



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1558

Introduced 2/18/2009, by Sen. Carole Pankau

SYNOPSIS AS INTRODUCED:

New Act

Creates the Music Therapist License Act. Starting six months after the effective date of the Act, prohibits any person from practicing music therapy or presenting himself or herself as a music therapist in the State, unless he or she is licensed under the Act, falls within one of its enumerated exemptions, or has been issued a temporary permit. Establishes the Illinois Music Therapy Licensure Board. Requires the Department to authorize credentialing examinations through the Certification Board for Music Therapists (CBMT). Sets qualifications for licensure as a music therapist. Provides that a music therapy student or music therapy intern who practices music therapy must register with the Department and provide certain information. Provides for licensure without examination for a music therapist who is licensed in another state that has provisions at least as restrictive as the provisions of the Act or meets the requirements as a Board Certified Music Therapist established by the CBMT. Provides that persons who hold certain credentials as a music therapist shall be issued a license without meeting the examination or re-certification requirements if he or she submits a signed sworn statement that he or she shall become certified with the CBMT prior to the end of his or her first licensing cycle. Provides for the expiration, renewal, and restoration of music therapy licenses. Creates a continuing education requirement. Establishes grounds for disciplining a licensed therapist. Establishes limits on the use of advertising. Specifies criminal and civil penalties for violations. Limits the power of home rule units. Effective immediately.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Music
5 Therapist License Act.

6 Section 5. Definitions. In this Act:

7 "Advertisement" means any written, oral, or electronic
8 communication that contains a promotion, inducement, or offer
9 of music therapy services, including, but not limited to,
10 brochures, pamphlets, radio and television scripts, telephone
11 and direct mail solicitations, electronic media, internet, and
12 other means of promotion.

13 "Board" means the Illinois Music Therapy Licensure Board
14 appointed by the Secretary.

15 "CBMT" means the Certification Board for Music Therapists.

16 "Department" means the Illinois Department of Financial
17 and Professional Regulation.

18 "Examination" means the Music Therapy Board Certification
19 Examination, which is administered by the CBMT.

20 "Music therapist" means a person licensed to practice music
21 therapy in the State.

22 A licensed music therapist may assume a variety of roles in
23 his or her career, including, but not limited to, practitioner,

1 supervisor of professional students and volunteers,
2 researcher, scholar, consultant, administrator, faculty,
3 clinical instructor, and educators of consumers, peers, and
4 families.

5 "Music therapy" means:

6 (a) the assessment of a client's emotional and physical
7 health, social functioning, communication abilities, and
8 cognitive skills through the client's history and the
9 observation and interaction of the client in music and
10 non-music settings;

11 (b) the development and implementation of treatment
12 plans, based on a client's assessed needs, using music
13 interventions including music improvisation, receptive
14 music listening, song writing, lyric discussion, music and
15 imagery, music performance, learning through music, and
16 movement to music; and

17 (c) the evaluation and documentation of the client's
18 response to treatment.

19 "Music therapy intern" means any person who practices music
20 therapy under the supervision of a licensed music therapist as
21 part of pursuing a supervised course of study or training in
22 music therapy at an internship program approved by the Board.

23 "Music therapy student" means any person who practices
24 music therapy under the supervision of a licensed music
25 therapist as part of a supervised course of study leading to an
26 undergraduate or graduate degree or certificate in music

1 therapy at an educational program approved by the Department.

2 "Secretary" means the Secretary of the Department of
3 Financial and Professional Regulation.

4 Section 10. Unlicensed practice. Six months after the
5 effective date of this Act, no person shall practice music
6 therapy, or present himself or herself as a music therapist or
7 as being able to practice music therapy, in the State unless he
8 or she is licensed under this Act or is otherwise authorized
9 under this Act.

10 Section 15. Exemptions. The following persons are exempt
11 from the provisions of this Act:

12 (1) Any person licensed under another Act in the State
13 engaging in his or her licensed activities;

14 (2) Any person employed as a music therapist by the federal
15 government, if such person only practices music therapy under
16 the direction and control of his or her employer and does not
17 practice music therapy outside his or her employment.

