

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 02-125)

ORDER

An order of the Department of Regulation and Licensing to repeal the Note following RL 141.02 (2); to renumber RL 140.02 (1), (2), (3) and (4); to renumber and amend RL 140.02 (5); to amend ch. RL 140 (title), 140.01, 141.02 (1) (c) and 142.03 (1); to repeal and recreate RL 141.01 (3) and 142.01; and to create RL 140.02 (1), (2), (4), (5), (9), (10) and (11), 141.02 (3), 141.04, 141.05, 141.06 and 141.07, a Note following RL 142.03 (2), 142.05 (26), 142.06 and 142.07, relating to changes made as a result of 2001 Wisconsin Act 80, specifically music, art and dance therapists who practice psychotherapy.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 440.03 (14) (am), Stats., as created by 2001 Wisconsin Act 80 and s. 440.03 (14) (d), Stats., as amended by 2001 Wisconsin Act 80.

Statutes interpreted: Chapter 440, Stats.

This rule-making order implements the statutory changes made as a result of 2001 Wisconsin Act 80, relating to the Department of Regulation and Licensing.

Under 2001 Wisconsin Act 80 (sections 11 to 10), effective November 1, 2002, the Department of Regulation and Licensing was given the responsibility of issuing licenses to practice psychotherapy to registered music therapists, registered art therapists and registered dance therapists. The department was authorized to promulgate rules establishing requirements for those licenses, with two important provisos: (1) that such rules should be comparable to the requirements for licensure of clinical social workers, marriage and family therapists, and professional counselors, and (2) that a registered music, art or dance therapists may not perform psychotherapy unless the person is granted a license under the rules as promulgated.

SECTION 1 changes the word “intent” to “purpose” in the title of chapter RL 140. This is a clarifying change unrelated to 2001 Wisconsin Act 80.

SECTION 2 adds a reference in s. RL 140.01 to the new authorizing statute, s. 440.03 (10) (am), Stats., and a reference to the department’s new authority to issue licenses to registrants to practice psychotherapy.

SECTION 3 renumbers s. RL 140.02 (1).

SECTION 4 creates a definition of “academy of dance therapists registered.”

SECTION 5 renumbers s. RL 140.02 (2).

SECTION 6 creates a definition of “art therapist registered.”

SECTION 7 renumbers s. RL 140.02 (3).

SECTION 8 renumbers s. RL 140.02 (4).

SECTION 9 creates a definition of “art therapist registered-board certified.”

SECTION 10 renumbers and amends s. RL 140.02 (5) to include in the definition of “registrant” the already commonly-used abbreviations for persons registered in each profession.

SECTION 11 creates a definition of “dance therapist registered.”

SECTION 12 creates definitions of “license to practice psychotherapy,” “licensee,” and “psychotherapy.” The definition of “licensee” includes new abbreviations to be used by persons licensed in each profession.

SECTION 13 changes the wording of the section requiring information from applicants regarding arrests and convictions. This is a clarifying change unrelated to 2001 Wisconsin Act 80.

SECTION 14 changes the word “certifying” to “verifying” in s. RL 141.02 (1) (c) to eliminate potential confusion with the word “certificate” that follows.

SECTION 15 deletes an outdated note regarding the first renewal date for music, art and dance therapists in 2001

SECTION 16 creates a new section to clarify that a person registered as a music, art or dance therapist with license to practice psychotherapy need pay only the fee specified in s. 440.08 (2) (a) 67x., Stats., in order to renew both the registration and the license to practice psychotherapy.

