

Project 6583 - Proposed

Board of Counseling

New chapter for licensure

Chapter 90

Regulations Governing the Practice of Art Therapy

18VAC115-90-10. Definitions.

A. The following words and terms when used in this chapter shall have the meaning ascribed to them in § 54.1-3500 of the Code of Virginia:

"Art therapist"

"Art therapy"

"Art Therapy Associate"

"Board"

"Counseling"

B. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as an art therapist or art therapy associate.

"ATCB" means the Art Therapy Credentials Board, Inc.

"ATR" means a Registered Art Therapist, a credential issued by the ATCB after meeting established educational standards, successful completion of advanced specific graduate-level education in art therapy and supervised post-graduate art therapy experience.

“ATR-BC” means a Board Certified Registered Art Therapist, a credential issued by the ATCB after meeting the requirements for the ATR credential and passing a national examination.

“ATR-P” means a Provisional Registered Art Therapist, a credential issued by the ATCB after meeting the established educational standards, successful completion of advanced specific graduate-level education in art therapy, and practicing art therapy under an approved supervisor.

18VAC115-90-20. Fees required by the board.

A. The board has established the following fees applicable to licensure as an art therapist or art therapy associate:

| | |
|--|--------------|
| <u>Initial licensure as an art therapist: Application processing and initial licensure</u> | <u>\$175</u> |
| <u>Initial licensure as an art therapy associate: Application processing and initial licensure</u> | <u>\$65</u> |
| <u>Active annual license renewal as an art therapist</u> | <u>\$130</u> |
| <u>Inactive annual license renewal as an art therapist</u> | <u>\$65</u> |
| <u>Late renewal</u> | <u>\$45</u> |
| <u>Duplicate license</u> | <u>\$10</u> |
| <u>Verification of licensure to another jurisdiction</u> | <u>\$30</u> |
| <u>Reinstatement of a lapsed license</u> | <u>\$200</u> |
| <u>Replacement of or additional wall certificate</u> | <u>\$25</u> |
| <u>Returned check or dishonored credit card or debit card</u> | <u>\$50</u> |
| <u>Reinstatement following revocation or suspension</u> | <u>\$600</u> |

B. All fees are nonrefundable.

18VAC115-90-30. Prerequisites for licensure as an art therapist and art therapist associate.

A. Every applicant for licensure shall submit to the board:

1. A completed application;

2. The application processing fee and initial licensure fee as prescribed in 18VAC115-90-20;

3. Verification of any other mental health or health professional license, registration, or certificate ever held in Virginia or another jurisdiction; and

4. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

B. An applicant shall have no unresolved disciplinary action against a mental health or health professional license, certificate, or registration held in Virginia or in another U. S. jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

18VAC115-90-40. Requirements for licensure.

In addition to pre-requisites as set forth in 18VAC115-90-30:

A. Every applicant for licensure by examination as an art therapist shall submit to the board evidence of a current ATR-BC certification from the ATCB.

B. Every applicant for licensure by endorsement as an art therapist shall submit to the board:

1. Verification of a current, unrestricted art therapy license issued from another United States jurisdiction, or if lapsed, evidence that the license is eligible for reinstatement;

2. An attestation of having read and understood the regulations and laws governing the practice of art therapy in Virginia; and either

a. Current ATR-BC certification from the ATCB, or

b. Documentation of passage of the examination of the ATCB and evidence of autonomous, clinical practice in art therapy, as defined in §54.1-3500 of the Code of Virginia, for 24 of the last 60 months immediately preceding his licensure application

in Virginia. Clinical practice shall mean the rendering of direct clinical art therapy services, clinical supervision of clinical art therapy services, or teaching graduate-level courses in art therapy.

C. Every applicant for licensure as an art therapy associate shall submit to the board evidence of a current registration as an ATR or an ATR-P from the ATCB.

18VAC115-90-50. Requirements for Practice as an Art Therapy Associate.

A. Art therapy associates shall not call themselves Licensed Art Therapists, directly bill for services rendered, or in any way represent themselves as independent, autonomous practitioners. Associates shall use the title of "Art Therapy Associate" in all written communications. Clients shall be informed in writing that the associate does not have the authority for independent practice, is practicing under supervision, and shall provide the supervisor's name, professional address, and phone number.

B. Associates shall not engage in practice under supervision in areas for which they have not had the appropriate education or training.

