# REPORT OF RECOMMENDATIONS AND FINDINGS

By the Music Therapists'
Technical Review Committee

To the Nebraska State Board of Health, the
Director of the Division of Public Health, Department of Health and
Human Services, and the Members of the Health and Human
Services Committee of the Legislature

June 4, 2021

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# Part One: Preliminary Information

## Introduction

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Department of Health and Human Services, Division of Public Health. The Director of this Division will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the Division along with any other materials requested by these review bodies. These two review bodies formulate their own independent reports on credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

## LIST OF MEMBERS OF THE MUSIC THERAPISTS' TECHNICAL REVIEW COMMITTEE

Shane Fleming, RN (Chair)

Jennifer Dreibelbis, MPA, NE Arts Council

Stephen M. Peters, BA, MA

Christine Chasek, LIMHP, LADC

Kenneth Kester, PharmD, JD

Susan Meyerle, LIMHP, PhD

Marcy Wyrens, RRT

## Part Two: Summary of Committee Recommendations

The committee members did not recommend approval of the applicants' proposal.

## Part Three: Summary of the Applicants' Original Proposal

Nebraska music therapists are proposing the creation of a music therapy license. Specifically, they propose that any professional who claims to be a "music therapist" or "board certified music therapist" must hold the Music Therapist-Board Certified (MT-BC) credential administered by the Certification Board for Music Therapists (CBMT) and be licensed by the state of Nebraska. Board certified music therapists possess the required education, clinical training, scope of practice, and professional competencies necessary to provide ethical and effective therapeutic services. In order to protect recipients of music therapy from potential harm or contra-indicated responses associated with inadequate assessment, treatment planning, service delivery, and documentation, licensure is determined as the most appropriate level of regulation. Given increasing patient involvement, acuity, and risk, music therapy, as delivered by a board certified music therapist, should require state licensure to protect the public from harm due to misuse of terms and techniques, ensure competent practice, and protect Nebraska citizens' access to music therapy services.

State licensure of music therapists would:

- Recognize music therapy as a valid, research-based health care service, on par with other therapy disciplines serving an equally wide range of clinical populations (e.g. speech-language pathology, occupational therapy).
- Validate the prominence of music therapy in work settings for serving consumers of health- and education-related services.
    - Establish educational and clinical training requirements for music therapists.
    - Establish examination and continuing education requirements for music therapists.
    - Establish music therapy scope of practice.
    - Establish an ethics review procedure for complaints and potential ethical violations.

Through establishing a music therapy license we also seek to gain:

- The inclusion of music therapy in state-wide legislation that protects consumers of music therapy;
- The ability for Nebraska residents and businesses to easily determine qualified music therapy practitioners;
- The ability for facilities interested in providing music therapy services to comply with state regulations in contracting with or employing licensed music therapists.

The proposed licensing of music therapists will protect the general public by creating a minimum standard for music therapists to practice in Nebraska. The licensing process will ensure that only qualified, trained individuals who have met the education, clinical training, and examination requirements will be able to practice music therapy. Furthermore, Nebraska residents and potential employers will have a state-established system for verifying competent music therapy practice as well as a disciplinary system to address issues of unethical behavior and practice.

Facilities interested in providing music therapy services would be able to utilize the state system to locate qualified professionals.

Licensure will prevent the incidence of unqualified individuals having access to clients' confidential information and potentially compromising clients' health and wellness issues. Licensing music therapists will ensure that those who have not been adequately trained as music therapists would not be able to step into or attempt to perform the duties of a music therapist, therefore increasing the safety and quality of music therapy services provided to Nebraska citizens. This maintains a high standard of care in the state of Nebraska by establishing a level of competence for a practitioner to abide by to provide music therapy services.

The Scope of Music Therapy Practice would define the range of responsibilities of a fully qualified music therapy professional with requisite education, clinical training, and board certification.