18 Section 20. Music Therapy Licensure Board.

19 (a) The Secretary shall appoint a Music Therapy Licensure
20 Board as follows: 5 persons who shall be appointed by and shall
21 serve in an advisory capacity to the Secretary. Four members
22 must be licensed music therapists who are in good standing and
23 actively engaged in the practice of music therapy in the State;

1 one member must be a person who is not licensed under this Act
2 or a similar Act of another jurisdiction, and is not a provider
3 of health care service.

4 (b) Members shall serve 4 year terms. No member shall serve
5 more than 2 full consecutive terms. Appointments to fill
6 vacancies shall be made in the same manner as original
7 appointments, for the unexpired portion of the vacated term.
8 Initial terms shall begin upon the effective date of this Act.
9 The membership of the Board should reasonably reflect
10 representation from the geographic distribution of music
11 therapists throughout the State.

12 (c) Members of the Board shall be immune from suit in any
13 action based upon any disciplinary proceedings or activities
14 performed in good faith as members of the Board.

15 (d) A vacancy in the membership of the Board shall not
16 impair the right of a quorum to exercise all the rights and
17 perform all the duties of the Board.

18 (e) The Secretary may terminate the appointment of any
19 member for cause which in the opinion of the Secretary
20 reasonably justifies such termination.

21 (f) The Secretary shall consider the recommendations of the
22 Board on questions involving standards of professional
23 conduct, the examination, accreditation of internship or
24 educational programs, music therapists licensed in another
25 state, continuing education requirements, disciplinary action,
26 qualifications of applicants and licensees under this Act, and

1 any other issue that the Secretary may deem appropriate.

2 Section 25. Examination.

3 (a) The Department shall authorize examinations through
4 the Certification Board for Music Therapists (CBMT) at least
5 once a year and at such time and place as it may designate. The
6 examination shall be of a character to give a fair test of the
7 applicant's qualifications to practice music therapy.

8 (b) Failure to appear for the examination on the scheduled
9 date, at the time and place specified, after the applicant's
10 application for examination has been received and acknowledged
11 by the Department, shall result in the forfeiture of the
12 examination fee.

13 (c) If an applicant neglects, fails, or refuses to take the
14 examination within 90 days of receiving notice from the CBMT
15 confirming his or her eligibility to take the examination, the
16 application shall be denied.

17 (d) If an applicant fails to pass an examination within 3
18 years of filing his or her application, the application shall
19 be denied.

20 Section 30. Application for licensure; qualifications. The
21 Department must issue a music therapist license to an applicant
22 who does all of the following:

23 (1) applies in writing in a form and substance satisfactory
24 to the Department;

1 (2) pays the required nonrefundable fee;

2 (3) provides proof of successfully completing the academic
3 and clinical training requirements for music therapy, or their
4 equivalent, as established by the American Music Therapy
5 Association; and

6 (4) provides proof of successfully completing the Music
7 Therapy Board Certification Examination, which is administered
8 by the CBMT, or of having been re-certified as a music
9 therapist by the CBMT within the last 5 years.

10 Section 35. Registration; music therapy students; music
11 therapy interns.

12 (a) Any music therapy student or music therapy intern may
13 practice music therapy if he or she is supervised by a licensed
14 music therapist and registers with the Department the following
15 information:

16 (1) his or her full name, address, and Social Security
17 number;

18 (2) his or her accredited or approved educational or
19 internship program; and

20 (3) the full name and contact information of his or her
21 supervising music therapist.

22 (b) Any music therapy student or music therapy intern who
23 practices music therapy shall identify himself or herself at
24 all times by a title which clearly indicates his or her status
25 as a student or intern.

1 (c) No music therapy student or music therapy intern shall
2 practice music therapy without either the supervision of a
3 licensed music therapist or a temporary permit issued from the
4 Department pursuant to Section 45 of this Act.

