



Virginia Department of Planning and Budget

Economic Impact Analysis

18 VAC 140-30 Regulations Governing the Practice of Music Therapy

Department of Health Professions

Town Hall Action/Stage: 5704 / 9537

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

As required by Chapters 103 and 233 of the 2020 *Acts of Assembly*,² which are identical, the Board of Social Work (Board) proposes to promulgate a new regulation governing the practice of music therapy.

Background

Chapter 680 of the 2019 *Acts of Assembly*³ directed the Board of Health Professions to "evaluate whether music therapists and the practice of music therapy should be regulated and the degree of regulation to be imposed," and further required that the evaluation be submitted to the relevant General Assembly committees by November 1, 2019. The Board of Health Professions assembled a regulatory research committee that conducted the study titled "Study into the Need

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² <https://lis.virginia.gov/cgi-bin/leg604.exe?201+ful+CHAP0103>

<https://lis.virginia.gov/cgi-bin/leg604.exe?201+ful+CHAP0233>

³ <https://lis.virginia.gov/cgi-bin/leg604.exe?191+ful+CHAP0680>

to Regulate Music Therapists in the Commonwealth of Virginia.”⁴ The major findings of the study are:

- 1. Music therapy is the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program.*
- 2. Not all music in a healthcare setting is music therapy. Clinical music therapy is the only professional, research-based discipline that actively supplies supportive science to the creative, emotional, and energizing experiences of music for treatment and educational goals.*
- 3. Music therapists work with vulnerable populations, individuals with intellectual or emotional disabilities, or persons coping with physical, mental or terminal health diagnoses. Potential for harm exists when nonqualified individuals provide inappropriate applications of music therapy interventions that could cause emotional harm.*
- 4. Music therapists practice autonomously as well as under supervision.*
- 5. Music therapists are bachelor’s degree level trained and must sit for a national board certification exam to obtain the Music Therapist-Board Certified (MT-BC) credential, which is necessary for professional practice.*
- 6. Five states license music therapists, one state provides title certification and two states require registration.*
- 7. There are approximately 227 music therapists who hold the MT-BC credential in Virginia.*
- 8. There is a need for music therapists in Virginia.*

Subsequently, Chapters 103 and 233 of the 2020 *Acts of Assembly* were enacted and became the legislative mandate for this action. Chapters 103 and 233 also established an Advisory Board on Music Therapy (Advisory Board) to assist the Board in formulating regulations related to the practice of music therapy. The Board now proposes to establish the requirements for licensure as a music therapist, continuing education requirements, standards of practice, disciplinary actions for violations of the standards of practice, and a fee structure to cover the program’s operating expenses at the Department of Health Professions (DHP).

Estimated Benefits and Costs

Music therapy was practiced in Virginia before the legislative mandate became effective. However, the legislation created title protection for “music therapists” and prohibits a person

⁴ https://www.dhp.virginia.gov/media/dhpweb/docs/studies/Music_Therapy.pdf

from engaging “in the practice of music therapy … unless he is licensed by the Board.” The legislation and the regulation would affect individuals who previously practiced music therapy differently depending on the credentials they possess and whether they qualify for one of the exceptions in the legislation.

Generally speaking, music therapy specific jobs would not be as abundant or pay as well without a required license. Thus, individuals who would meet the proposed standards, because they already possess a certification and education in music therapy, are the ones that stand to gain the most from the proposed regulation as they would likely have an easier time finding jobs in Virginia; they may also be able to increase their compensation due to the new license.

A second group that would appear to be affected consists of those who were already practicing music therapy and would be able to continue practicing based on the exceptions in the legislation. These exceptions include *(i) the practice of music therapy by a student pursuing a course of study in music therapy if such practice constitutes part of the student's course of study and is adequately supervised or (ii) a licensed health care provider, other professional registered, certified, or licensed in the Commonwealth, or any person whose training and national certification attests to his preparation and ability to practice his certified profession or occupation from engaging in the full scope of his practice, including the use of music incidental to his practice, provided that he does not represent himself as a music therapist.* The impact on such individuals appears to be limited to the impact of not being able to use the title of “music therapist.” If they wish to use the title of “music therapist,” they would have to obtain the new license.

The last group consists of those individuals who lack the credentials for a Virginia music therapy license and who do not fall under the exceptions above. These individuals would have to not only cease any practice of music therapy, but also cease using the title “music therapist.” If they wish, they can obtain a music therapy license by fulfilling the proposed credentials. The cost of meeting the proposed standards for these individuals would likely be proportional to the extent of education and experience they would need to qualify for a Virginia license.

The legislation mandated that *“the Board shall consider requirements for board certification offered by the Certification Board for Music Therapists or any successor organization.”* While not mandated to do so, the Advisory Board concurred that the credential

cited in the legislation is the best measure of minimal competency for the profession because it requires a national board certification examination. The Advisory Board also concurred that graduation from a music therapy program accredited by the American Music Therapy Association should be a requirement for licensure because it includes 1,200 hours of clinical training, including a supervised internship. Consequently, the proposed regulation would require Music Therapist-Board Certification (MT-BC), a credential issued by the Certification Board for Music Therapists (CBMT) after completing the academic and clinical training requirements of the American Music Therapy Association (AMTA) and passing a national examination.

