

**PROPOSED REGULATION OF THE  
STATE BOARD OF HEALTH**

**LCB File No. R077-12**

**These regulations are being proposed in accordance with Senate Bill 190 of the 2011 Legislative Session**

EXPLANATION - Matter in *italics* is new; matter in brackets ~~fomitted material~~ is material to be omitted.

**Title 54 of NAC is hereby amended by adding thereto the provisions set forth as sections \_\_\_\_\_ to \_\_\_\_\_, inclusive, of this regulation.**

*Section 1: The Health Division of the Department of Health and Human Services shall administer the provisions of this chapter on behalf of the State Board of Health.*

*Licenses*

*Sec. 2. 1. An application for any license type, including an initial, renewal, duplicate, delinquent license or application for reinstatement or reissuance of a license that is filed with the Health Division must include:*

*(a) The applicant's full name, including first name, middle name if applicable and last name;*

*(b) Other name(s) that may have been used by an applicant;*

*(c) The applicant's date of birth;*

*(d) The applicant's current physical and mailing address if different than the physical address;*

*(e) The applicant's current telephone number where the applicant can be reached;*

*(f) An electronic means of communication including, but not limited to, an email address, a phone number that will accept an email, or some other method that allows the Health Division to communicate with the applicant other than by phone or United States mail. An applicant who is unable to comply with this section may be exempted from these provisions by attesting that these means are not feasible for him and acknowledging that United States mail is the only means by which to communicate with the applicant;*

*(g) The applicant's certification number from the Certification Board for Music Therapist;*

*(h) The status of any disciplinary action against the applicant by the Certification Board for Music Therapist;*

*(i) A declaration by the applicant that he or she has not been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174.*

*(j) A statement that the applicant is aware of the mandatory abuse reporting requirements pursuant to NRS 200.5093, NRS 200.50935, and NRS 432B.220; and*

*(k) Any other information prescribed by the Health Division to determine an applicant's eligibility for licensure or identity.*

*2. An application must be complete and include the applicable fee. Any incomplete applications will be returned to the applicant within 10 working days from receipt of the application.*

*3. The Health Division shall determine the proof required pursuant to NRS 640D.110 to be included with an initial application.*

*4. The Health Division shall determine the proof required pursuant to NRS 640D.130 to be included with a renewal application.*

*5. A licensee must notify the Health Division of any changes to the information required in this section within 15 days of the change. This can be done in writing, on a form or via email in a manner prescribed by the Health Division. Failure to comply with this subsection may result in suspension or revocation of a licensee's license.*

*Sec.3. If the Health Division is required by law or the provisions of this chapter to deliver any notice by mail or electronically to a licensee, the notice shall be deemed validly given if it is mailed to the last address or email address of the licensee which was filed with the Health Division.*

*Sec.4. A licensee whose license expires must re-apply for licensure in accordance with NRS 640D.110.*

*Sec.5. Music therapists that are certified by the Certification Board for Music Therapists or its successor organization meet the requirements set forth in NRS 640D.110 1 (2) and (5).*

*Fee Schedule*

*Sec.6. An applicant or licensee, must pay to the Health Division the following nonrefundable fee(s) as applicable:*

- (a) Initial Application .....\$200*
- (b) Renewal Application.....\$150*
- (c) Duplicate license .....\$20*
- (d) Delinquent license, in addition to appropriate renewal fee.....\$20*
- (e) Reinstatement or reissuance fee.....\$200*

*Criminal History*

*Sec.7. The Health Division shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant to determine whether the individual has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174.*

*Sec.8. In addition to the grounds listed in NRS 640D.170, the Health Division may deny, suspend or revoke a license of an applicant or of a licensee, as applicable, as a music therapist if he or she has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174.*

*Sec.9. If an applicant or licensee believes that the information provided by the Criminal History Repository is incorrect, the applicant or licensee may notify the Health Division within 10 working days of being notified of his or her determination results that he or she is challenging the information provided in the report. Upon notification that the individual is challenging the decision, the Health Division shall give the applicant or licensee not less than 30 days to correct the information received from the Central Repository before issuing a denial, suspension or revocation of a license, except as provided in Section 10.*

