communication disorders.

Speech—Language Pathologists complete a comprehensive education program that meets rigorous standards of practice. SLP training includes the following:

- A master’s or doctoral degree with 75 credit hours in a course of study addressing the knowledge and skills pertinent to the field of speech—language pathology using a validation process.
- A minimum of 400 clock hours of supervised clinical experience in the practice of speech-language pathology, under the supervision by an individual holding the American Speech-Language-Hearing Association Certificate of Clinical Competence (CCC).
- Pass a national examination administered and validated by the Educational Testing Service.
- Complete a supervised Clinical Fellowship to meet the requirements to earn the CCC, the recognized standard in the field.
- Complete a minimum of 30 hours of professional development every three years.

Music Therapists are not subject to the same rigorous qualifications standards and do not acquire the skills necessary to assess and treat communication disorders in their course of study and clinical training. In reviewing academic catalogs for music therapist programs in Illinois, students enrolled in a music therapist program are required to complete 26 semester hours. However, speech—language pathology programs...
include approximately 52 semester hours in assessment, development, and communication. In addition, speech-language pathologists are also required to complete a master’s level degree in order to be a licensed practitioner in Illinois. We believe SLPs are the only professionals trained and uniquely qualified to assess and plan treatment options for communication disorders.

Another major concern is that there are no Current Procedural Terminology (CPT) codes maintained by the American Medical Association that appropriately describe music therapist services. Therefore Music Therapists frequently use CPT codes associated with services provided with the scope of practice of other licensed providers, including speech-language pathologists and audiologists.

CPT codes that we use as speech-language pathologists to bill for services are only reimbursed one time, per day, per facility. If a patient received services from a music therapist and the CPT code was billed, a speech-language pathologist could not also bill for that code in the same day and also be reimbursed. The language used to describe CPT code 92507 states “Treatment of speech, language, voice, communication and/or auditory processing disorder.”

For these reasons the Illinois Speech-Language-Hearing Association would oppose the licensing of music therapist in the state of Illinois if the scope and practice in the legislation includes assessing and treating communication disorders. I am happy to answer any questions the Board members may have.

On behalf of the Illinois Speech-Language-Hearing Association
Tom Parton, M.S. CCC---SLP/L
Past---President

Terrence Koller

Terrence Koller, is a licensed clinical psychologist and former executive director of the Illinois Psychological Association. Currently, Mr. Koller is the Legislative Liaison for the Illinois Psychological Association and Private psychotherapy practice.

The Illinois Psychological Association firmly believes in ensuring that persons with a mental or emotional disorder are provided with competent care. In that vein it has always advocated for the highest standards of training before an individual is licensed to independently diagnose and treat mental illness. For psychologists that is a doctorate degree, although we realize that there are master’s degree trained individuals who competently provide many of these services. Licensed professionals are held to a higher standard of behavior than their non-licensed counterparts.

The Illinois Psychological Association has some concerns related to the licensing of Music Therapists. I will list them below:

1. We have always opposed the licensure of a technique where consumers might believe that they are receiving comprehensive mental health treatment when in reality they are benefitting from an adjunctive treatment. Our fear is that, by licensing certified music therapists, many of whom have Bachelor’s degrees or Master’s degrees, and limited educational exposure to psychopathology, psychological theory and interventions, consumers may believe that music therapy alone will be enough to treat their problems.

2. We believe that there is a mechanism for licensure that the Music Therapists can take that will allow them to become independent practitioners while also obtaining the training necessary to treat mental and emotional disorders. They can become Licensed Clinical Professional Counselors.
3. One issue that we monitor in all licenses is that the license does not prohibit appropriately trained Clinical Psychologists from doing work they have already been doing such as using music as part of their treatment regime.

Illinois Psychiatric Society

Firas Nakshabandi, M.D. is a member of the Illinois Psychiatric Society and a Child & Adolescent Psychiatry Fellow Department of Psychiatry & Behavioral Neuroscience University of Chicago Medicine. Meryl Camin Sosa, Esq. has been the Executive Director of the Illinois Psychiatric Society for over 10 years. The Illinois Psychiatric Society is a district branch of the American Psychiatric Association. The mission of the Illinois Psychiatric Society is to advocate for the highest quality care for patients with psychiatric disorders which include substance use disorders, to represent the profession of psychiatry, and to serve the professional needs of its membership.

Dr. Nakshabandi and Ms. Sosa attended the November 28, 2016, board meeting. Dr. Nakshabandi reviewed his experience working with music therapy and the use of music from his personal perspective as a psychiatrist. He discussed the makeup of a multidisciplinary team that includes music therapists, practice settings (e.g., ICU, outpatient treatment), and examples of the types of disorders and conditions his patients have who respond well to music (attention deficit disorder, confidence issues). He expressed an interest in exploring research that addresses the effects of different types and levels of music in creating certain outcomes. Dr. Nakshabandi expressed concern over whether regulation of music therapy would require other professions to undergo additional educational training in order to use music in their practices. He answered extensive Advisory Board inquiries on all aspects of his testimony, such as the use of music as a modality and music therapy as a profession. Ms. Sosa suggested that if the Advisory Board recommends licensure, that there be some exemption language for other professionals that use music, and encouraged careful drafting of legislation language.

Certification Board for Music Therapists & American Music Therapy Association

Dena Register is an Associate Professor and Director of the Music Therapy program at West Virginia University. As the Regulatory Affairs Advisor for the Certification Board for Music Therapists, she works with music therapists across the country on obtaining professional recognition. She helped developed and launch the first music therapy Master’s degree program in Southeast Asia at Mahidol University College of Music in 2013. Judy Simpson, MT-BC is Director of Government Relations for the American Music Therapy Association. She represents the profession with legislators, agencies, and coalitions on the state and federal level. She is the co-author of "Music Therapy Reimbursement: Best Practices and Procedures".

Ms. Register and Ms. Simpson provided a comprehensive review of the standards required for the Music Therapist – Board Certified credential on the Board Meeting on November 28, 2016. They also provided a review of the regulation of music therapy across the United States. Ms. Register and Ms. Simpson discussed the music therapy curriculum, the difference between credentials and certification, two examples of public harm caused by music therapists that provided substandard care, a definition of “assessment” that is unique to the profession, and ethics standards. Ms. Register and Ms. Simpson discussed the different codes of ethics for music therapists. The American Music Therapy Association issues a Code of Ethics that applies to its association members. The Certification Board for Music Therapy issues a Code of Professional Practice that applies to all music therapists with the MT-BC credentials. Ms. Simpson submitted statements entitled, “Music Therapy Reimbursement” and “Music Therapy Reimbursement Information”. See Exhibits 4a and 4b. They presented a power point on the following topics:
**Music Therapy State Recognition**

**Education**
- Comprehensive and Unique
- Competency Based
- Undergraduate Prerequisites
- Health and Education Applications
- All Ages
- Different than other music professions
- Educators
- Practitioners
- Thanatologists

**Prescribed Curriculum**
- Professional Studies-50%
- Music Therapy 30%
- Clinical Foundations 20%
  - i.e., Statistics, Anatomy & Physiology,
  - Healthcare Ethics, Abnormal Psychology,
  - Human Diversity, Special Education,
  - Human Development, Biology
- Music 40%
- General Education 10%

**Clinical Training**
- Minimum 1200 supervised hours
  - At least 900 hours in focused internship
- Multiple Settings throughout program
- Clinical Observation and Client Contact for minimum of six semesters

**CBMT**
- Member of Institute for Credentialing Excellence (ICE)
  - Promotes Best Practice for Credentialing Community
- Accredited by National Commission for Certifying Agencies (NCCA)
- Created in cooperation with PSI/AMP
  - Applied Measurement Professionals
  - Psychometrically sound and legally defensible exam

**MT-BC Credential**
- Practice Analysis conducted every 5 years
- Exam revised to reflect current clinical practice
- Resulting in Board Certification Domains
- Requires 100 hours of continuing education every five years

**Potential for Harm**
- Recognizing and responding to situations where there are clear and present dangers to a client and/or others.
- Recognizing the potential harm of music experiences and using them with care.
• Recognizing the potential harm of verbal and physical interventions during music experiences and using them with care.
• Observing infection control protocols (e.g., universal precautions, disinfecting instruments).
• Recognizing the client populations and health conditions for which music experiences are contraindicated.
• Complying with safety protocols with regard to transport and physical support of clients.

Recognition Options
• Title Protection
  o Connecticut
• State Certification
  o Utah
• Registry
  o Rhode Island, Wisconsin
• License
  o Georgia, Nevada, North Dakota, Oklahoma, Oregon

Code of Ethics
• AMTA Code of Ethics
• Association Members
• CBMT Code of Professional Practice
  o All MT-BCs
• Oregon License Regulations
  o Adopted AMTA Code of Ethics

Illinois Occupational Therapy

Lisa Mahaffey is the sitting President of the Illinois Occupational Therapy Association. She has been an occupational therapist for 30 years working primarily in mental health. She is currently working as an associate professor in the Occupational Therapy program at Midwestern University in Downers Grove and completing work toward her PhD in Disability Studies at the University of Illinois at Chicago. Robin Jones, MPA, COTA/L, ROH has 35 years of occupational therapy practice and is currently serving as the Advocacy Director for the Illinois Occupational Therapy Association. She currently is on faculty in the Department on Disability and Human Development at the University of IL at Chicago and operates the Great Lakes ADA Center, one of 10 federally funded technical assistance centers on the Americans with Disabilities Act of 1990. Ms. Jones has previously served as a member of the Illinois Occupational Therapy Licensure Committee.

Ms. Mahaffey and Ms. Jones spoke to the Advisory Board on November 28, 2016, regarding the Illinois Occupational Therapy Association’s position on music therapy licensure. While the Association is not in opposition to the profession seeking regulation, it does not support a licensure practice act at this time without sufficient evidence that there is evidence supporting the potential harm to the public or if being done strictly for the purposes of reimbursement. Ms. Mahaffey and Ms. Jones raised concerns over previous practice act legislation that appeared to propose that the use of music in the practice of other professions would constitute a violation of the act. The Association takes a neutral position to the language of the current Music Therapy Advisory Board Act. Ms. Mahaffey and Ms. Jones suggested that the Advisory Board consider
factors such as the need for regulation of the music therapy profession, the need for a license vs. title protection, and whether the lack of public harm warrants regulation of the profession. They also suggested that if the Advisory Board recommends a practice act, that it include language creating an exemption from licensure for other professions that use music in their practices.

U-Jung Choe

U-Jung Choe attended and testified at the November 28, 2016, music therapy board meeting. Ms. Choe testified on the Illinois Competitiveness Council, which was established by Executive Order 16-13 138 signed by Governor Rauner. The Executive Order requires over forty State agencies, including IDFPR, to review their administrative rules as part of the Cutting the Red Tape Initiative. Through this review, these agencies are to ensure that their rules meet certain guidelines, such as that the rules do not impose unduly burdensome requirements on business or have a negative effect on job growth in Illinois. The Executive Order requires each of these agencies to complete this review by May 1, 2017, and submit quarterly report to the Council until the deadline. She answered Board member inquiries regarding the Executive Order’s relation to this Advisory Board, including other State agencies included in this review process that deal music therapy topics of interest to the Advisory Board such as reimbursement options through Medicaid (Illinois Department of Healthcare and Family Services) and insurance (Illinois Department of Insurance).

Holly Schaefer

Holly Schaefer is the founder & Executive Director of Safe Haven School & advocate for creative arts therapists. She spoke to the Board on February 06, 2017 and gave the following statement:

Hello everyone. I’m Holly Schaefer, the founder and Executive Director of Safe Haven School. I’m honored to be addressing you about the value of music therapy. Our school is a private therapeutic day school created solely for students with severe emotional challenges that interfere with their ability to succeed in their public school. Ours is a very unique program because we don’t take students who are verbally or physically aggressive, otherwise known as externalizers because they externalize their emotions. Our students are internalizers. They turn their emotions in on themselves resulting in severe anxiety and/or depression and/or ADHD and/or autism spectrum disorder. Left unaddressed, these students engage in self-injurious behaviors, suicidal ideation or plans, school refusal, or the inability to physically move. Often they are unable to identify the feelings that lead to these behaviors.

The vast majority of people who internalize their emotions are highly artistic either visually, musically, or theatrically. That is why our school provides art, music, and drama therapy. Art therapy is fairly typical at therapeutic day schools. But not so with music therapy. And I believe the reason for this is that music therapists lack the legitimacy that certification and licensing at the state level would give them. When we applied for initial approval with the Illinois State Board of Education, they required not only the music therapists’ certificate but documentation from the organization for whom they work that they are qualified to deliver services in a school environment.

Music has always been important to adolescents and pre-adolescents. This is a time in their development where they begin to individuate, see themselves as individuals, forming the identity that will define who they are as adults. Music is a significant source of finding that identity. Lyrics may express the anger and frustration they feel at having to follow rules they find inane, the heartache from a broken

relationship, the pain and hopelessness they feel from deep within because they don’t feel important or that they matter, or are caught in the jaws of untreated depression or anxiety. Lyrics may also be uplifting, inspirational, joyous, or energizing.

Everywhere we go we see young and old with earbuds in their ears. “Music is the art of the soul” the ancient saying goes. Clearly many thousands of individuals agree. But there are also those who do not connect with music who cannot fathom its importance. And these are the individuals who need to understanding. Connecting with troubled youth through music is so natural. And I believe that schools everywhere, private and public, would include this modality in the therapy services they offer if it was recognized by a governing board.

Mischa Fisher

Mischa Fisher, the Policy Advisor for Economic Development to the Governor of the State of Illinois, spoke before the Advisory Board on February 06, 2017. Mr. Fisher discussed the Governor’s approach to occupational licensing in Illinois.

Because a license is a barrier to entry of the profession, Mr. Fisher encouraged the Advisory Board to conduct a cost benefit analysis in making its recommendations regarding licensure. Examples of benefits include ensuring public safety and quality assurance of services provided. Costs include initial licensing costs, compliance costs, continuing education, and opportunity costs (e.g., lost wages while waiting to receive a license).
In Illinois, one of three individuals needs a license for employment, which is above the national average of one in four individuals. There are approximately 2.1 million licensees in the State. Mr. Fisher provided the following chart that illustrates that the growth of licensure far exceeds the growth of employment in Illinois:
Mr. Fisher also provided a chart that illustrates the average processing times by IDFPR for professional licenses in three categories:

Finally, Mr. Fisher reviewed several alternatives to licensure, depending on the profession, including registration and certification. He also noted that the fact that a profession is licensed does not necessarily prevent people from engaging in practices for which a license is needed.
Susan Frick, MSW, has worked at the Rush Alzheimer’s Disease Center for 12 years. She helps coordinate a variety of training programs for staff of residential care facilities who work with people who have Alzheimer’s disease. She co-facilitates Without Warning, a monthly support group for individuals and families who live with early onset Alzheimer’s. She also works with patients and families in the Rush Memory Clinic.

Thank you for this opportunity. I’m a licensed social worker and have worked with people who have Alzheimer’s disease for almost 30 years. For 8 years, I worked in long term care, as a Special Care Unit Director for a 74 bed Alzheimer’s unit. Then I worked in a corporate level consulting with numerous skilled care units as they developed their Alzheimer’s programs. For 20 years, I have worked at the Rush Alzheimer’s Disease Center in Chicago. As one of 29 federally funded Alzheimer’s Centers our mission is to provide research studies for people with Alzheimer’s, people at risk, healthy seniors and caregivers. Our mission also includes providing education for the seniors, caregivers, the public and health care professionals. The final part of our mission is to provide care for people with Alzheimer’s disease.

Through our efforts to provide care, for the past 13 years, I have coordinated Without Warning, a large support program for families living with younger onset Alzheimer’s disease. People with younger onset Alzheimer’s disease are 65 years old or younger when diagnosed. This program is for both the person with Alzheimer’s disease and their family members, which includes spouses, parents, children, friends and professional caregivers. This award-winning program is the largest of its kind in the country. When Without Warning started, we had an average of 15 people at a meeting. We now average 70 people. At times, we can have around 25 people with Alzheimer’s. Currently we break into 2 groups for people with Alzheimer’s disease and 5 groups for family members.

A major reason for the success of the Without Warning program is our board-certified music therapist, who has been with us since the program started. Because of her music therapy education and experience working with people living with Alzheimer’s disease, she skillfully uses music to help people maintain their identity and positive well-being. She at times can have over 10 people in her group who are all at a different stages of the disease. Her skills have been invaluable at connecting with people. In some cases, the people in her group have very limited abilities to interact with others. For example, if a person in the Without Warning group begins to cry due to feeling confused, lost, and anxious, the music therapist uses this client’s preferred music, altering the music in the moment as necessary, to help soothe and transform her mood to where the client is then singing and dancing. Each month we meet, I witness the clients in our music therapy group leave the session feeling in a state of well-being and connected to others.

Music therapists skillfully address multiple domains, such as social, emotional, cognitive and spiritual and client issues in one session, manipulating the various aspects of music to accomplish these outcomes. Untrained musicians do not have the knowledge or experience in applying therapy techniques within the music experience. Especially in elder care, there is a dramatic difference between music therapy and music for simple enjoyment. People who are not specifically trained as a music therapist should not be allowed to use that title.

Over my years working with people who have Alzheimer’s disease, I have witnessed times when people have tried to work in roles for which they are not qualified or trained. From such encounters, I’ve seen people with Alzheimer’s left feeling empty and unsupported. When such encounters continue to happen you often see an increase in anxiety and behaviors. In residential settings this can lead to an increase use of psychotropic medications. Through my role at the Rush Alzheimer’s Disease Center, I provide dementia specific training for staff who work in continuing care communities. A good part of my teaching looks at how staff’s interactions have a role in keeping people with Alzheimer’s in a space of wellbeing. Because of their
Alzheimer's disease people can often feel lonely, depressed and confused. They need people working with them who understand how their interactions can lift them up and help them feel connected to others. A qualified music therapist provides that skill.

Many skilled care facilities are not always able to afford a music therapist. In the future a pathway for reimbursement of music therapy should be considered. Thank you for this opportunity to share my experiences with people with Alzheimer's disease and the invaluable role of a qualified music therapist.

Martha Reggi

Martha Reggi, Chief of Business Prosecutions at IDFPR, spoke to the Advisory Board on February 6, 2017. Ms. Reggi previously served as an Associate General Counsel at IDFPR. She provided an overview of IDFPR and the disciplinary process, which would apply to music therapists if they regulated by IDFPR. Ms. Reggi presented a power point on the following topics:

Complaints: Ms. Reggi explained that the disciplinary process begins when a complaint is filed in the Complaint Intake Unit. The person who filed the complaint is referred to as the “complainant” and the person against whom the complaint is filed is referred to as the “respondent.” The complaint is then referred to the appropriate Investigations Unit, where it is then assigned to an investigator.

Investigations: Once received by the investigator, he or she conducts interviews of all parties as necessary, gathers relevant documents and information (e.g., medical records, billing records, correspondence between the complainant and the respondent), and visits any facilities where the allegations occurred if needed. Once the investigator completes the investigation, the case is either closed or referred to prosecutions. Complaints can be closed for a number of reasons, including an expiration of the statute of limitations, that there was insufficient evidence to prove a violation, that the allegations even if true are not a violation, or that the allegations are unfound. If the complaint is referred to prosecutions, there are two tracks (1) formal, and (2) informal.

Prosecutions – Formal Track: Under the formal track, a prosecutor in the appropriate Prosecutions Unit files a formal complaint against the respondent stating the allegations with citations to the statutory and administrative rule provisions allegedly violated. If the respondent does not appear before IDFPR to contest the allegations, an Administrative Law Judge (“ALJ”) enters a default judgment against the respondent and the case is forwarded to the applicable board or committee for review. If the respondent appears, litigation proceeds (discovery, conferences, and status hearing) and ultimately leads to a formal hearing, which is a trial. At the conclusion of the trial, the ALJ submits a report of the case and recommended discipline, along with the record, to the applicable board or committee for review. The board or committee, which is advisory to the IDFPR, deliberates the case and make a recommendation to the Director, which may include discipline. Finally, the Director, with authority granted by the Secretary, adopts or rejects the Board’s recommendations by issuing a final administrative order.

Prosecutions – Informal Track: In the informal track, an informal conference is held with the prosecutor, respondent, respondent’s attorney (if represented), and one or two board members. If all parties reach an agreement, it is executed in a settlement agreement called a consent order, which must be approved by the Director. If an agreement is not reached, the case proceeds through the formal track.