18VAC115-90-60. General examination requirements; schedules; time limits.

A. Every applicant for initial licensure by examination by the board as an art therapist shall pass the Art Therapy Credentials Board examination prescribed by the ATCB.

B. An applicant is required to pass the prescribed examination and obtain registration as an ATR-BC no later than five years from the date of initial issuance by the board of an art therapy associate license, unless the board has granted an extension of the associate license.

C. An art therapy associate who has not met the requirements for licensure as an art therapist within five years of issuance of licensure as an art therapy associate may submit an application for extension of licensure to the board. Such application shall include:

1. A plan for completing the requirement to obtain licensure as an art therapist;
2. Documentation of compliance with the continuing education requirements;
3. Documentation of compliance with requirements related to supervision; and
4. A letter of recommendation from the clinical supervisor of record.

An extension of an associate art therapy license shall be valid for a period of two years.

18VAC115-90-70. Annual renewal of licensure.

A. Every art therapist who intends to continue active practice shall submit to the board on or before June 30 of each year:

1. A completed form for renewal of the license on which the art therapist attests to compliance with the continuing competency requirements prescribed in this chapter; and
2. The renewal fee prescribed in 18VAC115-90-20.

B. An art therapist who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-90-20. No person shall practice art therapy in Virginia unless he holds a current active license. A licensee who has selected an inactive status may become active by fulfilling the reactivation requirements set forth in subsection C of 18VAC115-90-110.

C. The license of an art therapy associate shall expire after five years from initial licensure unless an extension is granted as indicated in subsection C of 18VAC115-90-60.

D. Licensees shall notify the board of a change in the address of record or the public address, if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

E. Practice with an expired license is prohibited and may constitute grounds for disciplinary action.

18VAC115-90-80. Continued competency requirements for renewal of a license.

A. Art therapists shall be required to have completed a minimum of 20 hours of continuing competency for each annual licensure renewal. A minimum of two of these hours shall be in courses that emphasize the ethics, standards of practice, or laws governing behavioral science professions in Virginia.

B. The board may grant an extension for good cause of up to one year for the completion of continuing competency requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing competency requirement.

C. The board may grant an exemption for all or part of the continuing competency requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military service, or officially declared disasters.

D. An art therapist who holds another license issued by a Virginia health regulatory board shall not be required to obtain more than 20 total continuing education hours in order to renew an art therapy license, except at least 10 of the required hours of continuing education shall be specifically related to art therapy.

E. Up to two hours of the 20 hours required for annual renewal may be satisfied through the delivery of art therapy services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.

F. An art therapist who was licensed by examination is exempt from meeting continuing competency requirements for the first renewal following initial licensure.

18VAC115-90-90. Continuing competency activity criteria.

A. Approved hours of continuing competency activity for an art therapist shall be approved if they meet the continued education requirements for recertification as an ATR-BC.

B. Additionally, continuing competency activity for an art therapist shall be approved if they are workshops, seminars, conferences, or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

1. The International Association of Marriage and Family Counselors and its state affiliates;
2. The American Association for Marriage and Family Therapy and its state affiliates;
3. The American Association of State Counseling Boards;
4. The American Counseling Association and its state and local affiliates;
5. The American Psychological Association and its state affiliates;
6. The Commission on Rehabilitation Counselor Certification;
7. NAADAC, The Association for Addiction Professionals and its state and local affiliates;
8. National Association of Social Workers;
9. National Board for Certified Counselors;
10. A national behavioral health organization or certification body;
11. Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state;
12. The American Association of Pastoral Counselors;
13. The American Art Therapy Association and its state affiliates;

14. The Art Therapy Credentials Board; or

15. The International Expressive Arts Therapy Association.

18VAC115-90-100. Documenting compliance with continuing competency requirements.

A. Art therapists are required to maintain original documentation for a period of two years following renewal.

B. After the end of each renewal period, the board may conduct a random audit of art therapists to verify compliance with the requirement for that renewal period.

C. Upon request, an art therapist shall provide documentation as follows:

1. Official transcripts showing credit hours earned; or

2. Certificates of participation.

D. Continuing competency hours required by a disciplinary order shall not be used to satisfy renewal requirements.

18VAC115-90-110. Late renewal; reactivation or reinstatement.