5 Section 37. Licensure from another state. The Department
6 shall issue a license to any person licensed to practice music
7 therapy in another state who applies in writing in a form and
8 substance satisfactory to the Department and provides
9 satisfactory proof that he or she is licensed as a music
10 therapist in another state that has provisions at least as
11 restrictive as the provisions of this Act or that he or she
12 meets the requirements as a Board Certified Music Therapist
13 established by the CBMT.

14 Section 40. Music therapists with other credentials or
15 certification. Any music therapist who holds a valid music
16 therapy credential or professional designation recognized by
17 the Department, including Registered Music Therapist (RMT),
18 Certified Music Therapist (CMT), Advanced Certified Music
19 Therapist (ACMT), and Music Therapist-Board Certified (MT-BC),
20 shall be issued a license without meeting the examination or
21 re-certification requirements of Section 30 of this Act if he
22 or she applies to the Department for licensure and submits a
23 signed sworn statement that he or she shall become certified
24 with the CBMT prior to the end of his or her first licensing

1 cycle. If such person fails to achieve certification with the
2 CBMT prior to the end of his or her first licensing cycle, his
3 or her license shall not be renewed until he or she
4 successfully passes an examination and meets any other
5 requirements deemed appropriate by the Department.

6 Section 45. Temporary permit.

7 (a) Any applicant who has applied in writing in form and
8 substance satisfactory to the Department and has complied with
9 all of the provisions of Section 30, except for taking and
10 passing the examination, may be issued a temporary permit to
11 practice music therapy. The issuance of such temporary permit
12 shall be contingent on the applicant providing proof to the
13 Department that he or she is scheduled to take the examination
14 within 6 months or the next available examination if longer
15 than 6 months.

16 (b) If the next available examination date is beyond 6
17 months from the date that the qualified applicant requests a
18 temporary permit, the Department shall issue a temporary permit
19 that lasts until the results of that examination become
20 available to the Department.

21 (c) If the applicant fails the examination, the temporary
22 permit shall no longer be valid and the applicant shall cease
23 practicing music therapy immediately until such time as the
24 applicant is licensed to practice music therapy in the State.

25 (d) Any person practicing music therapy on a temporary

1 permit shall identify himself or herself at all times by a
2 title which clearly indicates his or her status as a music
3 therapist practicing on a temporary permit.

4 Section 50. Inactive status; expiration; renewal
5 restoration.

6 (a) The expiration date and renewal period for each
7 certificate issued under this Act shall be set by rule.

8 (b) Any music therapist who elects to place his or her
9 license on inactive status shall, subject to the rules of the
10 Department, be excused from payment of renewal fees until he or
11 she notifies the Department in writing of his or her desire to
12 resume active status. Any music therapist whose license is in
13 an inactive status shall not practice music therapy in the
14 State.

15 (c) Any music therapist who has permitted his or her
16 license to expire, or who has had his or her license on
17 inactive status, may have his or her license restored by
18 applying to the Department, paying the renewal fee, and filing
19 proof, acceptable to the Department, of his or her fitness to
20 have his or her license restored. If the applicant's license
21 has expired or been placed on inactive status, proof of fitness
22 may include sworn evidence certifying to active practice in
23 another jurisdiction satisfactory to the Department and by
24 paying the required restoration fee.

25 (d) If the music therapist has not maintained an active

1 practice in another jurisdiction satisfactory to the
2 Department, the Department shall determine, by an evaluation
3 program established by rule, his or her fitness to resume
4 active status and may require the music therapist to
5 successfully complete the examination or receive
6 recertification by the CBMT.

7 (e) Any person whose license expired while (i) in federal
8 service on active duty with the Armed Forces of the United
9 States or called into service or training with the State
10 Militia, or (ii) in training or education under the supervision
11 of the United States preliminary to induction into the military
12 service may have his or her license renewed or restored without
13 paying any lapsed renewal fees if, within 2 years after
14 honorable termination of the service, training or education,
15 except under condition other than honorable, he or she
16 furnishes the Department with satisfactory evidence to the
17 effect that he or she has been so engaged and that the service,
18 training, or education has been so terminated.