**The full text of the most current version of the applicants' proposal can be found under the Music Therapy topic area on the credentialing review program link at** https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx

## Part Four: Discussion on issues by the Committee Members

### *Initial Applicant Comments followed by Initial Committee Discussion*

Mr. Fleming asked if anyone from the applicant group was available to provide a brief overview of their proposal and then answer questions from committee members. Tyanne Mischnick, MME, MT-BC, responded that she would provide an overview of the applicant's proposal. Ms. Mischnick stated that Nebraska's music therapists seek licensure for their membership, adding that all they have now for a credential is a private certification that currently is not recognized in Nebraska. Ms. Mischnick went on to state that under the terms of the proposal music therapists in Nebraska would be licensed at a bachelors degree level, a degree that would include 1200 clinical hours acquired over six-month time-frame. Ms. Mischnick stated that continuing competency programs are already a component of music therapy professional activities and that an accreditation agency is also already in place. Ms. Mischnick stated that music therapy's private credential already provides for regulatory and disciplinary procedures for evaluation of members and action against those members who have not complied with standards of professional conduct. Ms. Mischnick stated that music therapy education and training includes course work in biological sciences, behavioral sciences, instrumental competencies, goal-oriented interventions, and research. Supervised practice is required as a component of this education and training. Ms. Mischnick stated that evidence-based treatment intervention is an on-going dimension of music therapy practice and that this approach to practice is a vital component of music therapy training.

Ms. Mischnick stated that protection of the public is a principal objective of the applicant group and that their proposal is designed to provide and enforce standards that would protect the public from unqualified providers of music therapy services or those who falsely claim to be providing music therapy when in fact they are only providing musical entertainment. Ms. Mischnick hastened to add that her group has no issue with those who seek to provide musical entertainment, per se, as long as they do not claim to be providing music therapy services, thereby. Ms. Mischnick went on to provide examples that illustrate how unqualified practice can result in harm to patients, stating that harm comes from recorded music that over-stimulates a patient thereby impeding progress in their treatment regimen. Ms. Mischnick stated that another reason the applicants are seeking licensure is to ensure that patients have good access to their services via third-party reimbursement and licensure would enhance the chances that this would occur.

Applicant representative Judy Simpson stated that the applicants want the State of Nebraska to license music therapists by recognizing their private credential and making it the basis for their licensure law in Nebraska. At this juncture a program staff person commented that Nebraska traditionally has been reluctant to endorse private credentials or the standards and practices of private organizations. Instead, Nebraska incorporates the elements of credentialing defined in a given proposal into a draft licensure bill drafted in a manner consistent with Nebraska's Uniform Licensure Law, a law to which all licensed health professions in Nebraska must adhere.

At this juncture Chairperson Fleming opened the meeting to questions for the applicant group from the members of the technical review committee. Committee member Chasek asked the applicants to clarify exactly how music therapy services are rendered. Ms. Mischnick responded by utilizing an example of a hypothetical music therapist treating someone with a brain injury. Continuing she stated that the therapist begins by identifying ways in which to

"trigger" a neurological response from this patient. Continuing her remarks Ms. Mischnick stated that the goal is to "retrain the brain" so as to restore functions lost as a result of the injury whether that be speech or mobility, for example. She continued by stating that this hypothetical music therapist would be working part of a team that would be inclusive of other rehabilitation professionals, and that in this particular scenario the team would almost certainly include a physical therapist and a physician, for example.

Ms. Mischnick went on to state that some music therapists work in hospices with patients who have breathing problems utilizing music to help restore a viable breathing rhythm. She went on to state that the idea that "calming music" is all a patient needs from music therapists is false. Music therapists learn to gear the music to the specific neurological problem a given patient is suffering from, and, it cannot be assumed that so-called "calming music" is the best music for each and every patient's needs.

Committee member Marcy Wyrens asked the applicants where music therapy fits in the healthcare system. Ms. Mischnick responded by stating that music therapists are rehabilitation specialists and that they treat the same kinds of conditions and maladies that physical therapists and occupational therapists treat, adding that they treat anyone who has a neurological impairment.

Committee member Stephen Peters asked the applicants how many patients they are able to reach during the course of a year. Ms. Mischnick responded by stating that it's hard to come up with a number considering that there are so many unqualified providers "out there." She went on to state that her profession does create an annual survey that might provide some information to answer this question and that she would be glad to provide the one for 2020 to the committee members. Mr. Peters responded that this would be very helpful.

