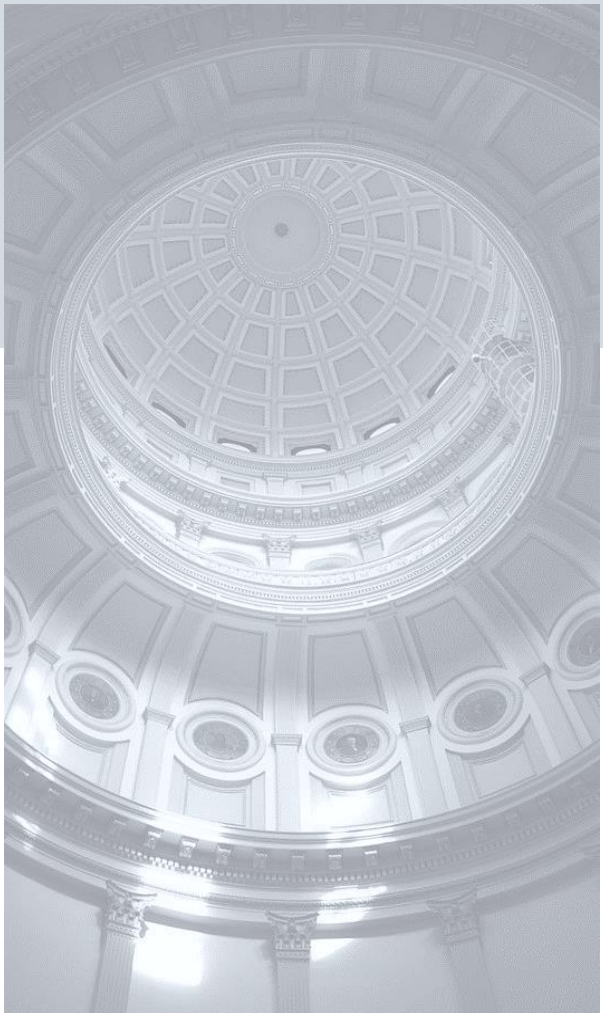
COLORADO

Department of Regulatory Agencies

Colorado Office of Policy, Research & Regulatory Reform

2019 Sunrise Review

Music Therapists



October 15, 2019

COLORADO
Department of Regulatory Agencies
Executive Director's Office

October 15, 2019

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The General Assembly established the sunrise review process in 1985 as a way to determine whether regulation of a certain profession or occupation is necessary before enacting laws for such regulation and to determine the least restrictive regulatory alternative consistent with the public interest. Since that time, Colorado's sunrise process has gained national recognition and is routinely highlighted as a best practice as governments seek to streamline regulation and increase efficiencies.

Section 24-34-104.1, Colorado Revised Statutes, directs the Department of Regulatory Agencies to conduct an analysis and evaluation of proposed regulation to determine whether the public needs, and would benefit from, the regulation.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR), located within my office, is responsible for fulfilling these statutory mandates. Accordingly, COPRRR has completed its evaluation of the sunrise application for the regulation of music therapists and is pleased to submit this written report.

The report discusses the question of whether there is a need for regulation in order to protect the public from potential harm, whether regulation would serve to mitigate the potential harm, and whether the public can be adequately protected by other means in a more cost-effective manner.

Sincerely,

Patty Salazar
Executive Director

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Background

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunrise Process

Colorado law, section 24-34-104.1, Colorado Revised Statutes (C.R.S.), requires that individuals or groups proposing legislation to regulate any occupation or profession first submit information to the Department of Regulatory Agencies (DORA) for the purposes of a sunrise review. The intent of the law is to impose regulation on occupations and professions only when it is necessary to protect the public health, safety or welfare. DORA's Colorado Office of Policy, Research and Regulatory Reform (COPRRR) must prepare a report evaluating the justification for regulation based upon the criteria contained in the sunrise statute:[1]

> (I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public, and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
>
> (II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence;

[1] § 24-34-104.1(4)(b), C.R.S.

(III) Whether the public can be adequately protected by other means in a more cost-effective manner; and
(IV) Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

Any professional or occupational group or organization, any individual, or any other interested party may submit an application for the regulation of an unregulated occupation or profession. Applications must be accompanied by supporting signatures and must include a description of the proposed regulation and justification for such regulation.

Methodology

During the sunrise review, COPRRR staff performed a literature search; contacted and interviewed the sunrise applicant; reviewed licensure laws in other states; surveyed other states for complaint and disciplinary history; and interviewed music therapists, and their clients and families. To determine the number and types of complaints filed against music therapists in Colorado, COPRRR staff contacted the Attorney General's Office, Consumer Protection Section; the Department of Regulatory Agencies' Division of Professions and Occupations; and the Better Business Bureau serving Greater Denver and Central Colorado.

Profile of the Profession

Music therapy is defined as the therapeutic use of music, which may involve listening to music, singing, playing musical instruments or composing music, in order to reduce anxiety, improve cognitive functioning, promote physical rehabilitation or enhance interpersonal communication.[2]

Music therapy is used in a wide variety of clinical and educational settings. Music therapists may work in schools, rehabilitation centers, hospitals, hospice, nursing homes, community centers and in clients' homes.[3] They often work with other health-care and education professionals to assess an individual's needs and to develop a treatment plan.

Music therapy may be used to enhance an individual's well-being by helping them to cope with stress.[4] It may also help people with mental and behavioral health conditions—such as substance abuse, schizophrenia, paranoia, personality disorders and anxiety—to improve social interaction, develop coping skills, reduce stress and express feelings.[5]

Music therapists may work with young children with autism in order to help develop communication and social skills.[6]

Music therapists also work with geriatric populations who are vulnerable to anxiety, depression and disease-related pain. Music not only provides older people with enjoyment, relaxation and an opportunity to socialize and reminisce about music, it can also help to alleviate pain.[7]

Music therapy may be used to help patients with dementia access memories through the music of the patient's youth. By doing this, music can provide comfort, motivation and relaxation and also help patients complete the activities of daily living.[8] Music therapy has also been shown to help patients with Alzheimer's disease to focus and temporarily become more responsive and less agitated.[9]

[2] Merriam Webster. *Definition of Music Therapy*. Retrieved August 20, 2019, from https://www.merriam-webster.com/dictionary/music%20therapy
[3] Medical Dictionary. *Definition of Music Therapy*. Retrieved August 20, 2019, from https://medical-dictionary.thefreedictionary.com/music+therapy
[4] Britannica Online Encyclopedia. *Music Therapy*. Retrieved on June 19, 2019, from https://www.britannica.com/topic/music-therapy
[5] Medical Dictionary. *Definition of Music Therapy*. Retrieved August 20, 2019, from https://medical-dictionary.thefreedictionary.com/music+therapy
[6] Britannica Online Encyclopedia. *Music Therapy*. Retrieved on June 19, 2019, from https://www.britannica.com/topic/music-therapy
[7] Medical Dictionary. *Definition of Music Therapy*. Retrieved August 20, 2019, from https://medical-dictionary.thefreedictionary.com/music+therapy
[8] Britannica Online Encyclopedia. *Music Therapy*. Retrieved on June 19, 2019, from https://www.britannica.com/topic/music-therapy
[9] Medical Dictionary. *Definition of Music Therapy*. Retrieved August 20, 2019, from https://medical-dictionary.thefreedictionary.com/music+therapy

Patients who are preparing for surgery, childbirth, chemotherapy or a transition to hospice care may benefit from music therapy, which can help to promote a deep state of relaxation.[10]

Music therapy may also be used with patients who have movement disorders, such as Parkinson's, to help improve gross or fine motor movement through the use of rhythm.[11]

Music therapists may be further trained in neurologic music therapy, which focuses on scientific, evidence-based practices for the purpose of recovering neurologic function. For example, a music therapist may use auditory perception training, patterned sensory enhancement and therapeutic singing to help improve cognition. Other allied health professions, such as physical therapists, occupational therapists, speech language pathologists, nurses and physicians, may also study neurologic music therapy.[12]

In general, people seeking to become music therapists earn a bachelor's degree or higher in music therapy from a program approved by the American Music Therapy Association (AMTA). Master's degrees in music therapy are also available.

