

CHAPTER 48

(HB 73)

AN ACT relating to art therapy.

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

➔Section 1. KRS 309.130 is amended to read as follows:

As used in KRS 309.130 to 309.1399, unless the context otherwise requires:

- (1) "Board" means the Kentucky Board of **Licensure**~~[Certification]~~ for Professional Art Therapists;
- (2) "**Licensed**~~[Certified]~~ professional art therapist" means a person who has completed a master's or doctoral degree program in art therapy, or an equivalent course of study, from an accredited educational institution, **has completed all of the requirements set out in this chapter**, and **has been issued a license**~~[who is certified]~~ by the board;
- (3) "**License**~~[Certificate]~~ holder" means a **licensed**~~[certified]~~ professional art therapist **licensed**~~[certified]~~ under the provisions of KRS 309.130 to 309.1399;~~[and]~~
- (4) **"The practice of professional art therapy" means the integrated use of psychotherapeutic principles, visual art media, and the creative process in the assessment, treatment, and remediation of psychosocial, emotional, cognitive, physical, and developmental disorders in children, adolescents, adults, families, and groups. Nothing in this section shall be construed to authorize any licensed professional art therapist to administer or interpret psychological tests in accordance with the provisions of KRS Chapter 319; and**
- (5) "Accredited institution" means a university or college accredited by a nationally-recognized accrediting agency of institutions of higher education, or an institution or clinical program approved by the American Art Therapy Association, Inc.

➔Section 2. KRS 309.1305 is amended to read as follows:

- ~~(1) The provisions of KRS 309.130 to 309.1399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, and nurses, or students within accredited training programs of these professions. Nothing in KRS 309.130 to 309.1399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.~~
- ~~(2) No person shall use the title **licensed**~~[certified]~~ professional art therapist **or use "LPAT" 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**~~[certified]~~ by the board.~~
- (2) **No person shall engage in the practice of art therapy unless he or she is licensed under KRS 309.130 to 309.1399.**
- (3) **The provisions of KRS 309.130 to 309.1399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, physical therapists, occupational therapists, social workers, psychologists, and nurses, or students within accredited training programs of these professions. Nothing in KRS 309.130 to 309.1399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.**
- (4) **Nothing in KRS 309.130 to 309.1399 shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.**
- (5) **Nothing in KRS 309.130 to 309.1399 shall be construed to apply to the activities and services of a student intern or trainee in art therapy who is pursuing a program of studies in art therapy at an accredited institution of higher learning if the activities are performed under the supervision of a licensed art therapist and constitute a part of the supervised program of study and if the person is designated as an art therapist intern or student in training.**

➔Section 3. KRS 309.131 is amended to read as follows:

- (1) There is hereby created the Kentucky Board of **Licensure**~~[Certification]~~ for Professional Art Therapists *that shall be attached to the Division of Occupations and Professions in the Finance and Administration 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 their appointment. The board membership shall be determined as follows:
 - (a) Four (4) members shall be professional art therapists who are **licensed**~~[certified]~~ pursuant to KRS 309.133, and shall have engaged in art therapy practice for at least five (5) years. These members shall not hold any elected or appointed office in any professional organization of art therapy or closely related field during their tenure on the board~~[- The initial four (4) professional members shall meet requirements for certification and be certified within one (1) year after July 15, 1994];~~ and
 - (b) One (1) member shall represent the public. The public member shall not have been **licensed**~~[certified]~~ or have practiced as a professional art therapist, nor have any significant financial interest, either direct or indirect, in the profession of art therapy.
- (2) All members of the board shall be appointed by the Governor for staggered terms of four (4) years.
- (3) ~~[Initially,]~~ The four (4) professional members shall be appointed from a list of eight (8) names submitted by the board of directors of the Kentucky Art Therapy Association, Inc., and the one (1) public member shall ~~[- be appointed by the Governor and shall]~~ be a citizen at large.~~[- The initial board shall be appointed so that the term of one (1) professional member expires within one (1) year of the initial appointment of the board, the term of one (1) professional member expires within two (2) years of the appointment of the initial board, and the term of one (1) professional member expires within three (3) years of the appointment of the initial board. The public member and the fourth professional member shall serve a full four (4) years term on the initial board.]~~ Each member shall hold office until a successor is appointed. Vacancies shall be filled in the same manner as original appointments. No **board member**~~[appointee]~~ shall serve more than two (2) *consecutive* terms.
- (4) ~~[Beginning July 1, 1996,]~~ Each board candidate shall be **licensed**~~[certified]~~ as an art therapist prior to nomination and shall be actively engaged in the practicing or teaching of art therapy, except for the one (1) public member.
- (5) Members of the board shall receive no compensation, perquisite, or allowance.
- (6) The board shall elect annually from its membership a chairman, secretary, and other officers as necessary to carry out its duties.
- (7) The board shall meet at least two (2) times each year. Additional meetings may be called by the chairman, upon the written request of at least two (2) members of the board. A simple majority of the board members shall constitute a quorum of the board.