Committee member Stephen Peters then asked the applicants whether they work as employees or whether they work as contractors. Ms. Mischnick responded that most are contractors, the breakdown being 20 contractors and 10 company employees. Mr. Peters then asked if music therapists must follow certain practice protocols vis-à-vis the services they provide. An applicant representative responded by stating that employers do not provide practice protocols for music therapists. Each music therapist is sufficiently trained and educated that such protocols are unnecessary. Mr. Peters then asked if employers require that music therapists be Board certified. An applicant representative responded in the affirmative.

Committee member Dreibelbis asked the applicants if they can bill a patient for services. An applicant representative responded by stating that there are specific billing codes that allows them to do that. However, they would only be able to bill for the specific services provided as part of a larger billing associated with a team of therapists with whom the music therapist in question cooperated to provide the services in question. Committee member Dreibelbis asked the applicants if they ever provide services solo. An applicant representative responded in the affirmative, but added that in this scenario the music therapist would be responsible for seeking out another health care professional for consultation purposes because music therapists are not portal of entry providers. Even if someone were to contact them requesting services the music therapist in question must seek out a licensed portal of entry provider to consult with regarding the services being requested.

Committee member Dreibelbis then asked the applicants about clinical supervision, specifically, who can provide clinical supervision for music therapists. An applicant representative responded by stating that physicians, some nurses, and physical therapists can fulfill that role.

***Committee Questions from the first meeting:***

***Question 1)*** Mr. Peters then asked if it would be possible for someone to get a bachelors degree in music and use degree to apply for licensure. An applicant representative responded that there would be no way to by-pass all the requirements for music therapy licensure including the required clinical hours, the required examination, and other prerequisite curricular items.

***Question 2)*** Committee member Peters asked the applicants to provide more hard evidence pertinent to actual harm to the public from unregulated practice rather than simply relating the potential for such harm. Mr. Peters continued by asking the applicants to provide information pertinent to whether or not licensing music therapist has successfully addressed such harm in states wherein licensure has already become part of state law.

Applicant representative Tyanne Mischnick responded to committee questions about evidence of harm from incompetent music therapy practice by citing examples of harm, as follows:

- Unqualified music therapists often use recorded music to treat clients. In instances wherein clients are not able to regulate their sensory experiences or communicate their needs this approach to music therapy can result in overstimulation which in turn can result in agitation and withdrawal.
- A music student who was subjected to recorded music became less-and-less responsive to musical prompts and was not making progress in his learning. However, when live music was used and musical elements were simplified the student began to make progress once again.

***Question 3)*** Committee member Kester asked the applicants if there is any opposition to their proposal. An applicant representative responded that Speech and Language Pathologists have opposed us in some other states, and Mental Health Practitioners have opposed us in some other states, as well.

***Question 4)*** Committee member Dreibelbis asked the applicants how they plan to provide services across the entire state of Nebraska given that most music therapists reside in urban areas of eastern Nebraska. An applicant representative responded by stating that once licensure passes the profession would expand its services into central and western parts of the state.

***Question 5)*** Committee member Wyrens asked the applicants if they have considered the idea of joining another board as an option for administering their licensure credential. An applicant representative responded in the affirmative including the idea of joining an integrated board, for example.

***Question 6)*** Committee member Meyerle asked the applicants if there is a list of good contracting agencies or companies for music therapy services.

***Question 7)*** Committee member Dreibelbis asked the applicants to describe oversight standards required for supervising music therapists including who can supervise, who can report on supervisory matters, and who takes action in lieu of such reports.

***Question 8)*** Chairperson Fleming asked the applicants to summarize the documents they recently submitted in which they responded to questions from committee members asked during the previous meeting on January 28, 2021.

Applicant representative Tyanne Mischnick responded that the documents in question describe typical contracts between music therapists and clients ranging from contracts between music therapists and facilities such as nursing homes to contracts between music therapists and individual clients. These documents also define and comment upon how collaboration occurs between music therapists and other behavioral health professionals. The documents in question also clarify how assessment procedures are conducted by music therapists.

