

1 RECREATIONAL THERAPY PRACTICE ACT AMENDMENTS

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Gene Davis

5 House Sponsor: _____

6
7 LONG TITLE

8 General Description:

9 This bill renumbers and modifies the Recreational Therapy Practice Act in relation to
10 licensure, scope of practice, and other matters.

11 Highlighted Provisions:

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ renumbers the Recreational Therapy Practice Act in relation to licensure, scope of
15 practice, and other matters;
- 16 ▶ provides that one member of the board assist the division in reviewing complaints;
- 17 ▶ provides requirements for licensure under the act;
- 18 ▶ provides exemptions from licensure under the act;
- 19 ▶ clarifies the scope of practice and other requirements of a person licensed under the

20 act; **§→ [and]**

20a **▶extends the sunset date of the Recreational Therapy Practice Act; and ←§**

- 21 ▶ makes technical changes.

22 Money Appropriated in this Bill:

23 None

24 Other Special Clauses:

25 None

26 Utah Code Sections Affected:

26a **§→ AMENDS:**

26b **63I-1-258, as last amended by Laws of Utah 2010, Chapter 188 ←§**

27 ENACTS:



- 28 **58-40-103**, Utah Code Annotated 1953
- 29 **58-40-301**, Utah Code Annotated 1953
- 30 **58-40-302**, Utah Code Annotated 1953
- 31 **58-40-304**, Utah Code Annotated 1953
- 32 **58-40-305**, Utah Code Annotated 1953
- 33 **58-40-501**, Utah Code Annotated 1953
- 34 **58-40-502**, Utah Code Annotated 1953

35 RENUMBERS AND AMENDS:

36 **58-40-101**, (Renumbered from 58-40-1, as last amended by Laws of Utah 1985,
37 Chapter 53)

38 **58-40-102**, (Renumbered from 58-40-2, as last amended by Laws of Utah 2004,
39 Chapter 11)

40 **58-40-201**, (Renumbered from 58-40-4, as last amended by Laws of Utah 1993,
41 Chapter 297)

42 **58-40-303**, (Renumbered from 58-40-11, as repealed and reenacted by Laws of Utah
43 1993, Chapter 297)

44 **58-40-401**, (Renumbered from 58-40-8, as repealed and reenacted by Laws of Utah
45 1993, Chapter 297)

46 **58-40-601**, (Renumbered from 58-40-6, as last amended by Laws of Utah 2004,
47 Chapter 11)

48 **58-40-602**, (Renumbered from 58-40-7, as last amended by Laws of Utah 2004,
49 Chapter 11)

50 REPEALS:

51 **58-40-3**, as repealed and reenacted by Laws of Utah 1992, Chapter 108



53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **58-40-101**, which is renumbered from Section 58-40-1 is
55 renumbered and amended to read:

56 **CHAPTER 40. RECREATIONAL THERAPY PRACTICE ACT**

57 **Part 1. General Provisions**

58 ~~[58-40-1]~~. **58-40-101**. Title.

59 This chapter is known as the "Recreational Therapy Practice Act."

60 Section 2. Section ~~58-40-102~~, which is renumbered from Section 58-40-2 is
61 renumbered and amended to read:

62 ~~[58-40-2].~~ **58-40-102. Definitions.**

63 In addition to the definitions in Section 58-1-102, as used in this chapter:

64 (1) "Approved[;]" ~~[when used to refer to a course of education, training, experience,~~
65 ~~examination, or other licensing requirement;]~~ means ~~[with]~~ approval by the division in
66 collaboration with the board when used to refer to a licensing requirement.

67 (2) (a) "Assessment" means ~~[the use of skilled observation or evaluation by~~
68 ~~administering and interpreting standardized or nonstandardized tests and measurements to~~
69 ~~identify areas for recreational therapy services.];~~

70 (i) a systematic collection of data to identify the strengths and limitations of a person's
71 physical, cognitive, social, behavioral, emotional, spiritual, and leisure capabilities; and

72 (ii) interpreting and analyzing collected data to identify and determine a course of
73 action for recreational therapy services for a patient.

74 (b) "Assessment" includes:

75 (i) a record review;

76 (ii) the implementation of standardized and non-standardized instruments, tests, and
77 measurements; and

78 (iii) the skilled observation and interview of a person.

79 (3) "Board" means the Board of Recreational Therapy created in Section 58-40-201.

80 (4) ~~[(a)]~~ "Practice of recreational therapy" means to engage in the paid performance of
81 providing ~~[therapeutic recreation]~~ recreational therapy services according to the therapeutic
82 ~~[recreational]~~ recreation process ~~[to individuals]~~ to a person with an emotional, social,
83 intellectual, or physical pathology.

