

3754--A

2015-2016 Regular Sessions

I N S E N A T E

February 17, 2015

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to defining the practice of recreational therapy and establishing procedures for licensure of recreational therapists and requirements for continuing education for recreational therapists

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 158 to
2 read as follows:

3 ARTICLE 158
4 RECREATION THERAPY

5 SECTION 8100. INTRODUCTION.
6 8101. DEFINITIONS.
7 8102. PRACTICE OF RECREATION THERAPY AND USE OF TITLE "RECRE-
8 ATION THERAPIST".
9 8103. STATE BOARD FOR RECREATION THERAPY.
10 8104. REQUIREMENTS FOR A PROFESSIONAL LICENSE.
11 8105. LIMITED PERMITS.
12 8106. EXEMPT PERSONS.
13 8107. SPECIAL CONDITIONS.
14 8108. MANDATORY CONTINUING COMPETENCY.
15 S 8100. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION OF RECRE-
16 ATION THERAPY. THE GENERAL PROVISIONS FOR ALL PROFESSIONS CONTAINED IN
17 ARTICLE ONE HUNDRED THIRTY OF THIS TITLE APPLY TO THIS ARTICLE.
18 S 8101. DEFINITIONS. AS USED IN THIS ARTICLE:

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

LBD00750-02-5

1 1. "PRACTICE OF THE PROFESSION OF RECREATION THERAPY" MEANS THE
2 CONTINUAL FUNCTIONAL EVALUATION OF THE CLIENT, THE PLANNING AND IMPL-
3 MENTATION OF A PROGRAM OF RECREATION AND/OR LEISURE ACTIVITIES, THE
4 DEVELOPMENT AND UTILIZATION OF A TREATMENT PROGRAM, AND/OR CONSULTATION
5 WITH THE CLIENT, FAMILY, CAREGIVER OR ORGANIZATION IN ORDER TO RESTORE,
6 DEVELOP OR MAINTAIN ADAPTIVE SKILLS, AND/OR PERFORMANCE ABILITIES
7 DESIGNED TO ACHIEVE MAXIMAL PHYSICAL, COGNITIVE, SOCIAL, EMOTIONAL, AND
8 MENTAL FUNCTIONING OF THE CLIENT USING RECREATION AND LEISURE INTER-
9 VENTIONS. IT IS A TREATMENT PROGRAM DESIGNED TO PROMOTE HEALTH AND WELL-
10 NESS; RESTORE, REMEDIATE AND/OR REHABILITATE FUNCTION AND INDEPENDENCE;
11 AND REDUCE/ELIMINATE ANY LIMITATIONS CAUSED BY AN ILLNESS OR DISABLING
12 CONDITION. THE TREATMENT PROGRAM SHALL BE RENDERED ON THE APPROVAL OR
13 REFERRAL OF A PHYSICIAN, NURSE PRACTITIONER OR OTHER HEALTH CARE PROVID-
14 ER ACTING WITHIN HIS OR HER SCOPE OF PRACTICE PURSUANT TO THIS TITLE.
15 PREVENTION, WELLNESS, EDUCATION, ADAPTIVE SPORTS AND RECREATION AND
16 RELATED SERVICES SHALL NOT REQUIRE A REFERRAL. HOWEVER, NOTHING
17 CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PERMIT ANY LICENSEE
18 HEREUNDER TO PRACTICE OCCUPATIONAL THERAPY, MEDICINE OR PSYCHOLOGY,
19 INCLUDING PSYCHOTHERAPY OR TO OTHERWISE EXPAND SUCH LICENSEE'S SCOPE OF
20 PRACTICE BEYOND WHAT IS AUTHORIZED BY THIS CHAPTER.

21 2. "BOARD" MEANS THE STATE BOARD FOR RECREATION THERAPY ESTABLISHED
22 PURSUANT TO SECTION EIGHTY-ONE HUNDRED THREE OF THIS ARTICLE.