In Colorado, only one university confers AMTA-approved music therapy degrees. Colorado State University offers a bachelor's degree in music with a concentration in music therapy and a master's degree in music with a specialization in music therapy.

The curriculum for the AMTA-approved bachelor's degree addresses entry-level competencies in three main areas:

- Musical Foundations,
- Clinical Foundations, and
- Music Therapy Foundations and Principles.

Musical foundations courses comprise 45 percent of an approved curriculum. These courses include:[13]

- Music Theory;
- Composition and Arranging;
- Music History and Literature;
- Applied Music;
- Ensembles;

[10] Britannica Online Encyclopedia. *Music Therapy*. Retrieved on June 19, 2019, from https://www.britannica.com/topic/music-therapy
[11] Britannica Online Encyclopedia. *Music Therapy*. Retrieved on June 19, 2019, from https://www.britannica.com/topic/music-therapy
[12] Britannica Online Encyclopedia. *Music Therapy*. Retrieved on June 19, 2019, from https://www.britannica.com/topic/music-therapy
[13] American Music Therapy Association. *A Career in Music Therapy*. Retrieved on June 19, 2019, from https://www.musictherapy.org/careers/employment/

- Conducting; and
- Functional Piano, Guitar and Voice.

Clinical foundations courses comprise 15 percent of an approved curriculum. These courses include: [14]

- Exceptionality and Psychopathology,
- Normal Human Development,
- Principles of Therapy, and
- The Therapeutic Relationship.

Music therapy foundations and principles comprise 15 percent of an approved curriculum. Such courses include: [15]

- Psychology of Music,
- Influence of Music on Behavior,
- Assessment and Evaluation,
- Methods and Techniques,
- Music Therapy with Various Populations,
- Music Therapy Research, and
- Pre-Internship and Internship Courses.

The remaining coursework in an AMTA-approved program consists of general education requirements, such as English and mathematics, and electives. [16]

In addition to the coursework, a student enrolled in an AMTA-approved bachelor's program must complete 1,200 hours of fieldwork that includes a supervised internship in a health-care or educational setting.[17]

The Certification Board for Music Therapists (CBMT) offers a national certification for music therapists. Those holding the Music Therapist–Board Certified (MT-BC) credential have completed an AMTA-approved education program and passed a certification examination. CBMT requires certified music therapists to complete 100 hours of continuing education every five years.

Currently, 10 states have regulatory programs specific to music therapy, ranging from title protection to mandatory licensure.

According to the CBMT, in the United States, there are currently 8,282 music therapists who hold the MT-BC credential, including 204 in Colorado.

[14] American Music Therapy Association. *A Career in Music Therapy.* Retrieved on June 19, 2019, from https://www.musictherapy.org/careers/employment/
[15] American Music Therapy Association. *A Career in Music Therapy.* Retrieved on June 19, 2019, from https://www.musictherapy.org/careers/employment/
[16] American Music Therapy Association. *A Career in Music Therapy.* Retrieved on June 19, 2019, from https://www.musictherapy.org/careers/employment/
[17] American Music Therapy Association. *Professional Requirements for Music Therapists.* Retrieved on June 19, 2019, from https://www.musictherapy.org/about/requirements/

Proposal for Regulation

The Colorado State Task Force for the American Music Therapy Association (AMTA) and the Certification Board for Music Therapists (CBMT) (collectively, Applicant) submitted a sunrise application to the Colorado Office of Policy, Research and Regulatory Reform in accordance with the provisions of section 24-34-104.1, Colorado Revised Statutes.

The Applicant is seeking licensure in order "to mitigate the potential for harm to the public and to increase consumer access to music therapy services." The Applicant further states that regulation is needed to protect the public from the "misuse of terms and techniques by unqualified individuals and to ensure competent practice."[18]

The Applicant proposes that any person wishing to use the title "music therapist" or "board-certified music therapist" or provide music therapy services must hold and maintain the "Music Therapist-Board Certified" (MT-BC) credential issued by the CBMT and a Colorado license.

Possession of the MT-BC certification would be the sole requirement for licensure. To qualify to sit for the certification examination, a candidate must hold a bachelor's degree or higher in music therapy from an AMTA-approved program. Approved programs require 1,200 hours in clinical training that includes a supervised internship. Qualified candidates must then pass the 150 question, multiple-choice certification examination. Once certified, music therapists must obtain at least 100 hours of continuing education every five years.

The Applicant submitted a mandatory continuing education application as required by statute.

[18] *Sunrise Review Application,* The Colorado State Task Force for the American Music Therapy Association and the Certification Board for Music Therapists (2018), pp. 5-6.

Summary of Current Regulation

Federal Laws and Regulations

Federal law does not place any specific credentialing requirements on music therapists.

However, music therapy is recognized as a service under some federal programs, such as grants for supportive services for older Americans,[19] In-Patient Rehabilitation Facilities under Medicare,[20] and under the Individuals with Disabilities Education Act.[21]

The Colorado Regulatory Environment

While there are no state laws specific to music therapy, anyone who practices psychotherapy must, at a minimum, be registered as a psychotherapist in Colorado.[22]

Psychotherapy is defined under the Mental Health Practice Act (Act) as[23]

> the treatment, diagnosis, testing, assessment or counseling in a professional relationship to assist individuals or groups to alleviate behavioral and mental health disorders, understand unconscious or conscious motivation, resolve emotional, relationship or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social or intellectual functioning. Psychotherapy follows a planned procedure of intervention that takes place on a regular basis, over a period of time, or in the cases of testing, assessment and brief psychotherapy, psychotherapy can be a single intervention.

Under the Act, six boards regulate the following mental health providers:

- Addiction counselors,
- Licensed professional counselors,
- Marriage and family counselors,
- Psychologists,
- Registered psychotherapists, and
- Social workers.

[19] 42 U.S.C. § 3002(14)(E).
[20] *Sunrise Review Application,* The Colorado State Task Force for the American Music Therapy Association and the Certification Board for Music Therapists (2018), p. 17.
[21] *Sunrise Review Application,* The Colorado State Task Force for the American Music Therapy Association and the Certification Board for Music Therapists (2018), p. 18.
[22] § 12-43-226(2), C.R.S. This report refers to statutory citations as they existed during the sunrise review prior to the passage of House Bill 19-1172, which recodified the Mental Health Practice Act and moved it to Article 245 of Title 12.
[23] § 12-43-201(9)(a), C.R.S.

