

March 13, 2020

To: Board of Health

For: March 16, 2020 meeting

RE: 407 Credentialing and Review Application for Art Therapy Certification

I am writing today on behalf of the Board of Mental Health Practice regarding the application for the creation of an Art Therapy Certification. This letter is to express concern with several key substantial areas within this application. These areas were brought up in the technical review; however, no changes to the application appear to have been made based on these concerns. There are several disturbing elements that must be addressed completely before we can consider supporting this certification effort. We hope the Board of Health will take further consideration of these concerns and seek modification of the certification language prior to approving the certification application.

First and foremost our concern is that the application is “for a specialty certification within the LIMHP licensure category for Art Therapists. Under this concept anyone who seeks to provide Art Therapy services would not only have to qualify as an Art Therapist, they would need to qualify as an LIMHP, as well.” (pg. 6 Technical review)

On the surface this seems quite similar to other certifications that are under the LIMHP licensure such as Marriage and Family Therapist, Professional Counselors, and Social Work. However, upon further reading, a substantial difference emerges. The application indicates that ONLY those with this specialty certification would be allowed to engage in Art Therapy and without this certification providing Art Therapy services would be a violation of regulation. The technical review committee asks if this prohibition would also extend to psychologists and psychiatrists. The applicants indicated that indeed this would.

Our concern with this is two-fold. First, an associated certificate would limit the license of the LIMHP. This is not similar to the other certificates as listed above. For example, a person holding an LIMHP license can offer marriage and family therapy without holding a Marriage and Family Therapy certificate. Second, given this would also apply to psychologists, all psychologists would be unable to provide Art Therapy services, even if they were trained, unless they held a LIMHP and the Art Therapy Certificate. The applicants clearly indicated regarding psychologists providing Art Therapy services, “there would be no exemption.” We are disappointed that these considerable concerns seem to have been dismissed by the applicant as “turf concerns.” (“Dr. Low asked if there is any opposition to the proposal. Dr. Stallings replied that some members of the social work and professional counseling professions and some recreational therapists have expressed concerns about the proposal based on turf concerns”. pg. 7)

Second, the applicant seems to suggest that, without this certificate, an art therapist would be unable to be licensed in Nebraska. This is not the case. All applicants would be required to meet the currently existing requirements for an LMHP/LIMHP regardless if they were offering Art Therapy services. Thus the notion it would create additional employment or that lacking this certificate is a barrier to practice seems unlikely. Further, the statement on page 7 reads, “Currently, anyone can set themselves up as an art therapist and provide services to anyone they want in accordance with whatever definition of art therapy they might devise, and/or in accordance with whatever they might think constitutes competency in art therapy.” This statement appears to be an unlikely situation. If a person is engaged in services that are outside of their competency and causing harm, licensees can currently be investigated and disciplined for unprofessional behavior. For example, if a mental health practitioner employs an art technique with a client that causes a client an allergic response (as indicated in the art therapy proposal when discussing possible harm if there is no Art Therapy Certificate), in the current regulatory structure, the mental health practitioner could be acting out of their scope of practice by not evaluating the client’s allergens. Appropriate discipline could be taken by the Board of Mental Health under the current regulations. An Art Therapy certificate is not necessary for discipline to occur because the current regulatory language is sufficient to address this concern.

Additionally, the definition of Art Therapy appears very broad. The definition of art therapy is provided on page 22 of the application. It appears that any and/or all the bullet points provided on page 22 may be accomplished by any mental health practitioner (LMHP, LIMHP, Psychologist) at any time with no harm to the client. For example one of the bullet points on page 22 indicates that art therapy is “creating safe, supportive, and non-judgmental environments for client art-making and evaluation”. The question arises that based on this definition would it exclude mental health practitioners from employing creative activities with their clients unless they hold the art therapy certificate? For example, would it be a violation of the scope of practice for a mental health practitioner without an art therapy certificate to use finger paints with a child in a therapy session or allow a child to color during therapy and then evaluate the work product as part of the therapeutic process with the child and family? If that is the case then it would limit the ability for mental health professionals to provide essential routine care to children and other vulnerable populations, thus harming the public if the Art Therapy Certificate is enacted.

We also express further concern due to the fact that one of our board members contacted Ms. Stallings and Mr. Zbylut on November 7, 2019 and requested that the art therapy committee come to our next board meeting to discuss or, if that was not possible, arrange another time to meet and discuss. Ms. Stallings responded that she would discuss this request with the art therapy committee and be in touch. However, that did not occur. No one from the art therapy committee has attended any of our meetings nor has anyone from the art therapy committee requested to collaborate on next steps. The art therapy proposal has been clearly indicated on several recent board meeting agendas and the board’s discussion about this issue is noted in the meeting minutes.

In summary, we express serious concern and **do not support** the application for an Art Therapy Certification as it is written. We have always supported the dual doctrine of many paths to competency and the expectation that a person acts within their competency. This application prohibits not only mental health practitioners but also psychologists from engaging in Art Therapy services unless they meet a narrow and very specific educational and training path

which seems to be more focused on protecting the profession of Art Therapy than protecting the public.

We are open to an Art Therapy certification that aligns more closely with the language and scope of current certifications under the Board of Mental Health Practice (such as MFT or PC). We are open to Art Therapists joining our board if such a certification is created.

We appreciate you taking our concerns into consideration. If there are further questions, or you would like further clarification regarding our concerns please contact me.

A handwritten signature in black ink, appearing to read 'Tom Maxson', with a long horizontal flourish extending to the right.

Tom Maxson, LIMHP, LADC, SAP, MAC  
On Behalf of the Board of Mental Health Practice