



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 205**

129th General Assembly  
(As Introduced)

**Sens.** Skindell and Grendell, Turner

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## **BILL SUMMARY**

### **Art therapy**

- Requires the Counselor, Social Worker, and Marriage and Family Therapist Board to regulate art therapy and changes the name of the Board to the Counselor, Social Worker, Marriage and Family Therapist, and Art Therapist Board.
- Requires the Governor to appoint three additional Board members – two art therapists and one additional public member.
- Establishes the Art Therapist Professional Standards Committee within the Board and gives the Committee authority to act on behalf of the Board on all matters concerning art therapy.
- Establishes an application procedure and eligibility requirements for applicants seeking to be licensed as art therapists.
- Establishes continuing education requirements and license renewal procedures for art therapists.
- Establishes procedures for the Board and Committee to follow when taking disciplinary action against an applicant for an art therapy license or a license holder.
- Specifies activities and services that are included in the scope of practice of art therapists.

## **Counselor, Social Worker, Marriage and Family Therapist, and Art Therapist Board**

- Expands to all professionals licensed or registered by the Board, including art therapists, provisions of law regarding reports of abuse or neglect that apply to other professionals regulated by the Board.
- Exempts professionals licensed or registered by the Board, including art therapists, from the duty to disclose privileged information between the professional and his or her client that is related to a felony or knowledge of death.
- Permits professionals licensed or registered by the Board, including art therapists, to provide services through certain business entities formed in combination with other health care professionals.

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## CONTENT AND OPERATION

### ART THERAPY

#### Regulation of art therapy

The bill requires the Counselor, Social Worker, and Marriage and Family Therapist Board to regulate the practice of art therapy.<sup>1</sup> The bill defines the "practice of art therapy" as the diagnosis, treatment, evaluation, assessment, and remediation of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of art therapy principles and processes, to individuals, couples, and families, singly or in groups, whether those services are offered directly to the general public or through public or private organizations, for a fee, salary, or other consideration, through the professional application of art therapy theories and techniques, including, but not limited to, psychotherapeutic theories, therapies, and techniques that art therapists are educated and trained to perform.<sup>2</sup>

#### Counselor, Social Worker, Marriage and Family Therapist, and Art Therapist Board

The bill changes the name of the Board to the "Counselor, Social Worker, Marriage and Family Therapist, and Art Therapist Board." All statutory references to the Board are correspondingly changed.

#### Membership

Currently, the Board consists of 15 members appointed by the Governor, with the advice and consent of the Senate. Each member may serve up to two consecutive three-year terms. Four members must be professional clinical counselors or professional counselors, two members must be independent marriage and family therapists, two members must be marriage and family therapists, two members must be independent social workers, and two members must be licensed social workers. The remaining three members must be representatives of the general public who have not practiced professional counseling, marriage and family therapy, or social work and have not been involved in the delivery of professional counseling, marriage and family therapy, or social work services. During their tenure on the Board, the public members

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<sup>1</sup> The Board currently licenses professional clinical counselors, professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists, and registers social work assistants (R.C. Chapter 4757.).

<sup>2</sup> R.C. 4757.01.

are prohibited from practicing professional counseling, marriage and family therapy, or social work and from being involved in the delivery of those services.

Within 90 days after the bill's effective date, the Governor must appoint three additional Board members: two art therapists and one public member. The art therapist appointees are not required, at the time of appointment, to be licensed as art therapists. However, the appointees may remain as Board members only if the appointees become licensed as art therapists within one year after the bill's effective date. To incorporate the initial art therapist and public members into the Board's existing scheme for staggered expiration of the members' terms, one initial art therapist member is to be appointed for a one-year term, and the second art therapist and the public member are to be appointed for three-year terms.<sup>3</sup>

Like the current Board members, the three new members appointed under the bill are to (1) serve three-year terms after their initial appointments, (2) receive a fixed amount for each day employed in the discharge of their official duties as Board or committee members (see "**Professional standards committees**," below) and be reimbursed for their necessary and actual expenses incurred in the performance of their official duties, and (3) otherwise be subject to the existing law regarding the administration of the Board.