84 ~~[(b) A therapeutic recreational process involves minimum skills for competent practice~~
85 ~~and includes necessary knowledge to provide the following patient services:]~~

86 ~~[(i) assessment of individual needs for therapeutic recreational intervention;]~~

87 ~~[(ii) development of an individualized treatment or intervention plan based on assessed~~
88 ~~interests and needs;]~~

89 ~~[(iii) appropriate implementation of therapeutic intervention services;]~~

90 ~~[(iv) evaluation and documentation of patient outcomes; and]~~

91 ~~[(v) the organization and management of therapeutic recreational services.]~~

92 (5) "Recreational therapy" or "therapeutic recreation" means a person-centered process
 93 that uses recreation and psychoeducational activities as intervention tools to improve the
 94 physical, cognitive, social, behavioral, emotional, or spiritual well-being of a person with an
 95 illness or a disability.

96 (6) (a) "Recreational therapy services" means using recreation and psychoeducational
 97 activities as intervention tools to improve or maintain the physical, cognitive, social,
 98 behavioral, emotional, or spiritual well-being of a person with an illness or a disability.

99 (b) "Recreational therapy services" include:

100 (i) assessing a person's need for recreational therapy treatment or intervention;

101 (ii) developing an individualized treatment or intervention plan that identifies goals,
 102 objectives, and treatment strategies for a person;

103 (iii) implementing the individualized treatment or intervention plan;

104 (iv) documenting a person's response to the individualized treatment or intervention
 105 plan, including documenting the overall outcome of the person's treatment;

106 (v) regularly evaluating a person's response to the individualized treatment or
 107 intervention plan and modifying the plan when appropriate;

108 (vi) in collaboration with a person, the person's family, or other team members,
 109 developing a discharge or transition plan for the person;

110 (vii) serving as a resource to help a person find recreation opportunities that will
 111 promote the person's physical, cognitive, social, behavioral, emotional, ~~§~~→ [and] or ←~~§~~ spiritual
 111a health and
 112 well-being; and

113 (viii) organizing and managing recreational services according to a written plan of
 114 operation as defined by rule of the division.

115 ~~[(5)] (7) "Treatment or intervention plan" means a written record containing the~~
 116 ~~information required by Section [58-40-7] 58-40-602, which is composed for each patient by a~~
 117 ~~person licensed under this chapter as a master therapeutic [recreational] recreation specialist or~~
 118 ~~a therapeutic [recreational] recreation specialist [under this chapter].~~

119 ~~[(6) "Unlawful conduct" as defined in Section 58-1-501 includes the following conduct~~
 120 ~~by any individual who is not licensed under this chapter.]~~

121 ~~[(a) advertising or representing himself as being able to teach or conduct a recreational~~
122 ~~therapy program; or]~~

123 ~~[(b) using in connection with his name the initials MTRS, TRS, or TRT, or any term,~~
124 ~~title, abbreviation, sign, or device relating to the practice of recreational therapy or the licenses~~
125 ~~under this chapter.]~~

126 ~~[(7) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further~~
127 ~~defined by rule includes:]~~

128 ~~[(a) failing to supervise a therapeutic recreational technician, a student intern, or~~
129 ~~temporarily licensed therapeutic recreational specialist when required to do so;]~~

130 ~~[(b) failing to keep or maintain a recreational therapy treatment plan;]~~

131 ~~[(c) making sexual advances to a patient or requesting of a patient sexual favors, sexual~~
132 ~~intercourse, or other verbal or physical conduct of a sexual nature;]~~

133 ~~[(d) possessing or using illegal or unprescribed prescription drugs or medications;]~~

134 ~~[(e) using or being under the influence of intoxicating beverages while performing~~
135 ~~recreational therapy; or]~~

136 ~~[(f) violating Sections 58-40-6 through 58-40-7.]~~

137 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-40-501.

138 (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-40-502.

139 Section 3. Section **58-40-103** is enacted to read:

140 **58-40-103. Rulemaking.**

141 When exercising rulemaking authority under this chapter, the division shall comply
142 with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

143 Section 4. Section **58-40-201**, which is renumbered from Section 58-40-4 is
144 renumbered and amended to read:

145 **Part 2. Board**

146 **[58-40-4]. 58-40-201. Board.**

147 (1) There is created [a] the Board of Recreational Therapy[~~. It shall be appointed~~],
148 consisting of:

149 (a) two master therapeutic recreation specialists;

150 (b) one therapeutic recreation specialist;

151 (c) one therapeutic recreation technician; and

152 (d) one member of the general public.

