

1 AN ACT relating to recreational therapists and making an appropriation therefor.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. The licensure of recreational therapists is necessary to safeguard the
4 public health, safety, and welfare; establish a minimum level of education, experience,
5 and competence; and to ensure the highest degree of professional care and conduct.

6 ➔SECTION 2. KRS CHAPTER 319D IS ESTABLISHED AND A NEW
7 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

8 ***As used in this chapter:***

9 ***(1) "Board" means the Kentucky Board of Licensure for Recreational Therapy;***

10 ***(2) "CTRS" means certified therapeutic recreational specialist certified by the***
11 ***NCTRC;***

12 ***(3) "General supervision" means regularly and routinely on-site and, when not on-***
13 ***site, on call and readily available physically or through direct telephone for***
14 ***consultation;***

15 ***(4) "Licensed recreational therapist" means a person certified by the NCTRC and***
16 ***licensed by the board to practice recreational therapy. A person certified and***
17 ***licensed as a recreational therapist may use the letters CTRS/L after his or her***
18 ***name;***

19 ***(5) "NCTRC" means the National Council for Therapeutic Recreation Certification;***

20 ***(6) "Practice of recreational therapy" means the specialized application of***
21 ***recreation in community, residential, clinical, or educational settings to assist***
22 ***with the treatment or maintenance of health status, functional abilities,***
23 ***recreational and leisure activities, and, ultimately, quality of life for individuals***
24 ***hospitalized or receiving treatment for various diagnoses and individuals with***
25 ***disabilities. Within a residential, clinical, and educational setting, recreational***
26 ***therapy services are provided via direct physician orders to the treating CTRS,***
27 ***who is part of an interdisciplinary team. Within the community setting,***

1 recreational therapy services are provided via referral from a qualified
2 professional, such as an occupational therapist, a physical therapist, a CTRS, a
3 physician, a nurse, or psychologist or through independent participation on the
4 part of the client or his or her family. Recreational therapy includes:

5 (a) Remediating or restoring an individual's participation levels in recreation
6 and leisure activities that are limited due to impairment in physical, social,
7 or spiritual abilities;

8 (b) Analyzing and evaluating recreational and leisure activities to determine
9 the physical, social, and programmatic elements necessary for involvement
10 and modifying those elements to promote full participation and
11 maximization of functional independence in recreational and leisure
12 activities;

13 (c) Using recreational and leisure modalities in designed intervention strategies
14 to maximize physical, social, or spiritual abilities in recreation and leisure.
15 Modalities include but are not limited to: providing treatment services and
16 recreation activities to individuals using a variety of techniques, including
17 arts and crafts, service animals, sports, games, dance and movement,
18 drama, music, and community outings. Recreational therapists treat and
19 help maintain the physical and mental well-being of their clients by seeking
20 to reduce the symptoms of depression, stress, and anxiety; improve basic
21 motor functioning and reasoning abilities; build confidence; and help
22 clients socialize effectively;

23 (d) Incorporating the individual's interests and the individual's family and
24 community to maximize relevance to the individual's recreational goals;

25 (e) Promoting the concept of active living into treatment strategies to decrease
26 the potential for secondary conditions;

27 (f) Developing community support and encouraging attitudinal changes to

- 1 reflect dignity, self-respect, and involvement within one's community; and
2 (g) Fostering peer and intergenerational relationships when participating in
3 recreational and leisure activities;
- 4 (7) "Recreational therapist" means a person licensed as a recreational therapist
5 under this chapter; and
- 6 (8) "Recreational therapy services" include but are not limited to:
- 7 (a) Conducting an individualized recreational therapy assessment for the
8 purpose of collecting systematic, comprehensive, and accurate data
9 necessary to determine the course of action and a subsequent individualized
10 recreational therapy treatment plan;
- 11 (b) Planning and developing the individualized recreational therapy treatment
12 plan that identifies an individual's goals, objectives, and treatment
13 intervention strategies for recreational and leisure activities;
- 14 (c) Implementing the individualized recreational therapy treatment plan that is
15 consistent with the recreational and leisure needs identified in the
16 individual's overall treatment program;
- 17 (d) Systematically evaluating and comparing the individual's response to the
18 individualized recreational therapy treatment plan and suggesting
19 modifications as appropriate;
- 20 (e) Developing a discharge plan in collaboration with the individual, the
21 individual's family, and other treatment team members;
- 22 (f) Identifying, applying, or training in the use of adaptive recreational and
23 leisure equipment;
- 24 (g) Identifying, providing, and educating individuals to use recreational,
25 leisure, and community resources that support an active and engaged life;
- 26 (h) Minimizing the impact of environmental constraints as a barrier to
27 participation in recreational, leisure, and community activities;