Under current law, no more than eight members of the Board may be members of the same political party or sex. The bill increases to ten the number of members to which this restriction applies.

The bill also adds art therapy, psychology, and psychiatry to the practices the public members are prohibited from having engaged in or from engaging in during their tenure on the Board.<sup>4</sup>

### **Professional standards committees**

Current law establishes professional standards committees within the Board for purposes of its regulation of counselors, social workers, and marriage and family therapists. Each committee consists of the Board's members in each respective profession (the Counselor Professional Standards Committee, for example, consists of the four counselor Board members). The committees must also include one public Board member who does not serve on another committee. Each committee has the authority to act on behalf of the Board on all matters concerning the profession it relates to.

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<sup>3</sup> R.C. 4757.03 and Section 3 of the bill.

<sup>4</sup> R.C. 4757.03 and 4757.05.

The bill establishes the Art Therapist Professional Standards Committee consisting of the Board's two art therapy members and gives the Committee the authority to act on behalf of the Board on all matters concerning art therapy. The Committee must also include a public Board member who does not serve on another committee. Like the existing committees, the bill requires the Art Therapist Professional Standards Committee to meet as necessary to fulfill its duties and is otherwise subject to the existing law regarding the administration of the committees. Two members of the Committee constitute a quorum to conduct business.<sup>5</sup>

### **Rulemaking**

The bill includes art therapy within the Board's existing authority to adopt any rules necessary to carry out its duties. The bill also grants express authority to the Board to adopt rules necessary to implement the bill's provisions regarding art therapy. In both cases, the rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).<sup>6</sup>

### **Application process**

The bill requires an individual seeking a license to practice as an art therapist to submit a written application to the Art Therapist Professional Standards Committee on a form prescribed by the Board. An applicant who falsifies a statement on the application is guilty of falsification, a first-degree misdemeanor. When submitting the application, the individual must pay a fee established by the Board in rule.<sup>7</sup>

### **Eligibility for licensure**

In addition to submitting an application and fee to the Board, the bill requires an individual to meet all of the following requirements to be eligible to receive a license to practice as an art therapist:

- (1) Be of good moral character;
- (2) Be at least 21 years old;

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<sup>5</sup> R.C. 4757.04.

<sup>6</sup> R.C. 4757.10 and 4757.50.

<sup>7</sup> R.C. 4757.16 and 4757.45(A).

(3) Hold current certification from the Art Therapy Credentials Board, Inc., and submit evidence of that certification with the application for licensure. (This board confers and administers professional credentials for art therapy practitioners.)<sup>8</sup>

(4) Obtain three letters of recommendation from professional sources, one of which must be from an art therapist, and submit the letters in accordance with rules adopted by the Board;<sup>9</sup>

(5) Request and pay for a criminal records check conducted by the Bureau of Criminal Identification and Investigation and report the results to the Board.<sup>10</sup>

The bill also specifies that the Board's existing requirement concerning examinations to determine competence for licensure continues to apply only to counseling, social work, and marriage and family therapist applicants.<sup>11</sup>

### **License issuance and renewal**

The Art Therapist Professional Standards Committee must review all applications and, if an applicant submits a properly completed application and meets the eligibility requirements, including successfully passing the criminal records check, the Committee must issue to the applicant a license to practice as an art therapist. A license is to be valid for a period determined by the Board in rule and may be renewed in accordance with procedures also to be specified in the rules.<sup>12</sup>

### **Scope of practice of art therapists**

Upon licensure, an art therapist is permitted by the bill to practice art therapy through the integrated use of psychotherapeutic principles and visual art media and processes in the assessment, evaluation, treatment, amelioration, and remediation of emotional, cognitive, neurological, psychosocial, physical, and developmental discords. A licensed art therapist is authorized to provide training and supervision to art therapy students or prospective applicants for licensure.<sup>13</sup> A licensed art therapist is also permitted by the bill to diagnose and treat mental and emotional disorders, but only if

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<sup>8</sup> [www.atcb.org/what\\_is\\_art\\_therapy/](http://www.atcb.org/what_is_art_therapy/), web site visited March 5, 2012.