SECTION 17 creates four new sections. Section RL 141.04 sets out the requirements for an initial application for a license to practice psychotherapy. Section RL 141.05 sets out the requirements for the renewal of a license to practice psychotherapy. Section RL 141.06 sets out the requirements for the issuance of a license to practice psychotherapy by reciprocity. Section RL 141.07 sets out the requirements for initial licensure for a person registered as a music, art or dance therapist before January 1, 2003. The section creates grandfathering provisions for music, art and dance therapists analogous to the grandfathering provisions that were established for social workers, professional counselors, and marriage and family therapists at the time of their

initial regulation. All of the grandfathering provisions require the applicant to have been registered in Wisconsin prior to December 1, 2003, to apply for licensure prior to July 1, 2003, to submit an application and the required fee, to supply conviction and arrest information, and to pass a Wisconsin jurisprudence examination. The additional requirements for each of the three professions are different. Music therapists are given one way to gain licensure based on education and experience. Art therapists are given two ways to gain full licensure and one way to obtain a once-renewable license; the once-renewable license may be converted to a full license if the holder satisfies additional requirements prior to its expiration. Dance therapists are given one way to gain full licensure and one way to obtain a once-renewable license; the once-renewable license may be converted to a full license if the holder satisfies additional requirements prior to its expiration.

SECTION 18 creates a new definition of the scope of practice of music therapy, recategorizing the scope of practice in terms of objectives and techniques rather than techniques and treatment plans. The changes are related to 2001 Wisconsin Act 80 because of the need to describe the practice of music therapy that may be undertaken by a registrant without a license to practice psychotherapy.

SECTION 19 corrects a typographical error in the definition of dance therapy.

SECTION 21 makes the practice of psychotherapy without a license a basis for disciplinary action.

SECTION 22 creates two new sections that are explicitly required by 2001 Wisconsin Act 80. Section RL 142.06 will require a licensee who loses national accreditation to report the loss to the department. Section 142.07 will require licensees who practice psychotherapy to maintain professional liability insurance.

TEXT OF RULE

SECTION 1. Chapter RL 140 (title) is amended to read:

CHAPTER RL 140 (title)
AUTHORITY, ~~INTENT~~ PURPOSE
AND DEFINITIONS

SECTION 2. RL 140.01 is amended to read:

RL 140.01 Authority. The rules in chs. RL 140 to 142 are adopted by the department pursuant to ss. 227.11 (2) and 440.03 (14) (am) and (d), Stats., to govern the registration of music, art and dance therapists and the issuance of licenses to practice psychotherapy to registrants.

SECTION 3. RL 140.02 (1) is renumbered RL 140.02 (3).

SECTION 4. RL 140.02 (1) is created to read:

RL 140.02 (1) “ADTR” means the Academy of Dance Therapists Registered, as well as a member of the Academy of Dance Therapists Registered.

SECTION 5. RL 140.02 (2) is renumbered RL 140.02 (6).

SECTION 6. RL 140.02 (2) is created to read:

RL 140.02 (2) “ATR” means art therapist registered.

SECTION 7. RL 140.02 (3) is renumbered RL 140.02 (7).

SECTION 8. RL 140.02 (4) is renumbered RL 140.02 (11).

SECTION 9. RL 140.02 (4) is created to read:

RL 140.02 (4) “ATR-BC” means art therapist registered-board certified.

SECTION 10. RL 140.02 (5) is renumbered RL 140.02 (13) and amended to read:

RL 140.02 (13) “Registrant” means a person who is granted a registration as a music, ~~art~~ ~~or dance~~ therapist (WMTR), an art therapist (WATR), or a dance therapist (WDTR) by the department.

SECTION 11. RL 140.02 (5) is created to read:

RL 140.02 (5) “DTR” means dance therapist registered.

SECTION 12. RL 140.02 (9), (10) and (11) are created to read:

(9) “License to practice psychotherapy” or “psychotherapy license” means a credential issued by the department to a registrant that authorizes the registrant to practice psychotherapy within the registrant’s competence, education, training and experience.

(10) “Licensee” means a person registered as a music therapist who is granted a license to practice psychotherapy (MTRL), a person registered as an art therapist who is granted

a license to practice psychotherapy (ATRL), or a person registered as a dance therapist who is granted a license to practice psychotherapy (DTRL), as provided by s. 440.03 (14) (am), Stats.