The mental health boards have the authority to deny, revoke or suspend a license, certification or registration. They may also issue a letter of admonition, a confidential letter of concern or a fine, and they may place a licensee, certificate holder or registrant on probation.[24]

The grounds for discipline include:[25]

- Being convicted of a felony;
- Habitually or excessively using or abusing alcohol, a habit-forming drug or a controlled substance;
- Failing to notify the relevant board of a physical or mental illness or condition that affects the person's ability to treat clients with reasonable skill and safety or that may endanger the client's health or safety;
- Acting or failing to act in a manner that meets the standards of practice;
- Performing services outside the person's area of training, experience or competence;
- Exercising undue influence on the client, including the promotion of the sale of services, goods, property or drugs in such a manner as to exploit the client for the financial gain of the practitioner or a third party; and
- Engaging in sexual contact, sexual intrusion or sexual penetration with a client during the period of time in which a therapeutic relationship exists or for two years following the period in which such a relationship exists.

The Act provides a strong regulatory framework that protects the public against unprofessional conduct, incompetent practice and abuse.

The Colorado Department of Health Care Policy and Financing oversees the state's Medicaid program. In Colorado, there are three Home and Community-Based Services (HCBS) waivers through which music therapy is reimbursed through Medicaid:

- Children's Extensive Support,
- Supported Living Services, and
- Children with Life-Limiting Illness.

Each of these HCBS waivers requires music therapists to be board certified through the Certification Board for Music Therapists (CBMT). For the most fragile and vulnerable persons who receive music therapy through HCBS waivers, the state government ensures that music therapists have demonstrated a certain level of professional competency.

Additionally, under the Consumer Protection Act, it is considered a deceptive trade practice to claim to possess a degree or a title associated with a particular degree unless the person has been awarded the degree from a school that is accredited or

[24] § 12-43-223(1), C.R.S.
[25] § 12-43-222(1), C.R.S.

otherwise authorized to grant degrees as specified in statute.[26] Therefore, a person may not pose as a graduate of a music therapy program without first having a degree. There are also numerous health-care practitioners that may use music as a therapeutic intervention to treat patients:

- Nurses,
- Physical therapists,
- Occupational therapists,
- Speech-language pathologists, and
- Mental health providers.

All of these practitioners are governed by their particular practice acts, and they are required to work within the boundaries of their education, skill and training. The professional boards that regulate them may investigate consumer complaints and discipline practitioners for unprofessional conduct.

In addition to working as health-care professionals, musicians often enter into health-care settings to provide entertainment to patients. There are no laws regulating the professional conduct of these individuals.

Regulation in Other States

As of July 2019, 11 states had some level of regulatory oversight in place for music therapists. State regulatory programs vary widely, from title protection to mandatory licensure. Staff in the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) reached out to each of these states, except for California and Connecticut, to determine the level of complaint and disciplinary activity in each state.

California signed a law to protect the title, "Board Certified Music Therapist," on July 31, 2019. Only those who are certified by the CBMT may use the title.

COPRRR did not contact California for complaint and disciplinary history since the state only offers title protection and would not take consumer complaints or discipline music therapists.

Connecticut offers title protection to music therapists, requiring anyone who holds him or herself out as a music therapist to possess a bachelor's or master's degree in music therapy or a related field and be certified by the CBMT. People lacking these requirements can still provide music therapy services, but they cannot use the titles "music therapist" or "certified music therapist."

[26] § 6-1-707(1)(a), C.R.S.

COPRRR did not contact Connecticut for complaint and disciplinary history since the state only protects the title, "music therapist," and, therefore, would not take consumer complaints or discipline music therapists.

Georgia (147 licensees) requires anyone using the title, "music therapist" or providing music therapy services to be licensed. To qualify for a license, an applicant must possess a bachelor's or master's degree in music therapy from an American Music Therapy Association (AMTA)-approved program, be CBMT-certified and submit to a criminal history record check. The law does provide that using music is within the scope of practice of other professions, including occupational therapy, physical therapy and speech-language pathology.

Georgia received no complaints against music therapists in fiscal years 17-18 and 18-19, and it took no disciplinary action.

Nevada (26 licensees) requires an applicant for a music therapy license to possess a bachelor's or master's degree in music therapy from an AMTA-approved program and be CBMT-certified. Anyone who holds another Nevada professional license, or who is supervised by someone who holds a professional license, and uses music in his or her practice is exempt from the licensing law.

Nevada received no complaints against music therapists in 2017 or 2018, and it took no disciplinary action.

New York (1,761 licensees) licenses creative arts therapists, which includes music therapists. To qualify for a license, an applicant must hold a master's degree or higher from a program of creative arts therapy, pass a state-approved examination and complete at least 1,500 hours of clinical experience under the supervision of a qualified, licensed mental health professional. Other licensed, health-care providers, such as nurses, physical therapists, physicians and other mental health providers, are exempt from the licensing law.

New York was unable to provide licensing, complaint or disciplinary information specific to music therapists.

North Dakota (20 licensees) requires anyone who practices music therapy to obtain a license. To qualify for a license, an applicant must possess a bachelor's or master's degree in music therapy from a program approved by the North Dakota State Board of Integrative Health, be CBMT-certified and meet other requirements.

North Dakota has received no complaints against music therapists and has not disciplined any music therapists since licensure began.

Oklahoma (28 licensees) requires anyone who practices music therapy to obtain a license. To qualify for a license, an applicant must possess a bachelor's or master's

degree in music therapy from an AMTA-approved program, be CBMT-certified and meet certain additional requirements.

Oklahoma has received no complaints against music therapists since licensure began and has not disciplined any music therapists.

Oregon (76 licensees) requires anyone who practices music therapy to obtain a license. To qualify for a license, an applicant must possess a bachelor's or master's degree in music therapy from an AMTA-approved program, be CBMT-certified and meet certain additional requirements.

Oregon opened two complaints against music therapists in 2017 and 2018, one for failing to complete continuing education as required and another for practicing without a license. No disciplinary actions were taken in either year.

Rhode Island (9 registrants) requires anyone who practices music therapy to be registered, except that other licensed professions or occupations with training or certification that qualifies them to practice music therapy or who work under the supervision of a registered music therapist may practice music therapy as long as they do not represent themselves as music therapists. To qualify for inclusion on the registry, an applicant must possess a bachelor's or master's degree in music therapy from an AMTA-approved program and be CBMT-certified.

Rhode Island did not respond to a request for complaint and disciplinary history.

Utah (56 certificates) requires anyone who seeks state certification as a music therapist to be CBMT-certified. Certification is voluntary.

Utah received no complaints against music therapists in 2017 or 2018, and it took no disciplinary action.

Wisconsin (38 registrants) has a voluntary registration program for music therapists. To qualify for registration, an applicant must be certified by CBMT or any other national organization that certifies, registers or accredits music therapists. Music therapists who provide psychotherapy must obtain a specialized license that requires an additional 3,000 hours of documented experience.

Wisconsin received no complaints against music therapists in 2017 or 2018, and it took no disciplinary action.