23 S 8102. PRACTICE OF RECREATION THERAPY AND USE OF TITLE "RECREATION
24 THERAPIST". NO PERSON SHALL PRACTICE OR HOLD ONESELF OUT AS BEING ABLE
25 TO PRACTICE RECREATION THERAPY IN THIS STATE UNLESS THE PERSON IS
26 LICENSED, AUTHORIZED OR EXEMPT UNDER THIS ARTICLE. NOTHING IN THIS PARA-
27 GRAPH SHALL BE CONSTRUED TO PROHIBIT STUDENTS ENROLLED IN BOARD-APPROVED
28 SCHOOLS OR COURSES IN RECREATION THERAPY FROM PERFORMING SERVICES THAT
29 ARE INCIDENTAL TO THEIR RESPECTIVE COURSES OF STUDY OR SUPERVISED WORK.
30 THE BOARD SHALL ADOPT RULES RELATIVE TO SCHOOLS OR COURSES ALLOWING
31 STUDENTS TO PRACTICE UNDER THIS SUBDIVISION. ONLY A PERSON LICENSED
32 UNDER THIS ARTICLE SHALL USE THE TITLE "LICENSED RECREATION THERAPIST"
33 OR "THERAPEUTIC RECREATION SPECIALIST".

34 S 8103. STATE BOARD FOR RECREATION THERAPY. A STATE BOARD FOR RECRE-
35 ATION THERAPY SHALL BE APPOINTED BY THE BOARD OF REGENTS ON THE RECOM-
36 MENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF
37 REGENTS AND THE DEPARTMENT ON MATTERS OF PROFESSIONAL LICENSING AND
38 PROFESSIONAL CONDUCT. THE BOARD SHALL BE COMPOSED OF NOT LESS THAN FIVE
39 LICENSED RECREATION THERAPISTS, AND ONE MEMBER OF THE PUBLIC WHO IS NOT
40 LICENSED UNDER THIS TITLE. AN EXECUTIVE SECRETARY TO THE BOARD SHALL BE
41 APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER.

42 S 8104. REQUIREMENTS FOR A PROFESSIONAL LICENSE. TO QUALIFY FOR A
43 LICENSE AS A RECREATION THERAPIST, AN APPLICANT SHALL FULFILL THE
44 FOLLOWING REQUIREMENTS:

45 1. FILE AN APPLICATION WITH THE DEPARTMENT;

46 2. HAVE SATISFACTORILY COMPLETED AN APPROVED RECREATION THERAPY
47 CURRICULUM IN A BACCALAUREATE, MASTER'S, OR DOCTORATE PROGRAM OR A
48 POST-BACCALAUREATE CERTIFICATE FROM AN INSTITUTION ACCEPTABLE TO THE
49 DEPARTMENT;

50 3. A. HAVE COMPLETED A FIELD EXPERIENCE IN RECREATION THERAPY WHICH
51 WAS UNDER THE SUPERVISION OF QUALIFIED SUPERVISORS AND WHERE SUPERVISION
52 AND EXPERIENCE SHALL BE SATISFACTORY TO THE BOARD OF RECREATION THERAPY
53 AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS, OR;

54 B. HAVE A SUPERVISED RECREATION THERAPY WORK EXPERIENCE IN WHICH
55 SUPERVISION AND EXPERIENCE SHALL BE SATISFACTORY TO THE BOARD OF RECRE-
56 ATION THERAPY AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

1 4. PASS AN EXAMINATION SATISFACTORY TO THE BOARD OF RECREATION THERAPY
2 AND IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS;

3 5. BE AT LEAST TWENTY-ONE YEARS OF AGE;

4 6. BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT; AND

5 7. PAY A FEE OF ONE HUNDRED FORTY DOLLARS TO THE DEPARTMENT FOR ADMIS-
6 SION TO A DEPARTMENT CONDUCTED EXAMINATION, IF APPLICABLE, AND A FEE OF
7 SEVENTY DOLLARS FOR EACH RE-EXAMINATION, AND A FEE OF ONE HUNDRED
8 FIFTY-FIVE DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD.

9 S 8105. LIMITED PERMITS. THE FOLLOWING REQUIREMENTS FOR A LIMITED
10 PERMIT SHALL APPLY TO ALL PROFESSIONALS LICENSED OR CERTIFIED PURSUANT
11 TO THIS ARTICLE.

