S T A T E O F N E W Y O R K

4561

2011-2012 Regular Sessions

I N S E N A T E

April 12, 2011

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

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:

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

ARTICLE 156-A

THERAPEUTIC RECREATION SPECIALISTS

SECTION 7950. DEFINITIONS.
7951. EVALUATION AND TREATMENT AUTHORIZATION.
7952. PROHIBITION ON UNAUTHORIZED PRACTICE; PROFESSIONAL IDENTIFICATION.
7953. COERCION PROHIBITED.
7954. ELIGIBILITY FOR LICENSURE.
7955. RENEWAL OF LICENSE.
7956. REVOCATION, SUSPENSION, OR DENIAL OF LICENSURE.
7957. RECIPROCITY.

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

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

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

3. "RECREATIONAL THERAPY" OR "THERAPEUTIC RECREATION" MEANS A TREATMENT SERVICE DESIGNED TO RESTORE, REMEDIATE, AND REHABILITATE A PERSON'S

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

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LEVEL OF FUNCTIONING AND INDEPENDENCE IN LIFE ACTIVITIES, TO PROMOTE HEALTH AND WELLNESS AS WELL AS REDUCE OR ELIMINATE THE ACTIVITY LIMITATIONS AND RESTRICTIONS TO PARTICIPATE IN LIFE SITUATIONS CAUSED BY AN ILLNESS OR DISABLING CONDITION.

(A) FOR PURPOSES OF ACCOMPLISHING THERAPEUTIC RECREATION GOALS, RECREATIONAL THERAPY MAY INCLUDE, BUT NOT BE LIMITED TO:

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

(II) ANALYZING AND EVALUATING RECREATIONAL AND PSYCHOSOCIAL ACTIVITIES TO DETERMINE THE PHYSICAL, SOCIAL, EMOTIONAL AND COGNITIVE AND PROGRAMMATIC ELEMENTS NECESSARY FOR INVOLVEMENT AND MODIFYING THOSE ELEMENTS TO PROMOTE FULL PARTICIPATION AND MAXIMIZATION OF FUNCTIONAL INDEPENDENCE;

(III) USING RECREATIONAL MODALITIES IN DESIGNED INTERVENTION STRATEGIES TO MAXIMIZE PHYSICAL, COGNITIVE, SOCIAL, OR EMOTIONAL ABILITIES;

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

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

(VI) DEVELOPING COMMUNITY SUPPORT AND ENCOURAGING ATTITUDINAL CHANGES TO REFLECT DIGNITY, SELF RESPECT, AND INVOLVEMENT WITHIN ONE'S COMMUNITY; AND

(VII) FOSTERING PEER AND INTERGENERATIONAL RELATIONSHIPS.

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

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

(II) PLANNING AND DEVELOPING THE INDIVIDUALIZED PLAN THAT IDENTIFIES AN INDIVIDUAL'S GOALS, OBJECTIVES, AND TREATMENT INTERVENTION STRATEGIES;

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

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

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

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

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

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

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

(X) COLLABORATING WITH AND EDUCATING THE INDIVIDUAL, FAMILY, CAREGIVER, AND OTHERS TO FOSTER AN ENVIRONMENT THAT IS RESPONSIVE TO THE NEEDS OF THE INDIVIDUAL; AND

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

S 7951. EVALUATION AND TREATMENT AUTHORIZATION. 1. CONSULTATION AND EVALUATION BY A THERAPEUTIC RECREATION SPECIALIST MAY BE PERFORMED WITHOUT REFERRAL. INITIATION OF THERAPEUTIC RECREATION SERVICES TO INDIVIDUALS WITH MEDICALLY-RELATED CONDITIONS SHALL BE BASED ON A REFERRAL FROM 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

RECREATION SPECIALIST, OR ANY OTHER CONDITIONS SET FORTH IN THIS ARTICLE.

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

S 7955. RENEWAL OF LICENSE. 1. PERSONS LICENSED AS THERAPEUTIC RECREATION SPECIALISTS ARE ELIGIBLE FOR RENEWAL OF THEIR LICENSES IF SUCH PERSONS:

(A) HAVE NOT VIOLATED THIS ARTICLE OR DEMONSTRATED POOR MORAL CHARACTER;

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

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

2. THE BOARD SHALL ACCEPT CONTINUING EDUCATION PROGRAMS THAT MEET THE RECERTIFICATION STANDARDS OF THE NATIONAL COUNCIL FOR THERAPEUTIC RECREATION CERTIFICATION.

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

(A) ALLOWED NATIONAL CERTIFICATION TO EXPIRE;

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

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

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

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

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

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

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

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

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

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

S 2. Paragraph a of section 17-a of chapter 676 of the laws of 2002, amending the education law and the social services law relating to

licensing mental health practitioners, as amended by chapter 130 of the laws of 2010, is amended to read as follows:

a. In relation to activities and services provided under article 153 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene or the office of children and family services, or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law OR A THERAPEUTIC RECREATION SPECIALIST AS DEFINED IN ARTICLE 156-A OF THE EDUCATION LAW. In relation to activities and services provided under article 163 of the education law, nothing in this act shall prohibit or limit such activities or services on the part of any person in the employ of a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of correctional services, the state office for the aging and the department of health or a local governmental unit as that term is defined in article 41 of the mental hygiene law or a social services district as defined in section 61 of the social services law, pursuant to authority granted by law. This section shall not authorize the use of any title authorized pursuant to article 153, 156-A or 163 of the education law by any such employed person, except as otherwise provided by such articles respectively.

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