➔ Section 4. KRS 309.1315 is amended to read as follows:

The board shall:

- (1) Promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399;
- (2) Select the examinations for **licensure**~~[certification]~~ and administer the examinations at least annually;
- (3) Establish the application deadline for and score required to pass the examinations;
- (4) Process applications and conduct and review the required examinations;
- (5) Issue **licenses**~~[certificates]~~ to applicants who meet the requirements of KRS 309.133 to 309.137;
- (6) Deny, suspend, or revoke a **license**~~[certificate]~~ to practice art therapy;
- (7) Censure, reprimand, or place a **license**~~[certificate]~~ holder or applicant on probation for a period not to exceed one (1) year;
- (8) Maintain a current register of **license**~~[certificate]~~ holders as a matter of public record;
- (9) Establish criteria for continuing education;
- (10) Establish procedures for receiving, investigating, and resolving complaints against **license**~~[certificate]~~ holders;

- (11) Conduct administrative hearings in accordance with KRS Chapter 13B for disciplinary actions taken under authority of subsections (6) and (7) of this section;
- (12) Approve the level of supervision and experience required for persons seeking *licensure*~~{certification}~~;
- (13) Assess fees for the issuance and renewal of *licenses*~~{certificates}~~ to cover administrative and operating expenses of the board, and authorize all disbursements necessary to carry out the provisions of KRS 309.130 to 309.1399;
- (14) Implement an impaired professional art therapist treatment program; and
- (15) Establish a code of ethics for professional art therapists.

➔Section 5. KRS 309.133 is amended to read as follows:

- (1) The board shall issue a *license*~~{certificate}~~ as a *licensed*~~{certified}~~ professional art 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 twenty-one (21) years of age, demonstrates professional competency by satisfactorily passing the required examination, is a registered art therapist as defined by the Art Therapy Credentials Board, Inc., is a *board* certified art therapist as defined by the Art Therapy Credentials Board, Inc., and has:
 - (a) Received a master's degree or doctoral degree in art therapy that includes six hundred (600) hours of supervised internship experience from an accredited institution and has completed an additional one thousand (1,000) client contact hours of postgraduate experience under appropriate supervision; or
 - (b) Received a master's degree or doctoral degree in a related field, has a minimum of twenty-one (21) semester hours of sequential course work in the history, theory, and practice of art therapy, has completed seven hundred (700) hours of supervised internship experience from an accredited institution, and has completed an additional two thousand (2,000) client contact hours of postgraduate experience under appropriate supervision.
- (2) The board may approve on a case-by-case basis applicants who have a master's degree or a doctoral degree from nonaccredited institutions.
- (3) If an applicant has met all of the requirements for *licensure*~~{certification}~~ except satisfactorily passing the required examination, the applicant shall be scheduled to take the next examination following the approval of the *application*~~{examination}~~.
- ~~(4) An applicant for certification as a professional art therapist may be certified without examination if the applicant files a completed application within one (1) year of the effective date of the establishment of the board, accompanied by the required fees, and if the board determines that the applicant meets all other requirements for certification as a professional art therapist.~~
- ~~(5) An applicant for certification as a professional art therapist may be certified without examination if the applicant files a completed application within one (1) year of the effective date of the establishment of the board, accompanied by the required fees, and if the board determines that the applicant meets all other requirements for certification as a professional art therapist.~~
- ~~(6)~~ The board may issue a *license*~~{certificate}~~ to an applicant without examination 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, or any foreign nation that in the judgment of the board has requirements substantially equivalent to or exceeding the requirements in this section.
- ~~(5)~~~~(7)~~ The board may set criteria for continuing education and supervisory experience.