19 Section 60. Continuing education requirement. All renewal
20 applicants shall provide proof of having met the continuing
21 education requirements set forth by the Department. The
22 Department shall provide by rule for an orderly process for the
23 reinstatement of licenses that have not been renewed for
24 failure to meet the continuing education requirements.

25 The Department shall establish by rule a means for

1 verifying that a licensee has met the continuing education
2 requirement by this Section. This verification may be
3 accomplished through audits of records maintained by
4 licensees, through recertification records maintained by the
5 CBMT, by requiring the licensee file his or her continuing
6 education certificates with the Department, or by any other
7 means established by the Department.

8 Section 65. Professional title. Any person who is issued a
9 license as a music therapist registered under the terms of this
10 Act may use the words "music therapist" or "licensed music
11 therapist", or may use the letters "MT" in connection with his
12 or her name or place of business to denote his or her licensure
13 under this Act.

14 Section 70. Disciplinary grounds.

15 (a) The Department may refuse to issue or renew a license, or
16 may revoke, suspend, place on probation, reprimand, or take
17 other disciplinary action against a licensee or applicant as
18 the Department may deem proper, including the issuance of fines
19 not to exceed \$2,500 for each violation, for any one or
20 combination of the following reasons:

21 (1) Material misstatement in furnishing information to
22 the Department.

23 (2) Violation of this Act or any rule promulgated under
24 it.

1 (3) Conviction of any crime under the laws of the
2 United States or any state or territory thereof which is a
3 felony or which is a misdemeanor, an essential element of
4 which is dishonesty, or a crime which is directly related
5 to the practice of music therapy.

6 (4) Any misrepresentation for the purpose of obtaining
7 licensure, or violating any provision of this Act or the
8 rules promulgated thereunder pertaining to advertising.

9 (5) Violation of the Code of Professional Practice,
10 promulgated by the CBMT.

11 (6) Aiding or assisting another person, firm,
12 partnership, or corporation in violating any provision of
13 this Act or rules.

14 (7) Failure to respond within 60 days to a written
15 request for information from the Department.

16 (8) Engaging in dishonorable, unethical, or
17 unprofessional conduct of a character likely to deceive,
18 defraud, or harm the public.

19 (9) Habitual or excessive use or addiction to alcohol,
20 narcotics, stimulants, or any other chemical agent or drug.

21 (10) Discipline by another state, the District of
22 Columbia, the territories, or foreign nation, if at least
23 one of the grounds for the discipline is the same or
24 substantially equivalent to those set forth in this Act.

25 (11) Directly or indirectly giving to or receiving from
26 any person, firm, corporation, partnership, or association

1 any fee, commission, rebate, or other form of compensation
2 for professional services not actually or personally
3 rendered.

4 (12) Violation of the terms of licensee's probation as
5 set out by the Department.

6 (13) Making or filing false records or reports in the
7 practice of music therapy, including, but not limited to,
8 filing false records with the State agencies or
9 departments.

10 (14) Inability to practice the profession with
11 reasonable judgment, skill, or safety as a result of a
12 physical illness, including, but not limited to,
13 deterioration through the aging process or loss of motor
14 skill, or a mental illness or disability.

15 (15) Solicitation of professional services other than
16 by permitted advertising.

17 (16) Exceeding the scope of practice authorized under
18 this Act with conduct that results in, or may result in,
19 harm to the public.

20 (17) Holding himself or herself out to practice music
21 therapy under any name other than his or her own or
22 impersonation of any other music therapy license.

23 (18) Gross negligence or malpractice in the practice of
24 music therapy.

25 (19) Receiving of consideration or compensation of any
26 kind as the result of the representation, promise,

1 guarantee, or suggestion that music therapy can cure any
2 person's condition of sickness, disease, or injury.

3 (20) Accepting of commissions or rebates or other forms
4 of remuneration for rendering persons to other
5 professionals.

6 (21) Failure to file a return, to pay the tax, penalty,
7 or interest shown in a filed return, or to pay any final
8 assessment of tax, penalty, or interest as required by any
9 tax Act administered by the Department of Revenue, until
10 such time as the requirements of the tax Act are satisfied
11 in accordance with subsection (g) of Section 15 of the
12 Department of Professional Regulation Law of the Civil
13 Administrative Code of Illinois (20 ILCS 2105/2105-15).

