

HB 1065-FN - AS INTRODUCED

2022 SESSION

22-2223

11/10

HOUSE BILL ***1065-FN***

AN ACT relative to the regulation of art therapists.

SPONSORS: Rep. Nutter-Upham, Hills. 33; Rep. M. Pearson, Rock. 34; Rep. M. Murray, Hills. 22; Rep. Mullen, Hills. 7

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill adds the licensure and regulation of art therapists under the board of mental health practice. The bill repeals the current provisions for regulating art therapists.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the regulation of art therapists.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Mental Health Practice; Definitions; Art Therapy. Amend RSA 330-A:2 by
2 inserting after paragraph I the following new paragraph:

3 I-a. "Art therapy" means the integrated application of psychotherapeutic principles and
4 methods with evidence-based use of art, including art media, the creative process, and produced
5 artwork, to accomplish individualized goals within a therapeutic relationship between a client and
6 an art therapist.

7 2 Definitions; References Added. Amend RSA 330-A:2, V-VIII to read as follows:

8 V. "Mental health discipline" means the disciplines of those licensed as pastoral
9 psychotherapists, clinical social workers, school social workers, clinical mental health counselors,
10 ~~[and]~~ marriage and family therapists, **and art therapists**.

11 VI. "Mental health practice" means the observation, description, evaluation, interpretation,
12 diagnosis, and modification of human behavior by the application of psychological and systems
13 principles, methods, and procedures for the purpose of preventing or eliminating symptomatic,
14 maladapted, or undesirable behavior and of enhancing interpersonal relationships, work and life
15 adjustments, personal effectiveness, behavioral health, and mental health, as well as the diagnosis
16 and treatment of the psychological and social aspects of physical illness, accident, injury, or
17 disability. Mental health practice may include, but shall not be limited to, those services based on
18 diagnosis and treatment of mental and emotional disorders and psycho-educational or consultative
19 techniques integral to the treatment of such disorders when diagnosis is specified in the most
20 current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the
21 American Psychiatric Association, or an equivalent of such manual as determined by the board.
22 Notwithstanding any other provision to the contrary, no person licensed or registered under this
23 chapter shall assess the need for medications, prescribe medications, or otherwise practice medicine
24 as defined in RSA 329.

25 VII. "Mental health practitioner" means persons licensed under this chapter as pastoral
26 psychotherapists, clinical social workers, school social workers, clinical mental health counselors,
27 ~~[or]~~ marriage and family therapists, **or art therapists**. For purposes of this chapter, the term
28 clinical social worker shall include independent clinical social worker.

29 VII-a. "Professional conduct investigator" means a trained mental health practitioner
30 licensed by the board who acts as the agent of the board under the guidance of the board investigator
31 and is authorized to discover facts and make reports to the board.

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VIII. "Psychotherapist" means a clinical social worker, school social worker, pastoral psychotherapist, clinical mental health counselor, ~~or~~ marriage and family therapist, **or art therapist** licensed under this chapter who performs or purports to perform psychotherapy. This definition shall include psychiatrists licensed as physicians under RSA 329 and advanced registered nurse practitioners licensed under RSA 326-B:18 as psychiatric nurse practitioners.

3 Board of Mental Health Practice; Art Therapist Added. Amend RSA 330-A:3, I to read as follows:

I. There shall be a board of mental health practice composed of the following members: one licensed pastoral psychotherapist, one licensed clinical social worker, one licensed school social worker, one licensed marriage and family therapist, one licensed clinical mental health counselor, one member from a community mental health center, one member from a community health center, **one licensed art therapist**, and 3 public members. The members shall be appointed to a term of 3 years by the governor with the approval of the council. The members of the board shall elect a chairperson on an annual basis. No discipline's representative and no individual public member shall serve as chairperson for more than 2 years consecutively.

4 New Paragraph; Board Responsibilities; Rulemaking. Amend RSA 330-A:10 by inserting after paragraph VII the following new paragraph:

VII-a. Ethical standards, including those promulgated by the Art Therapy Credentials Board, required to be met by each licensed art therapist, and how a license may be revoked for violations of these standards.