<sup>9</sup> R.C. 4757.46.

<sup>10</sup> R.C. 4757.101.

<sup>11</sup> R.C. 4757.15.

<sup>12</sup> R.C. 4757.101 and 4757.45(B) and (C).

<sup>13</sup> R.C. 4757.48.

the art therapist is under the supervision of a psychologist, psychiatrist, professional clinical counselor, independent marriage and family therapist, or independent social worker.<sup>14</sup>

The bill provides that an art therapist may engage in the practice of art therapy as an individual practitioner or as a member of a partnership or group practice.<sup>15</sup>

### **Professional disclosure statement to clients**

Like the other professionals governed by the Board, the bill requires a licensed art therapist to do one of the following in order to receive remuneration for services:

(1) Prior to the performance of services, furnish a copy of a professional disclosure statement containing certain business and professional information to the client;

(2) Display the professional disclosure statement in a conspicuous location at the place where the services are performed and provide a copy of the statement to the client upon request.<sup>16</sup>

The professional disclosure statement must contain the following information: (1) the name, title, business address, and business phone number of the person performing the services, (2) the formal professional education of the person performing the services, including the institutions the person attended, the dates attended, and the degrees received from them, (3) the areas of competence in the field in which the person is licensed or registered and the services the person provides, (4) in the case of a person who is engaged in a private individual practice, partnership, or group practice, the person's fee schedule, listed by type of service or hourly rate, and (5) a statement that the Board requires this information, with the Board's name, address, and phone number.<sup>17</sup>

### **Temporary licensure**

The bill permits the Art Therapist Professional Standards Committee to issue a temporary license to an applicant who meets any of the following requirements:

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<sup>14</sup> R.C. 4757.49.

<sup>15</sup> R.C. 4757.49.

<sup>16</sup> R.C. 4757.12.

<sup>17</sup> R.C. 4757.12(B).

(1) Provides evidence to the Committee that the applicant is currently board-certified by the Art Therapy Credentials Board, Inc. (ATCB) and further action by the Committee regarding licensure is pending;

(2) Provides evidence to the Committee that the applicant is a registered art therapist with the ATCB;

(3) Provides evidence to the Committee that the applicant holds a degree from an art therapy program approved by the American Art Therapy Association or the equivalent of such a degree as determined by the Committee.

An applicant holding a temporary art therapist license must practice under the supervision of a licensed art therapist and in accordance with ATCB guidelines. A temporary license is valid for two years and may be renewed up to two times.<sup>18</sup>

### **Persons practicing art therapy prior to the bill's effective date**

Until one year after its effective date, the bill requires the Board to issue an art therapist license to an applicant if the applicant meets the following requirements on the bill's effective date:

(1) Is a licensed professional clinical counselor, licensed independent marriage and family therapist, licensed independent social worker, licensed psychologist, or board-certified psychiatrist. ("Board-certified" is not defined by the bill but refers to the credentials attained by a physician through the medical specialty certifying boards recognized by the American Board of Medical Specialties or the American Osteopathic Association.)

(2) Holds a degree in art therapy or the equivalent of such a degree as determined by the Board;

(3) Provides evidence to the Art Therapist Professional Standards Committee that the applicant has practiced art therapy for at least five years within the ten years immediately preceding the bill's effective date.

In addition, the applicant must be of good moral character, submit a properly completed application, and pay the fee for art therapist licensure established under the bill.<sup>19</sup>

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<sup>18</sup> R.C. 4757.47.