➔Section 6. KRS 309.1335 is amended to read as follows:

- (1) Each *license*~~{certificate}~~ holder shall renew the *license*~~{certificate}~~ to practice art therapy biennially by:
 - (a) Submitting a renewal application on a form provided by the board paying a *license*~~{certificate}~~ renewal fee; and
 - (b) Producing evidence of completion of relevant professional continuing education experience satisfactory to the board and not to exceed forty (40) hours per renewal cycle.

- (2) A ninety (90) day grace period shall be allowed for each **license**~~[certificate]~~ holder after the **licensure**~~[certification]~~ period, during which time the **license**~~[certificate]~~ may be renewed upon payment of the renewal fee, the late fee, and compliance with all renewal requirements.
- (3) Any **license**~~[certificate]~~ granted by the board shall be automatically suspended if the holder fails to apply for the **license**~~[certificate]~~ renewal pursuant to this section within a period of three (3) months after the renewal deadline; however, any suspended **license**~~[certificate]~~ may be restored by the board upon payment of a reinstatement fee not to exceed one hundred dollars (\$100) in addition to any unpaid renewal or late fees. Failure to renew a **license**~~[certificate]~~ within three (3) months from the date of suspension as provided in this section shall cause the **license**~~[certificate]~~ to be automatically revoked. Reinstatement of a revoked **license**~~[certificate]~~ shall require the **license**~~[certificate]~~ holder to reapply and meet all current standards for **licensure**~~[certification]~~.
- (4) A person **licensed**~~[certified]~~ under the provisions of KRS 309.133 who intends to retire as a **licensed**~~[certified]~~ professional art therapist shall notify the board in writing before the expiration of his **or her** current **license**~~[certification]~~. If, within a period of five (5) years from the year of retirement, the **license**~~[certificate]~~ holder wishes to resume practice as a **licensed**~~[certified]~~ professional art 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**~~[certificate]~~ shall be restored in full effect.

➔Section 7. KRS 309.135 is amended to read as follows:

The board shall set the amount of the fees required to be paid by the applicants for **licensure**~~[certification]~~ and the **license**~~[certificate]~~ holders including, but not limited to, the following:

- (1) For an application for initial **licensure**~~[certification]~~, the fee shall be nonrefundable and shall not exceed two hundred dollars (\$200);
- (2) To take an examination, the fee shall not exceed one hundred dollars (\$100), or, if a national examination is used, the amount of the fee shall not exceed the cost of the examination by more than twenty-five percent (25%);
- (3) The renewal fee shall not exceed two hundred dollars (\$200);
- (4) For a duplicate or replacement **license**~~[certificate]~~, the fee shall not exceed twenty-five dollars (\$25);
- (5) For failure to renew a **license**~~[certificate]~~ within the allotted grace period pursuant to KRS 309.1335(3), the fee shall not exceed one hundred dollars (\$100); and
- (6) Other reasonable fees for administrative services.