Another music therapy representative went on to state that one of the documents recently submitted describes and discusses how harm can occur to clients from the services of unqualified music therapy practitioners. This representative cited specific documented cases wherein unqualified practitioners used music in a manner that was harmful to vulnerable persons. This representative went on to say that some of the documents submitted describe the benefits that licensure can provide including that it can make collaboration with other health professionals easier and more viable. Licensure can also improve access to care. Licensure can also address concerns about those who misrepresent their skills and abilities as constituting music therapy when these skills and abilities are not consistent with those of qualified music therapists.

***Documents posted on the CR link from the applicant group, referenced above, are as follows:***

CRMTHarminMusicTherapyPractice.pdf

CRAMTAStandardsOfClincalPractice.pdf

CRMTBenefitsOfLicensure.pdf

CRMTMusicSpeaksServiceAgreement.pdf

CRMTContractAndServiceAgreement.pdf

CRMTAMTA2020WorkforceAnalysis.pdf

CRMusicAMTACodeOf Ethics.pdf

CRMusicCBMTCodeOfProfessionalPractice.pdf

CRMusicCBMT-AMTAScopeOfMusicTherapyPractice.pdf

### *The second set of TRC questions for the applicant group*

***Question One:*** Committee member Ken Kester asked the applicants how they determine that a given set of treatment options is "good," on the one-hand, or how a given set of treatment options is "bad" or "wrong," on the other, and then asked the applicants what assessment methods or procedures tells you these things? He asked the applicants what tests are run to determine these things and what criteria would be used to evaluate them? What is the body of knowledge upon which such determinations are made? Dr. Kester went on to express concern that so much of the information provided by the applicants about harm is anecdotal in nature rather than being based on statistical analysis of large numbers of cases, for example.

An applicant representative responded to Dr. Kester's questions by stating that music therapists receive clinical training based on Board of Certification standards to make the kinds of assessments and determinations documented in their documented responses to committee questions. The applicants added that clinical events are provided wherein patients or clients are subjected to certain musical sounds in order to trigger responses which are then monitored, interpreted, and measured according to standard procedures and protocols which are components of music therapy education and training and which must be consistent with professionally defined standards promulgated by the music therapists Board of Certification.

***Question Two:*** Committee member Ken Kester asked the applicants specific questions about the anecdotal cases that were provided in their harm documentation such as how did the applicants determine how a given client or patient had an elevated heart rate under certain circumstances? Dr. Kester continued by asking the applicants what training do you have to determine that a client or patient has an elevated heart rate, for example? Continuing, Dr. Kester asked the applicants what instruments or methods are music therapists trained in that enables them to make such determinations? Dr. Kester also asked the applicants whether music therapists are able to determine the severity of a client's elevated heart rate and accurately isolate the factors that might be causing such reactions.

Continuing their response to Dr. Kester's questions this applicant representative stated that measuring the severity of a patient's response to musical stimuli is difficult to do because so much of these kinds of responses is a reflection of the unique, personal, behavioral traits of each patient.

***Question Three:*** Pertinent to applicant group comments on the potential for harm from unqualified practice Ken Kester asked the applicants about specific comments made in their harm documentation which indicates that music therapists are able to ascertain information about a patient's nutritional health from their responses to certain musical tracts or sounds. Dr. Kester stated that the applicants need to provide more support for such contentions as these during this review process.

***Question Four:*** Pertinent to applicant group statements about indicators and measures of a patient's heart rate committee member Wyrens commented that there are a wide variety of factors that can impact a given patient's heart rate and that many of these factors are beyond the kinds of things that music therapists are trained to deal with.

***Question Five:*** Pertinent to information provided by the applicants vis-a-vis neonatal data including neonatal responses to certain kinds of musical sounds committee member Wyrens asked the applicants to provide more information to document that board certified music

therapists are better qualified than non-board certified music therapists to measure, assess, and evaluate these kinds of responses.

***Question Six:*** Committee member Peters asked the applicants to comment on the rigor of their clinical assessment procedures. An applicant representative responded by stating that music therapists are trained to conduct evaluative assessments of patient's according to a specific sequence of procedures defined and standardized by the profession's certification board. This sequence of procedures includes: 1) information gathering, 2) assessment of motor skills, 3) assessment of cognitive skills and abilities, 4) assessment of emotional responses, and 5) assessment of cognitive responses. All information generated about a client is shared with other behavioral health professionals who are part of a behavioral health team that cooperates to create a treatment regimen for a given patient. Mr. Peters asked the applicants if these steps are rigorous enough to address questions or concerns about the standard of care. An applicant representative responded that the profession's certification board is responsible for overseeing and evaluating these procedures pertinent to their efficacy.