5 Fees; Reference Added. Amend RSA 330-A:12, I to read as follows:

I. The board shall establish fees pursuant to RSA 541-A for supervisory agreements; applications for licensed pastoral psychotherapist, independent clinical social worker, school social worker, licensed social worker, licensed social work associate, clinical mental health counselor, ~~and~~ marriage and family therapist, **art therapist**; and conditional licenses; renewal of license; renewal of dual license; reinstatement of license; inactive license status; reactivation of an inactive license; examination of applicants; transcribing and transferring records; and other services, including investigations and hearings conducted under this chapter.

6 New Sections; Art Therapists; Scope of Practice; Licensure. Amend RSA 330-A by inserting after section 21 the following new sections:

330-A:21-a Art Therapists; Scope of Practice. The scope of practice of a licensed professional art therapist includes, but is not limited to:

I. The use of psychotherapeutic principles, art media, and the creative process to assist individuals, families, or groups in:

- (a) Increasing awareness of self and others;
- (b) Coping with symptoms, stress, and traumatic experiences;
- (c) Enhancing cognitive abilities; and

1 (d) Identifying and assessing clients' needs in order to implement therapeutic
2 intervention to meet developmental, behavioral, mental, and emotional needs.

3 II. The application of art therapy principles and methods in the diagnosis, prevention,
4 treatment, and amelioration of psychological problems and emotional or mental conditions that
5 include, but are not limited to:

6 (a) Clinical appraisal and treatment activities during individual, couples, family, or
7 group sessions which provide opportunities for expression through the creative process.

8 (b) Using the process and products of art creation to facilitate clients' exploration of
9 inner fears, conflicts, and core issues with the goal of improving physical, mental, and emotional
10 functioning and well-being.

11 (c) Using diagnostic art therapy assessments to determine treatment goals and
12 implement therapeutic art interventions which meet developmental, mental, and emotional needs.

13 III. The employment of art media, the creative process, and the resulting artwork to assist
14 clients to:

15 (a) Reduce psychiatric symptoms of depression, anxiety, post traumatic stress, and
16 attachment disorders.

17 (b) Enhance neurological, cognitive, and verbal abilities, develop social skills, aid
18 sensory impairments, and move developmental capabilities forward in specific areas.

19 (c) Cope with symptoms of stress, anxiety, traumatic experiences, and grief.

20 (d) Explore feelings, gain insight into behaviors, and reconcile emotional conflicts.

21 (e) Improve or restore functioning and a sense of personal well-being.

22 (f) Increase coping skills, self-esteem, awareness of self, and empathy for others.

23 (g) Improve management of anger and guilt.

24 (h) Improve school performance, family functioning, and the parent/child relationship.

25 330-A:21-b Art Therapists; Requirements for Licensure. The board shall issue an art therapist
26 license to any person who meets all of the following requirements or their equivalent:

27 I. Has a masters or doctoral degree from an accredited college or university in a program in
28 art therapy that was either approved by the American Art Therapy Association or accredited by the
29 Commission on Accreditation of Allied Health Education Programs at the time of the degree was
30 conferred, or a substantially equivalent program as determined by the board pursuant to paragraph
31 V. An applicant holding a doctoral degree shall have completed the equivalent of 90 graduate credit
32 hours in a program in art therapy or course of study in art therapy from an accredited college or
33 university approved by the board.

34 II. Has completed not less than 2 years and 3,000 hours of supervised experience in art
35 therapy by a board-approved licensee.

36 (a) An applicant holding a doctoral degree shall complete one year of the supervised
37 experience after the award of the doctoral degree pursuant to rules adopted by the board.

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(b) Supervised hours accepted for licensure in New Hampshire as a mental health practitioner by the board of mental health practice under this chapter, a master licensed alcohol and drug counselor (MLADC) by the board of licensing for alcohol and other drug use professionals under RSA 330-C, or a psychologist licensed by the board of psychology under RSA 329-A, may be substituted for up to 1,500 hours of the required 3,000 hours of supervised clinical experience. Where substitution of the full 1,500 hours is denied by the board, the applicant shall be provided the rationale for the board's denial. The board shall not deny the substitution of hours solely based on the applicant's clinical supervisor holding a license in a discipline other than art therapy.