Discipline and Administrative Review: Ms. Reggi also provided information on the appeals process, called “Administrative Review,” and examples of the types of discipline that IDFPR can impose:

- Non-Public
  - Administrative Warning Letter
o Non-Public Consent Order

• Public
  o Reprimand
  o Refuse to Renew a license
  o Probation
  o Suspension
  o Revocation
  o Fines up to $10,000 per violation (typically)

_Cindy Ropp_

Cindy Ropp, EdD, MT-BC, serves as Associate Professor for the Illinois State University, College of Fine Arts in Normal, Illinois. Dr. Ropp teaches undergraduate and graduate music therapy coursework. She is also responsible for all administrative aspects of the music therapy program. Dr. Ropp is a current advisor for all graduate students in music therapy.

On February 06, 2017, Dr. Ropp testified at the music therapy advisory board meeting about Illinois State University standards for undergraduate degree requirements. She stated that while curriculum varies by school, the three main areas in which a student must demonstrate competency are: musical foundations, clinical foundations, and music therapy foundations and principles. In addition to completing academic coursework, the bachelor's degree requires a 6-month supervised internship off campus. Master's degrees in Music Therapy focus on advanced clinical practice and research. In Illinois, the only program to offer the graduate degree is Illinois State University. Dr. Ropp discussed the certification process and reviewed the American Music Therapy Association standards for clinical training and the certification process. Ms. Ropp supports music therapy licensure in the state of Illinois if criteria for licensure lines up with the American Music Therapy Association, allows us to work within our scope of practice, and is cost-effective.

_Bryan Martin_

Bryan Martin is the Chief Financial Officer for IDFPR. He has been with IDFPR since September 2013. Mr. Martin obtained a master's degree in Business Administration in 2010 at Eastern Illinois University. On February 27, 2017, Mr. Martin testified on the cost analysis he produced for the IDFPR for regulating the music therapy profession. The following cost analysis was provided to the music therapy advisory board members:
### ILPFR Cost Estimator

#### Music Therapy - DRAFT 2-3-17

<table>
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<tr>
<th># of Pos</th>
<th>Vacant Job Title or Employee Name</th>
<th>Percentage of Employee Needed</th>
<th>Monthly Salary</th>
<th>100% Annual Salary</th>
<th>100% Annual Retirement</th>
<th>100% Annual Social Security</th>
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#### Annual Employee Overhead Costs Estimate

- Travel: $1,000.00
- Commissions: $500.00
- Printing: $500.00
- Equipment: $1,000.00
- EDP: $2,000.00
- Telecom: $600.00

#### Program Overhead Costs Estimate

- Start-up Costs: $-
- Other Annual Costs: $-

#### Total Annual Costs

- Total Annual Costs: $647,923

#### Other Information

- Population: 281,481
- Estimated Annual Fee: $89,200

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Illinois Music Therapy Advisory Board
Illinois Music Therapy Advisory Board Recommendation Overview

Following nine (9) Board meetings, 38 witnesses’ testimonies, and approximately $20,137.93 in Illinois Department of Financial and Professional Regulation (“Department”) resources and staff time in support of the Board, the following Illinois Music Therapy Advisory Board members make their recommendation:

- Jessica Baer, Chairperson
- Andrea Crimmins, Board Member
- Louise Dimiceli-Mitran, Board Member
- Kyle Fleming, Board Member
- Candyce L. Gray, Board Member
- Russell E. Hilliard, Board Member
- Clifton Saper, Board Member

Board members Crimmins, Dimiceli-Mitran, Fleming, and Hilliard recommend the following:

1) Establish licensure by way of a professional practice statute for music therapists to protect the public and vulnerable client populations from harm;

2) Establish licensure of music therapists to ensure a professional standard of excellence in the implementation and practice of music therapy; and

3) Substantially lower fees from the cost proposed in the fiscal analysis for licensure as the proposed costs are prohibitive.

In addition, Board members Dimiceli-Mitran and Fleming recommend that a masters in music therapy be a licensure requirement in order to ensure professionals acquire the knowledge, skills, and abilities for competence in the current practice of music therapy due to advanced training in specialized fields.

Board members Baer, Gray, and Saper recognize the therapeutic benefit of music to address the cognitive, emotional, physical, social, or functional needs of clients, and the value of music to comfort and aid those who are sick, injured, or dying. However, these Board members do not support state licensure of music therapists for the following reasons:

1) There is no empirical evidence of provable public harm or consumer protection inefficacy related to the practice of music therapy;

2) The cost of regulation is unduly burdensome to music therapists, other licensed professionals, and the people of the State of Illinois, with less restrictive means available to ensure skilled practice; and

3) Regulation of music therapy by the Department is not a pathway to insurance reimbursement.
Illinois Music Therapy Advisory Board Recommendation

A. Board Members Crimmins, Dimiceli-Mitran, Fleming, & Hilliard’s Recommendation

1) Protection of the Public from Harm.

It is our belief that the most effective way to minimize public harm, specifically to vulnerable populations such as persons with Alzheimer’s disease, autism spectrum disorder, young children with special needs, and military populations is to require state licensure via practice act. In the absence of regulation, we believe specific populations are not protected from harm due to misuse of terms and techniques of music therapy. Moreover, potential for harm exists if a nonqualified individual provides inappropriate applications of music that could cause emotional and or physical harm.

There are multiple entities that provide a risk of potential harm for the Illinois population. However, there is a lack of formally documented complaints on non-music therapy professionals causing harm when applied inappropriately. Without regulation, there is no official venue to report complaints. The main purpose of the AMTA and CBMT is to serve and monitor the work of credentialed music therapists. In order to increase understanding, the CBMT and AMTA began recording reports from members when it was observed that non-music therapists caused harm using music. Additionally, clinical research has indicated potential for harm if music is applied inappropriately. Music therapists are educated and trained to understand these contraindications. In frequent cases, health care administrators and other professionals lack understanding about the education, training, scope of practice, and credentialing process that defines the difference between a music therapist and a non-music therapist. Even hospital administrators have confusion as to the regulation of music therapists, indicating that education on the scope of practice of music therapy is required. This is further evidence that regulation would help protect the public from receiving services from untrained, non-credentialed practitioners.

The current lack of music therapy licensure in the state leaves Illinois residents at risk for negative social, emotional, and physical consequences due to the inability of an untrained individual having no experience or understanding of assessment, treatment planning, and evidence-based music therapy protocols. No known, official complaints have been made to the state of Illinois regarding music therapy, but just because it is not documented does not mean there is no public harm occurring or risk for harm in the future. For example, in neonatal intensive care units, evidence-based music therapy protocols are established to ensure safety by considering decibel levels, type of music, and duration or frequency of music intervention. For instance, using drum circles present a scenario of potential harm for newborns’ ears and any drumming levels must be sufficiently controlled and contained to prevent any lasting harm. A non-music therapist using inappropriate music intervention would cause physical harm to the underdeveloped sensory systems of premature fragile infants. Licensure would ensure that only qualified, trained individuals who have met the education, clinical training and examination requirements will be able to practice music therapy.

Board member Fleming noted that shortly after the shooting incident at Sandy Hook Elementary School in Connecticut, the community had issues with practitioners claiming to be music therapists and engaging in unlicensed practice. Additionally, music therapists intervening too soon after the shooting incident potentially caused psychological harm to community members, causing a distrust in various counseling professionals in the community.

2) Establish a Minimal Professional Standard.

State regulation would ensure a professional standard of excellence in the implementation and practice
of music therapy. After careful consideration of the testimony presented and discussion among the advisory board members, it is our recommendation that, absent the establishment of state mandated minimum standards, the Illinois General Assembly, enact minimum qualification, education, and ethical standards for music therapists.

We believe state licensure will lead to competent and ethical music therapy practice. Licensure would require practitioners to meet certain qualifications and establish a system for Illinois residents to verify education and training, since some music therapists do not follow CBMT or AMTA requirements. As a result, the people of Illinois have difficulty distinguishing between professionals that use or may use music as a treatment modality or as an adjunct to treatment; including but not limited to, therapeutic harp practitioners, mental health counselors, music thanatologists, etc. Music therapists frequently address similar treatment goals as other allied health professionals. What distinguishes music therapy from other therapies, however, is the use of music as the therapeutic tool. In the music therapy profession even highly trained experts can make mistakes, showing the need for licensure and professional standards to be established to heighten such standards. Given that other music related professions do not have such a high standard of care; it is essential that an established skill set be outlined for this profession.

Board member Fleming also recommends that means for insurance reimbursement be explored, although he understands that the Department of Financial and Professional Regulation is not the avenue for such a request.

Board member Dimiceli-Mitran also recommends that an analysis of music therapists working with the developmentally and physically disabled geriatric populations be examined to assist with licensure. Such music therapists serve a different function than psychological based music therapists and this would require a closer look for licensure purposes.

3) Lower Costs in Fiscal Proposal.

It is also our recommendation that the Illinois General Assembly lower the Department's 2017 fiscal cost proposal outlining the direct and allocable indirect costs of licensing and regulating music therapy. Given the average annual earnings of music therapists, licensure would be more accessible if costs were reduced. The current proposed cost analysis may discourage skilled music therapists from entering the profession.

Board member Fleming also recommends that similar professions such as social workers and licensed professional counselors be licensed and added to the population pool to lower the costs for individual music therapists. Drama therapists, art therapists, and recreation therapists also have joint interests with music therapists and could assist in lowering costs overall by adding more to the license population pool. Board member Hilliard noted that the State of New York attempted similar bundling of licenses for regulation of creative therapy practice; however, this presented various problems leading to New York separating the various professions.

Board member Dimiceli-Mitran recommends that a volunteer music therapist investigator, or more, be used to save costs as done in other states.

B. Board Members Dimiceli-Mitran & Fleming’s Masters Recommendation.

Board members Dimiceli-Mitran and Fleming recommended state licensure with the stipulation that a master’s in music therapy degree is obtained, by first completing the required undergraduate music therapy
coursework. By way of background, the music therapy degree is a professional music degree which requires an audition for acceptance into the school of music. This specialized degree is offered at over 70 colleges and universities whose degree programs are approved by the American Music Therapy Association.

The Board heard many hours of testimony from various guests, as set forth in this Report. A common theme among these guests was the importance of a music therapy graduate degree because the curriculum imparts professional competencies in three main areas:

- music;
- music therapy; and
- related coursework in science and psychology.

Education and clinical training of music therapists is unique because it involves not only foundations in music and music therapy, but also includes coursework and practical applications in biology, anatomy, psychology, social and behavioral sciences.

It is our belief that music therapy is a master’s level practice. Music therapists who obtain a master's degree in music therapy expand their skills by allowing the music therapist to gain a comprehensive understanding of the clinical process of the client and the therapist’s impact on that process. We feel that the understanding of theories and practices in assessment, treatment, and evaluation allows the advanced music therapist to take a central and independent role in client treatment plans.

C. **Board Members Crimmins & Hilliard Dissent to Masters Recommendation.**

Board member Crimmins strongly opposes the Master’s Recommendation for licensure because the profession of music therapy is a bachelor's level entry field, as defined by the education standards set forth by the nationally recognized AMTA, and the credentialing standards of the CBMT. It would be detrimental and illogical to dictate something different for the State of Illinois only. Additionally, it is inaccurate that music skill, music therapy theory/principles, and science/psychology courses are taught at the graduate level. These courses are also taught at the undergraduate level and all areas of professional competence, scope of practice, and the certification domain apply to bachelor’s level music therapy.

Board member Hilliard also opposed the Masters Recommendation for licensure.

D. **Board Members Baer, Gray, and Saper’s Recommendation.**

1) **Lack of Public Harm Evidence.**

Illinois law sets policies and objective standards for legislative review of proposed licensing statutes. Illinois law calls for a structured cost-benefit policy analysis of proposals for new professional regulation. The law places upon the proponents of new regulation the burden to demonstrate the genuine necessity of that regulation to the protection of the public. 20 ILCS 2105/2105-10.

If regulation of a profession is found necessary by the legislature based upon the criteria outlined in the Civil Administrative Code of Illinois, 20 ILCS 2105/2105-10, and is “a matter of public interest and concern that standards of competency and stringent penalties for those who violate the public trust be established,” then “the General Assembly shall appropriate necessary funds,” consistent with the public interest.
Based upon information contained in this Report, interviews with interested parties and regulators of other counseling professions, written comments submitted by the Board, and research conducted by the Department, there is no clear recognizable threat to public health and safety from the unregulated practice of music therapy. The Department’s finding is consistent with both the Colorado and Washington State sunrise reviews, which concluded that there is no demonstrated public interest or need to warrant the creation of a new regulatory program or to protect the title, “music therapist” or “board-certified music therapist.”

Testimony and written comments were provided by supporters of state licensure that regulation was needed to protect the public from the misuse of terms and techniques of music therapy due to an increasing number of unqualified individuals in Illinois claiming to be music therapists. However, when asked about specific instances of public harm, witnesses could only provide unverified, anecdotal evidence and no specific situations in the state of Illinois. Based upon independent legal and public health related research conducted by the Department, the following was reported:

- As of May 2016, the Illinois Attorney General’s Office confirmed there were no complaints against any music therapists.
- Instances of harm are extremely rare, with only five (5) instances of harm reported by the national credentialing body over a 16-year period, even though there were over 6,000 music therapists certified by the board at that time.
- Other states that have instituted a full licensure program have reported extremely low numbers of disciplines and/or complaints for substantive practice issues.

The public can be effectively protected by other means in a more cost-beneficial manner. Fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Illinoisans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer. In Illinois, individuals may bring actions under the Consumer Fraud Act (CFA). Under the CFA, it is a deceptive trade practice to claim to possess a degree or a title associated with a particular degree unless the person has been awarded the degree. Moreover, consumers can file a complaint with the Illinois Attorney General’s Office, which protects consumers from unfair business practices.

The majority of music therapy complaints reported are for unlicensed practice, which is not directly correlated to public harm. A degree in music therapy and private board certification are credentials that offer consumers assurance of professional competency. Private certification is available to music therapists through the Certification Board for Music Therapy (CBMT). Only those individuals who hold this credential may represent themselves as board-certified music therapists, or place the initials MT-BC after their names. CBMT actively pursues individuals who falsely represent themselves as board-certified music therapists, and consumers can easily verify whether an individual is a board-certified music therapist. The CBMT also has the authority to deny, revoke, suspend and require additional education of board-certified music therapists who are in violation of the certification standards. This includes gross or repeated negligence or malpractice in professional practice including a sexual relationship with a client, and sexual, physical, social or financial exploitation.

2) Undue Burden of Cost and Less Restrictive Means to Ensure Skilled Practice.

State licensure would place a heavy financial burden on the small pool of potential music therapy practitioners to cover the state’s costs of regulating the profession. Appropriations for the direct and allocable indirect costs of licensing and regulating each regulated profession, trade, occupation, or industry
are intended to be payable from the fees and fines that are assessed and collected from that profession, trade, occupation, or industry, to the extent that those fees and fines are sufficient. (20 ILCS 2105/2105-300(a)). According to the Certified Board for Music Therapists, there were a total of 262 board certified music therapists in Illinois in 2017. Music Therapy state regulation would create a financial barrier for entry into the music therapy profession due to the small number of potential credential holders.

The Department’s 2017 fiscal cost analysis for estimated licensing fees is $2,501.74, per music therapist. Costs include processing credential applications, confirming education, examination scores, and criminal background checks. Costs also include processing renewals, responding to inquiries, investigating complaints, taking enforcement action if needed, recordkeeping, and rule making.

Licensure is not needed to ensure the qualifications of music therapists because qualifications for a national music therapist credential are already standardized, with minimum education requirements set by the AMTA and an examination based on core competencies of music therapy administered by the CBMT. Music therapists seeking to maintain a CBMT credential must pay the costs of obtaining a music therapy degree, CBMT testing, and continuing education. State licensure would be an additional expense to the already existing costs associated with national certification, without a corresponding increase in public benefit.

Based upon testimony provided by witnesses, state regulation would prevent other practitioners in various professions from using music as a therapeutic modality since licensure prohibits people from applying elements of the practice of music therapy without certification as a music therapist. Occupational therapists, nurses, physical therapists, speech language pathologists, and other health providers may use music as an intervention to treat patients. Several credentialed mental health providers, rehabilitative and massage therapy professionals also use music as a treatment modality or as an adjunct to therapy. In Illinois there are various pathways for clinicians to obtain licensure in counseling, social work, or psychological services. Currently, music therapists are able to provide music therapy interventions as part of the counseling, social work, or psychological services they are providing, if they already hold licenses in these professions. Licensure may inhibit their use of music as a treatment tool and encroach on the scope of practice of other professions. In addition, it may prohibit the use of music-based therapy by Native Americans and other traditional healers who may use music therapy to aid the sick, injured, or dying.

3) Licensure is Not a Pathway to Insurance Reimbursement.

Supporters of regulation believe that a separate and freestanding music therapy license would facilitate payment by insurers, governmental healthcare payers, and public school systems.

Witnesses provided oral testimony that the criterion for obtaining general insurance coverage requires an extensive analysis by the third party payer of the supportive evidence and clinical protocols established for healthcare interventions. The music therapy profession is still defining these areas. An example of how the AMTA is tackling a specific area critical to advancing reimbursement efforts is through the research strategic priority. This priority and its operational plan were developed to address the direction of research in support of evidence-based music therapy practice and improved workforce demand. And to recognize and incorporate, where necessary, federal, state and other entity requirements for evidence-driven research as it relates to practice policy and reimbursement.
The American Music Therapy Association estimates that approximately 20% of music therapists already receive third party reimbursement for the services they provide.143 Music therapy is comparable to other allied health professions like occupational therapy and physical therapy in that individual assessments are provided for each client, service must be found reasonable and necessary for the individual’s illness or injury and interventions include a goal-directed documented treatment plan.144 Companies like Blue Cross Blue Shield, United Healthcare, Cigna, and Aetna have all paid for music therapy services at some time. Success has occurred on a case-by-case basis when the therapist implements steps within the reimbursement process.145 Like other therapies, music therapy is reimbursable when services are pre-approved and deemed medically or behaviorally necessary to reach the individual patient’s treatment goals.

It is important to note that establishing a state recognition program does not guarantee automatic inclusion in various funding streams. The music therapy community understands the need to provide research evidence to support reimbursement requests from different payment systems. AMTA and CBMT provide guidance to music therapists in differentiating between state recognition goals and benefits and the completely separate payer-based process to seek coverage for music therapy interventions.
Acknowledgments

The Illinois Music Therapy Advisory Board would like to thank the following Board members and participants who assisted in Board meetings and this report.