(11) “Psychotherapy” has the meaning specified in s. 457.01 (8m), Stats.

SECTION 13. RL 141.01 (3) is repealed and recreated to read:

RL 141.01 (3) Information necessary for the department to determine all of the following:

(a) Whether the applicant has been convicted of, or at the time of application charged with, a crime or a traffic offense which did or could result in the suspension or revocation of the applicant’s driver’s license.

(b) Whether the circumstances of any pending charge or conviction are substantially related to the duties of practice under the registration as described in ss. 111.321, 111.322 and 111.335, Stats.

SECTION 14. RL 141.02 (1) (c) is amended to read:

RL 141.02 (1) (c) A signed statement contained on the renewal application ~~certifying~~ verifying that the certification, registration or accreditation as a music, art or dance therapist, as appropriate, granted to him or her by the appropriate organization identified under s. RL 141.01 (4), has not been revoked.

SECTION 15. The Note following RL 141.02 (2) is repealed.

SECTION 16. RL 141.02 (3) is created to read:

RL 141.02 (3) A registrant who pays the fee required to renew his or her license to practice psychotherapy as a music, art or dance therapist shall not pay a separate fee for renewal of the registration.

SECTION 17. RL 141.04, 141.05, 141.06 and 141.07 are created to read:

RL 141.04 Application for license to practice psychotherapy. (1) Every registrant who applies for a license to practice psychotherapy shall submit all of the following to the department:

(a) An application on a form provided by the department.

Note: Application forms are available upon request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(b) The fee required under s. 440.05 (1), Stats.

(c) Information necessary for the department to determine all of the following:

1. Whether the applicant has been convicted of, or at the time of application charged with, a crime or a traffic offense which did or could result in the suspension or revocation of the applicant's driver's license.

2. Whether the circumstances of any pending charge or conviction are substantially related to the duties of practice under the registration as required by ss. 111.321, 111.322 and 111.335, Stats.

(2) Every registrant who applies for a license to practice psychotherapy shall pass an examination on the Wisconsin statutes and rules that relate to the profession.

(3) If the applicant is a registered music therapist under s. 440.03 (14) (a) 1., Stats., the applicant shall do all of the following:

(a) Provide proof that the applicant holds a master's or doctorate degree in music therapy from a program approved by the American Music Therapy Association, or a master's or doctorate degree in a related field recognized and accepted by the American Music Therapy Association and the Certification Board for Music Therapists.

(b) Submit proof in the form of affidavits signed by the applicant and the applicant's supervisor that the applicant has completed 3,000 hours of music therapy practiced as psychotherapy, supervised by a person licensed to practice psychotherapy, designated the primary supervisor, and that the primary supervisor met with the applicant an average of one hour per week during the supervised practice period. If the primary supervisor is not a registered music therapist, the applicant must receive supervision from a registered music therapist as a secondary supervisor for at least 1,500 hours. The supervision by primary and secondary supervisors may occur simultaneously. If the supervision by the primary supervisor occurred prior to November, 1, 2002, the primary supervisor must have been qualified and authorized to practice psychotherapy at the time.

(c) Pass the examination required for certification by the Certification Board for Music Therapists, or hold registry from the National Music Therapy Registry.

(4) If the applicant is a registered art therapist under s. 440.03 (14) (a) 2., Stats., the applicant shall do all of the following:

(a) Provide proof that the applicant holds a master's or doctorate degree in art therapy from a program accredited or approved by the American Art Therapy Association, or a program recognized as equivalent by the Art Therapy Credentials Board.

(b) Submit proof in the form of affidavits signed by the applicant and the applicant's supervisor that the applicant has completed 3,000 hours of art therapy practiced as psychotherapy, supervised by a person licensed to practice psychotherapy, designated the

primary supervisor, and that the primary supervisor met with the applicant an average of one hour per week during the supervised practice period. If the primary supervisor is not a registered art therapist, the applicant must receive supervision from a registered art therapist as a secondary supervisor for at least 1,500 hours. The supervision by primary and secondary supervisors may occur simultaneously. If the supervision by the primary supervisor occurred prior to November 1, 2002, the primary supervisor must have been qualified and authorized to practice psychotherapy at the time.