Analysis and Recommendations

Public Harm

The first sunrise criterion asks:

> Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

In order to determine whether the regulation of music therapists is necessary, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) asked the sunrise applicant—the Colorado State Task Force for the American Music Therapy Association and the Certification Board for Music Therapists (CBMT) (collectively, Applicant)—to provide specific, verifiable examples documenting the physical, emotional or financial harm to clients resulting from failure to provide appropriate services.

The Applicant submitted cases alleging harm in the following categories:

- Emotional harm,
- Psychological harm,
- Physical harm,
- Misuse of a title,
- Failure to document,
- Lack of access to music therapy services, and
- Hiring practices by the state.

Many of the cases submitted in this sunrise review were previously submitted during the 2014 sunrise review. Those cases and their respective analyses may be found in Appendix A. Each new case not previously submitted to COPRRR is summarized below followed by COPRRR's analysis.

Misuse of a Title

A nurse at a long-term care facility claimed to provide music therapy by playing the piano for sing-alongs for residents. While she was qualified to address a number of physical issues, she was not trained to select or manipulate particular musical elements to elicit specific responses, nor was she trained to handle the social or emotional responses that might have resulted in response to musical stimuli. Such social or emotional responses occur frequently and can be powerful.

Analysis

While there may be a potential for a nurse to cause harm to clients because he or she lacks the skills and abilities of a certified music therapist, in this case, no one was harmed.

Emotional and Physical Harm

A nursing home patient with Lewy body dementia was engaged in a group sing-along that utilized songs from the Big Band era. Lewy body dementia is different from the more common dementia of Alzheimer's type. People with Lewy body dementia often have delusions, hallucinations, difficulty interpreting information and other behaviors.

During the sing-along, the man became progressively upset and started yelling and threatening other patients and staff. The musician facilitating the sing-along decided to try a different song to engage the man and calm him down. Unfortunately, the song choice only exacerbated the mood and situation. The patient, distraught and confused, struck another patient and staff member, and in the process, stood up and fell, resulting in a high fracture of the right femur and a skin tear wound. The patient who was hit suffered emotional confusion and pain.

The patient's family was notified that they would likely have to find a different placement for their family member in a more limiting, secure facility. The incident elevated stress for residents and their families and staff. The patient experienced pain, confusion and fatigue, and was difficult to moderate and support, and the patient became isolated and often inconsolable.

A review and investigation into the incident revealed a progression of bad decision-making and choices surrounding the event, including the environment of the activity setting, the placement of the patient and a failure to observe and appropriately respond to the client's increasing agitation, confusion and distress.

The group was facilitated by an entertainer who contracted with small nursing homes and group homes. Part of his brochure included the term "music therapy" and although he was not a music therapist, he used many examples of the benefits of music with the elderly on his brochure. This entertainer did not have the training or a clinical understanding to work with a patient with Lewy body dementia, nor did he have the necessary clinical skill set to support the needs of this patient. Assuming that music calms and soothes, and simply changing to a different song as a method to change behavior was an inappropriate action.

Music therapists know the risks that play into altered psychological states, and various shifts in comprehension and perception related to dementia. A professional music therapist has a reasonable and predictive understanding of the influence of music. A trained music therapist observes and monitors clients while simultaneously engaging in and facilitating the music experience, would not have placed a volatile patient in the setting, and would have quickly recognized the signals leading up to increased confusion and exacerbated behaviors.

The client did not recover from the incident, was not able to heal, spent his last week in pain and died in a nursing home in Roanoke, Virginia a few weeks after this incident.

Analysis

In this instance, two patients were harmed. It appears that the musician who conducted the sing-along lacked the skills to cope with the client's adverse and violent reaction. According to the Applicant, a critical element of a music therapist's training is evaluating clients' responses to music therapy and making modifications to the therapy as necessary. Had the musician possessed these skills, or had the nursing home contracted with a certified music therapist, the incident might have been prevented. If a regulatory program were in place, it could prevent the musician from representing himself as a music therapist. However, nursing homes can always hire musicians with or without clinical training to provide music to clients, and there is always the possibility that a client will have a negative reaction to that experience. Moreover, members of the facility staff were present and could have intervened in order to prevent the patient from harming himself and others. Ultimately, the nursing home, the nursing home staff and the nursing home administrator, all of which are licensed in Colorado, were responsible for the health, safety and welfare of the patients.

Failure to Document

A board-certified music therapist working in private practice in Colorado quit without notice. After the therapist left, it became apparent that the music therapist had failed to document over 300 daily session notes. The practice immediately notified the music therapist that he or she must correct the error or be reported to the CBMT for a violation of the code of ethics. The music therapist corrected the error and provided documentation for all the sessions.

Failure to document harms the client because documentation is critical to tracking a client's progress. Failure to document can also harm the therapist and his or her employer because billing an insurance company for a session that has no corroborating documentation might appear to be fraudulent.

Accusations of fraudulent billing could potentially result in individual therapists or their employers losing their ability to bill for services, which could adversely affect other clients who might lose access to music therapy services.

Analysis

Documentation is an important duty for every health-care provider. In this instance, the therapist's failure to document could have affected the clients since their progress would not be recorded and could have affected the employing practice's ability to bill for services. Failure to keep proper records for clients is grounds for discipline for most health-care providers. In this instance, threatening to report the therapist to the national certifying body was enough to bring the music therapist into compliance.

Sexual Misconduct

A male music therapy intern was treating an adult female client with his supervisor when the supervisor left the room briefly to use the restroom. When the supervisor returned, the client accused the intern of touching her inappropriately. No one else had been in the room to corroborate these claims. The supervising therapist followed the incident-reporting procedures, and the resulting investigation revealed no evidence that the intern had behaved inappropriately and further revealed that the client had a history of false reporting.

Analysis

While allegations of sexual misconduct should always be taken seriously, in this particular incident, there is insufficient evidence of harm.

Financial Harm and Lack of Access to Services

A parent was sending her child for weekly music therapy appointments with a certified music therapist and was pleased with the child's progress. However, when the parent attempted to obtain reimbursement from the insurance company for the services, the insurance company denied the claim, stating that the music therapist was not qualified to provide services because she was not licensed. The parent and the music therapist both informed the insurance company that that the therapist was board certified and that Colorado does not offer or require a license for music therapy. The insurance company declined to overturn its decision and, furthermore, filed a complaint with the Division of Professions and Occupations against the music therapist, claiming she was practicing without a license.

Analysis

In a sunrise review, the criteria question whether the unregulated practice clearly harms or endangers the health, safety or welfare of the public and whether this harm is easily recognizable and not remote or dependent on tenuous argument. This case does not provide evidence of harm from the practice of music therapy. Rather, the harm alluded to in this case relates to reimbursement by an insurance company. Insurance carriers are regulated by the Division of Insurance.

State Hiring Practices

Within the state personnel system, music therapists—along with art therapists, recreational therapists and others—are included in the "clinical therapist" class series. Under this classification some positions require certification. Though it is common practice within the world of music therapy for music therapists to obtain and maintain MT-BC certification, the permissive language in the class series description grants hiring managers considerable latitude in who they hire. Under the current system, a hiring manager could hire someone with no music therapy education or credentials to provide music therapy in an intense inpatient environment with vulnerable clients.