Illinois Music Therapy Advisory Board
Jessica Baer, Chairperson, Director of the Division of Professional Regulation
Andrea M. Crimmins, Board Member
Louise Dimiceli-Mitran, Board Member
Kyle Fleming, Board Member
Candyce L. Gray, Board Member
Russell E. Hilliard, Board Member
Clifton Saper, Board Member

Department of Financial and Professional Regulation of the State of Illinois
Bryan Schneider, Secretary of the Department of Financial and Professional Regulation
Martha Reggi, Chief of Business Prosecutions
Milana Lublin, General Counsel to the Board
John Webb, Director of Legislative Affairs for the Department
Bryan Martin, Chief Financial Officer for the Department
Munaza Aman, Assistant General Counsel for the Department
Vaughn Bentley, Staff Attorney for the Department
Dennis Jung, Office of the Secretary
Steven Monroy, prior Staff Attorney for the Department
Stephanie Rosienski, Law Clerk for the Department
Jay Stewart, prior Director of the Division of Professional Regulation
Daniel Kelber, prior Acting Director of the Division of Professional Regulation
Azeema Akram, prior General Counsel to the Board

Board Meeting Guest Speakers
Sherry Thomas, Policy Coordinator, Washington Department of Health: Health Systems Quality Assurance
Suzette Farmer, Utah Division of Occupational & Professional Licensing
Nancy Swanson, Illinois Music Therapy Association
Paula Worthington, Claudia Figueroa, Raul Meija, Cecelia Black, Carolina Arguto Salazar, University of Chicago, Harris School of Public Policy
Kyle Hillman & Joel Rubin, National Association of Social Workers
Deborah Hagan, Illinois Attorney General's Office, Chief of the Consumer Protection Division
Leticia Metherell, State of Nevada Department of Health and Human Services Division of Public and Behavioral Health
Mike Simoli, Health Program Administrator, Center for Professional Licensing of the Rhode Island Department of Public Health
Jamie Adams, Records Management Supervisor, Wisconsin Department of Safety & Professional Services
Vivienne Belmont, Colorado Department of Regulatory Agencies
Megan E. Castor, Assistant Counsel, Pennsylvania State Board of Social Workers, Marriage and Family Therapists and Professional Counselors of the Pennsylvania Department of State
Ari Bargil, Institute for Justice
Elizabeth Kregor, Institute for Justice Clinic on Entrepreneurship
David Hamilton, Executive Secretary of the New York Office of the Professions
Jim Cleghorn, Executive Director of Georgia Board of Nursing and Music Therapists
Nicholas Goodwin, Professional Licensing Agency
Illinois Music Therapy Advisory Board

Carolyn Kahn, Illinois Mental Health Counselors Association
Tom Parton, President of the IL Speech Language Hearing Association
Terrence Koller, Illinois Psychological Association
Dr. Firas Nakshabandi & Meryl Camin Sosa, Esq., Illinois Psychiatrists Association
Dena Register, Certification Board for Music Therapists
Lisa Mahaffey, President, and Robin Jones, Advocacy Director, Illinois Occupational Therapy Association
U-Jung Choe, Illinois Competitiveness Council
Holly Schaefer, Safe Haven School
Cindy Ropp, Illinois State University
Mischa Fisher, Policy Advisor for Economic Development, Office of Governor Bruce Rauner
Susan Frick, Rush Alzheimer’s Disease Center
Judy Simpson, American Music Therapy Association

Board Meeting Guests
Stacey Massey, Institute for Justice Clinic on Entrepreneurship
Meryl Camin Sosa, Esq., Executive Director, Illinois Psychiatric Society
Cindy Ropp, Associate Professor in College of Fine Arts – Music Therapy Program, Illinois State University
Emily Gibellina, Associate General Counsel, Office of Governor Bruce Rauner
Exhibits

The following are attached as exhibits to the Board’s Report:

1. Board Meeting Minutes
   a. April 25, 2016
   b. June 27, 2016
   c. August 30, 2016
   d. September 26, 2016
   e. October 31, 2016
   f. November 28, 2016
   g. February 06, 2017
   h. March 06, 2017
   i. April 10, 2017


3. University of Chicago, Harris Policy School
   a. The University of Chicago, Harris Policy School “Sunrise Review for Music Therapy”
   b. Power point presentation

4. American Music Therapy Association
   a. “Music Therapy Reimbursement”
   b. “Music Therapy Reimbursement Information”
Illinois Department of Financial & Professional Regulation Division of Professional Regulation Music Therapy Advisory Board Minutes

Date: April 25, 2016
Call to Order: 10:05 am – Jay Stewart, Chairperson
Location: IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor Room 9-171A Chicago, IL 60601
Board Members Present: Jay Stewart, Chairperson; Andrea M. Crimmins, Board Member; Louise Dimiceli-Mitran, Board Member; Kyle Fleming, Board Member; Candyce L. Gray, Board Member
Board Member(s) Absent: Russell E. Hilliard, Ph.D., Board Member
Staff Members Present: Martha Reggi, Associate General Counsel; Azeema Akram, Assistant General Counsel

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<tr>
<th>Topic</th>
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<tr>
<td>Roll Call</td>
<td>Jay Stewart, present&lt;br&gt;Andrea M. Crimmins, present&lt;br&gt;Louise Dimiceli-Mitran, present&lt;br&gt;Kyle Fleming, present&lt;br&gt;Candyce L. Gray, present&lt;br&gt;Russell E. Hilliard, Ph.D., absent</td>
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<tr>
<td>Introductions</td>
<td>Each Board member, Department staff, and guest introduced themselves.</td>
<td></td>
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<tr>
<td>Chairperson Election</td>
<td>Overview of Music Therapy Advisory Board Act: Stewart provided an overview of the Music Therapy Advisory Board Act. Board Orientation by General Counsel: General Counsel provided a Board Orientation regarding ethics, the Open Meetings Act, public speaking engagements, and other relevant matters for Board members. Analysis of Potential Witnesses: Board members analyzed potential witnesses for future meetings. Tax Preparer Board Report Review: Board members reviewed the Board’s Report to gain guidance on the structure of their own report. Travel vouchers and statement of economic interests forms were made available to Board members. Potential future meetings were discussed.</td>
<td>A motion was made by Stewart / seconded by Dimiceli-Mitran to elect Stewart as Chairperson. Motion passed unanimously.</td>
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<tr>
<td>New Business</td>
<td>There being no further business to discuss, a motion was made by Gray / seconded by Fleming to adjourn at 10:50 am. Motion passed unanimously.</td>
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Adjournment
Ilinois Music Therapy Advisory Board

**Exhibit 1(B)**

**Illinois Department of Financial & Professional Regulation Division of Professional Regulation**

**Music Therapy Advisory Board Minutes**

**Date:** June 27, 2016

**Call to Order:** 11:01 A.M. – Jay Stewart, Chairperson

**Location:** IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor Room 9-171A

Chicago, IL  60601

**Board Members Present:** Jay Stewart, Chairperson Andrea M. Crimmins, Board Member, Louise Dimiceli-Mitran, Board Member Kyle Fleming, Board Member Candyce L. Gray, Board Member Clifton Saper, Board Member

**Board Member(s) Absent:** Russell E. Hilliard, Board Member

**Staff Members Present:** Azeema Akram, Assistant General Counsel Munaza Aman, Staff Attorney Steven Monroy, Staff Attorney


Via phone:
Suzette Farmer Utah Division of Occupational & Professional Licensing Sherry Thomas, State of Washington Department of Health

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<tr>
<td>Roll Call</td>
<td>Jay Stewart, present Andrea M. Crimmins, present Louise Dimiceli-Mitran, present Kyle Fleming, present Candyce L. Gray, present Clifton Saper, present Russell E. Hilliard, absent</td>
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<tr>
<td>Introductions</td>
<td>Each Advisory Board member, Department staff, and guest introduced themselves.</td>
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<tr>
<td>Approval of April 25, 2016 Minutes</td>
<td></td>
<td>A motion was made by Dimiceli-Mitran / seconded by Gray to approve the April 25, 2016 meeting minutes. Motion passed unanimously.</td>
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<tr>
<td>Analysis of Advisory Board Action</td>
<td>Chairperson Stewart reviewed the previous meeting that took place and reviewed the agenda. Ms. Akram circulated a copy of correspondence from the Illinois Attorney General’s Office stating that the Consumer Protection Division has received no complaints against music therapists to date.</td>
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<td>Guest Suzette Farmer, Utah Division of Occupational &amp; Professional Licensing</td>
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<td>Ms. Farmer reviewed Utah’s licensure of music therapists since 2014, including the general regulatory framework, licensure application requirements, fees, and disciplinary actions. She also clarified that music therapists who are licensed in Utah receive title protection only, and answered Advisory Board member inquiries regarding the number of licensees and continuing education requirements.</td>
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<th>Guest Sherry Thomas, State of Washington Department of Health</th>
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<td>Ms. Thomas reviewed Washington’s sunrise review process, which ended in 2012. She discussed the final report that was issued, which recommended against requiring state certification of music therapists. Ms. Farmer highlighted a few of the reasons for the recommendation, including lack of a demonstrated clear threat to public health &amp; safety from the unregulated practice of music therapy, the financial burden on the small number of potential licensees to cover the cost of regulating the profession, and the opposition from several other professions (e.g., occupational therapy, speech-language pathology) that had concerns about restricting the use of music in their fields. Ms. Farmer answered Advisory Board member inquiries regarding any complaints filed against music therapists and whether the potential licensure of music therapists in the State of Washington has been recently revisited.</td>
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<tr>
<th>Guest Nancy Swanson, Illinois Music Therapy Association</th>
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<td>Ms. Swanson thanked the Advisory Board for inviting her to speak and discussed the Illinois Music Therapy Association’s (“IMTA”) position advocating for licensure of music therapists. She reviewed the reasons in favor of licensure, including insurance reimbursement, consumer protection, and increased consumer access to services. She also reviewed the public harm that necessitates regulation, including misrepresentation of credentials by individuals holding themselves out as music therapists, as well as types of client cases that require familiarization with medical concerns, risks, and clinical knowledge. Ms. Swanson provided an overview of the scope of practice for a music therapist and explained how the overlap with other professions works since music therapists do not perform diagnosis. She also discussed educational requirements for certification. Ms. Swanson answered Advisory Board member inquiries regarding the nature of disciplinary actions taken against music therapists, whether there are IMTA members who hold licensure in other fields, and whether there is any pending legislation in other states to license music therapists.</td>
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<tr>
<th>Guests Paula Worthington, Claudia Figueroa, Raul Meija, Cecelia Black, &amp; Carolina Arguto Salazar, University of Chicago-Harris School of Public Policy</th>
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<tr>
<td>Ms. Worthington, Ms. Figueroa, Mr. Meja, Ms. Black, &amp; Ms. Salazar reviewed a music therapy sunrise review project they completed for the Department. They discussed background information on the profession, current market conditions, regulation of music therapy in other states, and compared the</td>
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They also provided a risk analysis of the need for licensure of music therapists, along with arguments for and against licensure. Finally, they recommended that music therapists not be licensed for several reasons, primarily a lack of public harm necessitating the license. They suggested that the Advisory Board explore title protection as an alternative to more restrictive regulation. They answered several questions from the Advisory Board on all aspects of their sunrise review project.

**Guests Kyle Hillman & Joel Rubin, National Association of Social Workers – Illinois Chapter**

Mr. Hillman thanked the Advisory Board for inviting him and Mr. Rubin to speak. He discussed the National Association of Social Workers’ position against the licensure of music therapists. He provided an overview of several reasons against licensure, such as a concern that some related professions (e.g. speech therapy) lack the academic or clinical training to provide mental health services & the low number of potential licensees. He suggested that if the Advisory Board decides to recommend licensure, that they consider title protection &/or requiring post-graduate supervised clinical experience similar to that of licensed social workers (“LSWs”) & licensed professional counselors (“LPCs”), both of which are the lower-level license in those fields. Mr. Hillman & Mr. Rubin answered Advisory Board questions regarding the minimum educational and experience requirements for the lower-level social worker license.

**Old Business**

Analysis of Potential Witnesses: Advisory Board members analyzed potential witnesses for future meetings. The Advisory Board discussed potential future meetings dates for August and September. Travel vouchers were distributed to Advisory Board members.

**Adjournment**

There being no further business to discuss, a motion was made by Dimiceli-Mitran / seconded by Crimmins to adjourn at 12:54 P.M. Motion passed unanimously.
Exhibit 1(C)

Illinois Department of Financial & Professional Regulation  
Division of Professional Regulation  
Music Therapy Advisory Board Minutes

Date:  
August 30, 2016

Call to Order:  
10:05 A.M. – Daniel Kelber, Acting Chairperson

Location:  
IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor  
Room 9-171A, Chicago, IL 60601

Board Members Present:  
Daniel Kelber, Acting Chairperson  
Andrea Crimmins, Ph.D., MT-BC, Board Member  
Louise Dimiceli-Mitran, LCPC, MT-BC, Board Member  
Kyle Fleming, MT-BC, Board Member  
Candi Gray, LCSW, Board Member  
Russell Hilliard, Ph.D., LCSW, MT-BC, Board Member  
Clifton Saper, Ph.D., Board Member

Board Member(s) Absent:  
None.

Staff Members Present:  
Azeema Akram, Assistant General Counsel  
Vaughn Bentley, Law Clerk, Office of General Counsel  
Stephanie Rosienski, Law Clerk, Office of General Counsel

Guests:  
Ari Bargil, Attorney, Institute for Justice  
Elizabeth Kregor, Institute for Justice Clinic on Entrepreneurship

Via phone:  
Leticia Metherell, State of Nevada Department of Health and Human Services, Division of Public and Behavioral Health  
Mike Simoli, Center for Professional Licensing of the Rhode Island Department of Public Health  
Jamie Adams, Wisconsin Department of Safety & Professional Services  
Vivienne Belmont, Colorado Department of Regulatory Agencies  
Megan Castor, Pennsylvania Department of State

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| Roll Call                    | Daniel Kelber, Acting Chairperson, present  
Andrea Crimmins, Ph.D., MT-BC, Board Member, present  
Louise Dimiceli-Mitran, LCPC, MT-BC, Board Member, present  
Kyle Fleming, MT-BC, Board Member, present  
Candi Gray, LCSW, Board Member, present  
Russell Hilliard, Ph.D., LCSW, MT-BC, Board Member, present  
Clifton Saper, Ph.D., Board Member, present |        |
| Introductions                | Each Advisory Board member, Department staff, and guest introduced themselves.                                                                                                                                 |        |
| Analysis of Advisory Board Action | Ms. Akram reviewed the previous meeting that took place and reviewed the agenda.  
Ms. Akram informed the Board that the representative from the American Music Therapy Association who was scheduled to testify |        |
will attend a future meeting, and that another guest from the State of Pennsylvania is attending via telephone.

**Guest Leticia Metherell, State of Nevada Department of Health and Human Services, Division of Public and Behavioral Health**
Ms. Metherell reviewed Nevada’s licensure of music therapists since 2011 including the general regulatory framework, and licensure requirements. She also discussed that there have been no disciplinary actions taken against the 16 licensees in Nevada, and no complaints of unlicensed practice. Ms. Metherell answered Advisory Board questions regarding how the music therapy licensure began in the State of Nevada.

**Guest Mike Simoli, Center for Professional Licensing of the Rhode Island Department of Public Health**
Mr. Simoli reviewed Rhode Island’s licensure of music therapists since 2014 including the general regulatory framework, and licensure requirements. He discussed that there are now 3 licensees, and answered Advisory Board member questions on the number of complaints of unlicensed practice, of which there have been none to date. Mr. Simoli also answered Advisory Board inquiries regarding the terminology of “registration” and “licensure.”

**Guest Jamie Adams, Wisconsin Department of Safety & Professional Services**
Ms. Adams reviewed Wisconsin’s licensure of music, dance, and art therapists since 1999, including the general regulatory framework and licensure requirements. She discussed the total number of licenses issued, number of active licenses (75), and one reported case of discipline. Ms. Adams also highlighted Wisconsin’s statutory definition of psychotherapy, included in the psychology licensure statute, and its interplay with music therapy. She answered Advisory Board questions regarding supervisor qualifications and music therapists who practice psychotherapy.

**Guest Vivienne Belmont, Colorado Department of Regulatory Agencies**
Ms. Belmont reviewed Colorado’s sunrise review process, in which new regulated professions are proposed, and the criteria used in formulating a recommendation. She discussed the State’s sunrise review of music therapy, which was initiated by the American Music Therapy Association’s sunrise review application in 2013 seeking title protection regulation. Ms. Belmont discussed the final report that was issued, which recommended against title protection regulation of music therapists. She highlighted a few of the reasons for the recommendation, including a lack of demonstrated public interest or need, lack of demonstrated harm to the public from the unregulated practice of music therapy, and lack of complaints in the State against music therapists. Ms. Belmont answered Advisory Board inquiries regarding whether this may change in the future, and discussed the regulation of a new profession from a public protection standpoint rather than setting minimum standards for the profession.

**Guest Megan Castor, Pennsylvania Department of State**
Ms. Castor reviewed the title protection regulation of mental health professions in Pennsylvania. She explained that there is no separate license for music therapists, and that a professional counselor license allows for the practice of music therapy. Ms. Castor reviewed the educational requirements for licensure for professional counselors, as the education in several fields meet the requirements for licensure, such as education in psychology, dance, music, and art therapy. She discussed the expense of regulating music therapists separately, and that there have been bills pending in the legislature with no progress at this time. Ms. Castor answered Advisory Board inquiries regarding the number of professional counselors who practice music therapy and number of complaints.

Guest Ari Bargil, Institute for Justice
Mr. Bargil thanked the Advisory Board for inviting him to speak and reviewed the Institute for Justice’s position against full licensure of music therapists by highlighting several implications of licensure and suggesting less restrictive alternatives to licensure. Specifically, he discussed the First Amendment implications of regulating music as a restriction on a protected form of speech. Mr. Bargil explained how occupational licensing has led to excessive government regulation, and discussed consequences of occupational licensing, such as limitations on opportunity, inhibitions on competition, and stifling innovation. He discussed the types of circumstances that require more government oversight through licensure, such as a risk of harm to public health & safety, & suggested a form of title protection or registration as alternatives to licensing. Mr. Bargil answered Advisory Board member questions on all aspects of his testimony.

Guest Elizabeth Kregor, Institute for Justice Clinic on Entrepreneurship
Ms. Kregor thanked the Advisory Board for inviting her to speak and continued the discussion by Mr. Bargil regarding the consequences of occupational licensure, and recommending against full licensure of music therapists. She discussed the exclusionary effect of licensure against disadvantaged individuals, both those who wish to practice music therapy and those who wish to receive services, leading to fewer jobs. She also discussed the exclusionary effect of licensure on innovation, by limiting diversity in the profession as a result of standardization of requirements of entry, leading to fewer developments in the field. Ms. Kregor reinforced Mr. Bargil’s suggestions for alternatives to licensure, and answered Advisory Board member inquiries regarding the position of the Institute of Justice as it applies to other professions as well.

<table>
<thead>
<tr>
<th>Approval of June 27, 2016 Minutes</th>
<th>A motion was made by Saper / seconded by Fleming to approve the June 27, 2016 meeting minutes. Motion passed unanimously.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old Business</td>
<td>Analysis of Potential Witnesses: Advisory Board members analyzed potential witnesses for future meetings. The Advisory Board discussed potential future meetings dates for October and November.</td>
</tr>
<tr>
<td>Adjournment</td>
<td>There being no further business to discuss, a motion was made by Hilliard / seconded by Gray to adjourn at 12:57 P.M. Motion passed unanimously.</td>
</tr>
<tr>
<td>-------------</td>
<td>---------------------------------------------------------------------------------------------------</td>
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<tr>
<td></td>
<td>Travel vouchers were distributed to Advisory Board members.</td>
</tr>
<tr>
<td></td>
<td>Ms. Akram reminded the Advisory Board to consider the issues raised by the guests at prior, current, and future meetings in formulating a recommendation to be included in the Advisory Board’s report due next year. Mr. Kelber answered questions about licensure and its alternatives in addressing the concerns raised by the industry, the public, and the government.</td>
</tr>
</tbody>
</table>
Illinois Department of Financial & Professional Regulation
Division of Professional Regulation
Music Therapy Advisory Board Minutes

Date: September 26, 2016

Call to Order: 10:06 A.M. – Jessica Baer, Chairperson

Location: IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor Room 9-034, Chicago, IL  60601

Board Members Present: Jessica Baer, Chairperson
Andrea Crimmins, Ph.D., MT-BC, Member (via phone)
Louise Dimiceli-Mitran, LCPC, MT-BC, Member
Kyle Fleming, MT-BC, Member
Candi Gray, LCSW, Member
Russell Hilliard, Ph.D., LCSW, MT-BC, Member (via phone)
Clifton Saper, Ph.D., Member

Board Member(s) Absent: None.