(c) Pass the examination required for certification by the Art Therapy Credentials Board.

(5) If the applicant is a registered dance therapist under s. 440.03 (14) (a) 3., Stats., the applicant shall do all of the following:

(a) Provide proof that the applicant holds a master's or doctorate degree in dance therapy or dance/movement therapy approved by the American Dance Therapy Association, or has fulfilled the requirements of a program recognized by the American Dance Therapy Association as equivalent to a master's or doctorate degree in dance therapy or dance/movement therapy.

(b) Submit proof in the form of affidavits signed by the applicant and the applicant's supervisor that the applicant has completed 3,000 hours of dance therapy practiced as psychotherapy, supervised by a person licensed to practice psychotherapy, designated the primary supervisor, and that the primary supervisor met with the applicant an average of one hour per week during the supervised practice period. If the primary supervisor is not an ADTR, the applicant must receive supervision from an ADTR as a secondary supervisor for at least 1,500 hours. The supervision by the primary and secondary supervisors may occur simultaneously. If the supervision by the primary supervisor occurred prior to November 1, 2002, the primary supervisor must have qualified and authorized to practice psychotherapy at the time.

(c) Pass the National Board for Certified Counselors examination or other certification examination approved by the American Dance Therapy Association.

RL 141.05 Renewal of registration with psychotherapy license. (1) Registrations for registered music therapists with psychotherapy license, registered art therapists with psychotherapy license, and registered dance therapists with psychotherapy license expire on October 1 of each odd-numbered year. In order to renew a registration, the registrant shall submit all of the following to the department on or before the renewal date:

(a) A renewal application on a form provided by the department.

Note: Application forms are available upon request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(b) The renewal fee for registered music, art or dance therapist with psychotherapy license required under s. 440.08 (2) (a), Stats.

(c) A signed statement contained on the renewal application verifying that the certification, registration or accreditation as a music, art or dance therapist, as appropriate, granted by the appropriate organization identified under s. RL 141.01 (4), has not been revoked.

(2) A registrant who fails to renew the registration with license to practice psychotherapy by the renewal date may renew the registration with license to practice psychotherapy by satisfying the requirements under sub. (1) and paying the late renewal fee required under s. 440.08 (3), Stats.

RL 141.06 Application for license to practice psychotherapy by reciprocity. An applicant who holds a license to practice psychotherapy in the practice of music, art or dance therapy in another state shall be granted licensure by reciprocity if the department determines that the requirements for licensure in the other state are substantially equivalent to the requirements in s. RL 141.04, and if the applicant does all of the following :

(1) Completes an application on a form provided by the department and registers as a music, art or dance therapist under s. 440.03 (1) (a) 1., 2. or 3., Stats.

Note: Application forms are available upon request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53808-8935.

(2) Pays the fee required under s. 440.05 (1), Stats.

(3) Provides all information necessary for the department to determine the following:

(a) Whether the applicant has been convicted of, or at the time of application charged with, a crime or a traffic offense which did not or could result in the suspension or revocation of the applicant's driver's license.

(b) Whether the circumstances of any pending charge or conviction are substantially related to the duties of practice under the registration as required by ss. 111.321, 111.322 and 111.335, Stats.

(4) Passes an examination on the Wisconsin statutes and rules that relate to the profession.

RL 141.07 Licensure for persons registered before January 1, 2003. (1) If an individual was registered as a music therapist under s. 440.03 (14) (a) 1., Stats., prior to January 1, 2003, the registrant shall be granted a license to practice psychotherapy if the registrant applies before July 1, 2003, satisfies the requirements in s. RL 141.04 (1) and (2), and submits proof of all of the following:

(a) The registrant holds a master's or doctorate degree in music therapy from a program approved by the American Music Therapy Association, or a master's or doctorate degree in a related field recognized and accepted by the American Music Therapy Association and the Certification Board for Music Therapists.

