STATE OF NEW YORK

4299

2023-2024 Regular Sessions

IN SENATE

February 7, 2023

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 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:

Section 1. The education law is amended by adding a new article 158 to read as follows:

ARTICLE 158
RECREATION THERAPY

Section 8100. Introduction.
8101. Definitions.
8102. Practice of recreation therapy and use of title "recreation therapist".
8103. State board for recreation therapy.
8104. Requirements for a professional license.
8105. Limited permits.
8106. Exempt persons.
8107. Special conditions.
8108. Mandatory continuing competency.

§ 8100. Introduction. This article applies to the profession of recreation therapy. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8101. Definitions. As used in this article:

1. "Practice of the profession of recreation therapy" means the continual functional evaluation of the client, the planning and implementation of a program of recreation and/or leisure activities, the

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

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development and utilization of a treatment program, and/or consultation with the client, family, caregiver or organization in order to restore, develop or maintain adaptive skills, and/or performance abilities designed to achieve maximal physical, cognitive, social, emotional, and mental functioning of the client using recreation and leisure interventions. It is a treatment program designed to promote health and wellness; restore, remediate and/or rehabilitate function and independence; and reduce/eliminate any limitations caused by an illness or disabling condition. The treatment program shall be rendered on the approval or referral of a physician, nurse practitioner or other health care provider acting within his or her scope of practice pursuant to this title. Prevention, wellness, education, adaptive sports and recreation and related services shall not require a referral. However, nothing contained in this article shall be construed to permit any licensee hereunder to practice occupational therapy, medicine or psychology, including psychotherapy or to otherwise expand such licensee's scope of practice beyond what is authorized by this chapter.

2. "Board" means the state board for recreation therapy established pursuant to section eighty-one hundred three of this article.

§ 8102. Practice of recreation therapy and use of title "recreation therapist". No person shall practice or hold oneself out as being able to practice recreation therapy in this state unless the person is licensed, authorized or exempt under this article. Nothing in this paragraph shall be construed to prohibit students enrolled in board-approved schools or courses in recreation therapy from performing services that are 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. Only a person licensed under this article shall use the title "licensed recreation therapist" or "therapeutic recreation specialist".

§ 8103. State board for recreation therapy. A state board for recreation therapy shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct. The board shall be composed of not less than five licensed recreation therapists, and one member of the public who is not licensed under this title. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 8104. Requirements for a professional license. To qualify for a license as a recreation therapist, an applicant shall fulfill the following requirements:

1. file an application with the department;

2. have satisfactorily completed an approved recreation therapy curriculum in a baccalaureate, master's, or doctorate program or a post-baccalaureate certificate from an institution acceptable to the department;

3. a. have completed a field experience in recreation therapy which was under the supervision of qualified supervisors and where supervision and experience shall be satisfactory to the board of recreation therapy and in accordance with the commissioner's regulations, or;

b. have a supervised recreation therapy work experience in which supervision and experience shall be satisfactory to the board of recreation therapy and in accordance with the commissioner's regulations;

4. pass an examination satisfactory to the board of recreation therapy and in accordance with the commissioner's regulations;

5. be at least twenty-one years of age;

6. be of good moral character as determined by the department; and

7. pay a fee of one hundred forty dollars to the department for admission to a department conducted examination, if applicable, and a fee of seventy dollars for each re-examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 8105. Limited permits. The following requirements for a limited permit shall apply to all professionals licensed or certified pursuant to this article.

1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination and/or experience requirements, in accordance with regulations promulgated therefor.

2. Limited permits shall be for one year; such limited permits may be renewed, at the discretion of the department, for one additional year.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

4. A limited permit holder shall practice only under supervision as determined in accordance with the commissioner's regulations.

§ 8106. Exempt persons. This article shall not be construed to affect or prevent the following, provided that no title, sign, card or device shall be used in such manner as to tend to convey the impression that the person rendering such service is a licensed recreation therapist:

1. a licensed physician from practicing his or her profession as defined under article one hundred thirty-one and article one hundred thirty-one-B of this title;

2. qualified members of other licensed or legally recognized professions from performing work incidental to the practice of their profession, except that such persons may not hold themselves out under the title recreation therapist;

3. a student from engaging in clinical practice as part of an approved program in recreation therapy; or

4. an employee of a federal, state or city agency from using the title or practicing as a recreation therapist insofar as such activities are required by his or her salaried position and the use of such title shall be limited to such employment.

§ 8107. Special conditions. Any nonexempt person practicing a profession to be licensed pursuant to this article shall apply for a license of said profession within one year of the effective date of the specified profession except:

1. if such person does not meet the requirements for a license established within this article, such person may meet alternative criteria determined by the board of recreation therapy to be the substantial equivalent of such criteria; or

2. if such person meets the requirements for a license established within this article, except for examination, and has been certified or registered by a national certifying or registering body having certification or registration standards acceptable to the commissioner, the department shall license without examination.

§ 8108. Mandatory continuing competency. 1. a. Each licensed recreation therapist shall register triennially with the department to practice in the state and must comply with the provisions of the mandatory continuing competency requirements prescribed in subdivision two of this section, except as provided in paragraphs b and c of this subdivision. Those who do not satisfy the mandatory continuing competency requirements 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 national, state and local professional associations and other organizations or parties acceptable to the department, and any other organized educational and technical learning activities acceptable to the depart-

ment. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing competency learning activities in specific subjects to fulfill this mandatory continuing competency requirement. Learning activities must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Recreation therapists shall maintain adequate documentation of completion of acceptable continuing competency learning activities and shall provide such documentation at the request of the department. Failure to provide such documentation upon request of the department shall be an act of misconduct subject to the disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

6. The mandatory continuing competency fee shall be forty-five dollars for recreation therapists, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required.

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