The proposal heavily relies on the MT-BC credential from CBMT, and on the academic and clinical training requirements of AMTA. CBMT and AMTA are independent entities and as such are free to establish or modify from time to time their own standards for their own credentials and their fees for exams, periodic renewals, or registration. This would produce some risk for the Commonwealth as decisions made by these independent entities would effectively become Virginia administrative law without any oversight or approval from the Commonwealth.

The proposed regulation also requires a minimum of 20 hours of continuing education for each annual licensure renewal. Similarly, maintaining the CBMT credential also requires 100 hours of continuing education over its five-year renewal cycle independently from this regulation.⁵ The regulation recognizes continuing education credits earned for maintaining CBMT credentials. Thus, continuing education required by this regulation and CBMT are allowed to overlap.

In addition to costs associated with education, experience, and continuing competency, the licensure applicants would be required to pay fees to DHP. These fees would be used to pay administrative costs associated with the proposed program. The administrative costs would include but not be limited to staff time for application processing, issuance of licenses, disciplinary hearings and actions, postal costs, office supplies, etc.

The proposed fee structure is as follows: initial application processing and licensure as a music therapist (\$100); active annual license renewal (\$55); inactive annual license renewal (\$30); late renewal (\$20); duplicate license (\$15); verification of licensure to another jurisdiction

⁵ <https://www.cbmt.org/certificants/recertification/>

(\$25); reinstatement of a lapsed license (\$120); replacement of or additional wall certificate (\$25); returned check or dishonored credit card or debit card (\$50); reinstatement following revocation or suspension (\$500). DHP estimates that the number of persons seeking licensure in this program would initially be fewer than 300, which would translate to less than \$16,500 in total collected from annual renewal fees.

To the extent that educational institutions respond to the new license, this regulation may encourage educational institutions to start new degree programs or increase the number of courses offered specific to music therapy. The study notes that there are two universities in Virginia, Radford University and Shenandoah University, that offer bachelor's level and master's level music therapy training. Both are accredited and approved by the AMTA.

At the one end of the spectrum, for someone who is just starting and who has no background in music therapy, the proposed education and experience requirements for a license in music therapy would undoubtedly impose significant compliance costs. At the other end of the spectrum, there may be individuals who meet all the proposed requirements and who only need to apply and pay the associated fees. Regardless of the magnitude of compliance costs, the individual choosing to obtain a license in music therapy thereby indicates that the expected benefits to him/her exceed the expected costs.

The “Study into the Need to Regulate Music Therapists in the Commonwealth of Virginia” includes the statement that “Music therapists do not utilize dangerous equipment while performing within their practice guidelines. They do, however, work with vulnerable populations, individuals with intellectual or emotional disabilities, and persons coping with physical, mental or terminal health diagnosis. The potential for harm exists if a nonqualified individual provides inappropriate applications of music therapy interventions that could cause emotional harm.” It is notable that the study asserts the potential for emotional harm, but it does not provide any additional information on how these harms may occur. Also notable is the absence of any assertion that physical harm may occur, perhaps because music therapists do not utilize dangerous equipment. The lack of evidence of harm to patients in this case is unusual compared to most other regulations from health boards, but as noted the regulation of music therapy results from the legislative mandate.

Businesses and Other Entities Affected

The legislation and this regulation affect individuals who would be practicing music therapy in the future and those who were practicing music therapy prior to 2020. According to DHP, when the Board of Health Professions conducted its study of the need for licensure of music therapists, the CBMT reported 227 professional members located in Virginia. DHP estimates that the number of persons seeking licensure will initially be fewer than 300. The number of those who were practicing music therapy prior to 2020 and who would not seek licensure is unknown.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As discussed above, individuals who were practicing music therapy prior to 2020 would have to cease their practice unless they obtain a license or fall under one of the exceptions. For some individuals, particularly for those who have relatively lower costs in obtaining licensure, the costs may be outweighed by the increased possibility that their services would be reimbursed by health insurance. For others, particularly those who have relatively higher costs in obtaining licensure, the costs would likely outweigh the benefits. Because there is the potential for an increase in net cost or reduction in net revenue for some entities an adverse impact is indicated.

Small Businesses⁷ Affected:⁸

No data are available to determine if any of the individuals who were practicing music therapy prior to 2020 were associated with a small business.

⁶ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁷ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁸ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on

Localities⁹ Affected¹⁰

The proposed regulation neither disproportionately affects particular localities, nor introduces costs for local governments.

Projected Impact on Employment

The proposed licensure of music therapists may allow those who meet the licensure criteria to secure better jobs. However, some individuals who had been practicing music therapy without a license may not be able to maintain their employment in that capacity. Thus, the net impact on employment is uncertain.

Effects on the Use and Value of Private Property

The proposed regulation does not appear to directly affect the use and value of private property or real estate development costs.

affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁹ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.