12 1. THE DEPARTMENT MAY ISSUE A LIMITED PERMIT TO AN APPLICANT WHO MEETS
13 ALL QUALIFICATIONS FOR LICENSURE, EXCEPT THE EXAMINATION AND/OR EXPERI-
14 ENCE REQUIREMENTS, IN ACCORDANCE WITH REGULATIONS PROMULGATED THEREFOR.

15 2. LIMITED PERMITS SHALL BE FOR ONE YEAR; SUCH LIMITED PERMITS MAY BE
16 RENEWED, AT THE DISCRETION OF THE DEPARTMENT, FOR ONE ADDITIONAL YEAR.

17 3. THE FEE FOR EACH LIMITED PERMIT AND FOR EACH RENEWAL SHALL BE
18 SEVENTY DOLLARS.

19 4. A LIMITED PERMIT HOLDER SHALL PRACTICE ONLY UNDER SUPERVISION AS
20 DETERMINED IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS.

21 S 8106. EXEMPT PERSONS. THIS ARTICLE SHALL NOT BE CONSTRUED TO AFFECT
22 OR PREVENT THE FOLLOWING, PROVIDED THAT NO TITLE, SIGN, CARD OR DEVICE
23 SHALL BE USED IN SUCH MANNER AS TO TEND TO CONVEY THE IMPRESSION THAT
24 THE PERSON RENDERING SUCH SERVICE IS A LICENSED RECREATION THERAPIST:

25 1. A LICENSED PHYSICIAN FROM PRACTICING HIS OR HER PROFESSION AS
26 DEFINED UNDER ARTICLE ONE HUNDRED THIRTY-ONE AND ARTICLE ONE HUNDRED
27 THIRTY-ONE-B OF THIS TITLE;

28 2. QUALIFIED MEMBERS OF OTHER LICENSED OR LEGALLY RECOGNIZED
29 PROFESSIONS FROM PERFORMING WORK INCIDENTAL TO THE PRACTICE OF THEIR
30 PROFESSION, EXCEPT THAT SUCH PERSONS MAY NOT HOLD THEMSELVES OUT UNDER
31 THE TITLE RECREATION THERAPIST;

32 3. A STUDENT FROM ENGAGING IN CLINICAL PRACTICE AS PART OF AN APPROVED
33 PROGRAM IN RECREATION THERAPY; OR

34 4. AN EMPLOYEE OF A FEDERAL, STATE OR CITY AGENCY FROM USING THE TITLE
35 OR PRACTICING AS A RECREATION THERAPIST INsofar AS SUCH ACTIVITIES ARE
36 REQUIRED BY HIS OR HER SALARIED POSITION AND THE USE OF SUCH TITLE SHALL
37 BE LIMITED TO SUCH EMPLOYMENT.

38 S 8107. SPECIAL CONDITIONS. 1. ANY NONEXEMPT PERSON PRACTICING A
39 PROFESSION TO BE LICENSED PURSUANT TO THIS ARTICLE SHALL APPLY FOR A
40 LICENSE OF SAID PROFESSION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THE
41 SPECIFIED PROFESSION EXCEPT:

42 1. IF SUCH PERSON DOES NOT MEET THE REQUIREMENTS FOR A LICENSE ESTAB-
43 LISHED WITHIN THIS ARTICLE, SUCH PERSON MAY MEET ALTERNATIVE CRITERIA
44 DETERMINED BY THE BOARD OF RECREATION THERAPY TO BE THE SUBSTANTIAL
45 EQUIVALENT OF SUCH CRITERIA; OR

46 2. IF SUCH PERSON MEETS THE REQUIREMENTS FOR A LICENSE ESTABLISHED
47 WITHIN THIS ARTICLE, EXCEPT FOR EXAMINATION, AND HAS BEEN CERTIFIED OR
48 REGISTERED BY A NATIONAL CERTIFYING OR REGISTERING BODY HAVING CERTIF-
49 ICATION OR REGISTRATION STANDARDS ACCEPTABLE TO THE COMMISSIONER, THE
50 DEPARTMENT SHALL LICENSE WITHOUT EXAMINATION.