14 (22) Violation of the Health Care Worker Self-Referral
15 Act.

16 (b) The determination by a circuit court that a license
17 holder is subject to involuntary admission or judicial
18 admission as provided in the Mental Health and Developmental
19 Disabilities Code, operates as an automatic suspension of the
20 license. Such suspension will end only upon a finding by a
21 court that the patient is no longer subject to involuntary
22 admission or judicial admission, an order by the court so
23 finding and discharging the patient, and the recommendation of
24 the Board to the Secretary that the license holder be allowed
25 to resume his or her practice.

26 (c) In enforcing this Section, the Board, upon a showing of

1 a possible violation, may compel a licensee or applicant to
2 submit to a mental or physical examination, or both, as
3 required by and at the expense of the Department. The examining
4 physicians or clinical psychologists shall be those
5 specifically designated by the Board. The Board or the
6 Department may order (1) the examining physician to present
7 testimony concerning the mental or physical examination of a
8 licensee or applicant or (2) the examining clinical
9 psychologist to present testimony concerning the mental
10 examination of a licenses or applicant. No information shall be
11 excluded by reason of any common law or statutory privilege
12 relating to communications between a licensee or applicant and
13 the examining physician or clinical psychologist. An
14 individual to be examined may have, at his or her own expense,
15 another physician or clinical psychologist of his or her choice
16 present during all aspects of the examination. Failure of an
17 individual to submit to a mental or physical examination, when
18 directed, is grounds for suspension of his or her license. The
19 license must remain suspended until the person submits to the
20 examination or the Board finds, after notice and hearing, that
21 the refusal to submit to the examination was with reasonable
22 cause.

23 If the Board finds an individual unable to practice because
24 of the reasons set forth in this Section, the Board must
25 require the individual to submit to care, counseling, or
26 treatment by a physician or clinical psychologist approved by

1 the Board, as a condition, term, or restriction for continued,
2 reinstated, or renewed licensure to practice. In lieu of care,
3 counseling, or treatment, the Board may recommend that the
4 Department file a complaint to immediately suspend or revoke
5 the license of the individual or otherwise discipline the
6 licensee.

7 (d) Any individual whose license was granted, continued,
8 reinstated, or renewed subject to conditions, terms, or
9 restrictions, as provided for in this Section, or any
10 individual who was disciplined or placed on supervision
11 pursuant to this Section must be referred to the Secretary for
12 a determination as to whether the person shall have his or her
13 license suspended immediately, pending a hearing by the Board.

14 Section 75. Fees. The Department shall provide by rule a
15 schedule of fees for the administration and enforcement of this
16 Act, including but not limited to original licensure, renewal,
17 and restoration. The fees shall be nonrefundable. All of the
18 fees and fines collected under this Act shall be deposited into
19 the General Professions Dedicated Fund. The monies deposited
20 into the Fund shall be appropriated to the Department for
21 expenses of the Department in the administration of this Act.

22 Section 80. Advertising services.

23 (a) A licensee shall include in every advertisement for
24 services regulated under this Act his or her title as it

1 appears on the license or the initials authorized under this
2 Act.

3 (b) It is unlawful for any person licensed under this Act
4 to use testimonials or claims of superior quality of care to
5 entice the public. It shall be unlawful to advertise fee
6 comparisons of available services with those of other persons
7 licensed under this Act.

8 (c) This Act does not authorize the advertising of
9 professional services that the offeror of such services is not
10 licensed to render. The advertisement shall not use statements
11 that contain false, fraudulent, deceptive, or misleading
12 material or guarantee of success, play upon the vanity or fears
13 of the public, or promote or produce unfair competition.