Staff Members Present: Azeema Akram, Assistant General Counsel
Vaughn Bentley, Law Clerk, Office of General Counsel
Stephanie Rosienski, Law Clerk, Office of General Counsel

Guests: Tom Parton, Past-President of the Illinois Speech Language Hearing Association
Kevin Morphew, Attorney, Sorling Northrup

Via phone:
David Hamilton, Executive Secretary, Office of the Professions (New York)
Jim Cleghorn, Georgia Board of Nursing and Music Therapists
Nicholas Goodwin, Office of Governor Mike Pence
Carolyn Kahn, Illinois Mental Health Counselors Association

<table>
<thead>
<tr>
<th>Topic</th>
<th>Discussion</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion to Allow Members to Attend via Phone</td>
<td></td>
<td>A motion was made by Gray / seconded by Dimiceli-Mitran to allow Crimmins to attend by phone due to personal illness pursuant to 5 ILCS 120/7 of the Open Meetings Act. Motion passed unanimously. A motion was made by Dimiceli-Mitran / seconded by Gray to allow Hilliard to attend due to employment pursuant to 5 ILCS 120/7 of the Open Meetings Act. Motion passed unanimously.</td>
</tr>
</tbody>
</table>

Roll Call
Jessica Baer, present
Andrea Crimmins, present via phone
Louise Dimiceli-Mitran, present
<table>
<thead>
<tr>
<th>Introductions</th>
<th>Each Advisory Board member, Department staff, and guest introduced themselves.</th>
</tr>
</thead>
</table>
| Analysis of Advisory Board Action | Ms. Akram reviewed the previous meeting that took place and reviewed the agenda.  
Ms. Akram informed the Board that an additional guest was in attendance via phone from the Illinois Mental Health Counselors Association.  
**Guest David Hamilton, Office of the Professions**  
Mr. Hamilton reviewed New York’s licensure of creative arts therapists since 2002, which includes music therapy, by providing an overview of legislative history and the general regulatory framework. He discussed the licensure requirements including approved education, completion of 1,500 post-degree supervised hours, exemptions from licensure, and continuing education. Mr. Hamilton also discussed the practice of psychotherapy in New York and how it relates to the scope of practice for creative arts therapists. He answered Advisory Board member questions regarding all aspects of his testimony.  
**Guest Jim Cleghorn, Georgia Board of Nursing and Music Therapists**  
Mr. Cleghorn reviewed Georgia’s title protection licensure of music therapists since 2012, including the general regulatory framework and licensure requirements. He discussed the total number of active licenses (114), the seven (7) complaints (6 were for unlicensed practice and one for unethical conduct) which did not relate to patient issues, and the advisory role of the State board. Mr. Cleghorn answered Advisory Board member inquiries regarding the push for licensure by professional associations and the limits of title protection.  
**Nicholas Goodwin, Office of Governor Mike Pence**  
Mr. Goodwin reviewed Indiana’s recent consideration of licensing music therapists, which did not result in licensure. He discussed legislation that was introduced in 2013 & supported by professional associations. The bill was vetoed by Governor Pence who cited concerns about job creation, specifically that licensure can create barriers to the market and restriction on competition. Mr. Goodwin also discussed the Pilot Program for State Registration of Privately Certified Individuals, which serves as an alternative to licensure that increases the public trust in professionals without the concerns raised by full licensure.  
**Guest Carolyn Kahn, Illinois Mental Health Counselors Association**  
Ms. Kahn thanked the Advisory Board for inviting her to speak and reviewed the Illinois Mental Health Counselors Association’s position against the potential licensing of music therapy.
therapists. Specifically, she discussed concerns over the lack of clinical mental health training required for certification and recommended the addition of several courses to the current requirements. She noted that the addition of these courses and training requirements would resemble licensure requirements for professional counselors and social workers, whose scopes of practice allow for the practice of music therapy, and recommended that the current licensure for those professions along with a certificate in music therapy serve as an alternative to creating a new license. Ms. Kahn answered Advisory Board member questions regarding suggested coursework areas from the professional counselor licensure requirements.

**Guest Tom Parton, Illinois Speech Language Hearing Association**

Mr. Parton thanked the Advisory Board for inviting him to speak and reviewed the Illinois Speech Language Hearing Association’s position against the potential licensure of music therapists. Specifically, he discussed the Certification Board for Music Therapy’s definition of music therapy and concerns about treating communication disorders. He also discussed the minimum qualifications for a licensed speech-language pathologist in comparison to requirements for certification as a music therapist, and the billing issues raised by music therapists using Current Procedural Terminology (CPT) codes assigned to licensed professions due to lack of codes for music therapy services. Mr. Parton answered Advisory Board inquiries regarding the training & use of music therapy in speech-language pathology.

<table>
<thead>
<tr>
<th>Approval of August 30, 2016 Minutes</th>
<th>A motion was made by Fleming/seconded by Gray to approve the August 30, 2016 meeting minutes. Motion passed unanimously.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old Business</td>
<td>Analysis of Potential Witnesses: Advisory Board members analyzed potential witnesses for future meetings. The Advisory Board discussed potential future meetings dates for October and November. Travel vouchers were previously distributed to Advisory Board members.</td>
</tr>
<tr>
<td>Adjournment</td>
<td>There being no further business to discuss, a motion was made by Gray/seconded by Dimiceli-Mitran to adjourn at 11:23 P.M. Motion passed unanimously.</td>
</tr>
</tbody>
</table>
Exhibit 1(E)

Illinois Department of Financial & Professional Regulation
Division of Professional Regulation
Music Therapy Advisory Board Minutes

Date: October 31, 2016

Call to Order: 10:06 A.M. – Azeema Akram, Assistant General Counsel

Location: IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor Room 9-171A, Chicago, IL 60601

Board Members Present: Jessica Baer, Acting Chairperson (via phone)
Andrea Crimmins, Ph.D., MT-BC, Member
Louise Dimiceli-Mitran, LCPC, MT-BC, Member
Kyle Fleming, MT-BC, Member (via phone)
Candi Gray, LCSW, Member
Clifton Saper, Ph.D., Member

Board Member(s) Absent: Russell Hilliard, Ph.D., LCSW, MT-BC, Member

Staff Members Present: Azeema Akram, Assistant General Counsel
Vaughn Bentley, Law Clerk, Office of General Counsel
Stephanie Rosienski, Law Clerk, Office of General Counsel

Guests: Via phone:
Terrence Koller, Ph.D., ABPP, Legislative Liaison, Illinois Psychological Association

<table>
<thead>
<tr>
<th>Topic</th>
<th>Discussion</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion to Allow Members to Attend via Phone</td>
<td></td>
<td>A motion was made by Gray / seconded by Dimiceli-Mitran to allow Fleming to attend by phone due to employment pursuant to 5 ILCS 12/7 of the Open Meetings Act. Motion passed unanimously.</td>
</tr>
</tbody>
</table>

Roll Call
Jessica Baer, present via phone
Andrea Crimmins, present
Louise Dimiceli-Mitran, present
Kyle Fleming, present via phone
Candi Gray, present
Russell Hilliard, absent
Clifton Saper, present

Analysis of Advisory Board Action
Ms. Akram reviewed the previous meeting that took place and reviewed the agenda.
Ms. Akram noted that David Hamilton, Executive Secretary, Office of the Professions (State of New York), who was a guest at the previous meeting, had followed up with written comments regarding New York’s licensing of creative arts therapists. The written comments had been distributed to Advisory Board members prior to the current meeting.

Guest Terrence Koller, Illinois Psychological Association
Dr. Koller thanked the Advisory Board for inviting him to speak and reviewed the Illinois Psychological Association’s concerns related to the potential licensing of music therapists. Specifically, he discussed consumer protection against inaccurate information relating to the use of music therapy in mental health treatment, how the current scope of practice of licensed professional counselors & licensed clinical professional counselors allows for the use of music therapy, and overlap with the use of music by appropriately-trained clinical psychologists in their treatment regimes. Dr. Koller answered Advisory Board member questions regarding the use of music therapy by clinical psychologists, the education obtained by those clinical psychologists, and the possibility of an exemption from music therapy licensure for other licensed mental health treatment providers practicing within the scope of their licenses.

The Advisory Board extensively reviewed Section 15 of the Music Therapy Advisory Board Act (“Act”), 20 ILCS 5070, & the report to be issued thereunder. The report shall be issued in April 2017 with recommendations regarding the certification process for music therapists in accordance with the requirements of Section 15 of the Act.

<table>
<thead>
<tr>
<th>Approval of September 26, 2016 Minutes</th>
<th>Action deferred until the next meeting.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old Business</td>
<td>The Advisory Board discussed potential future meetings dates for November. Travel vouchers were previously distributed to Advisory Board members.</td>
</tr>
<tr>
<td>Adjournment</td>
<td>There being no further business to discuss, a motion was made by Dimiceli-Mitran / seconded by Crimmins to adjourn at 11:10 A.M. Motion passed unanimously.</td>
</tr>
</tbody>
</table>
Illinois Music Therapy Advisory Board

Exhibit 1(F)

Illinois Department of Financial & Professional Regulation
Division of Professional Regulation
Music Therapy Advisory Board Minutes

Date: November 28, 2016

Call to Order: 10:05 A.M. – Jessica Baer, Chairperson

Location: IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor Room 9-171A, Chicago, IL  60601

Board Members Present: Jessica Baer, Chairperson
Andrea Crimmins, Ph.D., MT-BC, Member
Louise Dimiceli-Mitran, LCPC, MT-BC, Member
Kyle Fleming, MT-BC, Member
Candi Gray, LCSW, Member (via phone)
Russell Hilliard, Ph.D., LCSW, MT-BC, Member (via phone)

Board Member(s) Absent: Clifton Saper, Ph.D., Member

Staff Members Present: Azeema Akram, Assistant General Counsel
Vaughn Bentley, Law Clerk, Office of General Counsel
Stephanie Rosienski, Law Clerk, Office of General Counsel

Guests: Firas Nakshabandi, M.D., Member, Illinois Psychiatric Society
Meryl Camin Sosa, Esq., Executive Director, Illinois Psychiatric Society
U-Jung Choe, Chair, Illinois Competitiveness Council

Via phone:
Dena Register, PhD, MT-BC, Regulatory Affairs Advisor, Certification Board for Music Therapists
Judy Simpson, MT-BC, Director of Government Relations, American Music Therapy Association
Lisa Mahaffey, President, Illinois Occupational Therapy Association
Robin Jones, Advocacy Director, Illinois Occupational Therapy Association

<table>
<thead>
<tr>
<th>Topic</th>
<th>Discussion</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion to Allow Members to Attend via Phone</td>
<td></td>
<td>A motion was made by Dimiceli-Mitran / seconded by Fleming to allow Gray to attend by phone due to family emergency pursuant to 5 ILCS 12/7 of the Open Meetings Act. Motion passed unanimously.</td>
</tr>
<tr>
<td>Roll Call</td>
<td>Jessica Baer, present Andrea Crimmins, present Louise Dimiceli-Mitran, present</td>
<td></td>
</tr>
</tbody>
</table>
| Analysis of Advisory Board Action | Ms. Akram reviewed the previous meeting that took place and reviewed the agenda.  
Ms. Akram informed the Advisory Board that the representative from the Office of Governor Bruce Rauner who planned to testify would not be attending due to a scheduling conflict, and that another guest from the Illinois Competitiveness Council would be testifying on the same subject.  

Guests Dena Register, Certification Board for Music Therapists, and Judy Simpson, American Music Therapy Association  
Ms. Register and Ms. Simpson provided a comprehensive review of the standards required for the Music Therapist – Board Certified credential. They also provided a review of the regulation of music therapy across the United States. Ms. Register and Ms. Simpson discussed the music therapy curriculum, the difference between credentials and certification, two examples of public harm caused by music therapists that provided substandard care, a definition of “assessment” that is unique to the profession, and ethics standards. They answered extensive Advisory Board inquiries on all aspects of their testimonies, including insurance reimbursement and the wide variety of settings in which music therapists practice.  

Guests Lisa Mahaffey and Robin Jones, Illinois Occupational Therapy Association  
Ms. Mahaffey and Ms. Jones reviewed the Illinois Occupational Therapy Association’s position regarding music therapy, that the Association is not in opposition to the profession and opposes a licensure practice act. They raised concerns over previous practice act legislation that appeared to propose that the use of music in the practice of other professions would constitute a violation of the act. The Association takes a neutral position to the language of the Music Therapy Advisory Board Act. Ms. Mahaffey and Ms. Jones suggested that the Advisory Board consider factors such as the need for regulation of the music therapy profession, the need for a license vs. title protection, and whether the lack of public harm warrants regulation of the profession. They answered Advisory Board inquiries regarding language creating an exemption from licensure for other professions that use music in their practices, and the differences between certain provisions in the previously proposed practice act and the Music Therapy Advisory Board Act.  

Guests Firas Nakshabandi, M.D. and Meryl Camin Sosa, Esq., Illinois Psychiatric Society  
Dr. Nakshabandi reviewed his experience working with music therapy and the use of music from his personal perspective as |
a psychiatrist. He discussed the makeup of a multidisciplinary team that includes music therapists, practice settings (e.g., ICU, outpatient treatment), and examples of the types of disorders and conditions his patients have who respond well to music (attention deficit disorder, confidence issues). He expressed an interest in exploring research that addresses the effects of different types and levels of music in creating certain outcomes. Dr. Nakshabandi expressed concern over whether regulation of music therapy would require other professions to undergo additional educational training in order to use music in their practices. He answered extensive Advisory Board inquiries on all aspects of his testimony, such as the use of music as a modality and music therapy as a profession.

Ms. Sosa suggested that if the Advisory Board recommends licensure, that there be some exemption language for other professionals that use music, and encouraged careful drafting of legislation language.

**Guest U-Jung Choe, Illinois Competitiveness Council**
Ms. Choe reviewed the Illinois Competitiveness Council, which was established by Executive Order 16-13 signed by Governor Rauner. The Executive Order requires over forty State agencies, including the Illinois Department of Financial & Professional Regulation, to review their administrative rules as part of the Cutting the Red Tape Initiative. Through this review, these agencies are to ensure that their rules meet certain guidelines, such as that the rules do not impose unduly burdensome requirements on business or have a negative effect on job growth in Illinois. Ms. Choe stated that the Executive Order requires each of these agencies to complete this review by May 1, 2017, and submit quarterly report to the Council until the deadline. She answered Board member inquiries regarding the Executive Order’s relation to this Advisory Board, including other State agencies included in this review process that deal music therapy topics of interest to the Advisory Board such as reimbursement options through Medicaid (Department of Healthcare and Family Services) and insurance (Department of Insurance).

<table>
<thead>
<tr>
<th>Approval of September 26, 2016 Minutes</th>
<th>A motion was made by Baer / seconded by Fleming to approve the September 26, 2016 meeting minutes. Motion passed unanimously.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approval of October 31, 2016 Minutes</td>
<td>A motion was made by Crimmins / seconded by Dimiceli-Mitan to approve the October 31, 2016 meeting minutes. Motion passed unanimously.</td>
</tr>
<tr>
<td>Old Business</td>
<td>The Advisory Board discussed potential future meetings dates for January through April 2017. Travel vouchers were previously distributed to Advisory Board members.</td>
</tr>
<tr>
<td>Adjournment</td>
<td>There being no further business to discuss, a motion was made by</td>
</tr>
<tr>
<td>Crimmins / seconded by Fleming</td>
<td>to adjourn at 11:52 A.M. Motion passed unanimously.</td>
</tr>
</tbody>
</table>
Exhibit 1(G)

Illinois Department of Financial & Professional Regulation
Division of Professional Regulation
Music Therapy Advisory Board Minutes

Date: February 06, 2017

Call to Order: 10:39 A.M. – Jessica Baer, Chairperson

Location: IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor Room 9-171A, Chicago, IL  60601

Board Members Present: Jessica Baer, Chairperson
Andrea Crimmins, Ph.D., MT-BC, Member (via phone)
Louise Dimiceli-Mitran, LCPC, MT-BC, Member
Kyle Fleming, MT-BC, Member
Candi Gray, LCSW, Member
Russell Hilliard, Ph.D., LCSW, MT-BC, Member (via phone)
Clifton Saper, Ph.D., Member

Board Member(s) Absent: None.

Staff Members Present: Azeema Akram, Assistant General Counsel
Milana Lublin, Assistant General Counsel

Guests: Mischa Fisher, Policy Advisor for Economic Development, Office of Governor Bruce Rauner
Susan Frick, LSW, Rush Alzheimer’s Disease Center
Martha Reggi, Chief of Business Prosecutions, Illinois Department of Financial & Professional Regulation, Division of Professional Regulation

Via phone:
Holly Schaefer, Founder & Executive Director, Safe Haven School
Cindy Ropp, Associate Professor of Music Therapy, College of Fine Arts, Illinois State University
Bryan Martin, Chief Financial Officer, Illinois Department of Financial & Professional Regulation

<table>
<thead>
<tr>
<th>Topic</th>
<th>Discussion</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion to Allow Members to</td>
<td></td>
<td>A motion was made by Dimiceli-Mitran / seconded by Gray to allow Hilliard to attend by phone due to employment purposes pursuant to 5 ILCS 12/7 of the Open Meetings Act. Motion passed unanimously.</td>
</tr>
<tr>
<td>Attend via Phone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roll Call</td>
<td>Jessica Baer, present</td>
<td>A motion was made by Fleming/seconded by Dimiceli-Mitran to allow Crimmins to attend by phone due to personal illness pursuant to 5 ILCS 120/7 of the Open Meetings Act. Motion passed unanimously.</td>
</tr>
<tr>
<td></td>
<td>Andrea Crimmins, present via phone</td>
<td></td>
</tr>
</tbody>
</table>
Louise Dimiceli-Mitran, present  
Kyle Fleming, present  
Candi Gray, present  
Russell Hilliard, present via phone  
Clifton Saper, present

| Analysis of Advisory Board Action | Ms. Akram distributed documents to Advisory Board member that were submitted by Judy Simpson, Director of Government Relations for the American Music Therapy Association, who spoke at the November 28, 2016 meeting. Ms. Simpson provided a Memorandum and a Reimbursement Overview, which addressed the topic of insurance reimbursement for music therapists.  
Guest Holly Schaefer, Safe Haven School  
Ms. Schaefer  
Guest Mischa Fisher, Office of Governor Bruce Rauner  
Mr. Fisher  
Guest Cindy Ropp, Illinois State University  
Ms. Ropp  
Guest Susan Frick, Rush Alzheimer’s Disease Center  
Ms. Frick  
Guest Martha Reggi, Illinois Department of Financial & Professional Regulation  
Ms. Reggi  
Guest Bryan Martin, Illinois Department of Financial & Professional Regulation  
Mr. Martin |

| Approval of November 28, 2016 Minutes | A motion was made by Gray / seconded by Fleming to approve the November 28, 2016 meeting minutes. Motion passed unanimously. |

| Old Business | The Advisory Board set its final two meeting dates, as follows:  
March 6, 2017  
April 10, 2017  
New travel vouchers were distributed to Advisory Board members. |

| Adjournment | There being no further business to discuss, a motion was made by Dimiceli-Mitran / seconded by Saper to adjourn at 1:08 P.M. Motion passed unanimously. |
**Exhibit 1(H)**
Illinois Department of Financial & Professional Regulation  
Division of Professional Regulation  
Music Therapy Advisory Board Minutes

**Date:** March 06, 2017

**Call to Order:** 12:03 P.M. – Jessica Baer, Chairperson

**Location:** IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor Room 9-171B/C, Chicago, IL 60601

**Board Members Present:** Jessica Baer, Chairperson  
Andrea Crimmins, Ph.D., MT-BC, Member  
Louise Dimiceli-Mitran, LCPC, MT-BC, Member  
Kyle Fleming, MT-BC, Member  
Candi Gray, LCSW, Member  
Russell Hilliard, Ph.D., LCSW, MT-BC, Member  
Clifton Saper, Ph.D., Member

**Board Member(s) Absent:** None.

**Staff Members Present:** Azeema Akram, Assistant General Counsel  
Daniel Kelber, Deputy General Counsel Division of Banks  
Milana Lublin, Assistant General Counsel

**Guests present:** In Person: Vaughn Bentley, IDFPR Staff Attorney; Eric Eisinger, IDFPR Policy and Outreach; Janel Hartoun, Assistant General Counsel; Martha Reggi, IDFPR Chief of Business Prosecutions; Stephanie Rosienski, Law Clerk; Kyle Hillman, National Association of Social Workers.  
By Phone: Judy Simpson, Director of Government Relations of the American Music Therapy Association.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Discussion</th>
<th>Action</th>
</tr>
</thead>
</table>
| Roll Call                    | Jessica Baer, present  
Andrea Crimmins, present  
Louise Dimiceli-Mitran, present  
Kyle Fleming, present  
Candi Gray, present  
Russell Hilliard, present  
Clifton Saper, present |        |
| Analysis of Advisory Board Action | Chairperson Baer thanked the music therapy advisory board members and guests for their involvement and commitment to the board. She asked that guests refrain from speaking while the advisory board discusses new business, and deliberates and provides its recommendation to the Department.  
Ms. Lublin distributed the Notice and Agenda, Open Meeting Minutes of February 06, 2017, and the Music Therapy Advisory Board Draft Report. |        |
Chairperson Baer reviewed the meetings that have taken place to date and reviewed the agenda.

In response to prior advisory board member request, board member Hilliard discussed the Illinois Department of Financial and Professional Regulation fiscal year 2017 cost analysis. Mr. Hilliard suggested various ways that would make the cost of music therapy licensure lower.

In response to prior advisory board member request, board member Dimiceli-Mitran reviewed a document she prepared titled, “Music Therapy State Recognition Costs and Administrative Expenses”.