➔Section 8. KRS 309.137 is amended to read as follows:

- (1) The board may **refuse to issue a license or may** deny any application, or suspend, or revoke, **impose probationary conditions upon, issue a written reprimand or admonishment, or perform any combination thereof regarding** any **license**~~[certificate]~~ held or applied for under the provisions of KRS 309.133 if the person:
 - (a) Is found guilty of fraud, deceit, or misrepresentation in procuring **or renewing** or attempting to procure **or renew** a **license**~~[certificate]~~ to practice art therapy;
 - (b) **Committed any unfair, false, misleading, or deceptive act or practice;**
 - (c) **Has been negligent in the practice of art therapy;**
 - (d) Is adjudicated mentally incompetent;
 - (e)~~(e)~~ Is found guilty of a felony or misdemeanor involving **sexual misconduct or a crime where dishonesty is a necessary element. Conviction includes all instances in which a plea of no contest is the basis of the conviction**~~[moral turpitude]~~;
 - (f)~~(d)~~ Is found guilty of unprofessional or unethical conduct in this or any other jurisdiction;
 - (g)~~(e)~~ Has been using any controlled substance or alcoholic beverage to an extent or in a manner dangerous to the person, any other person, or the public, or to an extent that the use impairs the ability to perform as a **licensed**~~[certified]~~ professional art therapist;

~~(h)(f)~~ Has violated any provision of KRS 309.130 to 309.1399 *or administrative regulations promulgated thereunder;*

(i) *Failed to comply with an order issued by the board or an assurance of voluntary compliance;* or

~~(j)(g)~~ Willfully or negligently divulges a professional confidence.

- (2) A certified copy of the record of conviction shall be conclusive evidence of the conviction.
- (3) Disciplinary proceedings may be initiated upon the receipt by the board of a sworn complaint by any person, including members of the board.
- (4) *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 art therapy.*
- (5) *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 licensure file. 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 the provisions of KRS Chapter 13B.*
- (6) *The surrender of a license shall not deprive the board of its jurisdiction to proceed with disciplinary actions authorized under KRS 309.130 to 309.1399.*

➔Section 9. KRS 309.138 is amended to read as follows:

There is hereby created in the State Treasury the ~~licensed~~~~certified~~ professional art therapy practice board fund. All funds received by the board under the provisions of KRS 309.133 to 309.137 shall be deposited with the State Treasurer for credit to the ~~licensed~~~~certified~~ professional art therapy board fund. The State Treasurer shall invest the fund as all other state funds are invested and income from investment of the fund shall be credited to the fund. The balance remaining in the fund at the end of any fiscal year shall not revert to the general fund. The money in the ~~licensed~~~~certified~~ professional art therapy board fund shall be appropriated to the board and shall be used for the purpose of carrying out the provisions of KRS 309.130 to 309.1399.

➔SECTION 10. A NEW SECTION OF KRS 309.130 TO 309.1399 IS CREATED TO READ AS FOLLOWS:

- (1) *Before denying, revoking, suspending, imposing probationary or supervisory conditions upon a license, issuing a written reprimand, or doing any combination of those regarding any licensee or applicant under KRS 309.130 to 309.1399, the board shall set the matter for hearing as provided by KRS Chapter 13B.*
- (2) *After revoking, suspending, imposing probationary or supervisory conditions upon a license, issuing a written reprimand, or doing any combination of those regarding a 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 by KRS Chapter 13B.*

➔Section 11. KRS 309.1399 is amended to read as follows:

Any person who violates *or aids in the violation of* the provisions of KRS 309.130 to 309.1399 shall *upon conviction be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000)*~~be guilty of a Class A misdemeanor~~.

➔Section 12. Any person who is certified as a professional art therapist on the effective date of this Act shall automatically be licensed on the effective date of this Act and shall be issued a copy of the license at the time his or her certificate was next scheduled to be renewed if at that time the person complies with the provisions of Section 6 of this Act and has not been the subject of disciplinary action under Sections 8 and 10 of this Act.

Signed by the Governor March 20, 2009.