

Amendment to HB 546-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 New Paragraph; Mental Health Practice; Definitions; Art Therapy. Amend RSA 330-A:2 by
4 inserting after paragraph I the following new paragraph:

5 I-a. "Art therapy" means the integrated application of psychotherapeutic principles and
6 methods with evidence-based use of art, including art media, the creative process, and produced
7 artwork, to accomplish individualized goals within a therapeutic relationship between a client and
8 an art therapist.

9 2 Definitions; References Added. Amend RSA 330-A:2, V-VIII to read as follows:

10 V. "Mental health discipline" means the disciplines of those licensed as pastoral
11 psychotherapists, clinical social workers, clinical mental health counselors, ~~[and]~~ marriage and
12 family therapists, **and art therapists**.

13 VI. "Mental health practice" means the observation, description, evaluation, interpretation,
14 diagnosis, and modification of human behavior by the application of psychological and systems
15 principles, methods, and procedures for the purpose of preventing or eliminating symptomatic,
16 maladapted, or undesirable behavior and of enhancing interpersonal relationships, work and life
17 adjustments, personal effectiveness, behavioral health, and mental health, as well as the diagnosis
18 and treatment of the psychological and social aspects of physical illness, accident, injury, or
19 disability. Mental health practice may include, but shall not be limited to, those services based on
20 diagnosis and treatment of mental and emotional disorders and psycho-educational or consultative
21 techniques integral to the treatment of such disorders when diagnosis is specified in the most
22 current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the
23 American Psychiatric Association, or an equivalent of such manual as determined by the board.
24 Notwithstanding any other provision to the contrary, no person licensed or registered under this
25 chapter shall assess the need for medications, prescribe medications, or otherwise practice medicine
26 as defined in RSA 329.

27 VII. "Mental health practitioner" means persons licensed under this chapter as pastoral
28 psychotherapists, clinical social workers, clinical mental health counselors, ~~[or]~~ marriage and family
29 therapists, **or art therapists**. For purposes of this chapter, the term clinical social worker shall
30 include independent clinical social worker.

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1 VII-a. "Professional conduct investigator" means a trained mental health practitioner
2 licensed by the board who acts as the agent of the board under the guidance of the board investigator
3 and is authorized to discover facts and make reports to the board.

4 VIII. "Psychotherapist" means a clinical social worker, pastoral psychotherapist, clinical
5 mental health counselor, ~~[or]~~ marriage and family therapist, **or art therapist** licensed under this
6 chapter who performs or purports to perform psychotherapy. This definition shall include
7 psychiatrists licensed as physicians under RSA 329 and advanced registered nurse practitioners
8 licensed under RSA 326-B:18 as psychiatric nurse practitioners.

9 3 Board of Mental Health Practice; Art Therapist Added. Amend RSA 330-A:3, I to read as
10 follows:

11 I. There shall be a board of mental health practice composed of the following members: one
12 licensed pastoral psychotherapist, one licensed clinical social worker, one licensed marriage and
13 family therapist, one licensed clinical mental health counselor, one member from a community
14 mental health center, one member from a community health center, **one licensed art therapist**,
15 and 3 public members. The members shall be appointed to a term of 3 years by the governor with
16 the approval of the council. The members of the board shall elect a chairperson on an annual basis.
17 No discipline's representative and no individual public member shall serve as chairperson for more
18 than 2 years consecutively.

19 4 Board Meetings; Quorum. Amend RSA 330-A:9, I to read as follows:

20 I. The board shall hold regular annual meetings. Other meetings of the board shall be held
21 at such times and upon such notice as the rules of the board provide. ~~[Five]~~ **Six** members shall
22 constitute a quorum.

23 5 New Paragraph; Board Responsibilities; Rulemaking. Amend RSA 330-A:10 by inserting after
24 paragraph X the following new paragraph:

25 X-a. Ethical standards, including those promulgated by the Art Therapy Credentials Board,
26 required to be met by each licensed art therapist, and how a license may be revoked for violations of
27 these standards.