Analysis

While there may be a potential for vulnerable psychiatric clients to be harmed by an unqualified music therapist, this example does not demonstrate harm to the public. Additionally, the Colorado Department of Personnel and Administration may amend the class series description to require appropriate credentials for every position in the "clinical therapist" classification without the creation of a state regulatory program. Moreover, this case does not provide any evidence that the state is, in fact, hiring unqualified music therapists.

While a few of the above cases demonstrate the potential for harm from the unqualified practice of music therapy, only one case provides evidence of actual consumer harm.

Additional cases, which were previously submitted during the 2014 sunrise review, may be found in Appendix A. Several of these cases do provide clear evidence of harm to the public by board-certified music therapists. The harm includes sexual abuse of children with developmental disabilities, sex with patients in psychiatric wards and financial exploitation of elderly clients. While they represent only a few isolated cases, all of these events are reprehensible and some are heinous.

In nearly all of these cases, the board-certified music therapist was disciplined by the professional association. For those whose certification was revoked or surrendered, the chances of finding work as a music therapist was significantly reduced.

Private certification, however, cannot entirely prevent individuals from practicing music therapy without certification. Only a regulatory program that requires a license in order to practice would prevent these individuals from continuing to practice music therapy.

While government regulation does not prevent misconduct from taking place, it could prevent individuals convicted of heinous crimes from practicing as music therapists in the future. Some of these music therapists did receive criminal sentences; however, they would still present a threat to the public if they continued to practice as music therapists.

That said, the harm identified in these cases is extremely rare, and none of these cases took place in Colorado. CBMT reported only five cases of harm from all 50 states over a 16-year period, and, at the time these cases were submitted, there were about 6,000 board-certified music therapists throughout the United States.

The question is whether these few cases of harm are sufficient to warrant government regulation of an entire occupational group.

In an attempt to identify harm in other states, COPRRR staff contacted the nine states where music therapists are regulated.[27] Out of the seven states that responded to COPRRR's request for information, only Oregon reported any complaints against music therapists, one complaint for unlicensed practice and another for failure to complete continuing education requirements, and no states reported taking any disciplinary action against music therapists. This is consistent with the findings in the 2014 sunrise report.

COPRRR staff also contacted the Better Business Bureau serving Greater Denver and Central Colorado and the Consumer Protection Section of the Colorado Attorney General's Office. Neither organization reported any complaints against music therapists within the last five years.

Finally, COPRRR staff contacted staff in DORA's Division of Professions and Occupations, which regulates the six mental health professions, occupational therapists, physical therapists, speech-language pathologists and many other health-care professions. Staff reported no recollection of complaints against music therapists within the past five years. Since Colorado does not regulate music therapists separately from other mental health practitioners, it is possible that complaints have been received and reviewed by one of the mental health boards, most likely the State Board of Registered Psychotherapists.

[27] COPRRR staff did not contact the state of Connecticut since it only has title protection and, therefore, would not take consumer complaints or discipline music therapists.

Need for Regulation

The second sunrise criterion asks:

> Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence.

While some incidents of harm were identified, most of these incidents were related to criminal conduct, not professional or occupational competence. Since there is little evidence of harm by the unqualified practice of music therapy, an assurance of initial and continuing professional or occupational competence is unwarranted.

Alternatives to Regulation

The third sunrise criterion asks:

> Whether the public can be adequately protected by other means in a more cost-effective manner.

The Applicant is proposing that music therapists be licensed by the state. Licensure is the most stringent form of regulation, requiring anyone who wishes to practice a particular profession and use the corresponding professional title to meet specific education and examination requirements.

At this time, consumers have a choice in the marketplace. They may hire a music therapist who is board certified by CBMT or one who is not.

Private, professional certification is available to music therapists through CBMT. Only those individuals who hold this credential may represent themselves as board-certified music therapists or place the initials MT-BC after their names. CBMT actively pursues individuals who falsely represent themselves as board-certified music therapists, and consumers can easily verify whether an individual is a board-certified music therapist through the CBMT website.

Additionally, CBMT has the authority to deny, revoke, suspend and require additional education of board-certified music therapists who are in violation of the certification standards. This includes gross or repeated negligence or malpractice in professional practice, such as a sexual relationship with a client, and sexual, physical, social or financial exploitation.[28]

[28] The Certification Board for Music Therapists. *CBMT Code of Professional Practice*. Revised October 4, 2011. https://www.cbmt.org/upload/CBMT_CoPP_0515_V4.pdf

Typically, private certification, in contrast to state certification, represents a high level of professional competency, beyond what is necessary for public protection. Unlike private certification, the purpose of state regulation is to ensure practitioners have the minimum standards necessary to protect the health, safety and welfare of the public.

Private certification provides a market advantage to those who have it. Anyone who does not have private certification must compete with those who do, and when it is important to consumers, professionals without it are at a competitive disadvantage.

Enforcement actions by a private, professional organization are not readily accessible to the public as they would be in a state licensure program; however, a consumer may check public records for criminal convictions.

Additionally, consumers may also verify whether a music therapist has a degree in music therapy. While uncertified music therapists may not have passed the certification examination, having completed the education and clinical training required for a degree in music therapy provides some evidence of competence.

Under the Consumer Protection Act (CPA), it is unlawful for anyone to claim to have a degree or use a title associated with a particular degree unless the person has been awarded the degree from a school that is accredited, or otherwise authorized to grant degrees as specified in statute.[29] In other words, it is unlawful for a person to pose as a graduate of a music therapy program without actually holding a degree.

A degree in music therapy and private, professional certification are credentials that offer consumers some assurance of professional competency.

While there is little evidence of harm from the unqualified practice of music therapy, there are alternatives in place to provide consumers with some assurance of professional competence. However, none of these alternatives can entirely prevent someone from practicing music therapy or holding himself or herself out as a music therapist.

Collateral Consequences

The fourth sunrise criterion asks:

> Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

[29] § 6-1-707(1)(a), C.R.S.

The Applicant proposes that a licensing program for music therapists should be aligned with the grounds for disqualification laid out in the CBMT Code of Professional Practice, which provides that an applicant who has been convicted of any felony, or pled guilty or *nolo contendere* to a felony or misdemeanor related to the practice of music therapy, may be denied a license.

COPRRR staff uncovered a few cases of music therapists committing reprehensible and heinous crimes against clients who are vulnerable to abuse and exploitation, and a regulatory program with the authority to disqualify individuals based on criminal history could serve to protect these consumers. However, considering the cases of harm provided were extremely rare, it is uncertain whether they demonstrate a need to regulate an entire occupational group.

Conclusion

Music therapy is a skilled profession that can be effective in helping clients across the lifespan with a variety of conditions and diagnoses, improve their communication skills and mobility; control anxiety, depression and pain; improve their quality of life; and meet other clinical goals.

Music therapy is generally practiced by educated, clinically trained and credentialed individuals. Music therapists often work as part of a team that includes nurses, speech-language pathologists, physical therapists and occupational therapists, which are all licensed professions. The fact that music therapists are not licensed, however, does not detract from the skilled nature of their practice.