14 Section 85. Violations; injunctions; cease and desist
15 order.

16 (a) If any person violates a provision of this Act, the
17 Secretary may, in the name of the People of the State of
18 Illinois, through the Attorney General of the State of
19 Illinois, or the State's Attorney in the county in which the
20 offense occurs, petition for an order enjoining such violation
21 or for an order enforcing compliance with this Act. Upon the
22 filing of a verified petition in such court, the court may
23 issue a temporary restraining order, without notice or bond,
24 and may preliminarily and permanently enjoin such violation. If
25 it is established that such person has violated or is violating

1 the injunction, the Court may punish the offender for contempt
2 of court. Proceedings under this Section shall be in addition
3 to, and not in lieu of, all other remedies and penalties
4 provided by this Act.

5 (b) If any person shall practice as a music therapist
6 without being licensed under the provisions of this Act then
7 any licensed music therapist, any interested party, or any
8 person injured thereby may, in addition to the Secretary,
9 petition for relief as provided in subsection (a) of this
10 Section or may apply to the Circuit Court of the county in
11 which such violation or some part thereof occurred, or in which
12 the person complained of has his principal place of business or
13 resides, to prevent such violation. The court has jurisdiction
14 to enforce obedience by injunction or by other process
15 restricting such person complained of from further violation
16 and enjoining upon his or her obedience.

17 (c) Whenever in the opinion of the Department any person
18 violates any provision of this Act, the Department may issue a
19 rule to show cause why an order to cease and desist should not
20 be entered against him or her. The rule shall clearly set forth
21 the grounds relied upon by the Department and shall provide a
22 period of 7 days from the date of the rule to file an answer to
23 the satisfaction of the Department. Failure to answer to the
24 satisfaction of the Department shall cause an order to cease
25 and desist to be issued immediately.

1 Section 90. Investigations; notice of hearing. The
2 Department may investigate the actions of any applicant,
3 licensee, or person holding a temporary permit or claiming to
4 hold a license. Before refusing to issue or renew a license or
5 taking any disciplinary action against a licensee, the
6 Department must first hold a hearing and provide at least 30
7 days prior written notice to the individual of its decision.
8 This written notice must include a brief explanation of the
9 Department's decision, including any specific violations of
10 this Act that form its basis, the date of the hearing, and must
11 inform the individual that he or she must file a written answer
12 to the Department under oath within 20 days after the service
13 of the notice and that failure to file an answer will result in
14 default being taken against the individual and that the license
15 may be suspended, revoked, placed on probationary status, or
16 other disciplinary action may be taken, including limiting the
17 scope, nature, or extent of practice, as the Secretary may deem
18 proper.

19 Written notice may be served by personal, delivery, or
20 certified or registered mail to the respondent at the address
21 of his or her last notification to the Department. In case the
22 person fails to file an answer after receiving notice, his or
23 her license or certificate may, in the discretion of the
24 Department, be suspended, revoked, or placed on probationary
25 status, or the Department may take what ever disciplinary
26 action deemed proper, including limiting the scope, nature, or

1 extent of the person's practices or the imposition of a fine,
2 without a hearing, if the act or acts charged constitute
3 sufficient grounds for such action under this Act. At the time
4 and place of the hearing fixed in the notice, the Department
5 shall proceed to hear the charges and the accused or his or her
6 counsel shall be accorded ample opportunity to present any
7 pertinent statements, testimony, evidence, and arguments in
8 his or her defense. The Department may continue the hearing
9 when it deems it appropriate.

10 Section 95. Stenographer; transcript. The Department, at
11 its expense, shall preserve a record of all proceedings at the
12 formal hearing of any case involving the refusal to issue,
13 renew, or discipline of a license. The notice of hearing,
14 complaint, and all other documents in the nature of pleadings
15 and written motions filed in the proceedings, the transcript of
16 testimony, the report of the Board, and order of the Department
17 shall be the record of such proceeding.

18 Section 100. Compelling testimony. Any circuit court may,
19 upon application of the Department or designee or of the
20 applicant or licensee against whom proceedings under this Act
21 are pending, enter an order requiring the attendance of
22 witnesses and their testimony, and the production of documents,
23 papers, files, books, and records in connection with any
24 hearing or investigation. The court may compel obedience to its

1 order by proceedings for contempt.