28 6 Fees; Reference Added. Amend RSA 330-A:12, I to read as follows:

29 I. The board shall establish fees pursuant to RSA 541-A for review of applicants for
30 licensure; supervisory agreements; applications for licensed pastoral psychotherapist, independent
31 clinical social worker, clinical mental health counselor, ~~[and]~~ marriage and family therapist, **and**
32 **art therapist**; renewal of license; renewal of dual license; reinstatement of license; inactive license
33 status; reactivation of an inactive license; examination of applicants; transcribing and transferring
34 records; and other services, including investigations and hearings conducted under this chapter.

35 7 New Sections; Art Therapists; Scope of Practice; Licensure. Amend RSA 330-A by inserting
36 after section 21 the following new sections:

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1 330-A:21-a Art Therapists; Scope of Practice. The scope of practice of a licensed professional art
2 therapist includes, but is not limited to:

3 I. The use of psychotherapeutic principles, art media, and the creative process to assist
4 individuals, families, or groups in:

- 5 (a) Increasing awareness of self and others;
- 6 (b) Coping with symptoms, stress, and traumatic experiences;
- 7 (c) Enhancing cognitive abilities; and
- 8 (d) Identifying and assessing clients' needs in order to implement therapeutic
9 intervention to meet developmental, behavioral, mental, and emotional needs.

10 II. The application of art therapy principles and methods in the diagnosis, prevention,
11 treatment, and amelioration of psychological problems and emotional or mental conditions that
12 include, but are not limited to:

13 (a) Clinical appraisal and treatment activities during individual, couples, family, or
14 group sessions which provide opportunities for expression through the creative process.

15 (b) Using the process and products of art creation to facilitate clients' exploration of
16 inner fears, conflicts, and core issues with the goal of improving physical, mental, and emotional
17 functioning and well-being.

18 (c) Using diagnostic art therapy assessments to determine treatment goals and
19 implement therapeutic art interventions which meet developmental, mental, and emotional needs.

20 III. The employment of art media, the creative process, and the resulting artwork to assist
21 clients to:

22 (a) Reduce psychiatric symptoms of depression, anxiety, post traumatic stress, and
23 attachment disorders.

24 (b) Enhance neurological, cognitive, and verbal abilities, develop social skills, aid
25 sensory impairments, and move developmental capabilities forward in specific areas.

26 (c) Cope with symptoms of stress, anxiety, traumatic experiences, and grief.

27 (d) Explore feelings, gain insight into behaviors, and reconcile emotional conflicts.

28 (e) Improve or restore functioning and a sense of personal well-being.

29 (f) Increase coping skills, self-esteem, awareness of self, and empathy for others.

30 (g) Improve management of anger and guilt.

31 (h) Improve school performance, family functioning, and the parent/child relationship.

32 330-A:21-b Art Therapists; Requirements for Licensure. The board shall issue an art therapist
33 license to any person who meets all of the following requirements or their equivalent:

34 I. Has a masters or doctoral degree from an accredited college or university in a program in
35 art therapy that was either approved by the American Art Therapy Association or accredited by the
36 Commission on Accreditation of Allied Health Education Programs at the time of the degree was
37 conferred, or a substantially equivalent program as determined by the board pursuant to paragraph

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V. An applicant holding a doctoral degree shall have completed the equivalent of 90 graduate credit hours in a program in art therapy or course of study in art therapy from an accredited college or university approved by the board.

II. Has completed not less than 2 years and 3,000 hours of supervised experience in art therapy by a board-approved licensee.

(a) An applicant holding a doctoral degree shall complete one year of the supervised experience after the award of the doctoral degree pursuant to rules adopted by the board.