Music is often present in health-care settings, but what music therapists do generally goes beyond performing music for a passive audience. Though other health-care providers can and do use music in their practice, they typically use music to enhance or augment other techniques and methods that form the core of their practice. In contrast, music is the core of every music therapy session.

Over the course of this review, a representative of COPRRR observed multiple music therapy sessions, including a group session in an assisted living facility and numerous one-on-one sessions in client homes as well as in music therapy clinics. These sessions demonstrated an extraordinary breadth of scope and expertise. The following illustrate some notable examples.

- A music therapist played a piano duet with a young man with autism. As the client improvised on the piano, the therapist adjusted his playing to complement and respond to what the client played and encouraged the client to listen closely and respond to what the therapist played. When the client starting playing something that did not complement what the therapist was playing, the therapist directed the client to listen and adjust his playing. In this way, client and therapist had a "conversation."

- A music therapist sang a call-and–response song with a young man with autism, which was intended to help him learn the rhythms of everyday conversation and improve his overall communication skills, including listening and asking questions.

- A music therapist used a favorite musical instrument to persuade a young man with developmental disabilities to use—and thereby strengthen—his non-dominant arm and hand.

- A music therapist worked with a young woman with Down syndrome to help her process and express her emotions by composing original songs.

- A music therapist played several songs for a group of senior citizens, but it was not a performance for a passive audience. She used the songs to reinforce the group's collective memories of the previous music therapy session as well as to reflect on and talk about the memories that the music evoked for each client.

Unfailingly, every parent interviewed characterized their child's music therapy session as a highlight of the week. Some spoke of how it was the only kind of therapy that had had any impact on their child's mood, behavior, coordination or communication skills; others underscored how the therapy contributed to their child's quality of life.

While the public in general may not be well informed about music therapy, there is a well-informed network among parents of children with disabilities or diagnoses: many clients interviewed for this review learned about music therapy as a potentially beneficial therapy from other parents. Further, parents whose children are eligible for services under the Children's Extensive Support, the Supported Living Services and Children with Life Limiting Illness waivers might learn about music therapy from their case managers at a community-centered board, a physician or another health-care provider. Moreover, anyone providing services under these waivers is required to be board certified.

In the application, the Applicant contends that state regulation would help employers and members of the public locate qualified music therapists. However, the CBMT already administers an online, searchable database of certified music therapists[30] and the top Google search result for "find Colorado music therapists" is the link to a similar searchable database on the Colorado Association for Music Therapy website.[31] A state-administered website would not necessarily be superior to the current options.

Though music therapy is a profession requiring education and clinical training, there is little evidence that the unregulated practice of music therapy is endangering the

[30] See: Certification Board for Music Therapists. *Certified Music Therapist Search*. Retrieved on June 26, 2019, from https://www.cbmt.org/certificant_search

[31] Please see: Colorado Association for Music Therapy. *Find a Music Therapist*. Retrieved on June 26, 2019, from https://www.musictherapycolorado.org/find-a-music-therapist

public health, safety or welfare. Music in and of itself is not harmful. Like other therapeutic professions, there is a potential for harm if the therapeutic relationship between the music therapist and his or her client is exploited. However, there are too few instances of harm from the practice of music therapy to justify creating a unique regulatory program specific to music therapists.

Moreover, there is little evidence of regulatory activity in other states. During this and the previous sunrise review, COPRRR found almost no complaint activity and no disciplinary activity in other states that regulate music therapy.

For these reasons, regulation is not justified.

Recommendation – Do not regulate music therapists.

Appendix A – Additional Cases of Harm

The following cases of alleged harm were submitted during this sunset review and also previously submitted during the sunrise review that was conducted in 2014. At the time, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) determined that there was insufficient evidence of harm to warrant regulation.

Emotional Harm

In 2004, a music therapist was working in a hospital in the suburbs of Chicago where music thanatologists[32] and music practitioners also provided services to patients in their rooms and in the waiting areas. The music therapist was called by a registered nurse to provide music therapy to a patient in the oncology unit. The patient was emotionally distraught following a visit from a music thanatologist, who played music that triggered feelings that were overwhelming for the patient. When the patient became distressed, crying and agitated, the thanatologist left the patient in this condition. The nurse was troubled by this and asked a music therapist to help the patient. The music therapist began a session that helped the patient to express and release her feelings in the context of a therapeutic relationship. By the end of the music therapy session, the patient was relaxed and calm.

Analysis

Clearly, the patient suffered temporary emotional distress due to the failure of the thanatologist to deal with the emotional response triggered by the music. However, the patient was under the care of nurses and other trained staff in the hospital, and the nurse responded to the emotional distress of the patient by calling in an appropriate person to handle the situation. The nurse could have also called a hospital chaplain or another mental health provider to help this patient. Therefore, any possible harm would likely be addressed without the need for additional regulation.

Emotional Harm

A music therapist in Oregon was working with a patient who was suffering from a terminal illness that had also killed her father. The patient was having a difficult week, and the health-care team decided that she needed to refocus on things that brought her happiness, so an intern who was working with the music therapist brought in a book and song. Halfway through the song, the patient broke down into uncontrollable sobbing. The intern did not know it, but the client's father used to sing that song to her at night. The patient had not

[32] Music thanatologists: practitioners who sing and play the harp in hospice and palliative settings to ease suffering during the dying process.

grieved for the loss of her father, and because the intern was a trained music therapist, she was able to help the patient grieve. The music therapy session developed into a cathartic experience for the patient. If the intern had simply been a music volunteer or someone without training, the patient may not have achieved catharsis and may have been left in a state of despair. The patient's psychologist thanked the music therapist for helping this patient to begin grieving the death of her father.

Analysis

While this case demonstrates the likelihood of an improved outcome by a board-certified music therapist, it is not clear evidence of harm.

Emotional Harm

A musician was brought into a state-run psychiatric hospital in Denver as a volunteer. During his tenure at the psychiatric hospital, the volunteer acted inappropriately on a number of occasions. First, the musician asked to be called a music therapist although he was not trained as a music therapist. The hospital denied this request. Second, the volunteer attempted to bring his friends into the hospital without processing them through volunteer services, which requires a fingerprint-based criminal history record check. They were not allowed in. Third, he also attempted to hold drum circles but was told to collaborate with the music therapist on staff. He decided not to collaborate and was not allowed to hold any drum circles. Fourth, the volunteer attempted to provide spiritual counsel to patients without understanding the client goals or working with Chaplain Services or collaborating with other appropriate staff. Finally, he attempted to sell compact discs of his music to indigent patients, resulting in emotional distress for some of the patients. His service was officially ended by the volunteer office after his visits became sporadic, and eventually he stopped coming to visit at all.

Analysis

A state-run psychiatric hospital is a sophisticated employer that should be able to assess the necessary qualifications of its staff and its volunteers. Attempts by the volunteer that could have resulted in harm to patients were prevented by hospital staff. The patients in this facility are under the care of qualified mental health providers, and this volunteer was supervised by trained staff. If the volunteer presented any real potential for harm to patients, the staff could have prevented him from continuing to volunteer. Even if music therapists were fully licensed, it would not prevent hospitals from enlisting volunteers to provide music to patients. Therefore, any possible harm would likely be addressed without the need for additional regulation.