2 Section 105. Findings and recommendations. At the
3 conclusion of the hearing, the Board shall present to the
4 Secretary a written report of its findings and recommendations.
5 The report shall contain a finding whether or not the accused
6 person violated this Act or failed to comply with the
7 conditions required in this Act. The Board shall specify the
8 nature of the violation or failure to comply, and shall make
9 its recommendations to the Secretary.

10 The report of the findings and recommendations for the
11 Board shall be the basis for the Department's order or refusal
12 or for the granting of a license or permit unless the Secretary
13 shall determine that the Board report is contrary to the
14 manifest weight of the evidence, in which case the Secretary
15 may issue an order in contravention of the Board report. The
16 finding is not admissible in evidence against the person in a
17 criminal prosecution brought for the violation of this Act, but
18 the hearing and finding are not a bar to a criminal prosecution
19 brought for the violation of this Act.

20 Section 110. Rehearing. In any case involving the refusal
21 to issue, renew, or discipline of a license, a copy of the
22 Board's report shall be served upon the respondent by the
23 Department, either personally or as provided in this Act for
24 the service of the notice of hearing. Within 20 days after such

1 service, the respondent may present to the Department a motion
2 in writing for a rehearing, which motion shall specify the
3 filing such a motion, or if a motion for rehearing is denied,
4 then upon such denial the Secretary may enter an order in
5 accordance with recommendations of the Board except as provided
6 in Section 90 of this Act. If the respondent shall order from
7 the reporting service, and pay for a transcript of the record
8 within the time for filing a motion for rehearing, the 20 day
9 period within which such a motion may be filed shall commence
10 upon the delivery of the transcript to the respondent.

11 Section 115. Secretary-rehearing. Whenever the Secretary
12 is satisfied that substantial justice has not been done in the
13 revocation, suspension, or refusal to issue or renew a license,
14 the Secretary may order a rehearing by the same or other
15 examiners.

16 Section 120. Appointment of hearing officer. The Secretary
17 shall have the authority to appoint any attorney duly licensed
18 to practice law in the State of Illinois to serve as the
19 hearing officer in any action for refusal to issue or renew a
20 license, or discipline of a license or temporary permit. The
21 hearing officer shall have full authority to conduct the
22 hearing. At least one member of the Board shall attend each
23 hearing. The hearing officer shall report to review the report
24 of the hearing officer and present their findings of fact,

1 conclusions of law and recommendations to the Secretary. If the
2 Board fails to present its report within the 60 day period, the
3 Secretary shall issue an order based on the report of the
4 hearing officer. If the Secretary determines that the Board's
5 report is contrary to the manifest weight of the evidence, he
6 may issue an order in contravention of the Board's report.

7 Section 125. Order or certified copy; prima facie proof. An
8 order or a certified copy thereof, over the seal of the
9 Department and purporting to be signed by the Secretary, shall
10 be the proof that:

- 11 (1) the signature is the genuine signature of the
12 Secretary;
13 (2) the Secretary is duly appointed and qualified; and
14 (3) the Department is qualified to act.

15 Section 130. Surrender of license. Upon the revocation or
16 suspension of any license, the licensee shall forthwith
17 surrender the license to the Department and if the licensee
18 fails to do so, the Department shall have the right to seize
19 the license.

20 Section 135. Temporary suspension of a license. The
21 Secretary may temporarily suspend the license of a music
22 therapist without a hearing, simultaneously with the
23 institution of proceedings for a hearing provided for under

1 this Act, if the Secretary finds that evidence in his or her
2 possession indicates that a music therapist's continuation in
3 practice would constitute an imminent danger to the public. In
4 the event that the Secretary suspends, temporarily, the license
5 of a music therapist without a hearing, a hearing by the
6 Department must be held within 30 calendar days after such
7 suspension occurred.

8 Section 140. Administrative review; venue. All final
9 administrative decisions of the Department are subject to
10 judicial review pursuant to the Administrative Review Law and
11 its rules. The term "administrative decision" is defined as in
12 Section 3-101 of the Code of Civil Procedure.