(b) Supervised hours accepted for licensure in New Hampshire as a mental health practitioner by the board of mental health practice under this chapter, a master licensed alcohol and drug counselor (MLADC) by the board of licensing for alcohol and other drug use professionals under RSA 330-C, or a psychologist licensed by the board of psychology under RSA 329-A, may be substituted for up to 1,500 hours of the required 3,000 hours of supervised clinical experience. Where substitution of the full 1,500 hours is denied by the board, the applicant shall be provided the rationale for the board's denial. The board shall not deny the substitution of hours solely based on the applicant's clinical supervisor holding a license in a discipline other than art therapy.

III. Has passed the examination of the Art Therapy Credentials Board.

IV. Has paid the license fee established by the board.

V. The board may determine that a program is substantially equivalent to an approved or accredited program in art therapy if it included approximately 60 semester credit hours, or quarter-credit equivalent, of graduate level coursework and not less than 700 hours of supervised field experience. Program content and coursework shall include graduate-level training in:

(a) Theory and practical applications of art therapy.

(b) Human growth and development.

(c) Testing and assessments.

(d) Art therapy appraisal, diagnosis, and assessments.

(e) Ethical and legal issues of mental health counseling.

(f) Matters of cultural and social diversity.

(g) Group therapy.

(h) Lifestyle and career development.

(i) Research and program development.

8 Unlawful Practice; References Added. Amend RSA 330-A:23, I and II to read as follows:

I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in mental health practice unless that person is licensed by the board, working as a candidate under the direct supervision of a person licensed by the board, or engaged in the practice of other mental health services as an alternative provider as defined in RSA 330-A:2, I. The license or the registration of such person shall be current and valid. It shall be unlawful for any person to practice as or to refer to oneself as a pastoral psychotherapist, a clinical social worker, a clinical mental

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1 health counselor, ~~[or]~~ a marriage and family therapist, **or an art therapist**, or use the word
2 "psychotherapist," or any variation thereof, in such person's title unless that person is licensed by
3 the board or working as a candidate under the direct supervision of a person licensed by the board.
4 Psychiatrists licensed under RSA 329 and psychiatric nurse practitioners licensed under RSA 326-
5 B:18 may refer to themselves as psychotherapists.

6 II. Except as otherwise provided in this chapter, any person who violates paragraph I or
7 paragraph III of this section or who violates any of the other provisions of this chapter relating to
8 pastoral psychotherapy, clinical social work, clinical mental health counseling, ~~[or]~~ marriage and
9 family therapy, **or art therapy**, or, having had his or her license suspended or revoked, shall
10 continue to represent himself or herself as a licensed pastoral psychotherapist, clinical social worker,
11 clinical mental health counselor, ~~[or]~~ marriage and family therapist, **or art therapist**, or as a
12 psychotherapist, shall be guilty of a class A misdemeanor if a natural person, and a felony if any
13 other person, and each violation shall be deemed a separate offense.

14 9 New Section; Prior Credentialing; Art Therapists. Amend RSA 330-A by inserting after
15 section 33 the following new section:

16 330-A:33-a Prior Credentialing; Art Therapists. A credentialed art therapist who, on or before
17 January 1, 2022, submits an application upon such form and in such manner as determined by the
18 board, pays the required application fee, and provides documentation to the board that he or she has
19 met the following requirements, shall be issues a license by the board:

20 I. Has engaged in the practice of professional art therapy or in education and training of
21 students in art therapy for not less than 5 years, and has been so engaged in this state for at least 2
22 years prior to submitting an application, as determined by the board; and

23 II. Has not had a professional license or credential refused, revoked, suspended, or restricted
24 and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in
25 the United States or in another country for unprofessional conduct, unless the board finds that the
26 conduct has been corrected or that mitigating circumstances exist that prevent resolution.

27 10 New Subparagraph; Persons Exempted. Amend RSA 330-A:34, I by inserting after
28 subparagraph (e) the following new subparagraph:

29 (f) The activities of an art teacher who does not represent himself or herself as an art
30 therapist.