***Question Seven:*** Committee member Peters commented that Speech and Language Pathologists utilize at least some of the procedures described by the applicant group although they do so according to their own professional standards and licensure requirements. Mr. Peters asked the applicants how their proposal might impact Speech and Language Pathologists if it were to pass.

***Question Eight:*** Committee member Peters later submitted a list of questions for the applicant group to be included in these minutes but also requested that these and other questions also be posted on the credentialing review program link:

Question One: Pertinent to the standard of care document:

- Are there standard assessment tools or is each certified therapist reliable for their own assessments?
- What is the assessment process?
- How reliable are the assessments?
- Once an assessment is complete is the next step a treatment plan?

Question Two: also pertinent to the standard of care document:

- Is this document the standard of care that all therapists must use or is it only a guideline?
- Do therapists develop their own treatment plans?
- How is treatment progress for a given patient measured?

Question Three:

- Assuming that a standardized plan exists could ANYONE use this plan and follow it?
- If assessments are generally available could ANYONE use the assessment tools? If the scope of care is available to all could ANYONE incorporate this?
- If the scope of care is widely interpreted and open for adjustment by therapists couldn't ANYONE do that?

***Question Nine:*** Information request: Please provide specific cases of harm that have occurred in Nebraska, if you are aware of any.

### *Applicant group responses to the second set of TRC questions*

Tyanne Mischnick speaking on behalf of the applicant group began the applicants' response to these questions by commenting on the first sub-point under question number one, above. She stated that some assessment tools used by music therapists are standardized, some are not. Nicole Jacobs also speaking on behalf of the applicant group commented that some assessment tools used by music therapists are also commonly used by other professionals such as speech and language pathologists, for example. Sometimes these professionals will utilize some assessment tools typically utilized by music therapists, for example.

### *The third set of questions for the applicant group from the TRC*

***Question One:*** Mr. Peters asked the applicants how they know that their assessment tools are reliable and that they measure what they want them to measure. Nicole Jacobs replied by stating that assessment tools in music therapy are used to determine what a patient's behavioral needs are so as to devise an appropriate treatment regimen.

***Question Two:*** Mr. Peters asked the applicants how an action plan comes into being in music therapy. An applicant representative responded to this question by stating that action plans vary from one case to another and are reflective of the unique behavioral problems and circumstances each patient is experiencing. There are no standardized action / treatment plans per se due to the great variability of contractual pre-conditions associated with the provision of services as well great variability in the nature of the team of providers engaged in the provision of such services and the great variability of specific behavioral problems of the patients / clients who need the services in question.

***Question Three:*** Mr. Fleming asked the applicants if music therapists ever deliver services in the context of a facility such as a hospital, for example. Nicole Jacobs responded by stating that she has worked with acute care patients at Bryan West and that about seventy-five percent of her work is facility based whether this be at hospice or nursing home facilities. Some of this work is paid for by Grant money.

Tyanne Mischnick stated that some music therapists work in school settings in Omaha, and that they work under contract. She went on to state that some music therapists work under contract as "recreational therapists" and their services are paid for under this moniker according to that respective CPT code.

***Question Four:*** Mr. Peters asked the applicants to discuss Masters Degree versus Bachelors Degree programs in music therapy focusing on the development of clinical competencies. Nicole Jacobs replied that there are Masters-level and Bachelors-level programs in music therapy at the University of Nebraska, adding that the clinical components under these programs are the same. Those who would seek to become eligible for licensure would need to achieve a grade of at least a "B" in each of the required clinical courses offered under these programs in order to qualify. Ms. Jacobs went on to state that clinical components are included in many, if not most, of the courses offered in music therapy programs, and that as much as eighty-five percent of music therapy courses include vital clinical components. Ms. Jacobs went on to state that music therapy students are closely monitored and that there are required internships, adding that these are some of the ways "rigor" is incorporated into music therapy education and training.