III. Has passed the examination of the Art Therapy Credentials Board.

IV. Has paid the license fee established by the board.

V. The board may determine that a program is substantially equivalent to an approved or accredited program in art therapy if it included approximately 60 semester credit hours, or quarter-credit equivalent, of graduate level coursework and not less than 700 hours of supervised field experience. Program content and coursework shall include graduate-level training in:

- (a) Theory and practical applications of art therapy.
- (b) Human growth and development.
- (c) Testing and assessments.
- (d) Art therapy appraisal, diagnosis, and assessments.
- (e) Ethical and legal issues of mental health counseling.
- (f) Matters of cultural and social diversity.
- (g) Group therapy.
- (h) Lifestyle and career development.
- (i) Research and program development.

7 Unlawful Practice; References Added. Amend RSA 330-A:23, I and II to read as follows:

I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in mental health practice unless that person is licensed by the board, working as a candidate under the direct supervision of a person licensed by the board, conditionally licensed by the board, or engaged in the practice of other mental health services as an alternative provider as defined in RSA 330-A:2,

I. The license or the registration of such person shall be current and valid. It shall be unlawful for any person to practice as or to refer to oneself as a pastoral psychotherapist, a clinical social worker, a school social worker, a licensed social worker, a licensed social work associate, a clinical mental health counselor, [ø] a marriage and family therapist, **or an art therapist**, or use the word "psychotherapist," or any variation thereof, in such person's title unless that person is licensed by the board or working as a candidate under the direct supervision of a person licensed or conditionally licensed by the board. Psychiatrists licensed under RSA 329 and psychiatric nurse practitioners licensed under RSA 326-B:18 may refer to themselves as psychotherapists.

II. Except as otherwise provided in this chapter, any person who violates paragraph I or paragraph III of this section or who violates any of the other provisions of this chapter relating to pastoral psychotherapy, clinical social work, licensed social work, clinical mental health counseling, ~~[or]~~ marriage and family therapy, **or art therapy**, or, having had his or her license suspended or revoked, shall continue to represent himself or herself as a licensed pastoral psychotherapist, clinical social worker, school social worker, licensed social worker, licensed social work associate, clinical mental health counselor, ~~[or]~~ marriage and family therapist, **or art therapist**, or as a psychotherapist, shall be guilty of a class A misdemeanor if a natural person, and a felony if any other person, and each violation shall be deemed a separate offense.

8 New Section; Prior Credentialing; Art Therapists. Amend RSA 330-A by inserting after section 33 the following new section:

330-A:33-a Prior Credentialing; Art Therapists. A credentialed art therapist who, on or before January 1, 2023, submits an application upon such form and in such manner as determined by the board, pays the required application fee, and provides documentation to the board that he or she has met the following requirements, shall be issues a license by the board:

I. Has engaged in the practice of professional art therapy or in education and training of students in art therapy for not less than 5 years, and has been so engaged in this state for at least 2 years prior to submitting an application, as determined by the board; and

II. Has not had a professional license or credential refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for unprofessional conduct, unless the board finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution.

9 New Subparagraph; Persons Exempted. Amend RSA 330-A:34, I by inserting after subparagraph (e) the following new subparagraph:

(f) The activities of an art teacher, professional artist, professional entertainer, or any no profit/nonprofit entity or person who does not represent himself or herself as an art therapist.

10 Repeal. RSA 326-L, relative to the regulation of professional art therapy, is repealed.

11 Effective Date. This act shall take effect July 1, 2022.

LBA
22-2223
10/6/21

**HB 1065-FN- FISCAL NOTE
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AN ACT relative to the regulation of art therapists.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation, as introduced, has a total fiscal impact of less than \$10,000 in each of the fiscal years 2023 through 2025.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification