

6252

2009-2010 Regular Sessions

I N   S E N A T E

October 28, 2009

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Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to the licensure of therapeutic recreation specialists; and to amend chapter 676 of the laws of 2002, amending the education law and the social services law relating to licensing mental health practitioners, in relation to preventing prohibitions or limitations on the activities or services of certain persons

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The education law is amended by adding a new article 156-A  
2     to read as follows:

3                                     ARTICLE 156-A

4                     THERAPEUTIC RECREATION SPECIALISTS

5     SECTION 7950. DEFINITIONS.

6         7951. EVALUATION AND TREATMENT AUTHORIZATION.

7         7952. PROHIBITION ON UNAUTHORIZED PRACTICE; PROFESSIONAL IDENTIFICATION.

8         7953. COERCION PROHIBITED.

9         7954. ELIGIBILITY FOR LICENSURE.

10        7955. RENEWAL OF LICENSE.

11        7956. REVOCATION, SUSPENSION, OR DENIAL OF LICENSURE.

12        7957. RECIPROCITY.

13     S 7950. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING  
14     TERMS SHALL HAVE THE FOLLOWING MEANINGS:

15     1. "BOARD" MEANS NEW YORK STATE THERAPEUTIC RECREATION LICENSURE  
16     BOARD.

17     2. "THERAPEUTIC RECREATION SPECIALIST" MEANS A PERSON CURRENTLY  
18     LICENSED TO PRACTICE RECREATIONAL THERAPY IN THE STATE OF NEW YORK.

19     3. "RECREATIONAL THERAPY" OR "THERAPEUTIC RECREATION" MEANS A TREAT-  
20     MENT SERVICE DESIGNED TO RESTORE, REMEDIATE, AND REHABILITATE A PERSON'S  
21

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD01065-05-9

1 LEVEL OF FUNCTIONING AND INDEPENDENCE IN LIFE ACTIVITIES, TO PROMOTE  
2 HEALTH AND WELLNESS AS WELL AS REDUCE OR ELIMINATE THE ACTIVITY LIMITA-  
3 TIONS AND RESTRICTIONS TO PARTICIPATE IN LIFE SITUATIONS CAUSED BY AN  
4 ILLNESS OR DISABLING CONDITION.

5 (A) FOR PURPOSES OF ACCOMPLISHING THERAPEUTIC RECREATION GOALS, RECRE-  
6 ATIONAL THERAPY MAY INCLUDE, BUT NOT BE LIMITED TO:

7 (I) REMEDIATION OR RESTORATION OF AN INDIVIDUAL'S PARTICIPATION LEVELS  
8 THAT ARE LIMITED DUE TO IMPAIRMENT IN PHYSICAL, COGNITIVE, SOCIAL, OR  
9 EMOTIONAL ABILITIES;

10 (II) ANALYZING AND EVALUATING RECREATIONAL AND PSYCHOSOCIAL ACTIVITIES  
11 TO DETERMINE THE PHYSICAL, SOCIAL, EMOTIONAL AND COGNITIVE AND PROGRAM-  
12 MATIC ELEMENTS NECESSARY FOR INVOLVEMENT AND MODIFYING THOSE ELEMENTS TO  
13 PROMOTE FULL PARTICIPATION AND MAXIMIZATION OF FUNCTIONAL INDEPENDENCE;

14 (III) USING RECREATIONAL MODALITIES IN DESIGNED INTERVENTION STRATE-  
15 GIES TO MAXIMIZE PHYSICAL, COGNITIVE, SOCIAL, OR EMOTIONAL ABILITIES;

16 (IV) INCORPORATING THE INDIVIDUAL'S INTERESTS AND THE INDIVIDUAL'S  
17 FAMILY AND COMMUNITY TO MAXIMIZE RELEVANCE TO THE INDIVIDUAL'S GOALS;

18 (V) PROMOTING THE CONCEPT OF HEALTHY LIVING INTO TREATMENT STRATEGIES  
19 TO DECREASE THE POTENTIAL FOR SECONDARY CONDITIONS;

20 (VI) DEVELOPING COMMUNITY SUPPORT AND ENCOURAGING ATTITUDINAL CHANGES  
21 TO REFLECT DIGNITY, SELF RESPECT, AND INVOLVEMENT WITHIN ONE'S COMMUNI-  
22 TY; AND

23 (VII) FOSTERING PEER AND INTERGENERATIONAL RELATIONSHIPS.

24 (B) THERAPEUTIC RECREATION SERVICES INCLUDE, BUT ARE NOT LIMITED TO:

25 (I) CONDUCTING AN INDIVIDUALIZED ASSESSMENT FOR THE PURPOSE OF  
26 COLLECTING SYSTEMATIC, COMPREHENSIVE, AND ACCURATE DATA NECESSARY TO  
27 DETERMINE THE COURSE OF ACTION AND SUBSEQUENT INDIVIDUALIZED TREATMENT  
28 PLAN;

29 (II) PLANNING AND DEVELOPING THE INDIVIDUALIZED PLAN THAT IDENTIFIES  
30 AN INDIVIDUAL'S GOALS, OBJECTIVES, AND TREATMENT INTERVENTION STRATE-  
31 GIES;

32 (III) IMPLEMENTING THE INDIVIDUALIZED PLAN THAT IS CONSISTENT WITH THE  
33 OVERALL TREATMENT PROGRAM;

34 (IV) SYSTEMATICALLY EVALUATING AND COMPARING THE INDIVIDUAL'S RESPONSE  
35 TO THE INDIVIDUALIZED PLAN AND SUGGESTING MODIFICATIONS AS APPROPRIATE;

36 (V) DEVELOPING A DISCHARGE PLAN IN COLLABORATION WITH THE INDIVIDUAL,  
37 THE INDIVIDUAL'S FAMILY, AND OTHER TREATMENT TEAM MEMBERS;

38 (VI) IDENTIFYING, DESIGNING, FABRICATING, APPLYING, OR TRAINING IN THE  
39 USE OF ADAPTIVE RECREATIONAL EQUIPMENT;

40 (VII) IDENTIFYING, APPLYING, AND EVALUATING THE USE OF NON-INVASIVE  
41 AND NON-PHARMACOLOGICAL APPROACHES TO REDUCE OR ALLEVIATE PAIN OR MANAGE  
42 PAIN TO MINIMIZE ITS IMPACT UPON PARTICIPATION;

43 (VIII) IDENTIFYING, PROVIDING, AND EDUCATING INDIVIDUALS TO USE  
44 RESOURCES THAT SUPPORT A HEALTHY, ACTIVE AND ENGAGED LIFE;

45 (IX) MINIMIZE THE IMPACT OF ENVIRONMENTAL CONSTRAINTS AS A BARRIER TO  
46 PARTICIPATION;

47 (X) COLLABORATING WITH AND EDUCATING THE INDIVIDUAL, FAMILY, CAREGIV-  
48 ER, AND OTHERS TO FOSTER AN ENVIRONMENT THAT IS RESPONSIVE TO THE NEEDS  
49 OF THE INDIVIDUAL; AND

50 (XI) CONSULTING WITH GROUPS, PROGRAMS, ORGANIZATIONS, OR COMMUNITIES  
51 TO IMPROVE PHYSICAL, SOCIAL, AND PROGRAMMATIC ACCESSIBILITY.

52 S 7951. EVALUATION AND TREATMENT AUTHORIZATION. 1. CONSULTATION AND  
53 EVALUATION BY A THERAPEUTIC RECREATION SPECIALIST MAY BE PERFORMED WITH-  
54 OUT REFERRAL. INITIATION OF THERAPEUTIC RECREATION SERVICES TO INDIVID-  
55 UALS WITH MEDICALLY-RELATED CONDITIONS SHALL BE BASED ON A REFERRAL FROM  
56 ANY QUALIFIED HEALTH CARE PROFESSIONAL THAT, WITHIN THE SCOPE OF THE

PROFESSIONAL'S LICENSURE, IS AUTHORIZED TO REFER FOR HEALTH CARE SERVICES.