*Sec. 10. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to Section 7, or evidence from any other source, that an applicant seeking licensure as a music therapist pursuant to NRS 640D.110 has been convicted of a crime pursuant to paragraph (a) of subsection 1 of NRS 449.174, the Health Division may deny or suspend a license, as applicable, of a music therapist until the corrected information obtained pursuant to Section 7 shows that the person has not been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174.*

*Sec.11. If the Health Division determines that a background investigation conducted pursuant to NRS 640D.110 (4) cannot be completed because pertinent information is missing, the Health Division shall send a notice to the applicant or licensee investigated, requiring the applicant or licensee to obtain the missing information or proof that the missing information cannot be obtained and provide it to the Health Division. The applicant or licensee must submit the information required pursuant to this section to the Health Division within 30 days of notice by the Health Division that information obtained through the background check is incomplete, or the individual is subject to automatic denial or revocation of his or her license pursuant to NRS 640D.170 (2). If a suitability determination cannot be made because a hearing date has not been set, the applicant or licensee shall notify the Health Division of the hearing date. The applicant or licensee shall forward to the Health Division the deposition as soon as it is available so that the Division can make a suitability determination.*

*Sec.12. The Central Repository for Nevada Records of Criminal History may impose a fee upon an applicant that submits fingerprints pursuant to this chapter, for the reasonable cost of the investigation. The applicant is responsible for paying all costs to conduct the background investigation, including but not limited to, all fingerprint fees for state and FBI background check processing.*

### *Unlicensed Complaints*

*Sec.13. 1. When the Health Division receives a complaint that a person is practicing music therapy without a license, the Health Division may send a certified letter to the person about whom the complaint was made directing that person to immediately cease and desist the practice of music therapy; and*

*2. Shall inform the Certification Board for Music Therapists to verify if the individual is a certified music therapist.*

*The person will be given 10 working days to provide notice to the Health Division that he or she will submit an application to practice as a music therapist. If the person does not give such notice he or she will be referred to the Office of the Attorney General and the district attorney in the county in which the person is located for prosecution as a misdemeanor pursuant to NRS 640D.230.*

### *Complaints against licensees*

*Sec. 14. 1. The Health Division is authorized to receive any complaints against licensees from any individual.*

*2. Complaints filed with the Health Division shall be forwarded to the Certification Board for Music Therapists or its successor organization for investigation of the complaint and a written report of the findings of such investigation shall be provided to the Health Division.*

*3. After receiving findings of an investigation pursuant to subsection 2 the Health Division finds grounds for taking disciplinary action, the Health Division shall provide notice and a hearing pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.*

*4. If the licensee refuses to comply with an investigation pursuant to this section, the Health Division shall initiate formal disciplinary proceedings, including but not limited to suspension, denial or revocation of license, an administrative penalty or limitation of practice.*

*5. Final authority for appropriate action rests solely with the Health Division.*

### *Disciplinary Action(s)*

#### *Disciplinary Action for First Offenses*

*Sec.15. If the Division finds grounds for taking disciplinary action pursuant to NRS 640D.180 the following actions shall be taken for a first offense, for a complaint involving:*

*1. Drunkenness while practicing as a music therapist or addiction to controlled substances the music therapist's license shall be suspended for 30 days.*

*2. Allowing another person to use his or her license the individual will be fined \$500.*

*3. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public that are administrative in nature and in which no harm is likely to occur to a client, no negative client impact has occurred or is likely to*

*occur and the ability of a client to achieve his or her highest practicable physical, mental or psychosocial well-being has not been and is not likely to be compromised, a fee of \$25 may be imposed.*

*4. Failing to comply with the “Code of Professional Practice” of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public that does not result in actual harm of a client but causes no more than minimal discomfort and/or has the potential to compromise the client’s physical or psychological status if interventions are not provided a fee of \$100 shall be imposed.*

*5. Failing to comply with the “Code of Professional Practice” of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public that results in the actual harm of a client that leads to a decline in a client’s clinical status, results in a physical injury that severely impacts the status of functional ability, psychological injury that substantially limits the major life activities of a client or the incident can be predicted with substantial probability to result in death or serious harm to a client a fine of \$500 shall be imposed except if the investigation determines the harm was intentional, the individual’s license shall be revoked in addition to the fine.*