153 (2) The ~~§~~ [governor shall appoint members of the] ~~←~~§ board ~~§~~→ shall be appointed and
 153a serve ~~←~~§ in accordance with Section
 154 58-1-201.

155 ~~[(2) The board shall consist of two master therapeutic recreational specialists, one~~
 156 ~~therapeutic recreational specialist, one therapeutic recreational technician, and one member~~
 157 ~~appointed from the general public.]~~

158 (3) (a) The [board's duties, functions, and responsibilities] duties and responsibilities of
 159 the board shall [comply] be in accordance with Sections 58-1-202 [through] and 58-1-203.

160 (b) In addition, the board shall designate one of its members on a permanent rotating
 161 basis to:

162 (i) assist the division in reviewing complaints concerning the unlawful or
 163 unprofessional conduct of a licensee; and

164 (ii) advise the division in its investigation of these complaints.

165 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
 166 in the investigation of a complaint may be disqualified from participating with the board when
 167 the board serves as a presiding officer in an adjudicative proceeding relating to the complaint.

168 Section 5. Section **58-40-301** is enacted to read:

Part 3. Licensing

58-40-301. Licensure required -- License classifications.

171 (1) A license is required to engage in the practice of recreational therapy, except as
 172 specifically provided in Section 58-40-305 or 58-1-307.

173 (2) The division shall issue to a person who qualifies under this chapter a license in the
 174 classification of:

175 (a) master therapeutic recreation specialist;

176 (b) therapeutic recreation specialist; or

177 (c) therapeutic recreation technician.

178 Section 6. Section **58-40-302** is enacted to read:

58-40-302. Qualifications for licensure.

180 (1) An applicant for licensure under this chapter shall:

181 (a) submit an application in a form prescribed by the division;

182 (b) pay a fee determined by the department under Subsection 63-38-3(2); and

183 (c) be of good moral character.
184 (2) In addition to the requirements of Subsection (1), an applicant for licensure as a
185 master therapeutic recreation specialist under this chapter shall as defined by division rule:

- 186 (a) complete an approved graduate degree;
- 187 (b) complete 4,000 qualifying hours of paid experience as:
 - 188 (i) a licensed therapeutic recreation specialist if completed in the state; or
 - 189 (ii) a certified therapeutic recreation specialist certified by the National Council for
- 190 Therapeutic Recreation Certification if completed outside of the state; and

191 (c) pass an approved examination.

192 (3) In addition to the requirements of Subsection (1), an applicant for licensure as a
193 therapeutic recreation specialist under this chapter shall, as defined by division rule:

- 194 (a) complete an approved:
 - 195 (i) bachelor's degree in therapeutic recreation or recreational therapy;
 - 196 (ii) bachelor's degree with an approved emphasis, option, or concentration in

197 therapeutic recreation or recreational therapy; or

198 (iii) graduate degree;

199 (b) complete an approved practicum; and

200 (c) pass an approved examination.

201 (4) In addition to the requirements of Subsection (1), an applicant for licensure as a
202 therapeutic recreation technician under this chapter shall, as defined by division rule:

203 (a) have a high school diploma or GED equivalent;

204 (b) complete an approved:

205 (i) educational course in therapeutic recreation taught by a licensed master therapeutic
206 recreation specialist; or

207 (ii) six semester hours or nine quarter hours in therapeutic recreation or recreational
208 therapy from an accredited college or university;

209 (c) complete an approved practicum under the supervision of:

210 (i) a licensed master therapeutic recreation specialist; or

211 (ii) an on-site, full-time, employed therapeutic recreation specialist; and

212 (d) pass an approved examination.

213 Section 7. Section **58-40-303**, which is renumbered from Section 58-40-11 is

214 renumbered and amended to read:

215 ~~[58-40-11].~~ **58-40-303. Term of license -- Expiration -- Renewal.**

216 (1) ~~[Each license issued]~~ The division shall issue a license under this chapter ~~[shall be~~
217 ~~issued]~~ in accordance with a two-year renewal cycle established by rule. ~~[A renewal period~~
218 ~~may be extended or shortened]~~

219 (2) The division may, by rule, extend or shorten a renewal cycle by as much as one year
220 to ~~[maintain established renewal cycles or to change an established renewal cycle]~~ stagger the
221 renewal cycles it administers.