31 11 Insurance Coverage; Treatment of Mental Illnesses and Emotional Disorders; Art Therapists
32 Added. Amend RSA 415:18-a, I-V to read as follows:

33 I.(a) Each insurer that issues or renews any policy of group accident or health insurance
34 providing benefits for medical or hospital expenses, shall provide to each group, or to the portion of
35 each group comprised of certificate holders of such insurance who are residents of this state and
36 whose principal place of employment is in this state, coverage for expenses arising from the
37 treatment of mental illnesses and emotional disorders which, in the professional judgment of:

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- (1) Psychiatrists;
- (2) Licensed psychologists;
- (3) Licensed pastoral psychotherapists;
- (4) Psychiatric/mental health advanced practice registered nurses;
- (5) Licensed clinical mental health counselors;
- (6) Licensed alcohol and drug counselors;
- (7) Licensed marriage and family therapists;
- (8) Licensed clinical social workers; ~~and~~
- (9) Licensed, psychiatrist-supervised physician assistants; **and**

(10) Licensed art therapists

are subject to significant improvement through short-term therapy, and benefits for expenses arising from diagnosis and evaluation of all other mental illnesses and emotional disorders.

(b) Benefits arising from treatment, diagnosis and evaluation of mental illnesses and disorders shall be at least as favorable to the certificate holder as the minimum benefits specified in paragraphs II, III, and IV.

(c) Policies written pursuant to this section shall include coverage for expenses arising from treatment for chemical dependency, including alcoholism, up to a specified limit which may be defined in terms of a dollar amount or a maximum number of days or visits. Coverage for expenses arising from treatment for chemical dependency, including alcoholism, shall include both an inpatient and an outpatient benefit for detoxification and rehabilitation.

II. In the case of policies or certificates providing benefits for hospital expenses on other than a major medical basis, benefits arising from treatment, diagnosis and evaluation of mental illnesses and disorders based upon confinement in a licensed or accredited general hospital, including psychiatric inpatient facilities included under the license of such a hospital, shall be at least as favorable as benefits provided for any other illness in such a hospital. Benefits based upon confinement in a public mental hospital shall be at least as favorable as benefits provided for confinement in a licensed or accredited general hospital.

III. In the case of policies or certificates providing benefits for medical expenses on other than a major medical basis:

(a) Benefits arising from treatment, diagnosis and evaluation of mental illnesses and disorders for services of a psychiatrist, licensed psychologist, licensed pastoral psychotherapist, psychiatric/mental health advanced practice registered nurse, licensed clinical mental health counselor, licensed alcohol and drug counselor, licensed marriage and family therapist, licensed clinical social worker, **or licensed art therapist** who customarily bills patients directly, or of a licensed, psychiatrist-supervised physician assistant whose billing goes through their place of employment, shall be subject to terms and conditions at least as favorable as those which apply to

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the benefits for the services of physicians for other illnesses. The ratio of the benefits to the fees reasonably and customarily charged for the services of such:

- (1) Psychiatrists;
- (2) Licensed psychologists;
- (3) Licensed pastoral psychotherapists;
- (4) Psychiatric/mental health advanced practice registered nurses;
- (5) Licensed clinical mental health counselors;
- (6) Licensed alcohol and drug counselors;
- (7) Licensed marriage and family therapists;
- (8) Licensed clinical social workers;~~[-or]~~
- (9) Licensed, psychiatrist-supervised physician assistants; **or**
- (10) Licensed art therapists**

shall be substantially the same as the ratio of the benefits for services of physicians for other illnesses to the fees reasonably and customarily charged for the services of such physicians for other illnesses.

