

1 AN ACT relating to music therapy.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 11 of this Act, unless the context requires otherwise:*

6 *(1) "Board" means the Kentucky Board of Licensure for Professional Music*
7 *Therapists created under Section 2 of this Act;*

8 *(2) "Board-certified music therapist" means a person who holds current board*
9 *certification from the Certification Board for Music Therapists;*

10 *(3) "Licensed professional music therapist" or "LPMT" means a person who has*
11 *been issued a license by the board for the practice of music therapy as an allied*
12 *health professional;*

13 *(4) "Music therapy" means the clinical and evidence-based use of music therapy*
14 *interventions to accomplish individualized goals for people of all ages and ability*
15 *levels within a therapeutic relationship by a board-certified music therapist;*

16 *(5) "Music therapy interventions" include but are not limited to:*

17 *(a) Music improvisation;*

18 *(b) Receptive music listening;*

19 *(c) Songwriting;*

20 *(d) Song lyric discussion;*

21 *(e) Imagery and music;*

22 *(f) Singing;*

23 *(g) Music performance;*

24 *(h) Learning through music;*

25 *(i) Music combined with other arts;*

26 *(j) Music-assisted relaxation;*

27 *(k) Music-based patient education;*

1 (l) Electronic music technology;

2 (m) Adapted music intervention; and

3 (n) Movement to music;

4 (6) "Music therapy treatment plan" means an individualized treatment plan within
 5 an interdisciplinary team, as applicable, with goals, objectives, and potential
 6 strategies of the music therapy interventions that are appropriate for the client
 7 and setting; and

8 (7) "Practice of music therapy":

9 (a) Includes but is not limited to:

10 1. Accepting referrals for music therapy services from:

11 a. Medical, mental health, or education professionals;

12 b. Family members;

13 c. Clients;

14 d. Caregivers; and

15 e. Others involved and authorized with the provision of client
 16 services;

17 2. Conducting a music therapy assessment of a client to determine if
 18 music therapy treatment is indicated. If treatment is indicated,
 19 collecting systematic, comprehensive, and accurate information to
 20 determine the type of music therapy service to provide;

21 3. Developing a music therapy treatment plan;

22 4. Implementing a music therapy treatment plan that is consistent with
 23 any other services being provided;

24 5. Evaluating the client's response to the music therapy treatment plan,
 25 documenting any change or progress, and suggesting modifications as
 26 appropriate;

27 6. Developing a plan for determining when the provision of music

therapy services is no longer needed in collaboration with the client, physician, other health care provider, and any other appropriate person the client relies on for support;

7. Minimizing any barriers to ensure that the client receives music therapy services in the least restrictive environment; and

8. Collaborating with and educating a client's support system on the needs of the client that are being addressed in music therapy and the manner in which the treatment plan is addressing those needs; and

(b) Does not include the screening, diagnosis, or assessment of any physical, mental, or communication disorder, or the administration of psychological testing.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Board of Licensure for Professional Music Therapists that shall be attached to the Department of Professional Licensing in the Public Protection Cabinet for administrative purposes. The board shall consist of five (5) members who are United States citizens and have been Kentucky residents for at least five (5) years prior to appointment. The board membership shall be as follows:

(a) Three (3) members shall be music therapists who are licensed under Section 4 of this Act and have engaged in the teaching or practice of music therapy for at least three (3) years. The member shall not hold any elected or appointed office in any professional organization of music therapy or closely related field during his or her tenure on the board;

(b) One (1) member shall be a health care provider as defined in KRS 304.17A-005 who is not a music therapist. This member shall not hold any elected or appointed office in any professional organization of music therapy or

1 closely related field during his or her tenure on the board; and

2 (c) One (1) member shall represent the public. The public member shall not
 3 have been licensed or have practiced as a music therapist, nor have any
 4 significant financial interest, either direct or indirect, in the profession of
 5 music therapy.

6 (2) All members of the board shall be appointed by the Governor for staggered terms
 7 of four (4) years.

8 (3) Each member shall hold office until a successor is appointed. Vacancies shall be
 9 filled in the same manner as original appointments. Members may serve
 10 consecutive terms.

11 (4) Members of the board shall receive no compensation, perquisite, or allowance.

12 (5) The board shall annually elect from its membership a chairperson, secretary, and
 13 other officers as necessary to carry out its duties.

14 (6) (a) The board shall meet at least four (4) times each year. Additional meetings
 15 may be called by the chairperson upon the written request of at least (2)
 16 members of the board.