222 ~~[(2)]~~ (3) ~~[Each]~~ A license automatically expires on the expiration date shown on the
223 license unless ~~[renewed by the licensee]~~ the licensee renews it in accordance with Section
224 58-1-308.

225 Section 8. Section **58-40-304** is enacted to read:

226 **58-40-304. Continuing education.**

227 In collaboration with the board, the division shall make rules to provide that as a
228 condition precedent for license renewal, a licensee shall complete continuing education
229 requirements during each license period.

230 Section 9. Section **58-40-305** is enacted to read:

231 **58-40-305. Exemptions from licensure.**

232 In addition to the exemptions from licensure in Section 58-1-307, a person may conduct
233 or participate in a recreational activity without being licensed under this chapter if the person is
234 using the recreational activity for the sole outcome of the recreational experience and is not
235 using recreational activity as a therapeutic intervention following the therapeutic recreation
236 process.

237 Section 10. Section **58-40-401**, which is renumbered from Section 58-40-8 is
238 renumbered and amended to read:

239 **Part 4. License Denial and Discipline**

240 ~~[58-40-8].~~ **58-40-401. Grounds for denial of license -- Disciplinary**
241 **proceedings.**

242 Grounds for ~~[refusal]~~ refusing to issue a license to an applicant, for refusal to renew the
243 license of a licensee, ~~[to revoke, suspend, restrict, or place]~~ for revoking, suspending,
244 restricting, or placing on probation the license of a licensee, ~~[to issue]~~ for issuing a public or

245 private reprimand to a licensee, and ~~[to issue]~~ for issuing a cease and desist [orders] order shall
 246 be in accordance with Section 58-1-401.

247 Section 11. Section **58-40-501** is enacted to read:

248 **Part 5. Unlawful and Unprofessional Conduct -- Penalties**

249 **58-40-501. Unlawful conduct.**

250 "Unlawful conduct" includes:

251 (1) providing, leading, facilitating, teaching, or offering to provide or teach recreational
 252 therapy services unless licensed under this chapter or exempted from licensure under Section

253 58-1-307 or 58-40-305; ~~§~~ **[and]** ~~←§~~

254 (2) using the initials MTRS, TRS, or TRT, or other abbreviation, term, title, or sign
 255 relating to the practice of recreational therapy services unless licensed under this chapter ~~§~~ **[]** ;

255a **and**

255b **(3) employing or aiding and abetting the employment of an unqualified or unlicensed person**

255c **to:**

255d **(a) practice as a recreational therapist; or**

255e **(b) provide recreational therapy services. ~~←§~~**

256 Section 12. Section **58-40-502** is enacted to read:

257 **58-40-502. Unprofessional conduct.**

258 "Unprofessional conduct" includes:

259 ~~§~~ **[(1) employing or aiding and abetting the employment of an unqualified or unlicensed**
 260 **person to:**

261 ~~—~~ **(a) practice as a recreational therapist; or**

262 ~~—~~ **(b) provide recreational therapy services;**

263 ~~—~~ **(2)] (1) ~~←§~~ failing to supervise a therapeutic recreation technician, a student intern, or a**
 264 **temporarily licensed therapeutic recreation specialist when required to do so under this chapter**
 265 **or by rule;**

266 ~~§~~ **[(3)] (2) ~~←§~~ failing to keep or maintain a recreational therapy treatment plan;**

267 ~~§~~ **[(4)] (3) ~~←§~~ failing to safeguard a person's right to privacy as to the person's identity,**
 267a **condition,**

268 **diagnosis, personal effects, or other matters about which the licensee is privileged to know**

269 **from providing recreational therapy services;**

270 ~~§~~ **[(5)] (4) ~~←§~~ failing to report to the division the unsafe, unethical, or illegal practice of a**
 270a **person**

271 **who is providing recreational therapy services;**

272 ~~§~~ → [(6)] (5) ← ~~§~~ making sexual advances to a patient, requesting sexual intercourse or
272a sexual favors
273 from a patient, or engaging in other verbal or physical conduct of a sexual nature in the
274 presence of a patient;
275 ~~§~~ → [(7)] (6) ← ~~§~~ exploiting a patient or former patient for personal gain;

276 ~~§~~→ [(8)] (7) ←~~§~~ possessing or dispensing illegal or non-prescribed prescription drugs or
 277 medications;

278 ~~§~~→ [(9)] (8) ←~~§~~ using or being under the influence of alcohol or an illegal or non-prescribed
 279 prescription drug or medication while performing recreational therapy services; and

280 ~~§~~→ [(10)] (9) ←~~§~~ other actions as defined by division rule.