51 S 8108. MANDATORY CONTINUING COMPETENCY. 1. A. EACH LICENSED RECRE-
52 ATION THERAPIST SHALL REGISTER TRIENNIALLY WITH THE DEPARTMENT TO PRAC-
53 TICE IN THE STATE AND MUST COMPLY WITH THE PROVISIONS OF THE MANDATORY
54 CONTINUING COMPETENCY REQUIREMENTS PRESCRIBED IN SUBDIVISION TWO OF THIS
55 SECTION, EXCEPT AS PROVIDED IN PARAGRAPHS B AND C OF THIS SUBDIVISION.
56 THOSE WHO DO NOT SATISFY THE MANDATORY CONTINUING COMPETENCY REQUIRE-

MENTS SHALL NOT BE AUTHORIZED TO PRACTICE UNTIL THEY HAVE MET SUCH REQUIREMENTS, AND THEY HAVE BEEN ISSUED A REGISTRATION CERTIFICATE, EXCEPT THAT THEY MAY PRACTICE WITHOUT HAVING MET SUCH REQUIREMENTS IF HE OR SHE IS ISSUED A CONDITIONAL REGISTRATION PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

B. RECREATION THERAPISTS SHALL BE EXEMPT FROM THE MANDATORY CONTINUING COMPETENCY REQUIREMENT FOR THE TRIENNIAL REGISTRATION PERIOD DURING WHICH THEY ARE FIRST LICENSED. ADJUSTMENT TO THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS MAY BE GRANTED BY THE DEPARTMENT FOR REASONS OF HEALTH OF THE LICENSEE WHERE CERTIFIED BY AN APPROPRIATE HEALTH CARE PROFESSIONAL, FOR EXTENDED ACTIVE DUTY WITH THE ARMED FORCES OF THE UNITED STATES, OR FOR OTHER GOOD CAUSE ACCEPTABLE TO THE DEPARTMENT WHICH MAY PREVENT COMPLIANCE.

C. A LICENSED RECREATION THERAPIST NOT ENGAGED IN PRACTICE, AS DETERMINED BY THE DEPARTMENT, SHALL BE EXEMPT FROM THE MANDATORY CONTINUING COMPETENCY REQUIREMENT UPON THE FILING OF A STATEMENT WITH THE DEPARTMENT DECLARING SUCH STATUS. ANY LICENSEE WHO RETURNS TO THE PRACTICE OF RECREATION THERAPY DURING THE TRIENNIAL REGISTRATION PERIOD SHALL NOTIFY THE DEPARTMENT PRIOR TO REENTERING THE PROFESSION AND SHALL MEET SUCH MANDATORY CONTINUING COMPETENCY REQUIREMENTS AS SHALL BE PRESCRIBED BY REGULATIONS OF THE COMMISSIONER.

2. A. DURING EACH TRIENNIAL REGISTRATION PERIOD AN APPLICANT FOR REGISTRATION AS A RECREATION THERAPIST SHALL COMPLETE A MINIMUM OF THIRTY HOURS OF LEARNING ACTIVITIES WHICH CONTRIBUTE TO CONTINUING COMPETENCE, AS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION, PROVIDED FURTHER THAT AT LEAST TWENTY HOURS SHALL BE IN AREAS OF STUDY PERTINENT TO THE SCOPE OF PRACTICE OF RECREATION THERAPY. WITH THE EXCEPTION OF CONTINUING EDUCATION HOURS TAKEN DURING THE REGISTRATION PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THIS SECTION, CONTINUING EDUCATION HOURS TAKEN DURING ONE TRIENNIUM MAY NOT BE TRANSFERRED TO A SUBSEQUENT TRIENNIUM.

B. THEREAFTER, A LICENSEE WHO HAS NOT SATISFIED THE MANDATORY CONTINUING COMPETENCY REQUIREMENTS SHALL NOT BE ISSUED A TRIENNIAL REGISTRATION CERTIFICATE BY THE DEPARTMENT AND SHALL NOT PRACTICE UNLESS AND UNTIL A CONDITIONAL REGISTRATION CERTIFICATE IS ISSUED AS PROVIDED FOR IN SUBDIVISION THREE OF THIS SECTION.