2. PREVENTION, WELLNESS, EDUCATION, ADAPTIVE SPORTS AND RECREATION, AND RELATED SERVICES SHALL NOT REQUIRE A REFERRAL.

S 7952. PROHIBITION ON UNAUTHORIZED PRACTICE; PROFESSIONAL IDENTIFICATION. 1. NO PERSON SHALL PRACTICE OR HOLD ONESELF OUT AS BEING ABLE TO PRACTICE THERAPEUTIC RECREATION OR PROVIDE RECREATIONAL THERAPY SERVICES IN THIS STATE UNLESS THE PERSON IS LICENSED UNDER THIS ARTICLE. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO PROHIBIT STUDENTS ENROLLED IN BOARD-APPROVED SCHOOLS OR COURSES IN THERAPEUTIC RECREATION FROM PERFORMING THERAPEUTIC RECREATION THAT IS INCIDENTAL TO THEIR RESPECTIVE COURSES OF STUDY OR SUPERVISED WORK. THE BOARD SHALL ADOPT RULES RELATIVE TO SCHOOLS OR COURSES ALLOWING STUDENTS TO PRACTICE UNDER THIS SUBDIVISION.

2. LICENSED THERAPEUTIC RECREATION SPECIALISTS MAY USE THE LETTERS TRS/L AND "CTRS/L" IN CONNECTION WITH THEIR NAME OR PLACE OF BUSINESS.

3. A PERSON OR BUSINESS ENTITY, ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES SHALL NOT USE IN CONJUNCTION WITH THAT PERSON'S NAME OR THE ACTIVITY OF THE BUSINESS THE WORDS THERAPEUTIC RECREATION SPECIALIST, THERAPEUTIC RECREATION, RECREATIONAL THERAPY, RECREATIONAL THERAPIST, RECREATION THERAPY, RECREATION THERAPIST, CERTIFIED THERAPEUTIC RECREATION SPECIALIST, THE LETTERS "TR", "RT", "TRS", "CTRS", "CTRS/L" OR ANY OTHER WORDS, ABBREVIATIONS, OR INSIGNIA INDICATING OR IMPLYING DIRECTLY OR INDIRECTLY THAT THERAPEUTIC RECREATION IS PROVIDED OR SUPPLIED, INCLUDING THE BILLING OF SERVICES LABELED AS THERAPEUTIC RECREATION OR RECREATIONAL THERAPY, UNLESS SUCH SERVICES ARE PROVIDED UNDER THE DIRECTION OF A THERAPEUTIC RECREATION SPECIALIST/RECREATIONAL THERAPIST LICENSED PURSUANT TO THIS ARTICLE. A PERSON OR ENTITY THAT VIOLATES THIS SUBDIVISION IS GUILTY OF A VIOLATION FOR THE FIRST OFFENSE AND GUILTY OF A MISDEMEANOR FOR ANY SUBSEQUENT OFFENSE.

S 7953. COERCION PROHIBITED. NO PERSON SHALL COERCE A LICENSED THERAPEUTIC RECREATION SPECIALIST INTO COMPROMISING CLIENT SAFETY BY REQUIRING THE LICENSED THERAPEUTIC RECREATION SPECIALIST TO DELEGATE ACTIVITIES OR TASKS IF THE LICENSED THERAPEUTIC RECREATION SPECIALIST DETERMINES THAT IT IS INAPPROPRIATE TO DO SO. LICENSED THERAPEUTIC RECREATION SPECIALISTS SHALL NOT BE SUBJECT TO DISCIPLINARY ACTION BY THE BOARD FOR REFUSING TO DELEGATE ACTIVITIES OR TASKS OR REFUSING TO PROVIDE THE REQUIRED TRAINING FOR DELEGATION IF THE LICENSED THERAPEUTIC RECREATION SPECIALIST DETERMINES THAT THE DELEGATION MAY COMPROMISE CLIENT SAFETY.