***Question Five:*** One committee member asked the applicants if licensing music therapists could result in restricting other professional's right to utilize music in their therapies. One applicant representative responded by stating that as long as someone is credentialed and providing services consistent with their scope of practice the applicant group would have no concern about them using music as a component of their treatment regimen for their patients.

***Question Six:*** Mr. Peters asked the applicants to discuss how team-based treatment plans are carried out and how team members from different professional backgrounds cooperate to provide services. How much autonomy does a music therapist have to carry out the things they are trained to do in circumstances wherein they are part of a team consisting of persons with different professional backgrounds, for example? Mr. Peters asked the applicants how much autonomy a given music therapist would have when they are providing services under contract for a facility wherein they would be providing these services under a medical director, for example? One applicant representative stated that how music therapists would function under such team-oriented scenarios varies from case-to-case and from one circumstance to another, but added that there are certain things that a music therapist must do under all cases and circumstances and that these include following specific practice standards as they are trained to do inclusive of taking very detailed notes to document every aspect of a patient's behavioral problem and the context within which this problem has occurred.

***Question Seven:*** One committee member asked the applicants how they plan to have the State of Nebraska administer their licensure program if it were to pass. One applicant representative responded by stating that the applicant group does not want to incur the costs of an independent administrative board and that they would rather become part of an existing board, but added that at this time they are not yet ready to say which board that might be. One committee member commented that music therapists might consider becoming part of the Board of Physical Therapy.

***Question Eight:*** Mr. Peters asked the applicants if licensing music therapists would hold much meaning for their clients / patients, or, would this achievement only mean something to the practitioners themselves? Would clients / patients experience tangible benefits from the passage of the current music therapy proposal? Another committee member asked the applicants if there is any evidence from other states that have passed similar proposals that such proposals have actually provided protection from unqualified practice. One applicant representative responded by citing examples of I-pod programs and videos that claim to provide music therapy simply by viewing these programs on-line. Jennifer Dreibelbis commented that the proposal by defining what music therapy is and is not would, per se, be providing some benefit for the public health and welfare.

Tyanne Mischnick responded to committee comments about the benefits of music therapy for clients by stating that music therapists are trained to use music as a medium for change, whereas other professionals use their own professional methods to cause change, sometimes supported by music. It is the use of music as the primary modality of treatment that allows music therapists to analyze non-verbal, verbal, psychological, and physiological responses to music.

Applicant representative Nicole Jacobs stated that clients benefit from an evidence-based approach to the provision of therapeutic services by practitioners trained via a competency-based approach to learning a practice. Music therapists are unique in that they utilize a single modality, specifically music, for every aspect of their assessment, diagnosis, and treatment of their clients mental health condition.

Nicole Jacobs continued by describing the extensive and rigorous education and training of music therapists, commenting that in colleges and universities wherein music therapy is offered it is known as one of the most challenging and difficult degree programs on campus.

### *Comments from Interested Parties with Concerns about the Proposal*

Dale Battleson, Ph.D., LIMHP, testified in opposition to the applicants' proposal citing wording in the proposal that he said indicates that the applicant group is seeking to provide psychotherapy. This testifier stated that the applicants are not sufficiently well-trained to provide psychotherapy safely and effectively. Providing this kind of service requires extensive education and training in assessment and diagnosis of mental health conditions, procedures that LMHPs are well trained to provide, for example. Music therapists, on the other hand, lack sufficient training in these vital dimensions of mental health practice.

Anne Buettner, MA, Legislative Chair for AAMFT, testified against the idea of licensing music therapists but advised the committee members to consider certifying music therapists, instead. Certification would recognize the abilities of music therapists to actively intervene to address the emotional, cognitive, emotional, and social needs of their clients once these needs have been identified and /or diagnosed.