1 (i) Collaborating with and educating the individual, family, caregiver, and
2 others to foster an environment that is responsive to the recreational,
3 leisure, and community engagement needs of the individual; and

4 (j) Consulting with groups, programs, organizations, or communities to
5 improve physical, social, and programmatic accessibility in participation in
6 recreational, leisure, and community activities;

7 (9) "Remediating" means the action of remedying, the reversal or stopping of
8 damage to the environment or person through the use of recreational and leisure
9 activities; and

10 (10) "Restoring" means to bring back to a state of health, soundness, or vigor
11 through the use of recreational and leisure activities.

12 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO
13 READ AS FOLLOWS:

14 (1) There is hereby created the Kentucky Board of Licensure for Recreational
15 Therapy, which shall be attached to the Office of Occupations and Professions in
16 the Public Protection Cabinet for administrative purposes.

17 (2) The board shall consist of five (5) members appointed by the Governor.

18 (3) Three (3) members shall be certified recreational therapists who have actively
19 engaged in the practice of recreational therapy in the Commonwealth of
20 Kentucky with at least three (3) years' experience.

21 (4) Two (2) members shall be members of the public with an interest in the rights of
22 consumers of health services.

23 (5) The initial appointments to the Kentucky Board of Licensure for Recreational
24 Therapy shall consist of three (3) recreational therapists who are not licensed
25 under this chapter but who have been engaged in their respective practices for at
26 least three (3) years. Once licensing under this chapter is implemented,
27 recreational therapists appointed to the board shall hold the requisite license.

1 (6) Appointments subsequent to the initial appointments for the recreational
2 therapist positions may be made from recommendations submitted to the
3 Governor by the board.

4 →SECTION 4. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO
5 READ AS FOLLOWS:

6 The terms of the members shall be for three (3) years and until their successors are
7 appointed and qualified, except for those first appointed, when one (1) shall serve for
8 one (1) year, two (2) shall serve for two (2) years, and two (2) shall serve for three (3)
9 years. Vacancies shall be filled in the manner of the original appointment for the
10 unexpired portion of the term only. The Governor, after notice and opportunity for a
11 hearing, may remove any member of the board for malfeasance, neglect of duty,
12 incompetency, or revocation or suspension of a license. Members of the board shall
13 receive no salary but shall be allowed usual mileage, subsistence, and per diem as
14 provided by law for members of state boards, commissions, and committees. No
15 member shall serve more than two (2) consecutive terms.

16 →SECTION 5. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO
17 READ AS FOLLOWS:

18 The board shall meet quarterly and may meet at such other times as necessary to
19 complete the business required. A majority of the members of the board shall constitute
20 a quorum for the transaction of business. The board shall annually elect from its
21 membership a chair, a vice chair, and a secretary to serve for one (1) year terms.

22 →SECTION 6. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO
23 READ AS FOLLOWS:

24 The board may employ an executive director and other personnel as necessary for the
25 proper performance of its work and may make expenditures of its funds for any
26 purpose that the board deems necessary for proper performance of its duties, including
27 compensation of the executive director and personnel and the premium on the

1 executive director's bond.

2 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO
3 READ AS FOLLOWS:

4 (1) All fees and other moneys received by the board pursuant to the provisions of this
5 chapter shall be deposited in the State Treasury to the credit of a revolving fund
6 for the use of the board in carrying out the provisions of this chapter. No part of
7 this revolving fund shall revert to the general fund. All expenses incurred by the
8 board under this chapter shall be paid from this revolving fund and shall not be a
9 charge against the general fund.

10 (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of
11 the fiscal year shall not lapse but shall be carried forward into the succeeding
12 fiscal year to be used for the purposes set forth in this chapter.

13 (3) The executive director or any other person designated by the board shall give
14 bond to the state in a sum as determined by the board for the faithful
15 performance of his or her duties. The secretary shall receive and account for all
16 moneys derived under the provisions of this chapter and shall remit such moneys
17 to the State Treasurer, who shall keep them in the manner provided for other
18 such agencies and boards of the Commonwealth.