S 7954. ELIGIBILITY FOR LICENSURE. 1. AN APPLICANT SHALL POSSESS THE FOLLOWING QUALIFICATIONS TO BE LICENSED:

(A) BE AT LEAST EIGHTEEN YEARS OF AGE;

(B) BE OF GOOD MORAL CHARACTER;

(C) SUCCESSFULLY COMPLETE A DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY IN ACCORDANCE WITH THE REQUIREMENTS OF A NATIONAL CERTIFYING BODY SUCH AS THE NATIONAL COUNCIL FOR THERAPEUTIC RECREATION CERTIFICATION (NCTRC) AS DETERMINED BY THE NYS-TR LICENSURE BOARD.

(D) HOLD A CURRENT CERTIFICATION BY A NATIONAL CERTIFYING BODY SUCH AS THE NATIONAL COUNCIL FOR THERAPEUTIC RECREATION CERTIFICATION (NCTRC) AS DETERMINED BY THE NYS-TR LICENSURE BOARD.

2. THE BOARD MAY, UPON NOTICE AND OPPORTUNITY FOR A HEARING, DENY AN APPLICATION FOR REINSTATEMENT OF A LICENSE OR REINSTATE THE LICENSE WITH CONDITIONS. CONDITIONS IMPOSED MAY INCLUDE A REQUIREMENT FOR CONTINUING EDUCATION, PRACTICE UNDER THE SUPERVISION OF A LICENSED THERAPEUTIC

1 RECREATION SPECIALIST, OR ANY OTHER CONDITIONS SET FORTH IN THIS ARTI-  
2 CLE.

3 3. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, THE BOARD MAY  
4 GRANT LICENSES TO APPLICANTS WHO WERE CERTIFIED BY NCTRC PRIOR TO THE  
5 EFFECTIVE DATE OF THIS ARTICLE AND WHO HOLD AN ACTIVE CTRS CREDENTIAL.

6 S 7955. RENEWAL OF LICENSE. 1. PERSONS LICENSED AS THERAPEUTIC RECRE-  
7 ATION SPECIALISTS ARE ELIGIBLE FOR RENEWAL OF THEIR LICENSES IF SUCH  
8 PERSONS:

9 (A) HAVE NOT VIOLATED THIS ARTICLE OR DEMONSTRATED POOR MORAL CHARAC-  
10 TER;

11 (B) MEET CONTINUING COMPETENCY REQUIREMENTS APPROVED BY THE BOARD AND  
12 OTHER REQUIREMENTS ESTABLISHED BY THE BOARD RULES ADOPTED PURSUANT TO  
13 THIS ARTICLE; AND

14 (C) HOLD A CURRENT CERTIFICATION BY A NATIONAL CERTIFYING BODY SUCH AS  
15 THE NATIONAL COUNCIL FOR THERAPEUTIC RECREATION CERTIFICATION AS DETER-  
16 MINED BY THE NYS-TR Licensure BOARD.

17 2. THE BOARD SHALL ACCEPT CONTINUING EDUCATION PROGRAMS THAT MEET THE  
18 RECERTIFICATION STANDARDS OF THE NATIONAL COUNCIL FOR THERAPEUTIC RECRE-  
19 ATION CERTIFICATION.

20 S 7956. REVOCATION, SUSPENSION, OR DENIAL OF LICENSURE. 1. THE BOARD  
21 MAY REQUIRE REMEDIAL EDUCATION, ISSUE A LETTER OF REPRIMAND, RESTRICT,  
22 REVOKE, OR SUSPEND ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE OR DENY  
23 ANY APPLICATION FOR LICENSURE IF THE BOARD DETERMINES THAT THE LICENSEE  
24 OR APPLICANT HAS DONE ANY OF THE FOLLOWING:

25 (A) ALLOWED NATIONAL CERTIFICATION TO EXPIRE;

26 (B) GIVEN FALSE INFORMATION OR WITHHELD MATERIAL INFORMATION FROM THE  
27 BOARD IN PROCURING OR ATTEMPTING TO PROCURE A LICENSE PURSUANT TO THIS  
28 ARTICLE;

29 (C) BEEN CONVICTED OF, OR PLEADED GUILTY OR NOLO CONTENDERE TO, ANY  
30 CRIME THAT INDICATES THAT THE PERSON IS UNFIT OR INCOMPETENT TO BE  
31 LICENSED PURSUANT TO THIS ARTICLE;