*6. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that are administrative in nature and in which no harm is likely to occur to a client, no negative client impact has occurred or is likely to occur and the ability of a client to achieve his or her highest practicable physical, mental or psychosocial well-being has not been and is not likely to be compromised, a fee of \$25 may be imposed.*

*7. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that does not result in actual harm of a client but causes no more than minimal discomfort and/or has the potential to compromise the client’s physical or psychological status if interventions are not provided a fee of \$100 shall be imposed.*

*8. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that results in the actual harm of a client that leads to a decline in a client’s clinical status, results in a physical injury that severely impacts the status of functional ability, psychological injury that substantially limits the major life activities of a client or the incident can be predicted with substantial probability to result in death or serious harm to a client a fine of \$500 shall be imposed except if the investigation determines the harm was intentional, and the individual’s license shall be revoked.*

*9. Negligence, fraud or deception in connection with the music therapy services a licensee is authorized to provide pursuant to this chapter a fine of \$500 except if the false, fraudulent or misleading information would have resulted in the denial, suspension or revocation of a license in which case the denial, suspension or revocation or disciplinary action pursuant to NRS 640D.180 that would have been taken if not for the false, fraudulent or misleading information shall be taken.*

### *Disciplinary Action for Second Offenses*

*Sec.16. If the Division finds grounds for taking disciplinary action pursuant to NRS 640D.180 the following actions shall be taken for a second offense, for a complaint involving:*

*1. Drunkenness while practicing as a music therapist or addiction to the use of controlled substances the music therapist's license shall be revoked.*

*2. Allowing another person to use his or her license the individual will be fined \$500 and the music therapist's license shall be suspended for 30 days.*

*3. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public that are administrative in nature and in which no harm is likely to occur to a client, no negative client impact has occurred or is likely to occur and the ability of a client to achieve his or her highest practicable physical, mental or psychosocial well-being has not been and is not likely to be compromised, a fee of \$25 shall be imposed.*

*4. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public as determined by the Board that does not result in actual harm of a client but causes no more than minimal discomfort and/or has the potential to compromise the client's physical or psychological status if interventions are not provided a fee of \$250 shall be imposed.*

*5. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public as determined by the Board that results in the actual harm of a client that leads to a decline in a client's clinical status, results in a physical injury that severely impacts the status of functional ability, psychological injury that substantially limits the major life activities of a client or the incident can be predicated with substantial probability to result in death or serious harm to a client a fine of \$500 shall be imposed and the music therapist's license shall be suspended for 30 days except if the investigation determines the harm was intentional, the individual's license shall be revoked in addition to the fine.*

*6. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that are administrative in nature and in which no harm is likely to occur to a client, no negative client impact has occurred or is likely to occur and the ability of a client to achieve his or her highest practicable physical, mental or psychosocial well-being has not been and is not likely to be compromised, a fee of \$25 shall be imposed.*

*7. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that does not result in actual harm of a client but causes no more than minimal discomfort and/or has the potential to compromise the client's physical or psychological status if interventions are not provided a fee of \$250 shall be imposed.*

*8. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that results in the actual harm of a client that leads to a decline in a client's clinical status, results in a physical injury that severely impacts the status of functional ability, psychological injury that substantially limits the major life activities of a client or the incident can be predicated with substantial probability to result in death or serious harm to a client a fine of \$500 shall be imposed and the music therapist's license shall be suspended for 30 days except if the investigation determines the harm was intentional, the individual's license shall be revoked in addition to the fine.*

*9. Negligence, fraud or deception in connection with the music therapy services a licensee is authorized to provide pursuant to this chapter a fine of \$500 shall be imposed and the music therapist's license shall be suspended for 30 days except if the false, fraudulent or misleading information would have resulted in the denial, suspension or revocation of a license in which case the denial, suspension or revocation of a license or disciplinary action pursuant to NRS 640D.180 that would have been taken if not for the false, fraudulent or misleading information shall be taken.*

#### *Disciplinary Action for Third Offenses*

*Sec.17. If the Division finds grounds for taking disciplinary action pursuant to NRS 640D.180 the following actions shall be taken for a third offense, for a complaint involving:*

*1. Allowing another person to use his or her license the individual shall be fined \$500 and the music therapist's license shall be revoked.*