17 (b) A simple majority of the board members shall constitute a quorum of the
 18 board.

19 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) The board shall promulgate administrative regulations in accordance with KRS
 22 Chapter 13A as necessary to carry out the provisions of Sections 1 to 11 of this
 23 Act, including:

24 (a) Issuing and renewing licenses to applicants who meet the requirements of
 25 Sections 4 and 5 of this Act;

26 (b) Denying, suspending, or revoking a license to practice music therapy;

27 (c) Censuring, reprimanding, or placing a license holder or applicant on

- 1 probation or under supervisory conditions for a period not to exceed one (1)
2 year;
- 3 (d) Maintaining a current register of license holders as a matter of public
4 record;
- 5 (e) Establishing procedures for receiving, investigating, and resolving
6 complaints against license holders;
- 7 (f) Conducting administrative hearings in accordance with KRS Chapter 13B
8 for disciplinary actions taken under authority of paragraphs (b) and (c) of
9 this subsection and Sections 7 and 8 of this Act;
- 10 (g) 1. Assessing fees for the issuance and renewal of licenses to cover
11 administrative and operating expenses of the board; and
12 2. Authorizing all disbursements necessary to carry out the provisions of
13 Sections 1 to 11 of this Act; and
- 14 (h) Establishing:
- 15 1. A code of ethics for license holders;
16 2. Continuing education requirements by adopting the Certification
17 Board for Music Therapists guidelines on continuing education; and
18 3. Conditions for inactive status and return to active status for license
19 holders.
- 20 (2) The board shall set through administrative regulation the amount of the fees
21 required to be paid by applicants for licensure and license holders, including but
22 not limited to:
- 23 (a) For an application for initial licensure as a licensed professional music
24 therapist, a nonrefundable fee not to exceed two hundred dollars (\$200);
- 25 (b) A renewal fee for a licensed professional music therapist not to exceed two
26 hundred dollars (\$200);
- 27 (c) For a duplicate or replacement license, a fee not to exceed twenty-five

dollars (\$25);

- (d) For failure to renew a license for a licensed professional music therapist within the allotted grace period pursuant to Section 5 of this Act, a reinstatement fee not to exceed one hundred dollars (\$100); and
- (e) Other reasonable fees for administrative services.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a license, for a period of two (2) years, as a music therapist to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant is at least eighteen (18) years of age and demonstrates professional competence by:

(a) Holding a bachelor's degree or higher in music therapy or its equivalent, including clinical training hours from a program approved by the American Music Therapy Association or any successor organization within an accredited college or university; and

(b) Providing proof:

1. Of:

a. Passing the examination for board certification offered by the Certification Board for Music Therapists or any successor organization; or

b. Being transitioned into board certification; and

2. That the applicant is currently a board-certified music therapist.

(2) The board may issue a license to an applicant without examination by the Certification Board for Music Therapists or who has not met the requirements established by the American Music Therapy Association if the person possesses a valid regulatory document issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia,

1 or any foreign nation that, in the judgment of the board, has requirements
 2 substantially equivalent to or exceeding the requirements in this section.

3 (3) The board may facilitate the development of materials to educate the public
 4 concerning music therapist licensure.

5 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
 6 READ AS FOLLOWS:

7 (1) After December 31, 2026, each license holder shall renew his or her license to
 8 practice music therapy biennially by:

9 (a) Submitting a renewal application on a form provided by the board;

10 (b) Paying the license renewal fee; and

11 (c) Producing evidence of maintenance of the applicant's status as a board-
 12 certified music therapist.

13 (2) A ninety (90) day grace period shall be allowed for each license holder after the
 14 licensure period, during which time the license may be renewed upon payment of
 15 the renewal fee, the late fee, and compliance with all renewal requirements.

16 (3) (a) Any license granted by the board shall be automatically suspended if the
 17 holder fails to apply for the license renewal pursuant to this section within a
 18 period of ninety (90) days after the renewal deadline.

19 (b) Any suspended license may be restored by the board upon payment of a
 20 reinstatement fee, not to exceed one hundred dollars (\$100), in addition to
 21 any unpaid renewal or late fees.

22 (c) Failure to renew a license within ninety (90) days from the date of
 23 suspension as provided in this section shall cause the license to be
 24 automatically revoked.

25 (d) Reinstatement of a revoked license shall require the license holder to
 26 reapply and meet all current standards for licensure required by Sections 1
 27 to 11 of this Act.