(b) The registrant has engaged in at least 3,000 hours of the supervised practice of psychotherapy, either in a certified outpatient mental health clinic or in another supervised setting, supervised by a person qualified and authorized to practice psychotherapy at the time, which may be documented by a provider status letter from the bureau of quality assurance of the department of health and family services.

(2) If an individual was registered as an art therapist under s. 440.03 (14) (a) 2., Stats., prior to January 1, 2003:

(a) The registrant shall be granted a license to practice psychotherapy if the registrant applies before July 1, 2003, satisfies the requirements in s. RL 141.04 (1) and (2) and submits proof of all of the following:

1. The individual is an ATR-BC.

2. The individual has engaged in at least 3,000 hours of the supervised practice of psychotherapy, either in a certified outpatient mental health clinic or in another supervised setting, supervised by a person qualified and authorized to practice psychotherapy at the time, which may be documented by a provider status letter from the bureau of quality assurance of the department of health and family services.

(b) The individual shall be granted a license to practice psychotherapy if the individual applies before July 1, 2003, satisfies the requirements in s. RL 141.04 (1) and (2) and submits proof of all of the following:

1. The individual is an ATR.

2. The individual engaged in at least 3,000 hours of the supervised practice of psychotherapy, either in a certified outpatient mental health clinic or in another supervised setting, supervised by a person qualified and authorized to practice psychotherapy at the time, which may be documented by a provider status letter from the bureau of quality assurance of the department of health and family services.

3. Prior to January 1, 2003, he or she has passed either the National Counselor examination, the Certified Rehabilitation Counselor examination, the Association of Marital and Family Therapy Regulatory Boards examination, or the Association of Social Work Boards clinical social worker examination.

(c) The individual shall be granted a license to practice psychotherapy that may be renewed only once if the individual applies before July 1, 2003, satisfies the requirements in s. RL 141.04 (1) and (2) and submits proof of all of the following:

1. The individual is a registered ADTR.

2. The individual has engaged in at least 3,000 hours of the supervised practice of psychotherapy, either in a certified outpatient mental health clinic or in another supervised setting, supervised by a person qualified and authorized to practice psychotherapy at the time.

(3) A registrant granted a once-renewable license under sub. (2) (c), may be granted a license to practice psychotherapy if prior to the expiration of the once-renewable license, he or she submits proof that he or she is an ATR-BC, or that he or she has passed either the National Counselor examination, the Certified Rehabilitation Counselor examination, the Association of Marital and Family Therapy Regulatory Boards examination, or the Association of Social Work Boards clinical social worker examination.

(4) If an individual was registered as a dance therapist under s. 440.03 (14) (a) 3., Stats., prior to January 1, 2003, the individual:

(a) Shall be granted a license to practice psychotherapy if the individual applies before July 1, 2003, satisfies the requirements in s. RL 141.04 (1) and (2) and submits proof that the individual is registered as an ADTR.

(b) Shall be granted a license to practice psychotherapy that may be renewed only once if the individual applies before July 1, 2003, satisfies the requirements in s. RL 141.04 (1) and (2) and submits proof that the individual is registered as a DTR.

(5) A registrant granted a once-renewable license under sub. (4) (b), may be granted a license to practice psychotherapy if prior to the expiration of the once-renewable license, he or she submits proof that he or she is registered as an ADTR.

SECTION 18. RL 142.01 is repealed and recreated to read:

RL 142.01 Music therapy. Music therapy practice shall be performed in accordance with the generally accepted standards recognized by the profession including, but not limited to, the following:

(1) **OBJECTIVES.** Music therapy is the specialized use of music and the materials of music to restore, maintain, and improve the following areas of functioning:

- (a) Cognitive.
- (b) Psychological.
- (c) Social or emotional.
- (d) Affective.
- (e) Physical.
- (f) Sensory or sensorimotor.
- (g) Motor.
- (h) Communicative.
- (i) Physiological functioning.