A. An art therapist whose license has expired may renew it within one year after its expiration date by paying the late fee prescribed in 18VAC115-90-20 as well as the license renewal fee prescribed for the year the license was not renewed and providing evidence of having met all applicable continuing competency requirements.

B. An art therapist who fails to renew a license after one year or more and wishes to resume practice shall apply for reinstatement, pay the reinstatement fee for a lapsed license, submit verification of any mental health license he holds or has held in another jurisdiction, if applicable, and provide evidence of having met all applicable continuing competency requirements not to exceed a maximum of 80 hours. The board may require the applicant for

reinstatement to submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.

C. An art therapist wishing to reactivate an inactive license shall submit (i) the renewal fee for active licensure minus any fee already paid for inactive licensure renewal; (ii) documentation of continued competency hours equal to the number of years the license has been inactive not to exceed a maximum of 80 hours; and (iii) verification of any mental health license he holds or has held in another jurisdiction, if applicable. The board may require the applicant for reactivation to submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.

18VAC115-90-120. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of art therapy.

B. Persons licensed by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;
2. Practice only within the boundaries of their competence, based on their education, training, supervised experience, and appropriate professional experience and represent their education training and experience accurately to clients;
3. Stay abreast of new art therapy information, concepts, applications and practices which are necessary to providing appropriate, effective professional services;
4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;

5. Document the need for and steps taken to terminate a therapeutic relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a therapeutic relationship;
6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;
7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;
8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;
9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when art therapy is initiated, and throughout the therapeutic process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;
10. Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;
11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;

12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the U. S. Department of Education, or credentials granted by a national certifying agency, and that are art therapy in nature; and

13. Advertise professional services fairly and accurately in a manner which is not false, misleading or deceptive.

C. In regard to client records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination. Client records include artwork or any visual production produced by the client during clinical sessions;

2. Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the destruction of records which are no longer useful in a manner that ensures client confidentiality;

3. Disclose or release records to others only with the client's expressed written consent or that of the client's legally authorized representative or as otherwise permitted or required by law;

4. Ensure confidentiality in the usage of client records and clinical materials, including artwork or any visual production produced by the client during clinical sessions, by obtaining informed consent from the client or the client's legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations; and

5. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the art therapy relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18 years) or ten years following termination, whichever comes later;

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have been transferred to another mental health service provider or given to the client or his legally authorized representative.

D. In regard to dual relationships, persons licensed by the board shall:

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients.) Art therapists shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

2. Not engage in any type of romantic relationships or sexual intimacies with clients or those included in a collateral relationship with the client and not provide therapy to persons with whom they have had a romantic relationship or sexual intimacy. Art therapists shall not engage in romantic relationships or sexual intimacies with former clients within a minimum of five years after terminating the art therapy relationship. Art therapists who engage in such relationship or intimacy after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of art

therapy, amount of time since art therapy, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with an art therapist does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any romantic relationship or sexual intimacy or establish an art therapy or psychotherapeutic relationship with a supervisee or student. Licensed Art Therapists shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student or the potential for interference with the supervisor's professional judgment; and

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

E. Persons licensed by this board shall report to the board known or suspected violations of the laws and regulations governing the practice of art therapy.

F. Persons licensed by the board shall advise their clients of their right to report to the Department of Health Professions any information of which the licensee may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § [54.1-2400.1](#) of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

18VAC115-90-130. Grounds for revocation, suspension, probation, reprimand, or denial of license.

A. Action by the board to revoke, suspend, deny issuance or renewal of a license, or take disciplinary action may be taken in accordance with the following:

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of art therapy, or any provision of this chapter;

2. Procuring, attempting to procure, or maintaining a license by fraud or misrepresentation;

3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice art therapy with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;

4. Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;

5. Performance of functions outside the demonstrable areas of competency;

6. Failure to comply with the continued competency requirements set forth in this chapter;

7. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of art therapy, or any part or portion of this chapter; or

8. Performance of an act likely to deceive, defraud, or harm the public.

B. Following the revocation or suspension of a license, the licensee may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.

18VAC115-90-140. Reinstatement following disciplinary action.

A. Any person whose license has been suspended or who has been denied reinstatement by board order, having met the terms of the order, may submit a new application and fee for reinstatement of licensure.

B. The board in its discretion may, after an administrative proceeding, grant the reinstatement sought in subsection A of this section.

Draft