(4) A person licensed under Section 4 of this Act who intends to retire as a licensed professional music therapist shall notify the board in writing before the expiration of his or her current license. If, within a period of five (5) years from the year of retirement, the license holder wishes to resume practice as a licensed professional music therapist, he or she shall notify the board in writing and upon giving proof of completing the required continuing education and the payment of an amount equivalent to elapsed renewal fees, the license shall be restored in full effect.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) After December 31, 2026, a person shall not:

(a) Engage in the practice of music therapy; or

(b) Use the title "board-certified music therapist," "licensed professional music therapist," "LPMT," or a title or letters that are substantially the same, or hold himself or herself out as having this status;

unless he or she is licensed by the board under Sections 1 to 11 of this Act.

(2) (a) Sections 1 to 11 of this Act shall not apply to a person licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, or personnel supervised by a licensed professional, who is performing work, including the use of music, incidental to the practice of his or her licensed, certified, or regulated profession or occupation if that person does not represent himself or herself as a music therapist. This includes but is not limited to:

1. Physicians;

2. Psychologists;

3. Psychoanalysts;

4. Registered nurses;

1 5. Physical therapists;

2 6. Marriage and family therapists;

3 7. Social workers;

4 8. Occupational therapists;

5 9. Professional or rehabilitation counselors; and

6 10. Speech-language pathologists or audiologists.

7 (b) Nothing in Sections 1 to 11 of this Act shall be construed to limit, interfere
 8 with, or restrict the practice, descriptions of services, or manner in which a
 9 person described in paragraph (a) of this subsection holds himself or herself
 10 out to the public.

11 (c) Sections 1 to 11 of this Act shall not apply to a person whose training and
 12 national certification attests to his or her preparation and ability to practice
 13 his or her certified profession or occupation if that person does not
 14 represent himself or herself as a music therapist.

15 (d) Nothing in Sections 1 to 11 of this Act shall be construed to alter, amend, or
 16 interfere with the practice of employment counseling, job placement
 17 counseling, or school counseling.

18 (3) Nothing in Sections 1 to 11 of this Act shall be construed to apply to the activities
 19 and services of a student intern or trainee in music therapy who is pursuing a
 20 program of studies in music therapy if the:

21 (a) Activities are performed under the supervision of a licensed professional
 22 music therapist;

23 (b) Activities constitute a part of the supervised program of study; and

24 (c) Person is designated as a music therapist intern or student in training.

25 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
 26 READ AS FOLLOWS:

27 (1) The board may refuse to issue, deny, suspend or revoke, impose probationary

- 1 conditions upon, issue a written reprimand or admonishment, or perform any
 2 combination thereof regarding any license held or applied for under the
 3 provisions of Section 4 of this Act if the person:
- 4 (a) Is found guilty of fraud, deceit, or misrepresentation in procuring or
 5 renewing or attempting to procure or renew a license to practice music
 6 therapy;
- 7 (b) Committed any unfair, false, misleading, or deceptive act or practice;
- 8 (c) Has been negligent in the practice of music therapy;
- 9 (d) Is adjudicated mentally incompetent by a court;
- 10 (e) Has been convicted of a misdemeanor or felony involving sexual
 11 misconduct or where dishonesty is a necessary element, if in accordance
 12 with KRS Chapter 335B. Conviction shall include all instances in which a
 13 plea of no contest is the basis of the conviction. A certified copy of the
 14 record of conviction shall be conclusive evidence of the conviction;
- 15 (f) Is found guilty of unprofessional or unethical conduct in this or any other
 16 jurisdiction;
- 17 (g) Has been using any controlled substance or alcoholic beverage to an extent
 18 or in a manner dangerous to the person, any other person, or the public, or
 19 to an extent that the use impairs the ability to perform as a licensed
 20 professional music therapist;
- 21 (h) Has violated any provision of Sections 1 to 11 of this Act or administrative
 22 regulations promulgated thereunder;
- 23 (i) Failed to comply with an order issued by the board or an assurance of
 24 voluntary compliance; or
- 25 (j) Willfully or negligently divulges a professional confidence.
- 26 (2) Disciplinary proceedings may be initiated upon the receipt by the board of a
 27 sworn complaint by any person, including members of the board.

(3) No sooner than two (2) years from the date of revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the licensee if the board finds that the individual has complied with any terms prescribed by the board and is able to competently engage in the practice of music therapy.