<sup>19</sup> Section 4 of the bill.



## Prohibitions

Beginning one year after the bill's effective date, a person is prohibited from doing any of the following unless the person holds a current license to practice as an art therapist:<sup>20</sup>

- (1) Engaging in, or claiming to the public to be engaging in, art therapy for a fee, salary, or other consideration;
- (2) Using the title "art therapist" or any other title or description that incorporates the phrase "art therapist";
- (3) Holding the person out to be an art therapist;
- (4) Using any initials commonly used to identify art therapists.

As with the other professionals governed by the Board, the bill provides that neither it nor the rules adopted under it authorize an art therapist to admit a patient to a hospital or require a hospital to allow an art therapist to admit a patient.<sup>21</sup>

## Continuing education

To renew a license, existing law requires all professionals governed by the Board to complete 30 hours of continuing education during each licensure period. The bill extends this requirement to art therapists. The bill also specifies that, like the other professionals governed by the Board, art therapists are not required to take the continuing education course approved by the Board in recognizing the signs of domestic violence and its relationship to child abuse.<sup>22</sup>

## License renewal procedures

Licenses issued by the Board expire every two years and are subject to a standardized license renewal procedure used by certain licensing agencies, including the Board. A licensee must submit a fee and evidence of completing the required continuing education. Under the bill, art therapists are subject to these renewal requirements, as well as maintaining the appropriate certification or registration from the ATCB. A license that is not renewed lapses on its expiration date but may be

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<sup>20</sup> R.C. 4757.02.

<sup>21</sup> R.C. 4757.43.

<sup>22</sup> R.C. 4757.33 and 4757.34.

restored if the individual, not later than two years after the license expired, applies for restoration of the license.<sup>23</sup>

## **Disciplinary actions**

The bill extends to art therapists the disciplinary procedures that apply to other professionals licensed or registered by the Board. Currently, the Board's professional standards committees may refuse to issue or renew, or may suspend, revoke, or otherwise restrict, a license or certificate of registration, or may reprimand a licensee or registrant for certain reasons, including violating the law governing the license or registration, accepting a commission or rebate for referring persons to licensed professionals, conviction of a felony, conviction of a misdemeanor committed during the course of practice, impairment due to alcohol or drug abuse or any other physical or mental condition, or practicing outside the scope of practice. The bill also extends to art therapy services the Board's existing authority to investigate any violation of its laws or rules and alleged irregularities in the delivery of services.

In certain cases involving art therapists, the bill permits the Board to impose a suspension without a hearing. This summary suspension authority applies when there is clear and convincing evidence that continued practice by the art therapist presents a danger of immediate and serious harm to the public, as determined on consideration of the evidence by the Art Therapist Professional Standards Committee.

Under the bill, an art therapist license may be automatically suspended if the art therapist is convicted of, pleads guilty to, or is judicially found to have committed aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. An art therapist may request an adjudication regarding the suspension in accordance with current Board procedures.

In addition to the sanctions described above, and any other remedies under current law, the bill permits the Board to apply to an appropriate court for an order enjoining the activities of any person violating the bill's provisions regarding art therapy. On showing that a violation has occurred, the court must grant the order.<sup>24</sup>

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<sup>23</sup> R.C. 4757.32.

<sup>24</sup> R.C. 4757.36, 4757.361, 4757.38, and 4757.40.