***All sources used to create Part Four of this report can be found on the credentialing review program link at***
https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx

## Part Five: Discussion and Recommendations

### *General Discussion on the Proposal*

An applicant representative presented a response to concerns expressed about the proposal by a member of the marriage and family therapy profession regarding apparent overlaps in proposed services to be offered by music therapists, on the one hand, and similar services already provided by Marriage and Family Therapists and other LMHPs as part of their licensed scope of practice, on the other. The following points summarize this response to this concern:

- The scope of music therapy includes professional and advanced competencies. Music therapists provide only those services that are within their range of competency. Music therapy is not defined by a singular process, intervention, or experience, but rather by a continuum of musical and interpersonal skill sets that make this profession unique.
- A music therapist's clinical practice is guided by the integration of the best available evidence, the expertise of the clinician, and the client's needs, values, and preferences, all with the aim of providing client-centered care.
- In order for clients to benefit from an integrated, holistic approach to providing care there will be some overlap with the services provided by other professions. Other professions may utilize music as part of their treatments as long as they are working within their scope and not calling themselves "music therapists," for example. Similarly, many allied health professionals already address behavioral, cognitive, social, communication, emotional, and sensorimotor needs, and, as long as each profession is practicing within their scope, this should not be a problem.
- The education and clinical training of a music therapist does not cover the same areas of assessment and treatment as does that of a mental health practitioner. Music therapists do not claim to provide screening, assessment, or diagnosis of any mental, physical, or communication disorder. Additionally, it is not within the scope of practice of music therapy to provide psychotherapy. Instead, music therapists conduct a music therapy assessment, then develop, implement, and evaluate a music therapy treatment plan.
- A competent music therapist will make referrals to other health care professionals when faced with issues or situations beyond their own competency, or, wherein greater competency is determined to be necessary.

After the aforementioned comments were made by the applicant representative committee member Kester asked the applicants to clarify their remarks on assessment in which they seem to be denying that music therapy assessment is anything like assessment in other mental health professions. An applicant representative responded by stating that in other mental health professions assessment is done pursuant to a diagnosis of a patient's condition. In music therapy assessment is done to find out how a given client will react to certain musical sounds, which, in turn, is done to assist the client in improving their quality of life, not to begin a process whereby a mental health diagnosis is performed.

Committee member Peters commented that he too was confused by the aforementioned applicant description / characterization of what assessment means in music therapy, and went on to express his surprise at these remarks, implying that this was the first he'd heard of such an interpretation of the term "assessment" after reviewing all documentation submitted by interested parties and attending more than four meetings of the current review process on the current music therapy proposal. An applicant representative responded that the focus of music therapy assessment is on identifying sources of pain, anxiety, and stress, not on identifying disease processes or conditions.

Committee member Peters responded to these remarks by stating that, apparently, music therapists are not interested in the mental health conditions or problems of their clients, but instead are focused only on the general goal of improving their "quality of life" without even knowing or trying to know what mental conditions their clients might have which might interfere with this goal. Mr. Peters went on to state that such an approach to a client's well-being leaves a significant gap in the services being provided, a gap that raises serious questions regarding the safety of the services being provided.

Another applicant group representative responded to Mr. Peters by stating that if a music therapist finds out that their therapy is not working vis-à-vis a given client the music therapist is trained to make a referral to other types of mental health providers. Committee member Chasek then asked how this referral procedure would work and to whom such a referral would be made. The applicant representative responded that if we see that our therapies are not working we will refer.

Another music therapy representative commented that music therapists are focused on the development of social skills, not on identifying or treating disease processes, and that if this approach does not work for a given client the music therapist is trained to refer them to another provider, not clarifying how such an alternative provider would be identified.

Committee member Peters asked the applicants if there is any evidence from states wherein music therapists have been licensed that the incidence of unqualified practice has decreased significantly. An applicant representative responded that unqualified practice does occur in these states but that there now licensure does provide the public with recourse regarding such practice.

Committee member Peters asked the applicants what their proposal would accomplish for their profession if it were to pass. One applicant representative responded that it would greatly enhance access to music therapy in the public school system in Nebraska because currently schools are telling music therapists that they are no longer going to provide access to the services of music therapists in schools in Nebraska unless they become licensed. Access to music therapy in the schools has become dependent on the status, recognition, and validation that licensure would provide.

## *Discussion on the Four Statutory Criteria as They Pertain to the Proposal*

***Criterion one*: *Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.***

Jennifer Dreibelbis: The proposal is needed for public protection.