Chairperson Baer reviewed the April 25, 2017, music therapy advisory board report deadline and the process for reviewing the report and recommendation. The advisory board deliberated the recommendation of the report.

<table>
<thead>
<tr>
<th>Approval of February 06, 2017 Minutes</th>
<th>A motion was made by Gray/seconded by Dimiceli-Mitran to approve the February 06, 2017 meeting minutes. Motion passed unanimously.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motion to Allow Members to Attend via Phone</td>
<td>Mr. Hilliard excused himself from the advisory board meeting due to employment purposes and resumed his participation by means of telephone conference. A motion was made by Gray/seconded by Dimiceli-Mitran to allow Hilliard to attend by phone due to employment purposes pursuant to 5 ILCS 12/7 of the Open Meetings Act. Motion passed unanimously.</td>
</tr>
</tbody>
</table>
| Old Business | I. The Music Therapy Advisory Board final meeting is scheduled, as follows:  
  - April 10, 2017 at 10:30A.M.
II. Travel vouchers were collected by Ms. Lublin. There being no further business to discuss, a motion was made by Dimiceli-Mitran / seconded by Saper to adjourn at 1:08 P.M. Motion passed unanimously. |
| Adjournment | A motion was made by Gray/seconded by Dimiceli-Mitran to approve the February 06, 2017 meeting minutes. Motion passed unanimously. |
Exhibit 1(H)
Illinois Department of Financial & Professional Regulation
Division of Professional Regulation
Music Therapy Advisory Board Minutes

Date: April 10, 2017

Call to Order: 10:32 A.M.

Location: IDFPR – Division of Professional Regulation, 100 W Randolph, 9th Floor
Room 9-171A, Chicago, IL 60601

Board Members Present: Jessica Baer, Chairperson
Louise Dimiceli-Mitran, LCPC, MT-BC, Member
Kyle Fleming, MT-BC, Member
Candi Gray, LCSW, Member
Russell Hilliard, Ph.D., LCSW, MT-BC, Member
Clifton Saper, Ph.D., Member

Board Member(s) Absent: Andrea Crimmins, Ph.D., MT-BC, Member

Staff Members Present: Milana Lublin, Assistant General Counsel/FOIA Officer

Guests present: In Person: Erik D. Gruber

<table>
<thead>
<tr>
<th>Topic</th>
<th>Discussion</th>
<th>Action</th>
</tr>
</thead>
</table>
| Roll Call | Jessica Baer, present
Louise Dimiceli-Mitran, present
Kyle Fleming, present
Candi Gray, present
Russell Hilliard, present
Clifton Saper, present | | |
| Approval of March 06, 2017 Meeting Minutes | The Task Force reviewed the Task Force’s report, recommendation and dissent. The Task Force discussed the distribution of the report, recommendation and dissent to the Governor, General Assembly, and the public on April 25, 2017. Travel vouchers were distributed to Task Force members. | A motion was made by Hilliard / seconded by Grey to approve the March 6, 2017 meeting minutes. Motion passed unanimously. |
| Old Business | | A motion was made by Hilliard / seconded by Dimiceli-Mitran to adopt the draft Task Force report, recommendation and dissent as an accurate rendition of the recommendation made at the February 06, 2017 meeting. Motion passed unanimously. |
| Adjournment | | There being no further business to discuss, a motion was made by Dimiceli-Mitran / seconded by Saper to adjourn at 11:01 A.M. Motion passed unanimously. |
**EXHIBIT 2A**

**Music Therapy State Recognition: National Overview 2016**

The American Music Therapy Association (AMTA) and the Certification Board for Music Therapists (CBMT) have collaborated on the State Recognition Operational Plan since 2005. The purpose of this joint national initiative is to achieve official state recognition of the music therapy profession and the MT-BC credential required for competent practice. Desired outcomes from this process include improving consumer access to music therapy services and establishing a state-based public protection program to ensure that “music therapy” is provided by individuals who meet established education, clinical training, and credential qualifications. Inclusion within state health and education regulations can also have a positive impact on employment opportunities and reimbursement and state funding options, while meeting clinical requirements of treatment facilities and accrediting organizations.

### Current Recognition

<table>
<thead>
<tr>
<th>State</th>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Dakota</td>
<td>Music therapy license overseen by the newly created Board of Integrative Health. License created in 2011 and regulations approved in 2013.</td>
<td><a href="http://ndbihc.org/">http://ndbihc.org/</a></td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Music therapy license managed by the State Board of Medical Licensure and Supervision was signed into law in 2016.</td>
<td></td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Music therapy registry managed by the Department of Health was signed into law in 2014 and regulations approved in 2015.</td>
<td><a href="http://webserver.rilin.state.ri.us/PublicLaws/law14/law14189.htm">http://webserver.rilin.state.ri.us/PublicLaws/law14/law14189.htm</a></td>
</tr>
<tr>
<td>Utah</td>
<td>Legislation creating a music therapy state certification managed by the Division of Occupational and Professional Licensing signed into law and regulations approved in 2014.</td>
<td><a href="http://www.dopl.utah.gov/licensing/music_therapy.html">http://www.dopl.utah.gov/licensing/music_therapy.html</a></td>
</tr>
</tbody>
</table>
2016 Legislative Activity

The following additional states filed legislation to recognize music therapist qualifications (education, clinical training, and national board certification), Colorado (title protection), Florida (registry), Iowa (license), Minnesota (license), Missouri (license), New Jersey (license), Ohio (license), Pennsylvania (license), South Carolina (license), and West Virginia (license)

For more information, please visit www.musictherapy.org and www.cbmt.org
Preamble
The scope of music therapy practice defines the range of responsibilities of a fully qualified music therapy professional with requisite education, clinical training, and board certification. Such practice also is governed by requirements for continuing education, professional responsibility and accountability. This document is designed for music therapists, clients, families, health and education professionals and facilities, state and federal legislators and agency officials, private and public payers, and the general public.

Statement of Purpose
The purpose of this document is to define the scope of music therapy practice by:

1. Outlining the knowledge, skills, abilities, and experience for qualified clinicians to practice safely, effectively and ethically, applying established standards of clinical practice and performing functions without risk of harm to the public;
2. Defining the potential for harm by individuals without formalized music therapy training and credentials; and
3. Describing the education, clinical training, board certification, and continuing education requirements for music therapists.

Definition of Music Therapy and Music Therapist
Music therapy is defined as 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. A music therapist is an individual who has completed the education and clinical training requirements established by the American Music Therapy Association (AMTA) and who holds current board certification from The Certification Board for Music Therapists (CBMT).

Assumptions
The scope of music therapy practice is based on the values of non-maleficence, beneficence, ethical practice; professional integrity, respect, excellence; and diversity. The following assumptions are the foundation for this document:

- Public Protection. The public is entitled to have access to qualified music therapists who practice competently, safely, and ethically.
- Requisite Training and Skill Sets. The scope of music therapy practice includes professional and advanced competencies. The music therapist only provides services within the scope of practice that reflect his/her level of competence. The music therapy profession is not defined by a single music intervention or experience, but rather a continuum of skills sets (simple to complex) that make the profession unique.
- Evidence-Based Practice. A music therapist’s clinical practice is guided by the integration of the best available research evidence, the client’s needs, values, and preferences, and the expertise of the clinician.
- Overlap in Services. Music therapists recognize that in order for clients to benefit from an integrated, holistic treatment approach, there will be some overlap in services provided by multiple professions. We acknowledge that other professionals may use music, as appropriate, as long as they are working within their scope.
- Professional Collaboration. A competent music therapist will make referrals to other providers (music therapists and non-music therapists) when faced with issues or situations beyond the original clinician’s own practice competence, or where greater competence or specialty care is determined as necessary or helpful to the client’s condition.
- Client-Centered Care. A music therapist is respectful of, and responsive to the needs, values, and preferences of the client and the family. The music therapist involves the client in the treatment planning process, when appropriate.

Music Therapy Practice
Music therapy means 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 develop music therapy treatment plans specific to the needs and strengths of the client who may be seen individually or in groups. Music therapy treatment plans are individualized for each client. The
goals, objectives, and potential strategies of the music therapy services are appropriate for the client and setting. The 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. Music therapy clinical practice may be in developmental, rehabilitative, habilitative, medical, mental health, preventive, wellness care, or educational areas. Standards of practice in music therapy include:

- Accepting referrals for music therapy services from medical, developmental, mental health, and education professionals; family members; clients; caregivers; or others involved and authorized with provision of client services. Before providing music therapy services to a client for an identified clinical or developmental need, the music therapist collaborates, as applicable, with the primary care provider(s) to review the client’s diagnosis, treatment needs, and treatment plan. During the provision of music therapy services to a client, the music therapist collaborates, as applicable, with the client’s treatment team;
- Conducting a music therapy assessment of a client to determine if treatment is indicated. If treatment is indicated, the music therapist collects systematic, comprehensive, and accurate information to determine the appropriateness and type of music therapy services to provide for the client;
- Developing an individualized music therapy treatment plan for the client that is based upon the results of the music therapy assessment. The music therapy treatment plan includes individualized goals and objectives that focus on the assessed needs and strengths of the client and specify music therapy approaches and interventions to be used to address these goals and objectives;
- Implementing an individualized music therapy treatment plan that is consistent with any other developmental, rehabilitative, habilitative, medical, mental health, preventive, wellness care, or educational services being provided to the client;
- Evaluating the client’s response to music therapy and the music therapy treatment plan, documenting change and progress, and suggesting modifications, as appropriate;
- Developing a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, physician, or other provider of health care or education of the client, family members of the client, and any other appropriate person upon whom the client relies for support;
- Minimizing any barriers to ensure that the client receives music therapy services in the least restrictive environment;
- Collaborating with and educating the client and the family, caregiver of the client, or any other appropriate person 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
- Utilizing appropriate knowledge and skills to inform practice including use of research, reasoning, and problem solving skills to determine appropriate actions in the context of each specific clinical setting.

Music therapists are members of an interdisciplinary team of healthcare, education, and other professionals who work collaboratively to address the needs of clients while protecting client confidentiality and privacy. Music therapists function as independent clinicians within the context of the interdisciplinary team, supporting the treatment goals and co-treating with physicians, nurses, rehabilitative specialists, neurologists, psychologists, psychiatrists, social workers, counselors, behavioral health specialists, physical therapists, occupational therapists, speech-language pathologists, audiologists, educators, clinical case managers, patients, caregivers, and more.

Music therapy-specific assessment, treatment planning, and implementation consider diagnosis and history, are performed in a manner congruent with the client’s level of functioning, and address client needs across multiple domains.

**Potential for Harm**

Music therapists are trained to independently analyze client non-verbal, verbal, psychological, and physiological responses to music and non-music stimuli in order to be clinically effective and refrain from contra-indicated practices. The music therapist implements ongoing evaluation of client responses and adapts the intervention accordingly to protect the client from negative outcomes.

Music therapists use their knowledge, skills, training and experience to facilitate therapeutic, goal oriented music-based interactions that are meaningful and supportive to the function and health of their clients. These components of clinical practice continue to evolve with advances in basic science, translational research, and therapeutic implementation. Music therapists, therefore, participate in continued education to remain competent, know their limitations in professional practice, and recognize when it is appropriate to seek assistance, advice, or consultation, or refer the client to another therapist or professional. In addition, music therapists practice safely and ethically as defined by the AMTA Code of Ethics, AMTA Standards of Clinical Practice, CBMT Code of Professional Practice, CBMT Board Certification Domains, and other applicable state and federal laws. Both AMTA and CBMT have mechanisms by which music therapists who are in violation of safe and ethical practice are investigated.

The use of live music interventions demands that the therapist not only possess the knowledge and skills of a trained therapist, but also the unique skill set of a trained musician in order to manipulate the music therapy intervention to fit clients’ needs. Given the diversity of diagnoses with which music therapists work and the practice settings in which they work independently, clinical training and experience are necessary. Individuals attempting to provide music therapy treatment interventions without formalized music therapy training and credentials may pose risks to clients.

To protect the public from threats of harm in clinical practice, music therapists comply with safety standards and competencies such as, but not limited to:

- Recognize and respond to situations in which there are clear and present dangers to a client and/or others.
- Recognize the potential harm of music experiences and use them with care.
- Recognize the potential harm of verbal and physical interventions during music experiences and use them with care.
- Observe infection control protocols (e.g., universal precautions, disinfecting instruments).
• Recognize the client populations and health conditions for which music experiences are contraindicated.
• Comply with safety protocols with regard to transport and physical support of clients.

Definition of Governing Bodies

AMTA’s mission is to advance public awareness of the benefits of music therapy and increase access to quality music therapy services in a rapidly changing world. AMTA strives to improve and advance the use of music, in both its breadth and quality, in clinical, educational, and community settings for the betterment of the public health and welfare. The Association serves as the primary organization for the advancement of education, clinical practice, research, and ethical standards in the music therapy profession.

AMTA is committed to:
• Promoting quality clinical treatment and ethical practices regarding the use of music to restore, maintain, and improve the health of all persons.
• Establishing and maintaining education and clinical training standards for persons seeking to be credentialed music therapists.
• Educating the public about music therapy.
• Supporting music therapy research.

The mission of the CBMT is to ensure a standard of excellence in the profession of music therapy. CBMT is an independent, non-profit, certifying agency fully accredited by the National Commission for Certifying Agencies (NCCA). This accreditation serves as the means by which CBMT strives to maintain the highest standards possible in the construction and administration of its national examination and recertification programs, ultimately designed to reflect current music therapy practice for the benefit of the consumer.

CBMT is committed to:
• Maintaining the highest possible standards, as established by the Institute for Credentialing Excellence (ICE) and NCCA, for its national certification and recertification programs.
• Maintaining standards for eligibility to sit for the National Examination: Candidates must have completed academic and clinical training requirements established by AMTA.
• Defining and assessing the body of knowledge that represents safe and competent practice in the profession of music therapy and issuing the credential of Music Therapist-Board Certified (MT-BC) to individuals that demonstrate the required level of competence.
• Advocating for recognition of the MT-BC credential and for access to safe and competent practice.
• Maintaining certification and recertification requirements that reflect current practice in the profession of music therapy.
• Providing leadership in music therapy credentialing.

The unique roles of AMTA (education and clinical training) and CBMT (credentialing and continuing education) ensure that the distinct, but related, components of the profession are maintained. This scope of music therapy practice document acknowledges the separate but complementary contributions of AMTA and CBMT in developing and maintaining professional music therapists and evidence-based practices in the profession.

Education and Clinical Training Requirements

A qualified music therapist:
• Must have graduated with a bachelor’s degree (or its equivalent) or higher from a music therapy degree program approved by the American Music Therapy Association (AMTA); and
• Must have successfully completed a minimum of 1,200 hours of supervised clinical work through pre-internship training at the AMTA-approved degree program, and internship training through AMTA–approved National Roster or University Affiliated internship programs, or an equivalent.

Upon successful completion of the AMTA academic and clinical training requirements or its international equivalent, an individual is eligible to sit for the national board certification exam administered by the Certification Board for Music Therapists (CBMT).

Board Certification Requirements

The Music Therapist – Board Certified (MT-BC) credential is granted by the Certification Board for Music Therapists (CBMT) to music therapists who have demonstrated the knowledge, skills, and abilities for competence in the current practice of music therapy. The purpose of board certification in music therapy is to provide an objective national standard that can be used as a measure of professionalism and competence by interested agencies, groups, and individuals. The MT-BC credential may also be required to meet state laws and regulations. Any person representing himself or herself as a board certified music therapist must hold the MT-BC credential awarded by CBMT, an independent, nonprofit corporation fully accredited by the National Commission for Certifying Agencies (NCCA).

The board certified music therapist credential, MT-BC, is awarded by the CBMT to an individual upon successful completion of an academic and clinical training program approved by the American Music Therapy Association (or an international equivalent) and successful completion of an objective written examination demonstrating current competency in the profession of music therapy. The CBMT administers this examination, which is based on a nationwide music therapy practice analysis that is reviewed and updated every five years to reflect current clinical practice. Both the practice analysis and the examination are psychometrically sound and developed using guidelines issued by the Equal Employment Opportunity Commission, and the American Psychological Association’s standards for test validation.

Once board certified, a music therapist must adhere to the CBMT Code of Professional Practice and recertify every five years through either a program of continuing education or re-examination.

By establishing and maintaining the certification program, CBMT is in compliance with NCCA guidelines and standards that require certifying agencies to: 1) have a plan for periodic recertification, and 2) provide evidence that the recertification program is designed to measure or enhance the continuing competence of the individual.
The CBMT recertification program provides music therapists with guidelines for remaining current with safe and competent practice and enhancing their knowledge in the profession of music therapy.

The recertification program contributes to the professional development of the board certified music therapist through a program of continuing education, professional development, and professional service opportunities. All three recertification categories are reflective of the Practice Analysis Study and relevant to the knowledge, skills and abilities required of the board certified music therapist. Documentation guidelines in the three categories require applying learning outcomes to music therapy practice and relating them to the CBMT Board Certification Domains. Integrating and applying new knowledge with current practice, developing enhanced skills in delivery of services to clients, and enhancing a board certified music therapist’s overall abilities are direct outcomes of the recertification program. To support CBMT’s commitment of ensuring the competence of the board certified music therapist and protecting the public, certification must be renewed every five years with the accrual of 100 recertification credits.

NCCA accreditation demonstrates that CBMT and its credentialing program undergo review to demonstrate compliance with certification standards set by an impartial, objective commission whose primary focus is competency assurance and protection of the consumer. The program provides valuable information for music therapists, employers, government agencies, payers, courts and professional organizations. By participating in the CBMT Recertification Program, board certified music therapists promote continuing competence and the safe and effective clinical practice of music therapy.

AMTA and CBMT created this document as a resource pertinent to the practice of music therapy. However, CBMT and AMTA are not offering legal advice, and this material is not a substitute for the services of an attorney in a particular jurisdiction. Both AMTA and CBMT encourage users of this reference who need legal advice on legal matters involving statutes to consult with a competent attorney. Music therapists may also check with their state governments for information on issues like licensure and for other relevant occupational regulation information. Additionally, since laws are subject to change, users of this guide should refer to state governments and case law for current or additional applicable materials.

References
Sunrise Review Music Therapy

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March 16th, 2016

As part of a student project for the
Illinois Department of Financial and Professional Regulation

Advised by

Paula R. Worthington, Faculty Advisor
Wai-Sinn Chan, Professional Advisor
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Executive Summary

SB1595 signed by Governor Rauner in August 2015 created a Music Therapy Advisory Board to study the need and feasibility of music therapy regulation. This document is meant to offer initial recommendations concerning the question of music therapy licensure as the Board prepares to convene its review. In light of the Governor's focus and the upward trends for occupational licensure, this white paper uses a deliberate approach to understand the implications of music therapy licensure.

In this white paper, we analyze music therapy in five key areas: (i) scope of practice, (ii) market trends, (iii) regulation in other states, (iv) risks and (iv) overlapping professions. Music therapy is a clinical based profession that uses music intervention to address a diverse range of health conditions, such as autism, Alzheimer’s, anxiety, and traumatic brain injury. The profession itself maintains industry standards through the Certification Board for Music Therapists (CBMT), a nationally recognized organization that provides an accredited professional certification program. In Illinois, music therapists receive funds from a mix of private and public funds. And, despite the organized efforts of music therapists, only seven states regulate music therapy through either a license, certificate, or registry. At the same time, state regulation has adopted CBMT's existing qualifications.

In terms of risk analysis, we find: (i) no substantive evidence showing unqualified therapists as serious public risk; (ii) that consumers are adequately protected with the existing consumer protection mechanisms such as the CBMT and the state attorney general’s office; and (iii) no evidence to suggest that employment conditions limit music therapy’s accessibility to consumers.

With a comprehensive understanding of the music therapy practice, we evaluate the need for licensure across seven criteria and conclude that music therapy does not warrant licensure, however, title recognition may be appropriate.

...
Professional regulation aims to protect consumers by establishing a minimum set of standards in order to limit entry or even remove low-quality practitioners. Regulation, however, also restricts the supply of practitioners by erecting barriers to entry and potentially increasing the cost of services. Because of this, regulation should be imposed only on those occupations and professions that represent a risk to public health and safety.