281 Section 13. Section **58-40-601**, which is renumbered from Section 58-40-6 is
 282 renumbered and amended to read:

283 **Part 6. Scope of Practice -- Treatment or Intervention Plans**

284 ~~[58-40-6].~~ **58-40-601. Scope of practice.**

285 (1) A master therapeutic [~~recreational~~] recreation specialist licensed under this chapter
 286 may:

287 (a) practice recreational therapy [~~as~~];

288 (i) as an employee of a hospital, clinic, agency, or other facility[;];

289 (ii) in private practice[;]; or

290 (iii) as a consultant; and

291 (b) supervise and train other licensees under this chapter.

292 (2) A therapeutic [~~recreational~~] recreation specialist [~~may~~] licensed under this chapter:

293 (a) may practice recreational therapy as the employee of a hospital, clinic, agency, or
 294 other facility;

295 (b) may not practice recreational therapy in private practice or as a consultant; and

296 ~~[(b)]~~ (c) may supervise other licensees under this chapter.

297 (3) A therapeutic [~~recreational~~] recreation technician [~~may~~]:

298 (a) may perform recreational therapy services [~~only~~] if:

299 (i) under the supervision of a master therapeutic [~~recreational~~] recreation specialist or a
 300 therapeutic [~~recreational~~] recreation specialist employed full-time[;] and on-site in the same
 301 hospital, clinic, or facility; or

302 (ii) in consultation with a master therapeutic [~~recreational~~] recreation specialist;

303 (b) may maintain the ongoing documentation of services provided in accordance with a
 304 treatment or intervention plan [~~only~~] if:

305 (i) under the supervision of either a master therapeutic [~~recreational~~] recreation

306 specialist or a therapeutic [~~recreational~~] recreation specialist employed full-time[;] and on-site

307 in the same hospital, clinic, or facility; or

308 (ii) in consultation with a master therapeutic [~~recreational~~] recreation specialist; [~~and~~]

309 (c) [~~not~~] may perform [assessments or] the portion of an assessment described in

310 Subsection 58-40-102(2)(a)(i):

311 (d) may not perform the portion of an assessment described in Subsection

312 58-40-102(2)(a)(ii):

313 (e) may not prescribe or [~~modify~~] create a treatment or intervention plan [~~or~~]; and

314 (f) may not approve or cosign [~~modifications~~] a modification to a treatment or

315 intervention plan.

316 Section 14. Section **58-40-602**, which is renumbered from Section 58-40-7 is

317 renumbered and amended to read:

318 ~~[58-40-7].~~ **58-40-602. Recreational therapy treatment or intervention plans.**

319 (1) [~~Under this chapter, a~~] A recreational therapy treatment or intervention plan shall
320 be maintained for each patient receiving recreational therapy services under this chapter.

321 (2) The treatment or intervention plan shall include:

322 [~~(a) an assessment based on the strengths, limitations, interests, and needs of the~~
323 ~~patient;~~]

324 [~~(b) prescribed intervention strategies and approaches;~~]

325 [~~(c) patient goals and measurable treatment or intervention objectives and outcomes;~~
326 ~~and]~~

327 [~~(d) evaluations of progress and treatment.]~~

328 (a) goals and objectives for a patient that are developed from an assessment based on
329 the strengths and limitations of the patient's physical, cognitive, social, behavioral, emotional,
330 spiritual, and leisure capabilities;

331 (b) the selection and adaptation of interventions designed to achieve and maintain the
332 highest possible level of functional independence and quality of life for a patient;

333 (c) a schedule for regular evaluation of goals and objectives to make changes to the
334 treatment or intervention plan when required; and

335 (d) expected outcomes related to the goals and objectives.

335a **§→ Section 15. Section 63I-1-258 is amended to read:**

335b **63I-1-258. Repeal dates, Title 58.**

335c (1) **Title 58, Chapter 9, Funeral Services Licensing Act, is repealed July 1, 2018.**

335d (2) **Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July**
335e **1, 2016.**

335f (3) **Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.**

- 335g (4) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2013.
- 335h (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, ~~2013~~ 2023.
- 335i (6) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is repealed
- 335j July 1, 2019.
- 335k (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.
- 335l (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1,
- 335m 2013.
- 335n (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2014.
- 335o (10) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.
- 335p (11) Section 58-13-2.5 is repealed July 1, 2013.
- 336 Section ~~15~~ 16 . Repealer. ←§
- 337 This bill repeals:

Section 58-40-3, License classifications.

Legislative Review Note
as of 1-31-12 9:23 AM

Office of Legislative Research and General Counsel