Emotional Harm

A psychiatric hospital in Colorado hosted a mental health fair for the community, staff from the facility and other similar facilities. Clients of the hospital also attended the fair. One of the options of the day was drum therapy. The leader of the drum therapy session was a psychologist and a member of the hospital staff but not a board-certified music therapist.

A board-certified music therapist who watched a drum therapy session and attended another reported the following problems. The drum therapy leader taught the group a rhythm and had the members repeat it for the duration of the session. According to the music therapist, this is inconsistent with research which shows that if a stimulus does not change, the behavior becomes rote and, therefore, does not improve aspects of cognition. The drum therapy leader also stopped the group and corrected anyone who was playing incorrectly. According to the music therapist, this is contrary to how music therapists are taught to approach mental health, which is to instill hope, focus on strengths and treat people with respect. Music therapy also focuses on allowing people to express themselves safely. Having people repeat the same rhythm without any aspect of individuality can damage self-esteem and the therapeutic relationship, and it discourages empowerment and independence. The drum therapy leader went back and forth between joining the group and soloing over the others. According to the music therapist, music therapy is client centered, but the music therapist considered the soloing to be attending to the needs of the drum therapy leader rather than the members of the group.

Finally, the drums were made of skin, which the music therapist said cannot be sanitized and should not be used in a medical or hospital setting.

After the drum therapy session, the music therapist approached the drum therapy leader and expressed concern that she was not trained to provide music therapy. The drum therapy leader declined to consult with a music therapist and responded that she had 30 years of experience in psychology and that she used drumming along with dialectical behavior therapy to teach mindfulness.

Analysis

Clearly, the drum therapy leader did not provide a drum therapy session the same way that the music therapist would have. However, music is an intervention that may be employed by psychologists and other health-care providers, and there is no evidence of actual harm to members of the community in this case.

Emotional Harm

A music therapist was working as a musician with a small ensemble in a kindergarten classroom and not as a music therapist when she noted a five-year-old boy who was behaving and reacting in the classroom in an atypical way. The child seemed to be out of touch, screamed and had poor peer interactions with poor eye contact, and he did not follow directions well. Over a period of four weeks, it became clear that the child was sensitive to sound. He exhibited sudden episodes of high anxiety and self-talk, including covering his ears. This behavior was exacerbated by certain types of music and sounds. The music therapist made several attempts to remove the child from the group when he was having the most severe reactions, but the school did not have many alternatives for the child. After several months, the child was evaluated by the school, and it was determined that the child had special needs and probable childhood psychosis. In this case, music was contraindicated. The music therapist was not acting in her role as a music therapist, but as a musician. Her training, however, allowed her to advocate for the child given his negative reactions to music and certain sounds.

Analysis

According to the music therapist, music was not an appropriate form of treatment for this child. Music can be provided in almost any setting, and in this case, the music therapist was hired as a musician, not as a music therapist. Therefore, music was not being used to treat this individual. While this case demonstrates the likelihood of an improved outcome by a board-certified music therapist, it is not clear evidence of harm.

Psychological Harm

A hospital in Colorado hired two people to provide music therapy to patients in an adolescent psychiatric unit, an adult psychiatric unit and a pediatric unit. One person was a board-certified music therapist, and the other was a musician without any clinical training. The music therapist was holding a music therapy session when the musician entered into the room. The musician did not recognize the signs of acute hypersexuality in one of the patients, and she lacked therapeutic boundaries and clinical training. The musician engaged in a personal conversation in the presence of patients that triggered a patient to masturbate during the session. This patient and at least one other patient in the group were traumatized by the event. The music therapist immediately ended the session, asked everyone else to leave and called appropriate hospital staff to attend to the patients.

Analysis

This scenario is common in psychiatric units, and the music therapist reported to COPRRR staff that she has encountered it on other occasions in music therapy sessions. The hospital trains its staff and volunteers to respond to situations like this and other situations that could escalate into violence or be harmful to patients. The hospital could always hire musicians with or without clinical training to provide music to patients and call them music practitioners, music specialists or musicians. Therefore, neither title protection nor further regulation would address the alleged harm.

Physical Harm

During a music therapy session with a small group in Tucson, Arizona, a music therapist noted that a young boy—who had multiple developmental delays, was unable to walk or talk, and was on medication for epilepsy—was having *petit mal* seizure activity in response to higher frequency sounds and certain repetitive sounds. The music therapist addressed the high frequency sounds, bass rhythms and discernible tempos that were causing the seizures, and the following music therapy session was successful. Music therapy helped the child to stay alert and interact with her mother and her sibling. The music therapist provided the mother with information about music-induced seizures and how an advisory for the child's Individualized Education Program might be considered to prevent further seizures.

Analysis

This is one area where specialized training and education in music therapy clearly prepared this practitioner to help the client. While this case demonstrates the likelihood of an improved outcome by a board-certified music therapist, it is not evidence of harm.

Physical Harm

After several weeks of medical treatment, a 12-year-old oncology patient in Indiana had a stroke and was placed in a medically induced coma to protect her neurological functioning. After noting the physiological signs of agitation between doses of sedative medication, the attending physician requested music therapy. The board-certified music therapist assessed the patient and observed no behavioral responses to the music therapy intervention. The patient's mother asked for the session to continue because her child had received and loved music therapy before she had a stroke. As the session continued, the music therapist noted a drastic increase in the patient's heart rate, a decrease in her oxygen saturation levels, and an increase in her rate of respiration despite controlled, mechanical ventilation. The music therapist

discontinued music therapy because of the potential strain on the child's heart, increased pressure on her brain and strain on her compromised lungs.

Analysis

This case does not provide evidence of harm. The board-certified music therapist acted appropriately by stopping the intervention and preventing the infliction of any harm. Even if the music therapist were not properly trained, the patient was under the care of an attending doctor and intensive care nurses, who were responsible for the patient, monitoring the patient's vitals and would act appropriately to prevent harm to the patient. Therefore, any possible harm would likely be addressed without the need for additional regulation.

Physical Harm

A music therapist from Oregon was working in a children's hospital when a doctor from the pediatric intensive care unit (PICU) called her in to consult on a case. A teenager ran his snowmobile into a tree and suffered a traumatic brain injury. He was in a stage of coma in which he was extremely agitated. The parents hired someone who claimed to be a music therapist, but who was not. The person programmed music to be played by the patient's bedside to help him relax. The patient became more agitated. His heart rate increased, and his oxygen saturation rates decreased. The PICU staff responded by increasing the sedatives, and the attending doctor called in a board-certified music therapist to consult on the case. When the music therapist entered the room, the music that was playing by the patient's bedside was a Mozart concerto. The music therapist noted that the child was writhing in his bed. The family told the music therapist that the patient did not like classical music and actually preferred gangster rap. When the music therapist set up a listening program that included the patient's preferred music, the patient sighed and visibly relaxed. His heart rate lowered to normal in less than three minutes, and his oxygen saturation rate went from 82 percent to 96 percent and remained stable. He was then able to relax without further medication, allowing his body and brain to heal.

Analysis

In this case, the patient was not harmed. The PICU staff was monitoring the vitals of the patient, and they responded to the situation appropriately. The hospital staff was sophisticated enough to recognize a potentially dangerous situation and assess the necessary qualifications of staff to consult on the case. Therefore, any possible harm would be addressed without the need for additional regulation.