On August 18, 2015, Governor Rauner signed SB 1595 into law. This bill created the Music Therapy Advisory Board with the objective of exploring the feasibility of regulating the music therapy practice in Illinois. Given the steady increase in unwarranted professional licensing across the United States, SB 1595 is important for two reasons. First, SB 1595 was introduced as the Music Therapy Licensing and Practice Act with no provisions for a sunrise review. The revised SB 1595 is now an opportunity to establish music therapy regulation according to public welfare rather than politics. And secondly, SB1595 has come at a time when both Governor Rauner and IDFPR have focused more generally on enacting professional regulation that accurately addresses a profession’s public risk.

The purpose of this document is to offer initial recommendations concerning the question of music therapy licensure as the Board prepares to convene its review. In order to respond to the question of licensure, we sought to understand music therapy across five key areas:

- The scope of music therapy
- Market trends
- Regulation and funding across states
- Public risks
- Comparable professions

With this analysis, we assess the current practice of music therapy using a seven point criteria for evaluating a profession’s regulatory need adapted from the Virginia Board of Health Professions.1 We believe the following criteria not only improves objectivity but allows regulators to think deliberately across intertwined aspects of regulation.

- **Criterion One: Public Risk**
  Unregulated, the profession causes significant public harm as a result of either: (i) the profession’s specific practices, (ii) the clients served or (iii) the delivery of services.

- **Criterion Two: Specific Skillset**
  The profession requires specialized training and skills that the public must have assurance of.

- **Criterion Three: Professional Responsibilities**
  At least a portion of the scope of practice requires independent judgement and individual actions.
- **Criterion Four: Scope of Practice**
  At its core, the scope of practice is distinct from other regulated professions.

- **Criterion Five: Economic Impact**
  The economic cost of regulation appropriately matches its gains to public welfare.

- **Criterion Six: Alternatives to Regulation**
  There are no alternative policies or market mechanisms that adequately protect consumers in the absence of regulation.

- **Criterion Seven: Least Restrictive Regulation**
  If regulation is appropriate, the least restrictive form of regulation is to be used.

Using this criteria, this report finds no conclusive evidence to regulate music therapy. At the same time, we recognize music therapy as a distinct and specialized profession which operates within the highly licensed field of health professions. While there are barriers limiting the accessibility of music therapy, we found no conclusive evidence directly linking a lack of licensure to these barriers. In this regard, we recommend collecting more data on employment opportunities for music therapists. If further research shows that the regulatory status of music therapy does impact its accessibility, we recommend that the Department explores title protection which may elevate music therapy’s status and as a result may improve public accessibility without the unnecessary burdens of a license.

The document is organized as follows. Part I defines the levels of regulation considered in this report. Part II provides an overview of the music therapy profession and details its scope of practice. Part III analyzes market conditions and trends at the national and state levels. In Part IV, we study the regulatory regime in other states to draw on national trends. Part V conducts a risk analysis to understand music therapy’s regulatory need. In Part VI, we address the potential overlap between music therapy and the counseling professions. Finally, Part VII offers recommendations based on this report’s comprehensive understanding of the music therapy practice and the criteria for regulatory need.
I. Levels of Professional Regulation

For consistency, this report considers four levels of professional regulation: licensure, certification, registration, and title recognition.

Licensure: Licensure is the most restrictive form of regulation. Professionals working in licensed professions must meet specified requirements and obtain a license through the State. Requirements typically include completion of a relevant educational program, professional exam, and/or a specified number of training hours. No individual can work in a licensed profession or practice within a defined scope of practice without a license. Generally there is a defined set of fines or legal penalties for those who unlawfully practice without a license.

Certification: State certification programs are similar to licensure in that individuals must meet specified requirements and obtain a certificate through the state to practice within a profession. However, unlike licensure policies, certification programs are generally conditional on the individual obtaining certification.

Registration: Registration programs create voluntary requirements for individuals working in a registered profession. Individuals who meet specified requirements are eligible to register with the State. Only registered professionals can use the title “State registered.” Like licensure and certification, registration creates a list of registered professionals for consumers to verify.

Title Recognition: Title recognition is the least restrictive form of regulation. Title recognition defines the requirements to work within a profession and reserves a professional title to only those individuals who meet the requirements. Unlike the first three forms of regulation, title protection does not require individuals to register with the State and generally does not create specific policies to penalize or remove unqualified individuals working within the recognized profession.

II. Background

Music Therapy Organizations

The current practice of music therapy is best understood in the context of two national organizations: the American Music Therapy Association (AMTA) and the Certification Board for Music Therapists (CBMT). Both are certified by the National Commission on Certifying Agencies and play a role in setting the standards for music therapists’ education and qualifications.

The American Music Therapy Association (AMTA)
The AMTA is a professional organization of music therapists with the responsibility of approving music therapy academic, internship, and continuing education programs. Through the academic program approval committee, the AMTA sets the standard for the education of music therapists. The academic program approval
committee works with relevant accrediting agencies to first establish program requirements at a bachelor’s, master’s, and doctorate level and, second, to approve individual music therapy programs. Therefore, universities wishing to offer a recognized music therapy program must meet AMTA standards and earn AMTA approval. In Illinois, there are two bachelor programs and one master’s program in music therapy.iii

The Certification Board for Music Therapists (CBMT)
The CBMT is also a professional organization but with the responsibility of approving individual music therapists through CBMT’s music therapist certification. This certification has set a national standard for music therapist qualifications. A music therapist with a board certified title (MT-BC) must meet the following CBMT standards:iii

- Bachelor’s in music therapy from an AMTA approved program
- 1,200 hours of clinical training
- Music Therapy Board Certification Examination
- 100 hours of continuing education per five year CBMT renewal period

What is music therapy? And, what do music therapists do?

Music therapy is a healthcare profession that uses music to address patients’ physical, emotional, cognitive, motor and social needs within a therapeutic relationship. It can be applied to individuals or groups. Depending each client’s needs, a music therapist creates a music-based treatment plan, which can include: musical improvisation, listening to music, singing, moving, song writing, lyric discussion, and imagery, among other techniques.

The most common uses of music therapy in Illinois address autism, Alzheimer’s, dementia, developmental disabilities, and mental health.iv Moreover, as explained by the AMTA, music therapy can give people different avenues of communication and can be particularly helpful for those who have trouble expressing themselves with words.

The therapy can be targeted to musical or non-musical goals. Some examples of music therapy goals are the following:v:

- Communication goals: improve verbal and non-verbal communication
- Socialization goals: increase socialization using instructions on music pieces
- Motor goals: improve gross and fine motor functioning through musical rehabilitation exercises
- Academic goals: improve academic performance by combining music with academic information
- Memory gains: singing familiar songs to access long-term memory
- Reduce stress and agitation: using instrumental and vocal music
- Pain relief: by using guided music listening and relaxation techniques to improve tolerance to pain
- Decrease anxiety: through music listening, lyric analysis, music and imagery
In addition, as explained by Nancy Swanson, IAMT Government Relations Chair, each therapy is built around indicators that can allow the therapist to measure the client's progress. For example, the number of times the patient says the correct word at the right time is one way to measure progress for goals related to communication.

**What does a traditional curriculum in music therapy look like?**

A bachelor degree in music therapy provides competency in three different areas: musical foundations, clinical foundations and music therapy foundations. The curriculum has a strong practical focus with required practice in health facilities and clinics, where students learn to assess a client’s needs, design a proper treatment plan, and evaluate the treatment progress.

The particular courses vary from one institution to the other. Yet, the following list provides an example of common coursework:

- **Music courses**: applied music, aural skills, instruments, and voice techniques
- **Psychology courses**: general psychology, psychology of music, and influence of music
- **Therapy related courses**: observation and measurement, therapy activities, and therapy methods
- **Clinical practicum and internship of 6 months**

There are 70 different AMTA approved bachelor degrees in U.S. colleges and universities.

**What are the differences between music therapy and other professions that also use music?**

Other professions also use music as therapeutic tools, such us:

- **Music thanatologists** use music (harp and voice) tailored to the physiological needs of patients who are dying.
- **Therapeutic musicians** are artists who use the healing elements of live music and sound to help the process of recovery.

Unlike other music professions, in music therapy, music is used as a therapeutic tool to rehabilitate normal functions of patients or to improve patients' quality of life. Music therapists evaluate the effect of music on their clients using measurable indicators to evaluate changes in their behavior. In this sense, the clinical training of music therapists is key for their ongoing evaluation of the patient’s response to the therapy. In contrast, other professions use music to create an environment that helps patient's recovery or eases their transition to death. Music therapists usually have more requirements to become a qualified professionals than other occupations. This includes considerably more clinical training hours (e.g. 1,200 hours of clinical training for music therapist vs. 100-125 hours in hospitals for therapeutic musicians).
Consequently, the issue of distinguishing between music therapy and other professions that use music is a real issue. From a healthcare facility perspective, for example, therapeutic musicians might seem synonymous with music therapists. Regulation may help in this matter. However, in order to justify the costs of regulation, there must first be a clear need to distinguish music therapy from other professions.

III. Current Market Conditions

Music therapy in the United States has its origins after World War II, when musicians traveled to hospitals to entertain war veterans suffering from emotional and physical trauma. This led nurses and doctors to request that hospitals hire music professionals.\textsuperscript{xii}

As of 2013, the reported average full-time salary at the national level was $51,899. Along with the number of music therapists, their salary has also been steadily rising during the last years.

Figure 1. AMTA: Annual average reported salary, per state

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{Figure1.png}
\caption{AMTA: Annual average reported salary, per state}
\end{figure}

Source: 2011 AMTA Member Survey and Workforce Analysis, 2013 AMTA Member Survey and Workforce Analysis

The job market for music therapists is growing on the whole. More people study music therapy in order to serve a growing demand. Currently, music therapists offer their services in all 50 states. The most common conditions treated by music therapists are developmental disabilities, Autism, Alzheimer, and learning disabilities. They mainly work in geriatric facilities, mental health facilities, medical settings and schools. Around 8\% also report being self-employed.\textsuperscript{xiii}
In Illinois, there are currently 243 board certified music therapists. Music therapists in Illinois follow the national trends and work mainly on developmental disabilities, Autism, Alzheimer and mental health and work in educational, geriatric and medical settings. Currently, two institutions approved by the American Music Therapy Association (AMTA) offer degrees on music therapy in the State: Western Illinois University and the College of Fine Arts of the Illinois State University. Board certification appears to be valuable to music therapists. In a 2014 survey, 85% reported that their employers required board certification.
IV. Music Therapy Regulation in Other States

In 2005, the AMTA and CBMT created a state recognition plan that has led to local music therapy task forces in 45 states. As a result of their efforts, nearly half of the state legislatures in the United States have introduced bills regulating music therapy. The majority of these bills have either died in committee, expired, or are waiting for a sunrise review. However, seven states now regulate music therapy under occupation specific acts. Georgia, Nevada, North Dakota, and Oregon do this with a music therapy license; Utah offers a music therapy certificate; and Rhode Island and Wisconsin have a music therapy registration. While no state uses a general title protection policy to regulate the entire music therapy profession, Arizona defines the qualifications for music therapists working with developmental disabilities. In addition to music therapy specific regulation, four states offer alternative licenses.

Music Therapy Regulation Overview

A broad overview of state regulation provides insight into trends and the perceived need of music therapy regulation. However, it can be difficult to compare states within similar categories of regulation. One approach the Institute of Justice uses is to measure regulation by its burden or the difficulty of obtaining a license. In Table 1 we have applied this method (see methodology) to rank the seven states with music therapy regulation by their regulatory burden. Burden was measured on the

![Graph showing percentage distribution of music therapy tasks by state.](http://musictherapyillinois.org/about/fact-sheet/)
level of regulation (license, certificate, or registration) and four requirement categories: education level, clinical training hours, annualized continuing education hours, and annualized fees. Because the CBMT certificate is already required by the majority of employers, we used CBMT as a baseline and considered a state’s burden to be any additional requirements beyond those needed for the CBMT. While these states vary slightly in the required continuing education hours and states fees, they primarily adopt CBMT’s requirements, where in addition to education and training, applicants must pass the CBMT exam and maintain a current CBMT certificate.

Table 1. Comparison of state music therapy regulation ranked by burden

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<thead>
<tr>
<th>Ranking</th>
<th>State</th>
<th>Regulation</th>
<th>Education beyond CBMT</th>
<th>Training hours beyond CBMT</th>
<th>Annualized cont. ed beyond CBMT</th>
<th>Year Effective</th>
<th>Annualized fees</th>
<th>Active licensees</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Nevada</td>
<td>License</td>
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<td>0</td>
<td>13</td>
<td>2012</td>
<td>$58.33</td>
<td>15</td>
</tr>
<tr>
<td>2</td>
<td>Oregon</td>
<td>License</td>
<td>0</td>
<td>0</td>
<td>0*</td>
<td>2015</td>
<td>$125.00</td>
<td>--</td>
</tr>
<tr>
<td>3</td>
<td>North Dakota</td>
<td>License</td>
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<td>0</td>
<td>0</td>
<td>2012</td>
<td>$87.50</td>
<td>12</td>
</tr>
<tr>
<td>4</td>
<td>Georgia</td>
<td>License</td>
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<td>0</td>
<td>0</td>
<td>2014</td>
<td>$37.50</td>
<td>127</td>
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<tr>
<td>5</td>
<td>Utah</td>
<td>Certificate</td>
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<td>0</td>
<td>0</td>
<td>2015</td>
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<tr>
<td>6</td>
<td>Rhode Island</td>
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<td>0</td>
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<tr>
<td>7</td>
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<td>Registration</td>
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<td>0</td>
<td>0</td>
<td>1998</td>
<td>$37.50</td>
<td>50</td>
</tr>
</tbody>
</table>

*Required continuing education hours in Oregon are less than CBMT’s required hours

Source: State departments of occupational licensing

Music Therapy License: Georgia, Nevada, North Dakota, and Oregon

As illustrated in Table 1, Georgia, Nevada, North Dakota and Oregon do not differ greatly from other music therapy regulation in terms of requirements. Without annual licensure and salary data, we cannot draw conclusions about the effects of licensure. The music therapy acts in all four states pay attention to potential professional overlap. In Georgia, in particular, occupational therapists, physical therapists, and speech and language pathologists opposed licensure for music therapists. As a result, the bill specifically states that the music therapy license shall not prevent any professions such as occupational therapists, speech and language pathologists, and audiologists from using music in their practice.

State Certification: Utah

Utah’s state certification became effective in 2015. While eligible music therapists may apply voluntarily for the state certification, it is unlawful to use the title “state certified music therapist”. However, a CBMT music therapy without state certification can still practice and advertise as a CBMT certified therapist.xv According to the bill’s fiscal note, Utah expected 50 individuals to apply for certification in 2015. The bill was projected to earn $5,200 in annual revenue and cost $700 in expenditures.xvi Still in its first licensing period, Utah has 46 active certified music therapists. However, there are 87 music therapists in Utah with an active CBMT certificate, meaning that the state certificate has only attracted a little more than half of Utah’s qualified therapists.
State Registration: Rhode Island and Wisconsin

Wisconsin and Rhode Island provide a voluntary state registration for music therapists. In Wisconsin, like Utah, only 59 out of 127 CBMT certified music therapists have registered.\textsuperscript{xvii} Wisconsin is slightly unique from the other six states with music therapy regulation. First, it established a music therapy registration in 1998, long before AMTA’s and CBMT’s state recognition plan. Secondly, in addition to the voluntary registration, Wisconsin regulates music therapists working in psychotherapy through a license to practice psychotherapy. As a result, Wisconsin explicitly excludes psychotherapy from non-licensed music therapists’ scope of practice. With a master’s degree, qualified music, art, and dance therapists are eligible for the license in psychotherapy which Wisconsin defines as the “diagnosis and treatment of mental, emotional, or behavioral disorders (…) through the application of methods derived from established psychological or systemic principles for the purpose of assisting people”\textsuperscript{xviii}

Other music therapy regulation: Arizona

Arizona’s SB 1376 does not fit entirely within the traditional definition of title protection, however it operates in a similar fashion for music therapists contracting with the state agency of the Department of Economic Security’s (DES) Division of Developmental Disabilities (DDD).\textsuperscript{xix} SB 1376 defines the minimum qualifications required for music therapists working with developmental disabilities though the DDD program. Like other music therapy regulation, SB 1376 requires music therapists to hold an active certification from a national certification board like CBMT.

Alternative License

In addition to the states that regulate music therapy, four states offer an alternative license for music therapist (Table 2). New York has a creative arts therapist license which encompasses a combination of psychotherapy, with the practice of drama, music, art, or dance therapy. Pennsylvania and Texas have expanded their professional counselor license to include a master’s in music therapy as an approved program for the counselor’s education requirements. Wisconsin, mentioned above, has a license to practice psychotherapy. These four licenses are neither specific to music therapy nor required for music therapists. For example, in Pennsylvania, Texas, and Wisconsin, music therapists do not need a license in psychotherapy or counseling to practice music therapy, but are eligible to obtain if they choose to practice psychotherapy.

\textbf{Table 2. Alternative License}
Like many other licensed health professions, these require a master’s level of education and more clinical training hours than under the CBMT certificate. Because these licenses have more requirements and are primarily optional for music therapists, it is difficult to gauge how restrictive each license is. One important factor is the level of overlap between the scope of practice for music therapy and a license. The more overlap that exists the more restrictive a license will be. In the case of New York’s creative arts therapist license, unlicensed music therapist cannot use the creative arts therapist title nor perform duties that fall under the restricted scope of creative arts therapist. However, because there is considerable overlap between these two, the creative arts therapist license is likely to create much larger barriers for music therapists than, for example, an expanded professional counselor's license.

Public Funding Across States

One argument for music therapy licensure is its importance on funding opportunities for music therapy. Licensure proponents argue that language under private insurance and Medicaid requires funds to only cover state licensed providers. Funding issues do create barriers for consumers trying to access music therapy. Given the low prevalence of state regulation and high prevalence of restricted funding sources, it is important to understand the relationship between the two.

The Medicare, Medicaid, and education spending are the three primary government sources of music therapy funding. Medicare is a federal health insurance plan for Americans who are age 65 and older and have paid into the system through income tax. For Medicare recipients, music therapy is a covered service under the mental health/Partial Hospitalization Program and because it is a federal program, it applies to Medicare plans throughout the United States.

<table>
<thead>
<tr>
<th>State</th>
<th>License</th>
<th>Annualized Fee</th>
<th>Education</th>
<th>Clinical Training Hours</th>
<th>Additional Tests</th>
</tr>
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<tr>
<td>New York</td>
<td>Creative Art Therapist License</td>
<td>$172.50</td>
<td>Masters</td>
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<tr>
<td>Wisconsin</td>
<td>License to Practice Psychotherapy</td>
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<td>Masters</td>
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<td>Texas</td>
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<td>Pennsylvania</td>
<td>Professional Counselor License</td>
<td>$70.00</td>
<td>Masters</td>
<td>3000</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: State departments of professional regulation
### Medicaid

Medicaid is health care coverage for low income households that is jointly funded by the federal and state government. Unlike Medicare, there is a basic Medicaid list of core services which states can amend using waivers and demonstration programs. There are no standard or mandatory waivers, however, a waiver will typically detail coverage for an eligibility group, such as children. It is in these waivers where states can list music therapy as a specific covered service. Typically, when music therapy is covered it is under waivers pertaining to children and adults with disabilities with titles similar to Texas’ “Community Living Assistance and Support Services” waiver.\(^{xxi}\) However, there are other waivers, such as waivers for palliative care and traumatic brain injury that occasionally include music therapy. For example, New York’s Medicaid program covers music therapy under the Care at Home waiver for pediatric palliative care. In the waiver there is explicit language describing both who is eligible to receive the service and who is eligible to provide the service, including music therapists who are certified by accredited professional organizations.\(^{xxii}\) While New York covers music therapy for palliative care it does not cover it as a general pediatric service for disabilities. For consistency, we researched music therapy’s Medicaid status among waivers related only to adults and children with disabilities. We counted only waivers that explicitly stated music therapy as a billable service and used a small sample of states with various music therapy regulation.

The three states we researched with a music therapy license did not cover music therapy under any adults or children with disabilities waiver. Georgia, for example, is in the midst of a Medicaid redesign, however services listed for the New Options Waiver program for adults with disabilities lists occupational therapy, physical therapy and speech therapy but does not list music therapy.\(^{xxiii}\) Conversely, Colorado covers music therapy under the Children's Extensive Waiver and
Supported Living Services Waiver. In Indiana it’s covered under the Community Integration and Family Supports waivers, while Texas covers it under the Community Living Assistance and Support Services waiver. In all three states, music therapists must have a certification from a national professional organization.