## **Additional powers and duties of the Board in regulating art therapy**

In addition to the provisions discussed above, the bill applies to art therapists some of the other general provisions that currently apply to the other professionals regulated by the Board. These provisions pertain to the following:

--Performance of routine support for the Board by the Department of Administrative Services;<sup>25</sup>

--Mandatory reporting of child abuse by an art therapist;<sup>26</sup>

--Establishment by the Board of a code of ethical practice for art therapists;<sup>27</sup>

--Reciprocity for art therapists practicing in another state;<sup>28</sup>

--Board compliance with the law governing defaults under a child support order;<sup>29</sup>

--Procedures for establishing, charging, and adjusting fees for initial licensure and renewal of an art therapist license;<sup>30</sup>

--Immunity from liability for damages in a civil action for disclosing confidential information regarding a matter wherein a patient has made an explicit threat to inflict serious physical harm or death.<sup>31</sup>

## **Conforming changes**

The bill makes conforming changes in the following sections of existing law for the purpose of updating the name of the Counselor, Social Worker, and Marriage and Family Therapist Board to reflect the inclusion of art therapists: R.C. 4757.17, 4757.22, 4757.23, 4757.27, 4757.28, 4757.29, 4757.30, and 4757.301.

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<sup>25</sup> R.C. 125.22.

<sup>26</sup> R.C. 2151.421.

<sup>27</sup> R.C. 4757.11.

<sup>28</sup> R.C. 4757.18.

<sup>29</sup> R.C. 4757.19.

<sup>30</sup> R.C. 4757.31.

<sup>31</sup> R.C. 4757.44.

## **COUNSELOR, SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST, AND ART THERAPIST BOARD**

### **Duty to report abuse or neglect**

Of the persons currently licensed or registered by the Board, only professional clinical counselors, professional counselors, independent social workers, social workers, and social work assistants are required to report abuse or neglect of certain persons. The bill extends the reporting requirements to independent marriage and family therapists, marriage and family therapists, and art therapists. Specifically, the bill requires all professionals licensed or registered by the Board to do all of the following:

- (1) Note in a patient's or client's records the professional's knowledge or belief that the patient or client has been a victim of domestic violence;
- (2) Report the abuse, neglect, or misappropriation of property of a person residing in a nursing home or residential care facility;
- (3) Report the abuse or neglect of an adult who is over age 60.<sup>32</sup>

Current law requires social workers to report the abuse or neglect of a person with mental retardation or a developmental disability. The bill extends this requirement to professional clinical counselors, professional counselors, independent marriage and family therapists, marriage and family therapists, and art therapists.<sup>33</sup>

### **Privileged information**

In general, a person who fails to report information on a felony or who fails, on the request of a law enforcement officer, to provide information on the circumstances of a death is guilty of a misdemeanor. The requirement that this information be disclosed, however, does not apply if the information was privileged, such as information provided under certain professional relationships, including attorney and client or doctor and patient. The bill provides that information between a client and a professional licensed or registered by the Board, including an art therapist, is privileged information.<sup>34</sup>

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<sup>32</sup> R.C. 2921.22, 3721.21 (not in the bill), and 5101.61.

<sup>33</sup> R.C. 5123.61.

<sup>34</sup> R.C. 2921.22.

## Patient access to records and fees for copies

Of the persons currently regulated by the Board, only professional clinical counselors, professional counselors, independent social workers, social workers, and social work assistants are subject to the laws governing a patient's access to his or her records and the fees that may be charged for providing copies of the records to a patient, the patient's personal representative, or other person the patient authorizes. The bill extends these laws governing patient access to records and copying fees to independent marriage and family therapists, marriage and family therapists, and art therapists.<sup>35</sup>

## Combined businesses

The bill permits the professionals licensed or registered by the Board, including art therapists, to provide services through a corporation, limited liability company, partnership, or professional association that is formed for the purpose of providing services in combination with optometrists, psychologists, chiropractors, nurses, pharmacists, physical therapists, mechanotherapists, physicians, or podiatrists.<sup>36</sup>

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## HISTORY

ACTION	DATE
Introduced	08-17-11

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<sup>35</sup> R.C. 3701.74 and 3701.741 (not in the bill).

<sup>36</sup> R.C. 1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 4723.16, 4725.33, 4729.161, 4731.226, 4731.65, 4732.38, 4734.17, 4755.471, and 4757.55.