Stephen M. Peters: The applicants' contention that the current unregulated practice situation of music therapy is a source of harm to the public is not supported by hard evidence, only by a few unsubstantiated anecdotal stories.

Christine Chasek: The applicants' contention that the current unregulated practice situation of music therapy is a source of harm to the public is not supported by hard evidence, only by a few unsubstantiated anecdotal stories.

Kenneth Kester: The applicants' contention that the current unregulated practice situation of music therapy is a source of harm to the public is not supported by hard evidence, only by a few unsubstantiated anecdotal stories.

Susan Meyerle: There is a lack of sufficient data to support applicant claims of harm to the public from the current practice situation.

Marcy Wyrens: Expressed uncertainty about whether or not there might be potential for harm to the public stemming from the current unregulated status of the music therapy.

***Criterion two*: *Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.***

Jennifer Dreibelbis: Agreed that the proposal would not create new barriers to practice

Stephen M. Peters: Agreed that the proposal would not create new barriers to practice

Christine Chasek: Agreed that the proposal would not create new barriers to practice

Kenneth Kester: Agreed that the proposal would not create new barriers to practice

Susan Meyerle: Agreed that the proposal would not create new barriers to practice

Marcy Wyrens: Agreed that the proposal would not create new barriers to practice

***<u>Criterion three</u>:The public needs assurance from the state of initial and continuing professional ability.***

Jennifer Dreibelbis: Agreed that the proposal satisfies this criterion

Stephen M. Peters: Agreed that the proposal satisfies this criterion

Christine Chasek: Agreed that the proposal satisfies this criterion

Kenneth Kester: Agreed that the proposal satisfies this criterion

Susan Meyerle: Agreed that the proposal satisfies this criterion

Marcy Wyrens: Agreed that the proposal satisfies this criterion

***<u>Criterion four</u>: The public cannot be protected by a more effective alternative.***

Jennifer Dreibelbis:

Stephen M. Peters: There is a need to explore alternatives to the current proposal to address the concerns of the applicant group pertinent to finding the best way to validate their profession.

Christine Chasek:

Kenneth Kester: There is no better alternative than the proposal for addressing the concerns of the applicant group.

Susan Meyerle: There is a need to explore alternatives to the current proposal.

Marcy Wyrens: Stated that there is no clear evidence or argument demonstrating that the public needs this proposal.

***Action taken on the proposal as a whole was as follows:***

The Committee members took action on the proposal as a whole via an up/down roll call vote as follows:

***Jennifer Dreibelbis: Voted "yes" to recommend approval of the proposal***

> ***Comments:*** The proposal would offer some protection from harm associated with unqualified providers. The proposal would enhance the position of music therapy in the public mind and provide encouragement for those who are considering entering this profession.

***Stephen M. Peters: Voted "no" to recommend against approval of the proposal***

> ***Comments:*** There is no compelling evidence that the proposal has lessened the extent of harm in states wherein it has already become law. There is no compelling evidence that there is extensive harm to the public vis-à-vis these kinds of services in the first place. Alternatives to licensure need to be pursued and studied for potential effectiveness in addressing the issues raised by the applicant group. The real issue for the applicant group seems to be validation of music therapy as a profession, and it seems doubtful that licensure, per se, would address this goal even if it were to become law.

***Christine Chasek: Voted "no" to recommend against approval of the proposal***

> ***Comments:*** There is a lack of convincing evidence of significant harm to the public from the current practice situation of music therapy.

***Kenneth Kester: Voted "no" to recommend against approval of the proposal***

> ***Comments:*** Applicant assertions about harm to the public stemming from the current unregulated status of their profession are not supported by hard data. Applicant arguments about their proposed scope of practice are fraught with confusing statements that have raised concerns among other mental health professions regarding the intentions of the current applicant proposal.

***Susan Meyerle: Voted "no" to recommend against approval of the proposal***

> ***Comments:*** Alternatives to the proposal need to be studied for their potential for addressing the objectives of the applicant group.

***Marcy Wyrens: Voted "no" to recommend against approval of the proposal***

> ***Comments:*** The applicant group has not supported their assertions about harm to the public with data, only with anecdotal stories.

***By this roll call vote the members of the Music Therapy Technical Review Committee recommended against approval of the music therapy proposal.***