A music therapist and state task force member in Washington State reported that only children are eligible to receive music therapy under Washington’s Medicaid program which is a problem for many private practices like hers. However, she also said that in its sunrise review on music therapy licensure, the Department of Health denied licensure with the recommendation that the task force focus its efforts at the State’s Department of Social and Health Services who directly oversee Medicaid programs.

Most importantly, in Illinois, a music therapist with a bachelor’s degree is considered a Qualified Intellectual Disability Professional. Under this category, music therapists can provide Medicaid services for people with disabilities but only as a member of a defined Interdisciplinary Team (IDT) focused on a patient’s specific Individual Service Plan (ISP). This means that while Illinois Medicare can cover music therapy, a physician or referring provider must first show that it is medically necessary.

**IDEA Education Funds**

The third source of government funding is education spending, specifically Individuals with Disabilities Education Act (IDEA) funds. The federal government distributes IDEA funds to states through several block grants. Within these broad programing categories, states often have a lot of discretion over spending. It is within these IDEA grants, that a few states have allocated spending for music therapy. Like Medicaid, the state’s discretion creates ambiguity around which services are funded and which are not. While states use a significant portion of IDEA funds on large, standardized programs, they also often award grants to specific school districts and individual school projects. Although for our purposes these smaller funds may go to music therapy programs, they are difficult to track. Therefore using the same sample of states, we researched IDEA funds at the broad state level to determine which states funded music therapy through the federal grant.

Of the three licensed states in our sample, we did not find any that earmarked IDEA funds for music therapy. However, a music therapist from CBMT did state that, as licensed professionals, music therapists in North Dakota are now eligible service providers for student’s Individual Education Plans (IEP). However, the most current state-wide manual for IEP procedures states that state licensure is only applicable for specific professions such as physical therapists. At the same time, it does not mention music therapy and therefore is not included as a state with IDEA funding for music therapy in Table 3.
New York, Texas, Colorado, Indiana, and Illinois are among states that do allocate IDEA funds to music therapy. New York lists part-time music therapists as an allowable use if IDEA funds. Similarly, Texas lists music therapy as a school-based therapy that is included in IEPs. In Illinois, music therapy is considered an additional service that students with disabilities are eligible for under an IEP. In this category, service providers must either have a state license or, as in music therapy, hold a credential from a recognized professional organization.

V. Risk Analysis of the need for Music Therapy License in Illinois

Arguments for Music Therapy Licensure

The CBMT and the Illinois Association for Music Therapy list several arguments to justify the licensure request for music therapy. These arguments can be organized in terms of the affected stakeholders:

a. For consumers:
   - To ensure music therapists are qualified individuals and that the therapy will not harm the client
   - To guarantee the availability of music therapy services
   - To expand consumer access to music therapy services
b. For current music therapists:
   - To comply with current employers’ requirements
c. For healthcare facilities:
   - To provide guidance on distinguishing between music therapists, music practitioners, music thanatologists, and other non-music therapy musicians in healthcare
d. For both consumer and providers:
   - To increase access to public funding alternatives
e. For society in general:
   - To promote awareness of music therapy as a profession, its differences with other arts therapies or related professions, and its contribution

Risk Analysis of an Unlicensed Music Therapy Practice

Taking into account the previous arguments, it is pertinent to analyze whether an occupational license would effectively address CBMT and the Illinois Association for Music Therapy’s concerns. The potential risks of not regulating music therapy in the state on Illinois can be classified into three main categories: (i) harm caused by unqualified therapists; (ii) mechanisms to protect consumers from malpractice; and, (iii) barriers preventing public access to music therapy services.

(i) Harm caused by unqualified therapists
We evaluated the risk caused by unqualified therapists using three categories of sources: music therapy reviews from other states, existing music therapy procedures in Illinois, and testimonies from music therapists. From these sources, we found the risk presented from unqualified therapists to be limited.

Other states that have investigated the potential of consumer harm have shown that in the case that music therapy is not well-performed, the potential emotional and psychological harm is not comparable to the potential permanent damage caused by other licensed professions, such as doctors. In Colorado’s Department of Regulatory Agencies’ (DORA) 2014 sunrise review in 2014, it studied examples of harm provided by the American Music Therapy Association. After studying 10 examples related to emotional, psychological and physical harms, DORA concluded the following:

“These cases do not demonstrate evidence that the unqualified practice of music therapy harms the public. In the cases presented in which clients were medically fragile, they were protected by other means.”

Additionally, DORA analyzed the cases provided by the CBMT. Most of these cases provided evidence of harm to the public by board-certified music therapists. The type of harm were related to sexual abuse of children with developmental disabilities, sex with patients in psychiatric wards, and financial exploitation of elderly clients. In this regard, it is worth mentioning that an occupational license would not deter these types of misconduct, and since they can be considered crimes, the offenders can be subject to criminal sentences by the current judicial channels established for those purposes.

Secondly, through DORA’s report and current practices in Illinois, it is evident that the potential risks for patients are mitigated in part because music therapy sessions are normally conducted under the supervision of other health professionals or are already screened for quality. Indeed, in Colorado’s Sunrise Review, DORA found that in some of the examples of harm provided by the American Music Therapy Association, the music therapy was supervised by doctors and nurses.

In the specific case of Illinois, the Department of Human Services’ Rule 132 59 ILAC defines “therapy” to treat mental illness conditions and billed under Medicaid as follows:

“a treatment modality that uses interventions based on psychotherapy theory and techniques to promote emotional, cognitive, behavioral or psychological changes as identified in the ITP. Services shall be provided face-to-face, by telephone or videoconference.”

Therefore, music therapy could be billable under Rule 132; however, it needs to be part of an Individual Treatment Plan (ITP) which includes an attending physician or healthcare provider as well as a team of mental health professionals. More
specifically, an ITP details the goals, type of services, the responsible professionals, the service intensity and progress indicators designed to treat a patient with mental illness.

Most importantly, under the ITP, music therapists must be board certified. Therefore, for Medicaid patients, a music therapy license would only reiterate qualifications already required under Rule 132. Secondly, Rule 132 describes an interdisciplinary team, whereby an attending physician or healthcare provider must recommend music therapy. In this situation, it is highly unlikely an unqualified music therapist would be permitted to practice without the fault pointed to the entire healthcare team.

Like Illinois' Medicaid rule, Illinois education funds already screen for quality by requiring music therapists receiving IDEA funds to have certification from a nationally accredited professional organization. Again, licensure would not reduce the risk rather reiterate existing standards. At the same time, music therapists working in the education system are most often working under IEPs that create a team of education providers with specified goals.

To gather more evidence regarding the potential harm of poorly performed music therapies, we interviewed two relevant stakeholders: Nancy Swanson, Government Relations Chair of the IAMT, and Kimberly Senna-Moore, CBMT Regulatory Affairs Associate. From them, we gathered several examples of potential harm:

NICU: One specialization of music therapy is working with premature babies in the NICU. Within the mother's womb, a fetus is stimulated by sound while also protected by the womb. For example, at seven months, a fetus can recognize its mother voice. However, premature babies are unprotected from the natural process of audio stimulation. Music therapists are trained to play the appropriate pitches and sounds to mimic the sound vibration of the womb for premature babies as they continue to develop. However, an untrained therapist can pose a serious risk by playing a wrong pitch and permanently damage its auditory system.

Cancer center: Another example is patients in cancer centers, who are particularly vulnerable when they are starting treatments. In this setting, someone without the proper music therapy training could open up emotions and generate emotional harm. Because the use of live music interventions demands that the music therapist not only possess unique musical abilities but also the knowledge and skills of a trained therapist, an unqualified music therapist cannot easily adapt therapies to sudden emotional changes.

Alzheimer’s patients: For patients with Alzheimer's and other forms of dementia music therapy can slow memory loss and provide an alternative form of communication if speaking is difficult. However, music can also trigger severe states of anxiety. In nursing homes, where music therapy is often provided in groups, this anxiety can spread across patients. In these situations a music therapists can
quickly change techniques to calm patients whereas unqualified music therapists lack the training to quickly assess the situation.

Unconscious or comatose patients: For patients who are unconscious or in a coma, the music therapist needs to be highly skilled at recognizing patients’ behaviors to know whether the music stimulus is helping or harming the client. In regards to unconscious patients, Senna-Moore provided a specific example:

*A teenage boy was in a coma as a result of an accident. A family friend, who was musically talented but not a music therapist, offered to play music to help the teenager relax. Therefore on the request of the family, and knowing the friend was not a music therapist, the friend played Mozart in the patient’s room. However, the patient became very agitated in response and his vital signs showed duress. His doctors then called in a trained music therapist who evaluated the situation and altered the music according to boy’s music preferences and his responding vital signs.*

In these examples, unqualified music therapist do present consumer risk, however, it is unclear if licensure would further protect consumers. In the first example, NICUs are highly controlled spaces that permit only qualified personnel. Without further evidence, we believe that in current NICUs only qualified music therapists with CBMT certificates are performing music therapy services. We believe this also true for cancer wards, where CBMT certification is already required. However, given the less stringent nursing home codes, this may pose more of a risk for Alzheimer’s patients in nursing. Lastly, in the example of the teenager in a coma, licensure would not change the situation given that family knowingly admitted an untrained friend as a guest. Rather this example shows that appropriate knowledge and access is in place for the medical doctors knew how to respond and where to request for a qualified therapist.

(ii) Lack of consumer protection mechanisms in case of malpractice

Even in a case of music therapy malpractice, Illinois consumers already have alternative channels for filing their complaints. Two agencies, the Illinois Attorney General’s Office and the Federal Trade Commission (FTC) are particularly well equipped to address music therapy malpractice.

1. Illinois Attorney General’s Office

Attorney General Lisa Madigan’s Consumer Protection Division protects Illinois consumers and businesses victimized by fraud, deception, and unfair business practices. The Consumer Protection Division works through the following bureaus: Consumer Fraud Bureau, Charitable Trust Bureau, Franchise Bureau, Health Care Bureau, and Military and Veterans Rights Bureau. xxxvi
In particular, the Consumer Fraud and Health Care Bureaus offer informal dispute resolution programs for consumers with complaints concerning their purchases and health care.

Consumers can file a complaint by mail or online at
https://ccformssubmission.ilattorneygeneral.net/. After the complaint is received, it is reviewed by attorneys, investigators, and other members of the Attorney General’s staff involved in carrying out the responsibilities of the Illinois Attorney General. Finally, the complaint is sent to the party with which the person has a dispute to initiate legal procedures. The information might also be shared with governmental enforcement agencies responsible for consumer protection and other laws.

2. Federal Trade Commission

The FTC is a bipartisan federal agency with a unique dual mission to protect consumers and promote competition. The FTC has three Bureaus:

- Bureau of Competition
- Bureau of Consumer Protection
- Bureau of Economics

In particular, the Bureau of Consumer Protection’s mandate is to protect consumers against unfair, deceptive or fraudulent practices. The Bureau enforces a variety of consumer protection laws enacted by Congress, as well as trade regulation rules issued by the Commission. Its actions include individual company and industry-wide investigations, administrative and federal court litigation, rulemaking proceedings, and consumer and business education. In addition, the Bureau contributes to the Commission’s on-going efforts to inform Congress and other government entities of the impact that proposed actions could have on consumers.

This Bureau has eight divisions: Division of Privacy and Identity Protection, Division of Advertising Practices, Division of Consumer & Business Education, Division of Enforcement, Division of Marketing Practices, Division of Consumer Response & Operations, Division of Financial Practices, Division of Litigation Technology & Analysis. Besides these divisions, the Bureau also has regional offices in Atlanta, Chicago, Cleveland, Dallas, Los Angeles, New York, San Francisco, and Seattle that help to amplify the national impact and local presence of the FTC.

To fill a complaint, consumers can do it online at www.ftc.gov/complaint, or by phone at +1 877-FTC-HELP. Once the complaint is filled, it is entered in the FTC’s online database, which is used by many local, state, federal, and international law enforcement agencies. The information of the complaint helps the FTC and their law enforcement partners detect patterns of fraud and abuse, which may lead to investigations and eliminate unfair business practices. Even though, the FTC cannot
resolve individual complaints, they can provide information about what next steps to take.

Alternatively, if a patient was a victim of malpractice and they received music therapy through a hospital, for example, they can take legal actions against those institutions. Indeed, since these types of institutions are considered “health care providers”, under Illinois laws, in a case of malpractice patients can sue them directly in case of harm. The 770 ILCS 23/5 defines “health care providers” as any entity in any of the following license categories: licensed hospital, licensed home health agency, licensed ambulatory surgical treatment center, licensed long-term care facilities, or licensed emergency medical services personnel.

On the other hand, there are ex-ante mechanisms that control music therapists’ quality, mitigating in part the potential harm to patients in Illinois. Indeed, the Board’s Code of Professional Practice regulates the practice of those music therapists certified by the CBMT. To maintain their board certification, they need to meet the requirements of quality standards established by the Code of Professional Practice. Failure to meet the requirement may lead to suspension or revocation of certification. Furthermore, the Code of Professional Practice also specifies disciplinary procedures for filling and reviewing complaints from consumers attended by certified music therapists.

In the same way, the American Music Therapy Association (AMTA) regulates music therapists though their Code of Ethics. Their Code of Ethics “is applicable to all those holding the MT-BC credential or a professional designation of the National Music Therapy Registry and professional membership in the American Music Therapy Association. This Code is also applicable to music therapy students and interns under clinical supervision”.

In conclusion, existing consumer protection mechanisms at the national and state level are effective at mitigating risk and therefore occupational licensing is not needed on the basis of consumer protection. During the investigation we asked Kimberly Moore, Regulatory Affairs Associate of CBMT, if she could provide IDFPR with CBMT complaint data. Even though, we haven’t been able to have access to that specific complaint data, it is advisable that the Music Therapy Advisory Board collects this kind of information from CBMT – together with FTC’s and Illinois Attorney General’s – in order to identify not only the magnitude of it, but also the common problems related to music therapy practice.

(iii) Barriers preventing public access

A third argument for licensure is that because music therapists work in a highly licensed field of health and education professionals, a lack of licensure prevents employment and funding opportunities and in return creates barriers for the public to access music therapy services.
The current regulatory status for music therapy in Illinois has not represented a barrier for their professional development. Indeed, according to the AMTA and Illinois Associations for Music Therapy, not only has the number of professionals increased in the last years (71.1% between 2011 and 2015), but their average salary per year has also increased (approximately 39.5% between 2010 and 2014). Moreover, music therapists in Illinois have been able to work in different settings besides private practice (i.e. hospices, nursing homes, schools, community organizations, etc.).

Additionally, as Figure 3 on page 10 shows, music therapists in Illinois are already funding from a variety of sources including education funds, Medicaid, and private facilities.

Furthermore, on the grounds of title protection it is already unlawful to incur unfair methods of competition and unfair or deceptive acts or practices to misled, deceive or damage any personxlii. Therefore, a person cannot claim having a university degree in music therapy without actually holding it, otherwise there could be legal consequences.

VI. Comparison of Music Therapists and Professional Counselors

Understanding a profession’s relationship to current regulation is critical to evaluating its regulatory need. In particular, assessing new regulation in context to licensed professions in similar fields provides important benchmarks to gauge public safety risks and prevents redundant and overlapping regulation. Along these lines, effective regulation will limit the number of specialty licenses by regulating similar occupations together. Given the considerable overlap between music therapists and licensed professional counselors, licensing music therapy under the professional counselor license is one potential alternative to music therapy regulation.

Technically, Illinois defines a professional counselor as a therapist who works with individuals, couples, groups, and families to either (i) assess or diagnose for the purpose of developing treatment goals or (ii) implement and evaluate a treatment plan to improve mental, emotional or behavioral disorders that affect mental health.xliii This general definition allows the professional counselor license to encompass several specialties. In practice, license includes 4,000 licensed counselors practicing across a diverse set of mental health specialties such as art therapy, dance and movement therapy, and rehabilitation counseling.

In comparison, one definition of a music therapist is a practitioner who (i) assesses and diagnoses a client for the purpose of music therapy goals and (ii) implements a treatment plan to address physical, emotional, cognitive, and social needs of individuals. From these two definitions, music therapy appears to fit well within the broader counselor category—and many music therapists do. However, music therapy has many applications that extend beyond mental health. Illinois’ professional counselor license would only apply to the portion of music therapy that falls under mental health, excluding a significant portion of the music therapy practice. For
example, music therapy plays an important role in helping nonverbal stroke and traumatic brain injury patients regain speech. In this sense music therapy is more aligned with speech and language pathology, which Illinois regulates under a distinctly different license than that of the counselors. However, at the same time, speech and language pathology also only aligns with a segment of the music therapy practice.

Professional qualifications are another important point of comparison. To become a professional counselor, Illinois requires:

- A master’s degree in a counseling, psychology, or a related field as approved by the Department
- Completion of one graduate course in each of the 13 required content areas
- Completion of the National Counselor Examination

For music therapists, the CBMT certification does not require therapists to complete a master’s degree. However, most graduate programs in music therapy fulfill the content requirements in each required subject of the counselor license. Therefore the board needs only to approve music therapy as an appropriate field of study to expand the counselor license to include music therapy. However, in addition to course content, regulation must also consider program availability. In Illinois, there are over 100 approved master’s programs related to counseling. By contrast, Illinois has only one graduate program in music therapy. Requiring music therapists to hold the credentials of other health professions would significantly reduce music therapy services in the State.

There are also substantial differences between the risk posed by music therapists and professional counselors. Market conditions mitigate the risk as the specific nature and small size of the music therapy market create demand primarily from knowledgeable consumers and regulated healthcare facilities. Additionally, unlike professional counseling which typically operates independent of other health providers, music therapy works as part of an interdisciplinary medical team. As a result, consumers face a much smaller risk of accessing unqualified music therapists. For example, if a consumer searches the internet for a marriage counselor in Chicago, they are inundated with marriage counseling advertisements, various consumer reviews, and a host of professional webpages. Alternatively, a similar search for a music therapist returns no advertisements and presents the Illinois Association for Music Therapists and CBMT’s webpage as its top search results.

In sum, regulating music therapists under the existing professional counselor license requires simply the board’s approval of music therapy as an appropriate field of study, such as dance and art therapy programs. However, regulatory ease alone does not warrant an expansion of the counselor license. In terms of scope of practice, music therapy is a distinct healthcare profession that the professional counseling license cannot fully capture. Similarly, the current state of music therapy does not present the same risks as a counselor. Therefore, regulating music therapy
as professional counseling will over estimate music therapy’s risk to consumers and create unnecessary barriers to the labor market.

It is important to note that this analysis did not have enough data to analyze the competitiveness of music therapists in the mental health labor market. For example, one job posting for a creative arts therapist in Chicago did require a board certification from CBMT or the equivalent dance and art therapy associations in addition to a professional counselor license, clinical professional counselor license, or license in social work. However, more information is needed in order to accurately consider competitiveness as a factor for regulatory need.

VII. Recommendations

This report attempts to fully consider all aspects of music therapy in order to evaluate its regulatory need. In light of its scope of practice, current market conditions and state regulations, risk, and comparative professions, we find three conclusions:

- **At this time, there is no conclusive evidence to support a music therapy license.**
- **More data on consumer risk and labor markets will help the Advisory Board draw more precise conclusions on music therapy’s regulatory need.**
- **The Board may wish to explore title protection as an alternative to more restrictive regulation.**

Returning to the criteria for evaluating a professions regulatory need clarifies important findings in this report and solidifies and highlights unresolved concerns.

1. **Public Risk:** There is no significant public risk. Music therapists deliver minimally invasive services as a team or under the CBMT certification.
2. **Specific Skillset:** The profession does require a specialized skillset however the need for public assurance is unclear.
3. **Professional Responsibilities:** The majority of the practice works closely with other health providers.
4. **Scope of Practice:** Due to the diversity of its practice, the scope of music therapy is distinctly different from other professions.
5. **Economic Impact:** The direct costs of regulation are unknown, however, given that there is little social gain in restrictive regulation, the costs will likely outweigh the benefits.
6. **Alternatives to Regulation:** The CBMT, AMTA, FTC, and Attorney General’s office are all functioning alternatives that protect consumers in place of occupational regulation.