13 Proceedings for judicial review shall be commenced in the
14 circuit court of the county in which the party applying for
15 relief resides; but if the party is not a resident of this
16 State, the venue shall be in Sangamon County.

17 The Department shall not be required to certify any record
18 to the Court or file any answer in court or otherwise appear in
19 any court in a judicial review proceeding, unless there is
20 filed in the court, with the complaint, a receipt from the
21 Department acknowledging payment of the costs of furnishing and
22 certifying the record. Failure on the part of the plaintiff to
23 file a receipt in Court shall be grounds for dismissal of the
24 action.

1 Section 145. Unlicensed practice; criminal penalties.

2 (a) Any person who engages in the unlicensed practice of
3 music therapy, and is otherwise not exempt or authorized under
4 this Act, is guilty of a Class A misdemeanor for the first
5 offense and a Class 4 felony for each subsequent offense.

6 (b) Any person representing himself or herself or
7 advertising as a music therapist or that the services he or she
8 renders is music therapy, or who uses any words, such as "music
9 therapy", "music therapist", or abbreviations, figures, or
10 letters, such as MT, MTBC, indicating that he or she is engaged
11 in the practice of music therapy when he or she does not
12 possess a currently valid license, or is not otherwise exempt
13 or authorized under this Act, commits a Class A misdemeanor for
14 a first offense and a Class 4 felony for each subsequent
15 offense.

16 Section 150. Unlicensed practice; civil penalties.

17 (a) Any person who practices, offers to practice, attempts
18 to practice, or holds oneself out to practice music therapy or
19 as a music therapist without being licensed under this Act or
20 who otherwise violates a provision of this Act shall, in
21 addition to any other penalty provided by law, pay a civil
22 penalty to the Department in an amount not to exceed \$2,500 for
23 each offense as determined by the Department. The civil penalty
24 shall be assessed by the Department after a hearing is held in
25 accordance with the provisions set forth in this Act regarding

1 the provision of a hearing for the discipline of a licensee.

2 (b) The Department has the authority and power to
3 investigate any and all unlicensed activity.

4 (c) The civil penalty shall be paid within 60 days after
5 the effective date of the order imposing the civil penalty. The
6 order shall constitute a judgment and may be filed and
7 execution had thereon in the same manner as any judgment from
8 any court of record.

9 Section 155. Returned checks; fines. Any person who
10 delivers a check or other payment to the Department that is
11 returned to the Department unpaid by the financial institution
12 upon which it is drawn shall pay to the Department, in addition
13 to the amount already owed to the Department, a fine of \$50.
14 The fines imposed by this Section are in addition to any other
15 discipline provided under this Act for unlicensed practice or
16 practice on a nonrenewed license. The Department shall notify
17 the person that payment of fees and fines shall be paid to the
18 Department by certified check or money order within 30 calendar
19 days of the notification. If, after the expiration of 30 days
20 from the date of notification, the person has failed to submit
21 the necessary remittance, the Department shall automatically
22 terminate the license or certificate, he or she shall apply to
23 the Department for restoration or issuance of the license or
24 certificate and pay all fees and fines due to the Department.
25 The Department may establish a fee for the processing of an

1 application for restoration of a license or certificate to pay
2 all expenses of processing this application. The Secretary may
3 waive the fines due under this Section in individual cases
4 where the Secretary finds that the fines would be unreasonable
5 or unnecessarily burdensome.

6 Section 160. Severability. If any portion of this Act is
7 held invalid, such invalidity shall not affect any other part
8 of this Act which can be given effect without the invalid
9 portion.

10 Section 165. Emergency care; civil liability. Exemption
11 from civil liability for emergency care is as provided in the
12 Good Samaritan Act.

13 Section 170. Home rule. The regulation and licensing of
14 music therapists are exclusive powers and functions of the
15 State of Illinois. A home rule unit may not regulate or license
16 music therapists. This Section is a denial and limitation of
17 home rule powers and functions under subsection (h) of Section
18 6 of Article VII of the Illinois Constitution.

19 Section 999. Effective date. This Act takes effect upon
20 becoming law.