(2) **TECHNIQUES.** Techniques used in the practice of music therapy include, but are not limited to, the following:

- (a) The use of music to provide participatory individual and group experiences.
- (b) Musical improvisation.
- (c) Therapeutic development of verbal skills and nonverbal behavior.
- (d) Receptive music learning.
- (e) Lyric discussions.
- (f) Memory recall.
- (g) Music and imagery.
- (h) Self-expression through composition and song writing.

- performance.
- (i) Socialization and enhancement of self-esteem through music
 - (j) Relaxation to music, including stress and pain management.
 - (k) Learning through music.
 - (l) Cultural and spiritual expression.
 - (m) Development of fine and gross motor skills through responses to rhythm.
 - (n) Respiratory and speech improvements through sound production.
 - (o) Sensory integration and stimulation.
 - (p) Increased awareness of music for development of recreation and leisure interests.
 - (q) Interactive verbal techniques to help facilitate, elicit or summarize the above techniques and build the therapeutic relationship.

(3) SCOPE OF PRACTICE. Any music therapist who has attained registration pursuant to s. RL 141.01 and who limits his or her practice to the specific techniques in sub. (2) shall be deemed not to be practicing psychotherapy.

SECTION 19. RL 142.03 (1) is amended to read:

RL 142.03 (1) OBJECTIVES. The goal of dance therapy includes, but is not limited to, the therapeutic use of dance and ~~involvement~~ movement in order to enhance and promote psychological growth, contribute to assessment information, and aid creative, cognitive, emotional and motor development.

SECTION 20. A Note following RL 142.03 (2) is created to read:

Note: Dance therapy is also known as dance/movement therapy.

SECTION 21. RL 142.05 (26) is created to read:

RL 142.05 (26) Practicing psychotherapy, unless the registrant has been granted a license to practice psychotherapy.

SECTION 22. RL 142.06 and 142.07 are created to read:

RL 142.06 Required reporting. Any person registered as a music therapist, art therapist, dance therapist, registered music therapist with psychotherapy license, registered art therapist with psychotherapy license, or registered dance therapist with psychotherapy license shall notify the department in writing within 30 days if an organization specified in s. 440.03 (14) (a) 1.a., 2.a., or 3.a., Stats., revokes the registrant's certification, registration or accreditation. Upon receiving a verified report of the revocation, the department shall revoke any registration, certificate of registration, or registration with psychotherapy license issued to the person.

RL 142.07 Professional liability insurance. (1) Except as provided in sub. (2), a person registered as a music, art or dance therapist with a license to practice psychotherapy may not practice psychotherapy unless the person has in effect professional liability insurance in the amount of at least \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in one year.

(2) Subsection (1) does not apply to a person practicing psychotherapy as an employee of a federal, state or local governmental agency, if the practice is part of the duties for which the person is employed and is solely within the confines of or under the jurisdiction of the agency by which the person is employed.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Donsia Strong Hill, Secretary
Department of Regulation and Licensing

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6/3/2003

FISCAL ESTIMATE

Developing and Promulgating Administrative Rule-\$6,780

80 hours paralegal @ \$27 per hour=\$2,160

60 hours legal counsel @ \$53 per hour=\$3,180

40 hours program manager @ \$36 per hour=\$1,440

Revising and Reprinting Code Books-\$500

Forms and Application Development for New Professions-\$2,990

30 hours legal @ \$53 per hour=\$1,590

20 hours program manager @ \$36 per hour=\$720

40 hours PA3 @ \$17 per hour=\$680

One Time Costs Associated with Technical System Changes=\$1,200

Information Technology – System Changes

40 hours@\$30/hour for standard system changes that fall within the existing system design = \$1,200

Total costs to implement rule changes=\$11,470

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Wis. Stats.

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4/14/03