*2. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public that are administrative in nature and in which no harm is likely to occur to a client, no negative client impact has occurred or is likely to occur and the ability of a client to achieve his or her highest practicable physical, mental or psychosocial well-being has not been and is not likely to be compromised, a fee of \$50 shall be imposed.*

*3. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public as determined that does not result in actual harm of a client but causes no more than minimal discomfort and/or has the potential to compromise the client's physical or psychological status if interventions are not provided a fee of \$300 shall be imposed.*

*4. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public as determined by the Board that results in the actual harm of a client that leads to a decline in a client's clinical status, results in a physical injury that severely impacts the status of functional ability, psychological injury that substantially limits the major life activities of a client or the incident can be predicated with*

*substantial probability to result in death or serious harm to a client a fine of \$500 shall be imposed and the music therapist's license shall be revoked.*

*5. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that are administrative in nature and in which no harm is likely to occur to a client, no negative client impact has occurred or is likely to occur and the ability of a client to achieve his or her highest practicable physical, mental or psychosocial well-being has not been and is not likely to be compromised, a fee of \$50 shall be imposed.*

*6. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that does not result in actual harm of a client but causes no more than minimal discomfort and/or has the potential to compromise the client's physical or psychological status if interventions are not provided a fee of \$300 shall be imposed.*

*7. Violating any other provision of Nevada Administrative Code or Nevada Revised Statutes of Chapter 640D that results in the actual harm of a client that leads to a decline in a client's clinical status, results in a physical injury that severely impacts the status of functional ability, psychological injury that substantially limits the major life activities of a client or the incident can be predicated with substantial probability to result in death or serious harm to a client a fine of \$500 shall be imposed and the music therapist's license shall be revoked.*

*8. Negligence, fraud or deception in connection with the music therapy services a licensee is authorized to provide pursuant to this chapter a fine of \$500 and the music therapist's license shall be revoked.*

#### *Disciplinary Action for Fourth Offenses & those thereafter*

*Sec.18. For any fourth offense or those thereafter in which a license was not previously revoked the disciplinary actions for a third offense shall apply.*

#### *Cost of Disciplinary Action*

*Sec. 19. 1. The costs of any disciplinary action, suspension, denial or revocation of license shall be paid by the individual against whom the disciplinary action is being taken.*

*2. Administrative fines collected pursuant to this chapter shall be accounted for separately and may be used to pay for training, education to Health Division employees, music therapists, music therapy students or to members of the general public as it relates to music therapy as outlined in this Chapter.*

#### *Appeal Rights for Denial, Suspension or Revocation of a license or Imposition of an Administrative Penalty*

*Sec.20. If a person is aggrieved by a decision of the Health Division relating to the denial, suspension or revocation of a license or imposition of an administrative penalty based upon any of the grounds set forth in Nevada Revised Statutes or Nevada Administrative Code, Chapter 640D, the aggrieved person may appeal the decision pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.*

*Reissuance of license: Period during which licensee may not apply for reissuance; requirements for reissuance.*

*Sec.21. 1. The Health Division will, in each order of revocation it issues, prescribe a period during which a licensee may not apply for the reissuance of his or her license. The period will not be less than 1 year or more than 10 years.*

*2. An applicant for reissuance of a license must:*

- (a) Submit an application for reissuance on a form prescribed by the Health Division;*
- (b) If he or she is applying for reissuance of a license, satisfy all requirements for renewal of a license, including a criminal history investigation pursuant to this Chapter;*
- (c) Attest that he or she has not, during the period of revocation of his license, violated any state or federal statutes or regulations governing the practice of music therapy; and*
- (d) Attest that there is no disciplinary action pending against the licensee before the Certification Board for Music Therapists or its successor organization.*

*3. The Health Division may designate requirements in addition to the requirements of subsection 2 that must be satisfied before an applicant will be considered for reissuance of a license, including, without limitation, completion of additional courses or programs if the applicant's license has been revoked for more than 2 years.*

*4. The Health Division:*

- (a) Shall review an application for reissuance of a license to determine whether the application satisfies the requirements of this section; and*
- (b) May deny an application which it determines does not satisfy the requirements.*

*5. In considering the reissuance of a license which has been revoked, the Health Division will evaluate:*

