

April 5, 2024

The Honorable Brenda Landwehr, Chairperson  
House Committee on Health and Human Services  
300 SW 10th Avenue, Room 112-N  
Topeka, Kansas 66612

Dear Representative Landwehr:

**SUBJECT:** Fiscal Note for HB 2756 by Representative Schreiber, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2756 is respectfully submitted to your committee.

HB 2756 would enact the Art Therapist Licensure Act. The bill would make it unlawful to engage in the practice of art therapy or represent that an individual is a licensed professional art therapist without having first obtained a license as a professional art therapist under the Act. The bill would also make it unlawful to engage in the practice of art therapy as a clinical art therapist or present that an individual is a licensed clinical art therapist without having first obtained a license as a clinical art therapist under the Act. Violation of the above provisions would be a class B nonperson misdemeanor. The bill outlines the requirements for applicants to obtain licensure as a professional art therapist, a clinical art therapist, and for an applicant to obtain a temporary art therapy license. An applicant who meets the requirements for licensure, has paid the required fee, and has otherwise complied with the provisions of the Act would be licensed by the Behavioral Regulatory Sciences Board (Board).

The Board could refuse to issue, renew, or reinstate a license; condition, limit, revoke, or suspend a license; public or privately censure a licensee; or impose a fine that could not exceed \$1,000 per violation. A list of the violations is outlined in the bill. Administrative proceedings and disciplinary actions regarding licensure, under the Act, would be conducted in accordance with the Kansas Administrative Procedure Act. Judicial review and civil enforcement of agency actions under the Act would be in accordance with the Kansas Judicial Review Act. The bill outlines the fees the Board may collect.

An individual licensed under the Act and employees and professional associates of the individual would not be required to disclose any information that the individual, employee, or associate may have acquired in rendering services, unless:

1. Disclosure is required by other state laws;
2. Failure to disclose information presents a clear and present danger to the health or safety of an individual;
3. The individual, employee, or associate is a party defendant to a civil, criminal, or disciplinary action arising from the therapy, and in such event, a waiver of the privilege accorded by the bill is limited to that action;
4. The client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to compulsory process or the right to present testimony and witnesses on such individual's behalf; or
5. The client agrees to a waiver of the privilege and in circumstances where more than one individual in a family is receiving therapy, each such family member agrees to the waiver and if there is no waiver from each family member, an art therapist could not disclose information received from a family member.

A licensee would be required to inform clients of their level of training, education, and titles at the beginning of a client-therapist relationship. If the licensee is not licensed by the State Board of Healing Arts to practice medicine and surgery and is not authorized to prescribe drugs, this information would be required to be disclosed to the client by the licensee. The licensee would also be required to inform the client that certain mental disorders can have medical or biological origins and that client should consult with a physician. This disclosure would be documented in the client's record. The bill would make other technical amendments.

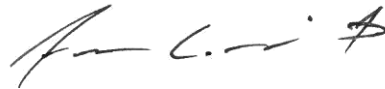
The Behavioral Sciences Regulatory Board estimates if 250 individuals sought licensure in FY 2025, then revenue would increase by \$43,750 (250 applicants X \$175 for an original license as a professional art therapist). Of the \$43,750 in additional revenue, 90.0 percent, or \$39,375, would be credited to the agency's fee fund and 10.0 percent, or \$4,375, would be credited to the State General Fund. The Board states if 50 additional individuals sought licensure in FY 2026, then revenue would increase by \$8,750 (50 applicants X \$175 for an original license as a professional art therapist). Of the \$8,750 in additional revenue, 90.0 percent, or \$7,875, would be credited to the agency's fee fund and 10.0 percent, or \$875, would be credited to the State General Fund.

The Board further states there would be additional expenditures for the agency to implement the bill's provisions including developing applications, forms, working with the licensing vendor to be able to issue art therapy licenses, and other operating expenditures. The Board indicates it would attempt to absorb the additional expenditures within existing resources.

The Office of Judicial Administration states enactment of the bill could increase the number of cases filed in district court because the bill would create a new crime and would also

allow for judicial review and civil enforcement of agency actions, which would increase the time spent by judges and court employees processing and hearing cases. Since the new crime carries a class B nonperson misdemeanor, there could be more supervision required to be performed by court services officers. The Office indicates enactment of the bill could result in the collection of docket fees, fines, and supervision fees in those cases filed under the bill's provisions. According to the Office, a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions. Any fiscal effect associated with HB 2756 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt  
Director of the Budget

cc: David Fye, Behavioral Sciences Regulatory Board