Physical Harm

A music therapist from Colorado who provides music therapy to children and adults with intellectual and developmental disabilities was working with a 23-year-old man with Angelman syndrome. During the session, the man became extremely agitated and began throwing instruments across the kitchen and striking out at his parents and the music therapist. The music therapist assessed the situation and observed that he was frustrated because he had difficulty grasping an instrument. He was in immediate danger of harming himself and others, so the music therapist changed the tempo and volume of the music to reduce the auditory stimulation. She did this gradually but over a short period of time to settle him down and to avoid further distress.

Analysis

In this case, the patient was not harmed. Angelman syndrome is a genetic disorder that causes severe intellectual and developmental disabilities. This client is most likely receiving services through the Supported Living Services, Home and Community-Based Services Medicaid-waiver program, which requires music therapy to be provided by board-certified music therapists. Music therapists are approved service providers through the Colorado Department of Health Care Policy and Financing, Division of Developmental Disabilities, which regulates the provision of therapeutic services provided to persons with developmental disabilities. Therefore, any possible harm, in this case and other similar cases, would be addressed without the need for additional regulation.

Misuse of a Title

A registered nurse who is also a fitness instructor and a musician contacted a music therapist for some advice on how to improve the services she is providing to nursing homes in a small community in Colorado. The registered nurse promotes herself to the nursing homes as a music therapist. She provides 30-minute sessions, and she leads the residents in familiar songs and gives them instruments to play. Then she leads them in 30 minutes of gentle exercise therapy. She only provides these sessions once a week and otherwise works as a school nurse. According to the registered nurse, her clients appreciate the services she is providing.

Analysis

In this case, no consumer harm is reported or alluded to. The only possible harm is the misuse of a title, which is only harmful to the profession and is not evidence of consumer harm.

Sexual Assault

CBMT revoked the certification of a music therapist following three cases of sexual assault, which all took place over the summer of 2008 in Arizona. The music therapist was reported to have locked the bedroom door where he was treating a 10-year-old, non-verbal female with autism. When the mother unlocked the door, the child's underwear and pants were around her ankles. The child was unable to unbutton her pants by herself. The twin brother also alleged that the therapist touched his private parts and made him touch his. Another 10-year-old boy reported that he performed oral sex on the music therapist. The father of a 21-year-old, non-verbal male with cerebral palsy walked in on a session and found the therapist taking his hand out of his son's pull-up diaper. The music therapist was placed on lifetime probation and required to serve at least one year in county jail, and he will have to register as a sex offender.

Analysis

This case provides clear evidence of harm to people with developmental disabilities, who are especially vulnerable to abuse and exploitation. The individual was placed on a sex offender registry and his board certification was revoked, which would likely diminish his ability to find work as a music therapist, but it may not eliminate it.

Sexual Assault

A board-certified music therapist pleaded guilty to sexually molesting a child in Maryland in 1999, and he was given a suspended sentence and placed on probation. CBMT was not notified of this incident, so it did not revoke his certification. He then moved to Florida where he was working with terminally ill children in hospice and palliative care. He was subsequently arrested in 2008 for failing to register as a sex offender, which is a felony, and he was incarcerated. Following the music therapist's conviction, CBMT revoked his certification.

Analysis

This case provides evidence of harm to the public. Unfortunately, the requirement to register as a sex offender did not result in the revocation of the music therapist's board certification for nine years or reduce the sex offender's ability to work as a music therapist with terminally ill children during that time. Nine years later, he was convicted of a felony, incarcerated and CBMT revoked his certification, which would very likely diminish his ability to find work as a music therapist, but it may not eliminate it altogether.

Sexual Assault

In 1998, CBMT denied certification to an individual based on a history of sexual assault while in a position of trust. While working as a high-school band director at a high school in Virginia, the director was found guilty of sexually abusing more than one student by inappropriate touching, proposing sexual acts, exposing himself to students and asking a student to expose himself.

Analysis

This case provides evidence of harm to the public. However, the perpetrator was convicted and sentenced as a sex offender, and CBMT subsequently denied his application for board certification, which should reduce his ability to find work as a music therapist, but it may not completely eliminate it.

Sexual Misconduct

In 2010, CBMT suspended the certification of a music therapist in Ohio who entered into a sexual relationship with a young male adult, who was an in-patient in psychiatric care. CBMT required the music therapist to take ethics classes and appeal for reinstatement, and the certification was then reinstated.

Analysis

This case provides evidence of harm to the public. While the music therapist was disciplined, consumers would have no way of knowing that any disciplinary action was taken. If the music therapist's board certification was revoked, consumers would be able to determine that the music therapist was no longer board certified. However, in this case, the music therapist's board certification was reinstated. CBMT is a private organization, so the misconduct would not be public. With state regulation, disciplinary actions are available to the public.

Sexual Misconduct

In 1999, CBMT suspended the certification of a music therapist in Texas who entered into a sexual relationship with a young female adult, who was an in-patient in psychiatric care. CBMT required the music therapist to take ethics classes and appeal for reinstatement, and the certification was then reinstated.

Analysis

This case provides evidence of harm to the public. While the music therapist was disciplined, consumers would have no way of knowing that any disciplinary action was taken. If the music therapist's board

certification was revoked, consumers would be able to determine that the music therapist was no longer board certified. However, in this case, the music therapist's board certification was reinstated. CBMT is a private organization, so the misconduct would not be public. With state regulation, disciplinary actions are available to the public.

Financial Exploitation

An individual used alias names and falsely advertised that he was a board-certified music therapist. While representing himself as a music therapist, the individual extorted money from nursing home residents and nursing homes in California. After he performed as a music therapist at a nursing home, he would collect signatures from residents and staff. Then after a lengthy period of time he would forge the signatures onto contracts. Once this was done, he would send demand letters for breach of contract. Due to the lapse of time, many agreed to pay him or they would hire him. If they didn't, he would sue them. He had 35 active lawsuits in a few years of time, and he acquired thousands of dollars through forged and fraudulent contracts. He was reported to CBMT in 2006 and 2009, and it ordered him to cease and desist representing himself as a board-certified music therapist.

Analysis

This case provides evidence of harm to the public. However, forgery and fraud are crimes that may be addressed by a criminal court. This individual was falsely representing himself as board certified. It is unlikely that title protection or government regulation could have prevented these crimes.

Financial Exploitation

A music therapist in Wisconsin became a primary caregiver for an elderly woman, who was a former client. The elderly woman subsequently left her estate to the music therapist upon her death. The daughter of the elderly woman contested the will, but the case was dismissed by two civil court judges and the Wisconsin Department of Regulation and Licensing. The music therapist maintained that there was no merit to the allegations of financial exploitation, but she voluntarily surrendered her certification in 2001 after the daughter filed a complaint with CBMT.

Analysis

It is unknown whether the music therapist in this case financially exploited her client since two civil courts dismissed the case. In this case, the music therapist was regulated in Wisconsin, and the state regulatory agency also dismissed the case. By surrendering her certification, the music therapist diminished her ability to find work as a music therapist, but she did not eliminate it entirely.