- (a) The severity of the act which resulted in revocation of the license;*
- (b) The conduct of the applicant after the revocation of the license;*
- (c) The lapse of time since revocation;*
- (d) The degree of compliance with all conditions the Health Division may have stipulated as a prerequisite for reissuance of the license;*
- (e) The degree of rehabilitation attained by the applicant as evidenced by statements to the Health Division from qualified people who have professional knowledge of the applicant; and*

*(f) The truthfulness of the attestations made by the applicant pursuant to subsection 2.*

*6. After evaluation, the Health Division will deny or grant the reissuance of the license.*

*7. If disciplinary action is required to be taken after reissuance of a license it will begin again with the disciplinary action for a first offense.*

### *Conditions to Have Suspension Lifted*

*Sec.22. 1. If the Health Division suspends a license the applicant may appeal the suspension. If the applicant chooses not to appeal the suspension the applicant must agree to the terms laid out by the Health Division which may include, but are not limited to, the following:*

*(a) Informing the Health Division of the name and address of his or her employer or if self employed the name and address of his or her business.*

*(b) Evaluations of his performance submitted to the Health Division by the employer at designated intervals.*

*(c) Counseling with a qualified professional counselor.*

*(d) Treatment for addiction, if the suspension was related to abuse of alcohol, a controlled substance, or some other condition that may be assisted with treatment, by a qualified health care professional.*

*(e) Enter into a contract to obtain alcohol and/or drug rehabilitation services if the suspension was related to abuse of alcohol or a controlled substance.*

*(f) Reports submitted to the Health Division by the counselor or qualified health care professional at designated intervals.*

*(g) Submitting self-evaluation reports at designated intervals.*

*(h) Reports of random screening for alcohol or drugs submitted, at designated intervals.*

*(i) Meeting with the professional staff of the Health Division, at designated intervals.*

*(j) Working under supervision as approved by the professional staff of the Health Division.*

*(k) Successfully completing any educational courses required by the Health Division.*

*(l) Reports from a qualified health care provider, including a qualified professional counselor that the music therapist is safe to work with clients.*

*(m) Successful participation in a rehabilitation program.*

*2. The Health Division may terminate the suspension at any time.*

*3. If at any time the Health Division determines that the terms of the suspension are violated or that the progress and performance under the suspension are unsatisfactory, the period of the suspension may be extended, the terms of the suspension may be modified or the license may be revoked.*

*4. The licensee shall pay the cost to comply with the terms of his suspension required by the Health Division pursuant to this section.*

### *Music Therapy Advisory Group Creation, membership, appointment of members*

*Sec.23. 1. The Music Therapist Advisory Group is hereby created in the Health Division.*

*2.The Advisory Group consists of the following five members:*

*(a) Three music therapists licensed in Nevada;*

*(b) One representative of the American Music Therapy Association or its successor organization; and*

*(c) One representative of the Certification Board for Music Therapists or its successor organization.*

*Terms, reappointment and vacancies*

*Sec.24. 1. The term of members of the Advisory Group is 4 years. Members may serve consecutive terms but after each 4 year term is completed the State Board of Health may appoint a different person as a member of the Advisory Group.*

*2. A vacancy must be filled in the same manner as the original appointment.*

*Meetings, Chairman, Powers and Duties*

*Sec.25. 1. The Advisory Group may meet at least once per year or as otherwise called by the Chair at the direction of the Health Division.*

*2. As far as is practicable, the Advisory Group will meet using telephonic or electronic means.*

*3. At its first meeting each year, the members of the Advisory Group will select a Chairman from among its members. The Chairman serves as the liaison to the Health Division and the State Board of Health as needed.*

*4. The Health Division will provide administrative assistance to the Advisory Group.*

*5. A majority of the members present constitutes a quorum for the transaction of business.*

*6. The Advisory Group may facilitate the development of materials that the Health Division could use to educate the public about music therapy.*

*7. The Advisory Group may act as a conduit of information between music therapists statewide, the American Music Therapy Association or its successor organization, the Certification Board for Music Therapists or its successor organization, and the Health Division.*

*8. The Advisory Group may review disciplinary actions, appeals, denials or revocations of licenses, terms of suspension, and reissuance or reinstatements of licenses after the actions have been issued. The purpose of the review will be to provide guidance on regulations or practices related to these actions.*

*9. The Health Division may seek the advice of the advisory group for issues related to music therapy.*