(b) Each insurer, including health maintenance organizations pursuant to RSA 420-B, that issues or renews any policy of group accident or health insurance providing benefits for medical or hospital expenses shall provide to each group, or to the portion of each group comprised of certificate holders of such insurance who are residents of this state and whose principal place of employment is in this state, benefits arising from treatment, diagnosis and evaluation of mental illnesses and disorders for services rendered at a community mental health center or psychiatric residential program approved by the department of health and human services. Those benefits shall be subject to terms and conditions at least as favorable as those which apply to the benefits for the treatment of other illnesses. The ratio of the benefits to the full reasonable charges for the services of such a center or program shall be substantially the same as the ratio of the benefits for services of physicians for other illnesses to the fees reasonably and customarily charged for the services of such physicians for other illnesses.

(c) Benefits arising from treatment, diagnosis and evaluation of mental illnesses and disorders for outpatient services rendered at a public mental hospital shall be subject to terms and conditions at least as favorable as those which apply to the benefits for the treatment of other illnesses. The ratio of the benefits to the fees reasonably and customarily charged for the services of such a hospital shall be substantially the same as the ratio of the benefits for services of physicians for other illnesses to the fees reasonably and customarily charged for the services of such physicians for other illnesses.

(d) Benefits arising from treatment, diagnosis and evaluation of mental illnesses and disorders for outpatient services under this paragraph need not be provided for the first or second visit providing such a limitation applies in the case of services for other illnesses. Benefits for

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1 outpatient treatment may be otherwise limited to not less than 15 full hours of treatment in any
2 consecutive 12-month period.

3 IV.(a) In the case of policies or certificates providing benefits for hospital and medical
4 expenses on a major medical basis, benefits arising from treatment, diagnosis and evaluation of
5 mental illnesses and disorders shall be subject to deductibles and coinsurance at least as favorable
6 as those which apply to the benefits for any other illness, provided that benefits payable for expenses
7 incurred in any consecutive 12-month period may be limited to an amount not less than \$3,000 per
8 covered individual, and to a lifetime maximum of not less than \$10,000 per covered individual.

9 (b) In this paragraph, covered major medical expenses include the reasonable charges
10 for services and treatment on an inpatient, outpatient or partial hospitalization basis by:

11 (1) A psychiatrist;

12 (2) A licensed psychologist;

13 (3) A licensed pastoral psychotherapist;

14 (4) A psychiatric/mental health advanced practice registered nurse;

15 (5) A licensed clinical mental health counselor;

16 (6) A licensed alcohol and drug counselor;

17 (7) A licensed marriage and family therapist;

18 (8) A licensed clinical social worker;

19 (9) A licensed, psychiatrist-supervised physician assistant;

20 (10) ***A licensed art therapist;***

21 ***(11) A licensed general hospital;***

22 ~~[(11)]~~ ***(12) A public or licensed mental hospital; or***

23 ~~[(12)]~~ ***(13) A community mental health center or psychiatric residential program***
24 approved according to rules adopted by the commissioner of the department of health and human
25 services.

26 IV-a. Each insurer that issues or renews any policy of group accident or health insurance
27 providing benefits for medical or hospital expenses shall offer to each group, or to the portion of each
28 group comprised of certificate holders of such insurance who are residents of this state and whose
29 principal place of employment is in this state, the option of purchasing, for a separate and
30 identifiable premium, additional coverage for expenses incurred as a result of treatment or
31 counseling by a licensed clinical social worker.

32 V. In this section:

33 (a) "Psychiatrist" means a licensed physician who is board-certified or board-eligible
34 according to the most recently promulgated regulations of the American Board of Psychiatry and
35 Neurology.

36 (b) "Psychologist" means a person who:

37 (1) Is licensed under RSA 329-B as a psychologist;

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1 (2) Is certified or licensed under a statute in another state which meets or exceeds
2 the standards under RSA 329-B; or

3 (3) Is certified or licensed in another state and is listed in the National Register of
4 Health Service Providers in Psychology.

5 (c) "Licensed pastoral psychotherapist" means an individual who is licensed as a
6 pastoral psychotherapist under RSA 330-A and is a fellow or diplomat in the American Association
7 of Pastoral Counselors.

