

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

LCB File No. R094-22

July 14, 2022

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

AUTHORITY: § 1, NRS 622.087, 640D.090 and 640D.110; § 2, NRS 640D.090 and 640D.220;
§ 3, NRS 640D.090 and 640D.160.

A REGULATION relating to music therapy; establishing requirements to receive equivalent credit from certain training programs towards a license to practice music therapy; revising certain procedures governing complaints that a person is engaging in the practice of music therapy without a license; revising certain procedures governing the investigation of complaints against applicants and licensees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to issue a license to practice music therapy to applicants who meet certain requirements. (NRS 640D.110) Existing law: (1) authorizes an applicant to receive equivalent credit towards the satisfaction of requirements for the issuance of a license if the person completes a training program in secondary or postsecondary education for occupational, vocational, career, trade or technical education which meets certain requirements; and (2) requires the Board to adopt regulations relating to the procedure for receiving such equivalent credits. (NRS 622.087) **Section 1** of this regulation requires an applicant for a license to practice music therapy to submit a transcript or other documentation of the courses completed as part of the training program and a copy of the certificate issued for the completion of the training program in order to receive such equivalent credit.

Existing regulations establish procedures governing complaints that a person is engaging in the practice of music therapy without a license. (NAC 640D.200) **Section 2** of this regulation removes a requirement that the Executive Officer of the Board send a certified letter to a person about whom such a complaint was made directly upon the receipt of such a complaint which: (1) directs the person to immediately cease and desist from the practice of music therapy; and (2) requires the person to submit an application for a license to engage in the practice of music therapy within 10 days. **Section 2** requires the Executive Officer to first investigate any such complaint before directing the person to cease and desist and to apply for a license, and requires that if the Executive Officer determines after an investigation that the person is engaging in the practice of music therapy without a license, the Executive Officer must direct the person to cease

and desist from the practice and require the person to submit an application for a license within 10 days.

Section 2 requires a person who is being investigated for engaging in the practice of music therapy without a license to cooperate fully with the Executive Officer, including, without limitation, by participating in any requested interviews, allowing the onsite inspection of any location at which the alleged unlicensed practice is occurring and providing any requested documentation, including, without limitation, documentation providing satisfactory evidence that the person is not engaged in the practice of music therapy without a license.

Existing regulations require that if a person against whom a complaint is filed fails to submit an application or other evidence in a timely fashion to the Executive Officer, the matter must be referred to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution. (NAC 640D.200) **Section 2** instead requires that the matter be referred to the Office of the Attorney General and the district attorney if the person being investigated fails to: (1) submit an application to practice music therapy within 2 weeks after the date that the Executive Officer notifies the person that the application is required; or (2) cooperate fully with the investigation.

Section 2 prohibits a person who is found to be engaging in the practice of music therapy without a license, and who is subsequently required to apply for a license, from engaging in music therapy services until the application is granted and the Board issues a license. **Section 2** prohibits such a person whose application is denied from reapplying for licensure for 2 years after the date on which the application was denied.

Existing regulations require that the Executive Officer forward each complaint against a licensee or an applicant for a license to engage in the practice of music therapy to the Certification Board for Music Therapists or its successor organization for investigation of the complaint. If the Certification Board or its successor organization refuses to investigate the complaint, the Executive Officer is authorized to conduct an investigation. (NAC 640D.210) To the extent money is available to do so, **Section 3** of this regulation authorizes the Executive Officer to first examine a complaint to determine whether good cause exists to conduct an investigation before sending the complaint to the Certification Board or its successor organization for investigation. If the Executive Officer finds that good cause exists to investigate, to the extent that money is available to do so, the Executive Officer may commence an investigation, or if money is not available to do so, forward the complaint to the Certification Board or its successor organization. If the Executive Officer conducts an investigation and finds credible evidence to support the complaint, the Executive Officer may forward the complaint, any information collected as part of the investigation and the findings of the investigation to the Certification Board or its successor organization.