19 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO
20 READ AS FOLLOWS:

21 The board shall:

22 (1) Promulgate administrative regulations pursuant to KRS Chapter 13A relating to
23 the professional licensure standards to practice recreational therapy in the
24 Commonwealth which shall include:

25 (a) Establishing the educational requirements necessary to obtain a license as a
26 recreational therapist, which at a minimum shall be those established by
27 NCTRC;

- 1 (b) Establishing a code of ethics; and
- 2 (c) Requiring that all applicants show proof of having passed the National
- 3 NCTRC examination;
- 4 (2) Maintain a list of persons against whom the board has taken any disciplinary
- 5 action. This list shall include the name of the person, the reason for the
- 6 disciplinary action, the date of the disciplinary action, and the nature of the
- 7 disciplinary action;
- 8 (3) Keep a record of its proceedings and a register of all persons licensed as
- 9 recreational therapists. The register shall show the name of every licensee; the
- 10 licensee's last known place of business and last known place of residence; and
- 11 the date and number of the license of each licensed recreational therapist. The
- 12 board shall, during the month of January of every year, compile and make
- 13 available a list of licensed recreational therapists authorized to practice in the
- 14 Commonwealth;
- 15 (4) Make an annual report to the Governor and the General Assembly prior to
- 16 October 1 that shall contain an account of duties performed, actions taken, and
- 17 appropriate recommendations;
- 18 (5) Conduct administrative hearings in accordance with KRS Chapter 13B;
- 19 (6) Issue and renew licenses based on evidence of initial and continued competence
- 20 of persons subject to this chapter;
- 21 (7) Issue, suspend, or revoke licenses;
- 22 (8) Require the continuing professional education of persons subject to this chapter;
- 23 (9) Institute and maintain actions to restrain or enjoin any violation of this chapter
- 24 and administrative regulations promulgated hereunder, notwithstanding the
- 25 existence or pursuit of other civil or criminal penalties;
- 26 (10) Issue subpoenas, examine witnesses, administer oaths, and investigate allegations
- 27 of practices violating the provisions of this chapter; and

1 (11) Seek an injunction in Franklin Circuit Court against any individual who
2 practices recreational therapy in the Commonwealth without a license.

3 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 319D IS CREATED TO
4 READ AS FOLLOWS:

5 (1) It shall be unlawful for any person to practice recreational therapy or assist in
6 the practice of recreational therapy, or render services designated as recreational
7 therapy in the Commonwealth of Kentucky, unless licensed under this chapter.

8 (2) The licensure of recreational therapists shall extend only to individuals. A license
9 shall not be issued to a partnership, unincorporated association, corporation, or
10 other business organization.

11 (3) No person shall coerce a licensed recreational therapist into compromising client
12 safety by requiring the licensed recreational therapist to delegate activities or
13 tasks if the licensed recreational therapist determines that this action is
14 inappropriate. A licensed recreational therapist shall not be subject to
15 disciplinary action by the board for refusing to delegate activities or tasks or
16 refusing to provide the required training for delegation if the licensed
17 recreational therapist determines that the delegation may compromise client
18 safety.

19 (4) It shall be unlawful for a person to act or represent himself or herself as a
20 recreational therapist, use the title "therapeutic recreational specialist,"
21 "therapeutic recreation," "recreational therapy," "recreational therapist," or
22 use the letters "CTRS," "TRS," "TR," or any abbreviation, acronym, or insignia
23 that would indicate or imply directly or indirectly that recreational therapy is
24 provided or supplied unless the person is licensed and is in good standing in
25 accordance with the requirements of this chapter.

26 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
27 TO READ AS FOLLOWS:

1 (1) Consultation and evaluation by a recreational therapist may be performed
2 without a referral.

3 (2) Initiation of recreational therapy services to individuals with a medically related
4 condition shall be based on a referral from a qualified health care professional
5 who, within the scope of the professional's licensure, is authorized to refer for
6 health care services.

7 (3) Prevention, wellness, education, adaptive sports and recreation, and related
8 services shall not require a referral.