3. THE DEPARTMENT, IN ITS DISCRETION, MAY ISSUE A CONDITIONAL REGISTRATION TO A LICENSEE WHO FAILS TO MEET THE CONTINUING COMPETENCY REQUIREMENTS ESTABLISHED IN SUBDIVISION TWO OF THIS SECTION, BUT WHO AGREES TO MAKE UP ANY DEFICIENCIES AND COMPLETE ANY ADDITIONAL LEARNING ACTIVITIES WHICH THE DEPARTMENT MAY REQUIRE. THE FEE FOR SUCH A CONDITIONAL REGISTRATION SHALL BE THE SAME AS, AND IN ADDITION TO, THE FEE FOR THE TRIENNIAL REGISTRATION. THE DURATION OF SUCH CONDITIONAL REGISTRATION SHALL BE DETERMINED BY THE DEPARTMENT BUT SHALL NOT EXCEED ONE YEAR. ANY LICENSEE WHO IS NOTIFIED OF THE DENIAL OF REGISTRATION FOR FAILURE TO SUBMIT EVIDENCE, SATISFACTORY TO THE DEPARTMENT, OF REQUIRED CONTINUING COMPETENCY LEARNING ACTIVITIES AND WHO PRACTICES WITHOUT SUCH REGISTRATION MAY BE SUBJECT TO DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

4. AS USED IN SUBDIVISION TWO OF THIS SECTION, "ACCEPTABLE LEARNING ACTIVITIES" SHALL MEAN ACTIVITIES WHICH CONTRIBUTE TO PROFESSIONAL PRACTICE IN RECREATION THERAPY, AND WHICH MEET THE STANDARDS PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER. SUCH LEARNING ACTIVITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, COLLEGIATE LEVEL CREDIT AND NON-CREDIT COURSES, PUBLICATIONS IN PROFESSIONAL JOURNALS AND PROFESSIONAL DEVELOPMENT PROGRAMS; SUCH LEARNING ACTIVITIES MAY BE OFFERED AND SPONSORED BY

1 NATIONAL, STATE AND LOCAL PROFESSIONAL ASSOCIATIONS AND OTHER ORGANIZA-
2 TIONS OR PARTIES ACCEPTABLE TO THE DEPARTMENT, AND ANY OTHER ORGANIZED
3 EDUCATIONAL AND TECHNICAL LEARNING ACTIVITIES ACCEPTABLE TO THE DEPART-
4 MENT. THE DEPARTMENT MAY, IN ITS DISCRETION AND AS NEEDED TO CONTRIBUTE
5 TO THE HEALTH AND WELFARE OF THE PUBLIC, REQUIRE THE COMPLETION OF
6 CONTINUING COMPETENCY LEARNING ACTIVITIES IN SPECIFIC SUBJECTS TO
7 FULFILL THIS MANDATORY CONTINUING COMPETENCY REQUIREMENT. LEARNING
8 ACTIVITIES MUST BE TAKEN FROM A SPONSOR APPROVED BY THE DEPARTMENT,
9 PURSUANT TO THE REGULATIONS OF THE COMMISSIONER.

10 5. RECREATION THERAPISTS SHALL MAINTAIN ADEQUATE DOCUMENTATION OF
11 COMPLETION OF ACCEPTABLE CONTINUING COMPETENCY LEARNING ACTIVITIES AND
12 SHALL PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE DEPARTMENT. FAIL-
13 URE TO PROVIDE SUCH DOCUMENTATION UPON REQUEST OF THE DEPARTMENT SHALL
14 BE AN ACT OF MISCONDUCT SUBJECT TO THE DISCIPLINARY PROCEEDINGS PURSUANT
15 TO SECTION SIXTY-FIVE HUNDRED TEN OF THIS TITLE.

16 6. THE MANDATORY CONTINUING COMPETENCY FEE SHALL BE FORTY-FIVE DOLLARS
17 FOR RECREATION THERAPISTS, SHALL BE PAYABLE ON OR BEFORE THE FIRST DAY
18 OF EACH TRIENNIAL REGISTRATION PERIOD, AND SHALL BE PAID IN ADDITION TO
19 THE TRIENNIAL REGISTRATION FEE REQUIRED.

20 S 2. This act shall take effect on the one hundred twentieth day after
21 it shall have become a law.