With these first six principles, the Advisory Board must find the regulation that meets the seventh criterion, the least restrictive regulation necessary. From the first six criterion, it is evident that the risk does not warrant restrictive regulation such as licensure or certification.
However, we find that music therapists do have a specialized skillset although it is unclear if the public must be able to rely on this education. Additionally, when taking into account the entire profession, it appears music therapists do have a distinct scope of practice from other professions. At this time, these two distinctions do not warrant any regulatory action. Yet, we do not want to minimize the challenges that music therapist face in distinguishing themselves as a specialized healthcare profession. With the current data, it does not appear that occupational regulation itself is the most appropriate means to address these challenges. However, more data on the labor market and types of complaints CBMT and AMTA receives will help the Board make final determinations on any potential benefits of regulation.

If further research shows that the regulatory status of music therapy does impact its accessibility, we recommend that the Department explores title protection. The Department can define title protection in many ways. This may mean using Arizona’s approach and defining board certified music therapist as a qualified healthcare professionals with services appropriate for State funding. However, the Board must further investigate the Department’s jurisdiction and the efficacy of title protection.
References


"DADS CLASSPM, Section 7000, Billing/Record Keeping Requirements." *DADS CLASSPM, Section 7000, Billing/Record Keeping Requirements*. Texas Department of Aging and Disability Services, 20 Nov. 2015. Web. 16 Mar. 2016.


Methodology: Calculating Regulatory Burden

Burden was measured on the level of regulation (license, certificate, or registration) and four requirement categories: education level, clinical training hours, annualized continuing education hours, and annualized fees. Because the CBMT certificate is already required by the majority of employers, we used CBMT as a baseline and considered a state’s burden to be any additional requirements beyond those needed for the CBMT. Within these five categories there is at least three different units of measurement (hours, education days, dollars). To solve this problem we adopted the Institute of Justice’s method and converted each category to z-scores and added the five z-scores for each state regulation.

Level of regulation: To measure the differences in regulation method, we arbitrarily assigned number values to licensure, certification, and registration. With the least restrictive, registration, valued at 2 and the most restrictive, licensure, valued at 4.

Education level: To measure education, we simply multiplied 365 days by the standard number of years required by the education level. Secondly, we set CBMT standards as our base level and therefore subtracted CBMT’s education requirements from each state’s requirements. All states as well as the CBMT require a bachelor’s degree and as a result every state has a zero value.

Annualized continuing education hours: Continuing education hours are set according to the renewal period. For CBMT, music therapists must renew their certificate every five years while Georgia renews every two years and Nevada every three. Therefore, the continuing education hours were annualized. CBMT’s annualized 20 hours of continuing education were then subtracted from each state and the z-scores calculated.

Annualized fees: Fees were annualized using one initial licensing period and one renewal period. Regardless of any CBMT fees, state regulatory fees would be an additional costs so no CBMT fees were subtracted.

Lastly, we added the each requirement z-score for the total score. For the four requirements excluding music therapy, each state had fairly similar standards. Therefore, each requirement had roughly the same impact on the total score for states, so it was not necessary to weight individual requirements.
Endnotes


vi Source: A Career in Music Therapy. AMTA. Available at http://www.musictherapy.org/careers/employment/#APPROVED_CURRICULUM


ix Source: Music Thanatology Association International. Available at http://www.mtai.org/index.php/what_is

x Source: National Standards Board for Therapeutic Musicians. Available at http://www.nsbtm.org/faq/


xii http://www.musictherapy.org/about/history/


xiv www.cmbt.org


 xvii Department of Safety and Professional Services, "Health Service and Business Professions List Contact and Mailing Information" http://dsps.wi.gov/Documents/Mgmt%20Svcs/List%20Order%20Form%20Packet.pdf

xviii http://docs.legis.wisconsin.gov/statutes/statutes/457/01/8m


EXHIBIT 3B

Sunrise and Sunset Reviews

Prepared for:
Illinois Department of Financial
and Professional Regulation

February 27, 2017

Carolina Agurto
Cecelia Black
Claudia Figueroa
Raúl Mejía
Sunrise Review of Music Therapy
Agenda

I. What is Music Therapy?

II. Music Therapy in Illinois

III. How do other states regulate Music Therapy?

IV. Are the risks associated to not regulating Music Therapy already addressed?

V. Conclusions and recommendations
What is Music Therapy?

- Use of music for physical, emotional, cognitive, and social needs

- Common treated conditions: autism, Alzheimer's, mental diseases, developmental disabilities, stroke, traumatic brain injury

- Bachelor’s approved curriculum in 3 areas:
  - Musical foundations
  - Clinical foundations (clinical practicum and internship of 6 months)
  - Music therapy foundations (observation & measurement, therapy activities)

- Challenges heard from music therapists:
  - Reimbursement difficulties without licensure
  - Risk from untrained “music therapist”
  - Limited visibility and recognition as a health profession
Two main organizations related to music therapy

- Advocacy for MT
- Approves college and university programs
- Membership
  - Fee for professional = $250

- Advocacy for MT
- Certification requirements:
  - Bachelor’s degree in music therapy
  - 1,200 hours of clinical training CBMT exam
  - 20 hours of continuing education (annualized)
Music Therapy in Illinois

- 85% report their employers required CBMT certification
- 243 certified music therapists living in 23 counties in 2015
- Approved educational programs in ISU and WIU
- 13,220 clients in 2014
- 2014 annual salaries $45,000 - $75,000
- Most common settings:
  - Hospices, nursing homes, schools, community organizations and private practice
- On April 2015, IDFPR created a Music Therapy Advisory Board

Sources:
Music Therapy Fact Sheet, Illinois Association for Music Therapy
AMTA Snapshot of the Music Therapy Profession
Few states currently regulate music therapy

Status of music therapy regulation across states

*Wisconsin is counted in both “alternative regulation” and “registration”*

Source: CBMT and state legislatures
The majority of states that do regulate music therapy have adopted CBMT requirements

<table>
<thead>
<tr>
<th>State</th>
<th>Regulation</th>
<th>Year Effective</th>
<th>Annualized Continuing Education</th>
<th>Annualized Fees</th>
<th>Number of Active License</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nevada</td>
<td>License</td>
<td>2012</td>
<td>33 hrs</td>
<td>$58.33</td>
<td>15</td>
</tr>
<tr>
<td>Oregon</td>
<td>License</td>
<td>2015</td>
<td>10 hrs</td>
<td>$125.00</td>
<td>--</td>
</tr>
<tr>
<td>North Dakota</td>
<td>License</td>
<td>2012</td>
<td>20 hrs</td>
<td>$87.50</td>
<td>12</td>
</tr>
<tr>
<td>Georgia</td>
<td>License</td>
<td>2014</td>
<td>20 hrs</td>
<td>$37.50</td>
<td>127</td>
</tr>
<tr>
<td>Utah</td>
<td>Certificate</td>
<td>2015</td>
<td>n/a</td>
<td>$58.50</td>
<td>46</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Registration</td>
<td>2015</td>
<td>n/a</td>
<td>$45.00</td>
<td>--</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Registration</td>
<td>1998</td>
<td>n/a</td>
<td>$37.50</td>
<td>56</td>
</tr>
</tbody>
</table>

Source: State Departments of Professional and Occupational Licensing
Alternative licenses require more education and training than music therapy regulation

<table>
<thead>
<tr>
<th>State</th>
<th>License</th>
<th>Annualized Fee</th>
<th>Education</th>
<th>Clinical Training Hours</th>
<th>Additional Tests</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>Creative Art Therapist License</td>
<td>$172.50</td>
<td>Masters</td>
<td>1,500</td>
<td>0</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>License to Practice Psychotherapy</td>
<td>$128.50</td>
<td>Masters</td>
<td>3,000</td>
<td>0</td>
</tr>
<tr>
<td>Texas</td>
<td>Professional Counselor License</td>
<td>$153.00</td>
<td>Masters</td>
<td>3,000</td>
<td>2</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Professional Counselor License</td>
<td>$70.00</td>
<td>Masters</td>
<td>3,000</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: State Departments of Professional and Occupational Licensing
Licensure does not guarantee access to state funding for MT services

<table>
<thead>
<tr>
<th>State</th>
<th>Music Therapy Regulation</th>
<th>Medicaid for adults w/ disabilities</th>
<th>Medicaid for children w/ disabilities</th>
<th>State education IDEA funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Georgia</td>
<td>License</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td>License</td>
<td></td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>North Dakota</td>
<td>License</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Registration</td>
<td></td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>Creative Arts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td>Counselor License</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>Colorado</td>
<td>No</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>Indiana</td>
<td>No</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>Washington</td>
<td>No</td>
<td></td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>Illinois</td>
<td>No</td>
<td>✗</td>
<td>✗</td>
<td>✗</td>
</tr>
</tbody>
</table>

Source: State Medicaid, Board of Education, and music therapy providers
Why approve a license for music therapy?

- Prevent harm caused by unqualified therapists
- Generate mechanisms to protect consumers from malpractice
- Improve employment conditions of professionals
The potential harm is not high nor irreversible, and can be mitigated

- Poorly conducted music therapies do not lead to serious psychological or physical damage

- Music therapy constitutes one part of an extensive treatment in which other professions are involved
  - Colorado Sunrise Review analysis
  - Music Therapy as part of ITP (Individual Treatment Plans) – IDHS

- It is nearly impossible to attribute negative effects solely to music therapy
Current alternative regulatory mechanisms already protect consumers from malpractice

- Board certified MT are ruled by CBMT’s Code of Professional Practice
- MT associated to AMTA are ruled by its Code of Ethics
- Federal and state agencies receive complaints
  - Federal Trade Commission's Bureau of Consumer Protection
  - Illinois Attorney General
- Possibility to sue health care providers (hospitals, hospice, etc)
Lack of licensure has not impeded growth of MT services in Illinois

- Positive trend in Illinois labor market
  - MT work in different settings besides private practice
  - Number of professionals increased in the last years (+71.1% 2011-2015)
  - Average salary per year (+39.5% 2010 - 2014)
  - 19% of MT receives funds from the state, 17% from Medicare, 21% from private insurance

- Bachelor’s degree on music therapy sufficient to work as music therapist

- Consumer Fraud and Deceptive Business Practices Act
  - Unlawful to advertise as a music therapist without the bachelor’s degree

- Additional signaling mechanism: CBMT certification
Conclusion and Recommendations

No evidence justifies a license for music therapy in the State of Illinois. IDFPR should provide title recognition to address MT challenges.

Next suggested steps:

Strengthen the analysis with new data:
- Evidence of potential harm: cases collected by Task Force
- MT national complaints: information from the CBMT

Other issues:
- Music therapy’s risk and scope of practice do not align with the professional counselor license
Thanks!

Questions?
Appendix
Music Therapy in Illinois

Percentage of music therapists by setting

Percentage of music therapists by funding sources

Source: Music Therapy Fact Sheet, Illinois Association for Music Therapy
In Illinois, including music therapy within the professional counselor license is one regulatory option.

<table>
<thead>
<tr>
<th>Licensed Professional Counselors</th>
<th>Licensed Professional Counselors and Music Therapists</th>
<th>Music Therapists</th>
</tr>
</thead>
</table>
| **Scope**                        | Develops treatment plan to improve mental, emotional or behavioral disorders that affect mental health | ▪ Use music interventions to improve speech and communication among nonverbal individuals  
▪ Works within interdisciplinary teams |
| **Practicing Professionals**     | 4,800                                                | 240             |
| **Education**                    | Master's degree in accredited counseling program including art therapy, and dance movement therapy | Graduate programs must require one course across 13 subject areas including group dynamics, research and evaluation, and counseling techniques |
| **Experience**                   | 0                                                    | 1,200 hours     |
| **Risk**                         | Counselors work in popular fields with many avenues to access consumers | ▪ Works with vulnerable populations with increased risk of suffering emotional harm  
▪ Handles confidential patient information  
Unqualified MT prevents patients from receiving treatment at critical time for rehab |

**Note:** This table summarizes the requirements and comparison between Licensed Professional Counselors, Licensed Professional Counselors and Music Therapists, and Music Therapists in Illinois. It highlights the scope, practicing professionals, education, experience, and risk associated with each role.
Music therapy does not carry the level of risk that warrants regulation under the professional counselor license.

For music therapists in the mental health field, how does the professional counselor license affect access to the labor market?
State requirements are significantly different between music therapy regulation and alternative licensure

<table>
<thead>
<tr>
<th>Music therapy Regulation</th>
<th>Alternative Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Licensure</strong></td>
<td><strong>Creative Art Therapist Licensure</strong></td>
</tr>
<tr>
<td>CBMT certified</td>
<td>Master's degree and 1500 hours of clinical training</td>
</tr>
<tr>
<td>Georgia, Nevada and Oregon</td>
<td>New York</td>
</tr>
<tr>
<td><strong>Certification</strong></td>
<td><strong>License to Practice Psychotherapy</strong></td>
</tr>
<tr>
<td>CBMT certified</td>
<td>Master's degree and 3000 hours of clinical training</td>
</tr>
<tr>
<td>Utah</td>
<td>Wisconsin</td>
</tr>
<tr>
<td><strong>Registration</strong></td>
<td><strong>Professional Counselor License</strong></td>
</tr>
<tr>
<td>CBMT certified</td>
<td>Master's degree and 3000 hours of clinical training</td>
</tr>
<tr>
<td>Wisconsin and Rhode Island</td>
<td>Texas and Pennsylvania</td>
</tr>
</tbody>
</table>

Source: State Departments of Professional and Occupational Licensing
Reimbursement Overview

**Medicare**

**A. Partial Hospitalization**
Music therapy is a covered service in Partial Hospitalization Programs (PHP) using the Healthcare Common Procedure Coding System (HCPCS). Facilities can bill Medicare using HCPCS Code G0176 and Revenue Code 904 (Partial Hospitalization-Activity Therapy) to document that music therapy services were provided.

**B. Prospective Payment System (PPS)**
Music therapy services can be covered through the Medicare Prospective Payment System or PPS. Although music therapy does not receive direct reimbursement from Medicare for services provided, music therapists can be included as part of the package that is covered under the PPS within skilled nursing facilities/nursing homes, in-patient psychiatric programs, hospice programs, and in-patient rehab settings.

**C. Minimum Data Set (MDS)**
This extensive assessment tool has many sections in which music therapists can provide input to the treatment team but not all sections of this document have an impact on the reimbursement a facility receives from Medicare. To assist facilities access additional funding, music therapists can document minutes under Restorative Care. This program usually is managed by nursing and in many facilities, CNAs or certified nurse assistants facilitate this program. Some facilities, however, do not have the necessary staff that is trained to offer this service and as a result, these facilities turn to recreation therapy and music therapy for programming assistance.

Several programs that music therapists typically provide in skilled or residential care facilities may fall under Restorative Care. Exercise programs, socialization groups, and orientation sessions are a few examples of interventions that might help to address Restorative Care needs of clients. The best way to explore this option of documenting music therapy under the Restorative Care section of the MDS is by collaborating with the MDS coordinator in a facility.

Please remember that music therapy can not bill Medicare directly for services, but instead, can provide and document services under the existing Restorative Care section of the MDS. When quality services are provided and documented under this heading, the facility in turn, receives more reimbursement from Medicare. In other words, the facility receives an additional amount of funding on top of the flat daily PPS payment. In AMTA’s communication with CMS regional offices across the country, we have learned that is not possible to determine the exact amount of additional reimbursement a facility receives when Restorative Care programming is offered. This is due to a variety of complex factors involved in the Prospective Payment System (PPS), such as the Case Mix Adjustment and RUGs or Resource Utilization Groups.
The MDS 3.0 assessment tool also lists music therapy under Section O. Special Treatments and Procedures, O0400. Therapies, F. Recreational Therapy (includes recreational and music therapy). Although this listing does not provide additional reimbursement for the facility, it does provide a more accurate vehicle for documenting physician-ordered music therapy services in settings utilizing the MDS and helps to validate the inclusion of music therapy as a part of the PPS daily rate.

**Medicaid Waivers**

Medicaid waivers are programs developed by each state that focus on specific client groups or diagnoses and provide additional services that are not covered by other funding sources. There are currently a few states that allow payment for music therapy services through use of Medicaid Home and Community Based Care waivers with certain client groups. In some situations, although music therapy may not be specifically listed within regulatory language, due to functional outcomes achieved, music therapy interventions qualify for coverage under existing treatment categories such as community support, rehabilitation, or habilitation services.

**Examples**

**Arizona**
Medicaid coverage for music therapy provided to individuals with developmental disabilities.

**Indiana**
Home and Community-Based Waivers managed by the Division of Disability and Rehabilitation Services includes music therapy as a covered service for the following three waiver programs: Developmental Disability Waiver, Autism Waiver, and Support Services Waiver.

**Maryland**
Music therapy is a covered service under the state’s Autism Waiver and the Residential Treatment Center Demonstration Waiver.

**Michigan**
Music therapy is a covered service under the state’s Medicaid Children’s Waiver Program.

**Texas**
Music therapy is listed as a health service under several In Home and Family Support Program Waivers.

**Wisconsin**
Music therapy is a covered service within the Brain Injury Waiver (BIW) and the Children's Long-Term Support Waiver.

In addition to waiver program examples listed above, other states have utilized state and county agency funds and population specific waivers (i.e., autism, developmental disabilities) to cover the provision of music therapy interventions in a variety of settings. These states include:

- California
- Colorado
- Georgia
- Hawaii
- Idaho
- Louisiana
- Missouri
- Minnesota
- Nevada
- New Jersey
- North Carolina
- Ohio
- Pennsylvania
- South Dakota
- Virginia
- Washington
**Private Insurance**

Companies like Blue Cross Blue Shield, United Healthcare, Cigna, and Aetna have all paid for music therapy services at some time. Success has occurred on a case-by-case basis when the therapist implements steps within the reimbursement process and receives pre-approval for music therapy services.


The American Medical Association CPT Editorial Panel has stated that music therapy services can be reported using existing CPT codes.

Policies on the use of CPT codes for procedures and interventions conducted by the Board Certified Music Therapist are **service specific, not discipline specific**. This is consistent with policies in use by third party administrators. Referrals for procedures are made by physicians to disciplines which are trained and qualified, in accordance with their scope of practice.

Music therapy services within select hospital in-patient programs have been successfully billed to private insurance companies when standard industry requirements are completed. These include:

**Revenue Codes**

Recommended revenue codes for reporting music therapy services on in-patient claim forms, include 0940, “Other Therapeutic Services-General Classification” or 0949, “Other Therapeutic Services.” Use of these revenue codes is not a guarantee of reimbursement, but these codes assist facilities more accurately report the provision of music therapy services.

**Other Payers**

**Workers’ Compensation**

As states attempt to contain the costs associated with workers’ compensation, many of these programs are now provided through managed care plans from the private insurance market. Requiring pre-approval before services can be offered and working with case managers are common among workers’ compensation programs. Some music therapists have received reimbursement from this type of coverage, specifically in the treatment of traumatic brain injury (TBI), physical rehabilitation, or pain management.

**TRICARE**

TRICARE is the health care program serving active duty service members, National Guard and Reserve members, retirees, their families, survivors and certain former spouses worldwide. At this time, access to this funding is extremely rare and typically requires extensive advocacy to obtain approval for music therapy coverage.
February 6, 2017

TO: Illinois Department of Financial and Professional Regulation
Music Therapy Advisory Board

FROM: Judy Simpson, MT-BC
Director of Government Relations
American Music Therapy Association

RE: Music Therapy Reimbursement Information

During the November 28, 2016 meeting, the Board expressed an interest in learning more about the current status of music therapy reimbursement. The attached document provides an overview of various payment systems that offer some form of coverage for music therapy services. As is true with most health services, coverage varies by payer, setting, and diagnosis.

The collaborative State Recognition initiative between AMTA and the Certification Board for Music Therapists is not focused on increasing reimbursement for music therapy. Our primary goals include:

Consumer protection-by requiring individuals to meet national standards if presenting themselves as music therapists.

Improving access to quality music therapy services-through inclusion in state regulations that outline qualifications for employment and inclusion in state programs. State recognition will help residents have access to music therapy services by personnel who are trained, equipped, held to high standards of ethics and professional practice, and demonstrate competency through board certification and continuing education.

It is important to note that establishing a state recognition program does not guarantee automatic inclusion in various funding streams. Board Certified Music Therapists across the country have obtained reimbursement from multiple sources for over 20 years by demonstrating medical necessity and documenting clients’ functional outcome achievements. The music therapy community understands the need to provide research evidence to support reimbursement requests from different payment systems. AMTA and CBMT provide guidance to music therapists in differentiating between state recognition goals and benefits and the completely separate payer-based process to seek coverage for music therapy interventions.

Please feel free to contact me directly with any questions.

Simpson@musictherapy.org

301-589-3300 x105