9 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
10 TO READ AS FOLLOWS:

11 The provisions of this chapter shall not be construed as preventing or restricting the
12 practices, services, or activities of:

13 (1) Any person qualified, registered, certified, or licensed to engage in another
14 profession or occupation or any person working under the supervision of a
15 person registered, certified, or licensed to engage in another profession or
16 occupation in this state from performing work incidental to the practice of that
17 profession or occupation as long as that person does not represent himself or
18 herself as a licensed recreational therapist, or the work to be recreational therapy
19 as defined by this chapter;

20 (2) Any person employed as a therapeutic recreation specialist, recreational
21 therapist, or its equivalent, by the government of the United States, if he or she
22 provides recreational therapy solely under the direction and control of the
23 organization by which he or she is employed;

24 (3) A person pursuing a course of study leading to a degree or certificate in
25 recreational therapy at an accredited or board-approved educational program, so
26 long as the activities and services are part of a supervised course of study and the
27 person is designated by a title which clearly indicates the status of student or

1 trainee and not a licensed recreational therapist; or

2 (4) A person fulfilling the supervised fieldwork experience requirements of this
 3 chapter, so long as such activities and services constitute a part of the experience
 4 necessary to meet the requirements of that board-approved educational program.

5 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
 6 TO READ AS FOLLOWS:

7 (1) On the payment to the board of fees required by this chapter and administrative
 8 regulations promulgated pursuant thereto, and on submission of a written
 9 application on forms provided by the board, the board shall issue a license to a
 10 person who:

11 (a) Is at least eighteen (18) years of age;

12 (b) Is of good moral character;

13 (c) Successfully completes the academic requirements of an educational
 14 program approved by the board;

15 (d) Successfully completes a period of supervised field experience as defined by
 16 the NCTRC and approved by the recognized educational institution where
 17 the applicant met the academic requirements;

18 (e) Passes a written or computer-based examination administered by the
 19 NCTRC which is designed to test the knowledge and experience necessary
 20 for the safe, effective, and professional practice of recreational therapy in
 21 Kentucky; and

22 (f) Meets any other requirements the board may require by administrative
 23 regulation.

24 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
 25 TO READ AS FOLLOWS:

26 Notwithstanding the requirements set forth in this chapter, the board shall grant
 27 licenses to recreational therapists who were certified by the NCTRC, and who hold an

1 active CTRS credential.

2 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
3 TO READ AS FOLLOWS:

4 *The board shall promulgate administrative regulations to establish the following fees:*

- 5 *(1) A nonrefundable fee to process an application for an initial license, not to exceed*
6 *one hundred fifty dollars (\$150);*
- 7 *(2) A license renewal fee, not to exceed one hundred dollars (\$100);*
- 8 *(3) Late filing of applications for license renewal, not to exceed one hundred fifty*
9 *dollars (\$150);*
- 10 *(4) Reinstatement of licenses after lapse fees, not to exceed one hundred dollars*
11 *(\$100);*
- 12 *(5) Transcribing and transferring records; and*
- 13 *(6) The costs of a hearing by any governing board at which the issues of denial of or*
14 *imposition of conditions on an initial license are considered, including the per*
15 *diem and mileage of board members attending the hearing and the cost of a court*
16 *reporter if one is used to record the hearing.*

17 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
18 TO READ AS FOLLOWS:

- 19 *(1) Licenses issued under this chapter shall be valid for two (2) years and may be*
20 *renewed upon the payment of a renewal fee required by administrative*
21 *regulations promulgated by the board.*
- 22 *(2) Persons licensed as recreational therapists or recreational therapy assistants are*
23 *eligible for renewal of their licenses if they:*
- 24 *(a) Have not violated the provisions set forth in this chapter;*
- 25 *(b) Have not demonstrated poor moral character;*
- 26 *(c) Hold an active CTRS credential; and*
- 27 *(d) Meet the continuing competency requirements by completing a minimum of*

- 1 twenty-five (25) hours of continuing education in formal courses approved
2 by the board and other requirements promulgated by the board.
- 3 (3) The board shall accept continuing education programs that meet the
4 recertification standards of the National Council for Therapeutic Recreation
5 Certification.
- 6 (4) The board shall mail materials necessary to complete renewal applications to
7 every person to whom a license was issued during the current licensure period
8 not less than sixty (60) days before the license expires. Failure of any licensees to
9 receive these materials shall not relieve them of the obligation to comply with the
10 rules of the governing boards and this section.
- 11 (5) Applicants shall submit completed applications for renewal not less than thirty
12 (30) days before the license expires. Completed renewal applications submitted
13 within the thirty (30) days before the license expires shall be accompanied by a
14 late filing fee. Licenses shall lapse when completed renewal applications have not
15 been filed prior to the license's expiration date.
- 16 (6) The board may provide for the late renewal of a license upon the payment of a
17 late fee in accordance with its administrative regulations, but a license renewal
18 shall not be granted more than five (5) years after its expiration.
- 19 (7) A person who fails to restore his or her license within five (5) years after its
20 expiration may not restore it, and it shall not be restored, reissued, or reinstated
21 thereafter. The person may apply for and obtain a new license if current
22 requirements of this chapter are met.
- 23 (8) Any person practicing recreational therapy after the license has expired shall be
24 considered an illegal practitioner and shall be subject to the penalties provided
25 for violations of the provisions of this chapter.
- 26 (9) A suspended license is subject to expiration and may be restored as provided in
27 this section, but restoration shall not entitle the licensee, while the license