32 (D) IS UNABLE TO PERFORM THE FUNCTIONS FOR WHICH A LICENSE HAS BEEN  
33 ISSUED DUE TO IMPAIRMENT OF MENTAL OR PHYSICAL FACULTIES;

34 (E) ENGAGED IN CONDUCT THAT ENDANGERS THE PUBLIC HEALTH;

35 (F) IS UNFIT OR INCOMPETENT TO BE LICENSED PURSUANT TO THIS ARTICLE BY  
36 REASON OF DELIBERATE OR NEGLIGENT ACTS OR OMISSIONS REGARDLESS OF WHETH-  
37 ER ACTIVE INJURY TO THE PATIENT OR CLIENT IS ESTABLISHED;

38 (G) ENGAGES IN CONDUCT THAT DECEIVES, DEFRAUDS, OR HARMS THE PUBLIC IN  
39 THE COURSE OF CLAIMING LICENSED STATUS OR PRACTICING THERAPEUTIC  
40 RECREATION/RECREATIONAL THERAPY;

41 (H) WILLFULLY VIOLATED ANY PROVISION OF THIS ARTICLE, RULES, OR CODE  
42 OF ETHICS ENACTED BY THE BOARD; OR

43 (I) AIDED, ABETTED, OR ASSISTED ANY PERSON IN VIOLATING THE PROVISIONS  
44 OF THIS ARTICLE.

45 2. THE BOARD MAY REINSTATE A REVOKED LICENSE OR REMOVE LICENSURE  
46 RESTRICTIONS WHEN IT FINDS THAT THE REASONS FOR REVOCATION OR  
47 RESTRICTION NO LONGER EXIST AND THAT THE PERSON CAN REASONABLY BE  
48 EXPECTED TO SAFELY AND PROPERLY PRACTICE RECREATIONAL THERAPY.

49 S 7957. RECIPROCITY. THE BOARD MAY GRANT A LICENSE TO ANY PERSON WHO,  
50 AT THE TIME OF APPLICATION, IS LICENSED AS A RECREATIONAL THERAPIST OR  
51 THERAPEUTIC RECREATION SPECIALIST BY A SIMILAR BOARD OF ANOTHER COUNTRY,  
52 STATE, OR TERRITORY WHOSE LICENSING STANDARDS ARE SUBSTANTIALLY EQUIV-  
53 ALENT TO OR HIGHER THAN THOSE REQUIRED BY THIS ARTICLE. THE BOARD SHALL  
54 DETERMINE THE SUBSTANTIAL EQUIVALENCE UPON WHICH RECIPROCITY IS BASED.

55 S 2. Section 17-a of chapter 676 of the laws of 2002, amending the  
56 education law and the social services law relating to licensing mental

1 health practitioners, as amended by section 2 of part II of chapter 57  
2 of the laws of 2009, is amended to read as follows:

3 S 17-a. Nothing in this act shall prohibit or limit the activities or  
4 services on the part of any person in the employ of a program or service  
5 operated, regulated, funded, or approved by the department of mental  
6 hygiene or the office of children and family services, or a local  
7 governmental unit as that term is defined in article 41 of the mental  
8 hygiene law or a social services district as defined in section 61 of  
9 the social services law, OR A THERAPEUTIC RECREATION SPECIALIST AS  
10 DEFINED IN ARTICLE 156-A OF THE EDUCATION LAW provided, however, this  
11 section shall not authorize the use of any title authorized pursuant to  
12 article 153, 156-A or 163 of the education law, except as otherwise  
13 provided by such articles, except that this section shall be deemed  
14 repealed on June 1, 2010.

15 S 3. This act shall take effect on the first of January next succeed-  
16 ing the date on which it shall have become a law; provided, however,  
17 that the amendments made to section 17-a of chapter 676 of the laws of  
18 2002 by section two of this act shall not affect the repeal of such  
19 section and shall be deemed repealed therewith; provided further that  
20 the department of education is authorized to promulgate any and all  
21 rules and regulations and take any other measures necessary to implement  
22 the provisions of this act on or before the effective date.