Section 1. Chapter 640D of NAC is hereby amended by adding thereto a new section to read as follows:

A person who wishes to receive equivalent credit pursuant to NRS 622.087 towards the satisfaction of requirements for the issuance of a license pursuant to this chapter and chapter 640D of NRS must submit, as part of the application for the license:

1. A transcript or other documentation which shows the courses completed as part of the training program; and

2. A copy of the certificate issued for the completion of the training program.

Sec. 2. NAC 640D.200 is hereby amended to read as follows:

640D.200 1. Upon receipt of a complaint that a person is engaging in the practice of music therapy without a license, the Executive Officer shall ~~send a certified letter to the person about whom the complaint was made which:~~ *investigate the complaint.*

2. A person who is being investigated pursuant to subsection 1 shall cooperate fully with the Executive Officer in the investigation, including, without limitation, by:

(a) Participating in any requested interviews;

(b) Allowing the onsite inspection of any location at which the alleged unlicensed practice of music therapy is occurring; and

(c) Providing any requested documentation, including, without limitation, documentation providing satisfactory evidence that the person is not engaged in the practice of music therapy, if applicable.

3. If the Executive Officer determines after an investigation that a person is engaging in the practice of music therapy without a license, the Executive Officer shall:

(a) ~~Directs~~ Direct the person immediately to cease and desist from the practice of music therapy; and

(b) ~~Requires~~ *Notify* the person ~~to~~ *that he or she must* submit to the Executive Officer , within 10 days , an application for a license to engage in the practice of music therapy . ~~for~~

~~satisfactory evidence that the person is not engaged in the practice of music therapy.~~

~~—2. If the person fails to submit the application or evidence required pursuant to subsection 1 timely, the~~

4. *The* matter must be referred to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution ~~if~~ *if the person:*

(a) *Fails to submit an application as required pursuant to paragraph (b) of subsection 3 within 10 days after the date on which the Executive Officer notifies the person that the application is required; or*

(b) *Fails to cooperate fully with the investigation pursuant to subsection 2.*

5. *Except as otherwise provided in NRS 640D.080, a person who submits an application pursuant to paragraph (b) of subsection 3 shall not engage in music therapy services until the Board issues a license to the person pursuant to NRS 640D.110.*

6. *If an application submitted pursuant to paragraph (b) of subsection 3 is denied, the applicant shall not be allowed to apply for licensure as a music therapist pursuant to this chapter and chapter 640D of NRS for 2 years after the date on which the application was denied.*

Sec. 3. NAC 640D.210 is hereby amended to read as follows:

640D.210 1. The Executive Officer shall receive a complaint against a licensee or an applicant for a license to practice music therapy from any person.

2. ~~The~~ *Except as otherwise provided in this subsection, the* Executive Officer shall forward each complaint to the Certification Board for Music Therapists or its successor organization for investigation of the complaint. ~~If the Certification Board for Music Therapists or its successor organization refuses to investigate the complaint,~~ *To the extent that money is available to do so, the Executive Officer may first examine a complaint to determine whether good cause exists to* conduct an investigation. *If good cause is found, the Executive Officer shall, pursuant to NRS 640D.160:*

(a) Forward the complaint to the Certification Board for Music Therapists or its successor organization for investigation and request a written report of the findings of the investigation;
or

(b) To the extent that money is available to do so, commence an investigation. If, after conducting an investigation, the Executive Officer finds credible evidence to support the complaint, the Executive Officer may forward to the Certification Board for Music Therapists or its successor organization:

(1) The complaint;

(2) Any information collected as part of the investigation; and

(3) The findings of the investigation.

3. If, after reviewing the findings of an investigation conducted pursuant to subsection 2, the Executive Officer finds grounds for taking disciplinary action, the Executive Officer shall, after notice and hearing, issue a decision in the matter in the manner provided in NAC 640D.220.

4. The failure of a licensee to cooperate with an investigation conducted pursuant to subsection 2 constitutes grounds for disciplinary action against the licensee.