1 remains suspended and until it is reinstated, to engage in the licensed activity, or
 2 in any other conduct or activity in violation of the order or judgment by which the
 3 license was suspended.

4 (10) A license revoked on disciplinary grounds is subject to expiration and may not be
 5 renewed. If the license is subsequently reinstated, the licensee, as a condition of
 6 reinstatement, shall pay a reinstatement fee, the renewal fee, and any late fee that
 7 may be applicable.

8 (11) Upon petition to the board, licensees may be granted inactive license status for a
 9 period of time not to exceed three (3) years. Licensees shall not practice
 10 recreational therapy or assist in the practice of recreational therapy while under
 11 inactive status. Inactive licensees may apply for an active license after paying a
 12 fee provided for by administrative regulation promulgated by the board.

13 (12) Each recreational therapist licensed under this chapter shall notify the board in
 14 writing of any change in the person's name, home or office address, or
 15 employment within thirty (30) days after the change has taken place.

16 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
 17 TO READ AS FOLLOWS:

18 The board shall grant a license, without examination or by special examination, to any
 19 person who, at the time of application, is licensed as a recreational therapist or the
 20 equivalent by a similar board of another country, state, or territory whose licensing
 21 standards are substantially equivalent to or higher than those required by this chapter.
 22 The board shall determine the substantial equivalence upon which reciprocity is based.

23 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
 24 TO READ AS FOLLOWS:

25 (1) The board may deny or refuse to renew a license, may suspend or revoke a
 26 license, or may impose probationary conditions if the licensee or applicant for
 27 licensure has engaged in unprofessional conduct which has endangered or is

1 likely to endanger the health, welfare, or safety of the public. Unprofessional
2 conduct shall include:

3 (a) Obtaining a license by means of fraud, misrepresentation, or concealment
4 of material facts;

5 (b) Unprofessional conduct as defined by administrative regulations
6 promulgated by the board, or violating the code of ethics promulgated by
7 the board;

8 (c) Being convicted of a felony in any court if any act for which the person was
9 convicted is found by the board to have a direct bearing on whether he or
10 she should be entrusted to serve the public in the capacity of a licensed
11 recreational therapist;

12 (d) Violating any lawful order or administrative regulation rendered or
13 promulgated by the board; or

14 (e) Violating any provision of this chapter.

15 (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary
16 conditions upon a license may be ordered by the board in a decision made after
17 an administrative hearing conducted in accordance with KRS Chapter 13B and
18 administrative regulations promulgated by the board. The board shall have
19 discretion to accept or reject an application for reinstatement following an
20 administrative hearing conducted in accordance with KRS Chapter 13B.

21 (3) The surrender of a license shall not serve to deprive the board of jurisdiction to
22 proceed with disciplinary actions under this chapter.

23 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
24 TO READ AS FOLLOWS:

25 Any person aggrieved by an order of the board denying, suspending, or revoking his or
26 her license may appeal to the Franklin Circuit Court for appropriate relief within
27 thirty (30) days after entry of the order. On the appeal, the scope of review shall be

1 limited to an examination of the record of the board's action for the purpose of
2 determining whether the board abused its discretion. The appellant shall furnish the
3 court with a properly certified transcript of any evidence heard by the board, and the
4 court may refuse to review any findings of fact made by the board unless a transcript is
5 filed within sixty (60) days after the filing of the appeal.

6 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 319D IS CREATED
7 TO READ AS FOLLOWS:

8 Any person who violates the provisions of Section 9 of this Act shall be guilty of a
9 violation for the first offense and guilty of a Class A misdemeanor for any subsequent
10 offense.