8 (d) "Psychiatric/mental health advanced practice registered nurse" means an individual
9 who is licensed as an advanced practice registered nurse in psychiatric mental health nursing under
10 RSA 326-B:18, who is defined by and whose scope of practice is described under the rules adopted
11 pursuant to RSA 326-B, and who is a licensed registered nurse, educationally prepared in nursing at
12 a minimum of the master's level, and certified in the specialty by a recognized national certifying
13 agency, such as the American Nurses Credentialing Center.

14 (e) "Licensed clinical social worker" means an individual who is licensed as a clinical
15 social worker under RSA 330-A:18.

16 (f) "Licensed clinical mental health counselor" means an individual who is licensed as a
17 clinical mental health counselor under RSA 330-A:19.

18 (g) "Licensed marriage and family therapist" means an individual who is licensed as a
19 marriage and family therapist under RSA 330-A:21.

20 (h) "Licensed alcohol and drug counselor" means an individual who is licensed as an
21 alcohol and drug counselor under RSA 330-C and is practicing solely within the scope of practice of a
22 licensed alcohol and drug counselor.

23 (i) "Mental or nervous conditions" or "mental illness and emotional disorders" means
24 mental disorders, as defined in the most recent edition of the American Psychiatric Association's
25 "Diagnostic and Statistical Manual of Mental Disorders" (DSM), excluding those disorders
26 designated by a "V Code" and those disorders designated as criteria sets and axes provided for
27 further study in the DSM. This term shall not include chemical dependency, including alcoholism.

28 (j) "Licensed, psychiatrist supervised physician assistant" means an individual who is
29 licensed as a physician assistant under RSA 328-D whose supervising physician is a licensed
30 psychiatrist.

31 ***(k) "License art therapist" means an individual who is licensed as an art***
32 ***therapist under RSA 330-A:21-b.***

33 12 Coverage for Children's Early Intervention Services; Art Therapists. Amend RSA 415:18-s to
34 read as follows:

35 415:18-s Coverage for Children's Early Intervention Services. Each insurer that issues or
36 renews any policy of group accident or health insurance providing benefits for medical,
37 rehabilitation, or hospital expenses, shall provide to each group, or to the portion of each group

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1 comprised of certificate holders of such insurance who are residents of this state, coverage for
2 expenses arising from the services of licensed and credentialed occupational therapists, physical
3 therapists, speech-language pathologists, ~~and~~ clinical social workers, **and art therapists** working
4 with children from birth to 36 months of age with an identified developmental disability and/or delay
5 as specified in rules adopted pursuant to RSA 171-A:18, IV as long as the providing therapist
6 receives a referral from the child's primary care physician if applicable. The benefits included in this
7 section may be subject to deductibles, copayments, co-insurance, or other terms and conditions of the
8 policy, and may have a cap of \$3,200 per child per year not to exceed \$9,600 by the child's third
9 birthday. Notwithstanding any provision of law or rule to the contrary, the coverage under this
10 section shall apply to the medical assistance program, pursuant to RSA 161 and RSA 167.

11 13 Coverage for Treatment of Pervasive Developmental Disorder or Autism; Art Therapists.
12 Amend RSA 417-E:2, I(c) to read as follows:

13 (c) Direct or consultative services provided by a licensed professional including a
14 licensed psychiatrist, licensed advanced practice registered nurse, licensed psychologist, ~~or~~ licensed
15 clinical social worker, **or licensed art therapist**; and

16 14 Repeal. RSA 326-L, relative to the regulation of professional art therapy, is repealed.

17 15 Effective Date. This act shall take effect July 1, 2020.

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AMENDED ANALYSIS

This bill adds the licensure and regulation of art therapists under the board of mental health practice and allows art therapy treatment to be covered under insurance for mental illness and emotional disorders. The bills repeal the current provisions for regulating art therapists.