(4) If, after an investigation that includes an opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent file of the licensee. The licensee may alternatively, within thirty (30) days of the receipt, file a request for a hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for a hearing under KRS Chapter 13B.

(5) The surrender of a license shall not deprive the board of its jurisdiction to proceed with actions authorized under Sections 1 to 11 of this Act.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Before denying, revoking, suspending, imposing probationary or supervisory conditions upon a license, issuing a written reprimand or admonishment, or doing any combination of those regarding any licensee or applicant under Sections 1 to 11 of this Act, the board shall set the matter for hearing under KRS Chapter 13B.

(2) After revoking, suspending, imposing probationary or supervisory conditions upon a license, issuing a written reprimand or admonishment, or doing any combination of those regarding any licensee or applicant, the board shall set the

matter for a hearing upon the written request of the applicant or licensee within thirty (30) days of the applicant's or licensee's receipt of the letter advising him or her of the denial, refusal, admonishment, revocation, suspension, or other disciplinary action taken.

(3) Any party aggrieved by a final order of the board may appeal to the Circuit Court of the county where the alleged violation occurred as provided under KRS Chapter 13B.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Before a licensed professional music therapist provides music therapy services to a client for an identified clinical or developmental need, or a mental health or substance use disorder, the licensee shall review the client's diagnosis, treatment needs, and treatment plan with the health care providers involved in the client's care.

(2) Before a licensed professional music therapist provides music therapy services to a student for an identified educational need in a special education setting, the licensee shall review the individualized family service plan or review with the education program team the student's diagnosis, treatment needs, and treatment plan.

(3) During the provision of music therapy services to a client, the licensed professional music therapist shall:

(a) Collaborate, as applicable, with the client's health care providers;

(b) If the client has a communication disorder, collaborate and discuss the music therapy treatment plan with the client's audiologist or speech-language pathologist so that a music therapist may work with the client and address communication skills; and

(c) If the client has a mental health or substance use disorder, collaborate and

1 discuss the music therapy treatment plan with the client's primary mental
 2 health or substance use disorder professional so that a music therapist may
 3 work with the client to help address mental health or substance use disorder
 4 needs.

5 (4) When providing educational or health care services, a licensed professional
 6 music therapist shall not replace the services provided by an audiologist or a
 7 speech-language pathologist.

8 (5) Unless authorized to practice speech-language pathology, nothing in Sections 1
 9 to 11 of this Act shall authorize a licensed professional music therapist to
 10 evaluate, examine, instruct, or counsel on speech, language, communication, or
 11 swallowing disorders and conditions.

12 (6) A licensed professional music therapist shall not represent himself or herself as
 13 authorized to treat a communication disorder, but may represent himself or
 14 herself as working with clients who have communication disorders and address
 15 communication skills.

16 (7) A licensed professional music therapist shall not represent himself or herself as
 17 authorized to treat a mental health or substance use disorder, but may represent
 18 himself or herself as working with clients who have a mental health or substance
 19 use disorder when in communication with a client's primary mental health or
 20 substance use disorder professional.

21 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO
 22 READ AS FOLLOWS:

23 There is hereby created in the State Treasury a trust and agency account to be known
 24 as the Kentucky Board of Licensure for Professional Music Therapists fund. All
 25 moneys received by the board under Sections 1 to 11 of this Act shall be deposited into
 26 this fund and shall be used by the board for the administration of the board and for
 27 carrying out the provisions of Sections 1 to 11 of this Act. The fund shall be

administered by the Department of Professional Licensing in the Public Protection Cabinet. Any interest earnings of the fund shall become a part of the fund and shall not lapse. Notwithstanding KRS 45.229, amounts in the fund at the close of any fiscal year shall not lapse but shall be carried forward into the next fiscal year.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Any person who violates or aids in the violation of Sections 1 to 11 of this Act shall, upon conviction, be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

➔Section 12. The initial appointments to the Kentucky Board of Licensure for Professional Music Therapists shall consist of three (3) music therapists who are not licensed under Section 4 of this Act but who have been engaged in their respective practices for at least five (5) years. Once licensing under this Act is implemented, music therapists appointed to the board shall hold the requisite license. The initial appointments of board members shall have staggered terms as follows:

- (a) Two (2) members shall serve a term of three (3) years;
- (b) Two (2) members shall serve a term of two (2) years; and
- (c) One (1) member shall serve a term of one (1) year.