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Art Therapists Sunrise Application Review

Preliminary Assessment on Request for Licensure

Pursuant to 26 V.S.A. § 3107 art therapists filed a request for a preliminary assessment of their request for licensure. Their application may be reviewed on the Office of Professional Regulation web site at: <https://www.sec.state.vt.us/professional-regulation/sunrise-review/art-therapists.aspx>. The supporting documentation they provided is also available on the same web page.

Regulatory Considerations State Policy on Regulation of Professions

Chapter 57 of Title 26 of the Vermont Statutes states:

“It is the policy of the state of Vermont that regulation be imposed upon a profession or occupation solely for the purpose of protecting the public. The legislature believes that all individuals should be permitted to enter into a profession or occupation unless there is a demonstrated need for the state to protect the interests of the public by restricting entry into the profession or occupation. If such a need is identified, the form of regulation adopted by the state shall be the least restrictive form of regulation necessary to protect the public interest....” 26 V.S.A. § 3101 Policy and Purpose.

26 V.S.A. § 3105(a) provides a detailed set of criteria which must be addressed before regulation of a profession may occur:

“A profession or occupation shall be regulated by the state only when:

- (1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;
- (2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- (3) the public cannot be effectively protected by other means.” 26 V.S.A. § 3105(a).

The Legislature delegated responsibility for this preliminary assessment to the Office of Professional Regulation (OPR). “Prior to review under this chapter and consideration by the legislature of any bill to regulate a profession or occupation, the office of professional regulation shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The office shall report its preliminary assessment to the appropriate house or senate committee on government operations.” 26 V.S.A. § 3105(d). Pursuant to that mandate, the Office of Professional Regulation has reviewed the sunrise application of art therapists.

Process

The Office of Professional Regulation has conducted its own limited investigation. It held a properly noticed public hearing on November 19, 2014 at the Office of Professional Regulation conference room at 89 Main Street in Montpelier, Vermont to take evidence to see if the applicants, art therapists, satisfy the statutory prerequisites for regulation by the State of Vermont. Approximately twenty people attended the hearing.

Profile of the Profession

Art therapy involves the use art media, the creative process, and the resulting art work to explore clients’ feelings, reconcile emotional conflicts, foster self-awareness, manage behavior and addictions, develop social skills, improve reality orientation, reduce anxiety, and increase self-esteem. Art therapists seek to improve or restore a client’s functioning and sense of well-being. Art therapists provide mental health services. Art therapy practice requires knowledge of visual arts such as drawing, painting, and sculpture. Art therapy is commonly employed for people experiencing developmental, medical, educational, social or psychological impairment. It seeks to help people resolve conflicts, improve interpersonal skills, manage problematic behavior, reduce negative stress, and achieve personal insight.

Use of artistic media removes some of the obstacles that impede conversationally based “talking” therapies. Art therapy deals with the physical senses by engaging in activities visual, kinesthetic, tactile, olfactory and sometimes auditory in nature. Art therapy uses people’s natural capacity to express themselves in drawing, painting, crafts, or other basic forms of visual art. Art therapy clients may be more comfortable expressing their thoughts and emotions in private with more familiar art media.

Art therapy education with its emphasis on imagery and art making distinguishes itself from services rendered by other mental health care providers. Art therapy is based on two underlying theories: 1) the Expressive Therapies Continuum which guides decision making processes in art therapy practice, and 2) the premise that focused art-making constitutes reflective practice and facilitates learning.

Unlike other therapists, art therapists use distinctive art-based assessments to evaluate emotional, cognitive, and developmental conditions. They must understand the science of imagery and of color, texture, and media and how these affect a wide range of potential clients

and personalities. The trained art therapist also must make parallel assessments of a client's general psychological disposition and how art as a process is likely to be moderated by the individual's mental state and corresponding behavior. This understanding of the potential for art-making to reveal emotions, together with the knowledge and skill to safely manage the reactions it may evoke, is what distinguishes art therapy from other mental health professions.

Art therapy, as described by the applicants, is not the mere use of art as a tool. An art therapist does not simply give a client a pencil and paper and say, "draw a picture." An art therapist may provide the client a choice of art media. The art therapist learns from the client's selection of one medium over another. How a client uses a medium as well as the artistic creation itself affects the course of therapy. Art therapy is a distinct art-based mental health treatment discipline.

Where Do Art Therapists Practice?

Art therapists provide therapy to individuals, couples, families, and groups. Art therapists may work as part of a mental health care team. Art therapy has been used successfully for incarcerated people, patients in hospitals, cancer patients, and children who have suffered trauma. Art therapy is used in public and private schools as an educational tool and means to assist children with issues ranging from behavioral to learning disabilities. Art therapy can be used in retirement and assisted living programs. Art therapists are found in mental health agencies or facilities, rehabilitation centers, and schools. Some practice independently or in group practices. According to the applicants, of the 65 art therapists practicing in Vermont, approximate 35% are in independent practice, 25% work in clinics, 20% in hospitals and 20% in other settings.

Art therapists serve a broad spectrum of clients. Among their client population are those with post-traumatic stress disorder from combat, abuse, or natural disasters, persons with serious health problems like cancer, traumatic brain injury or other disabilities, persons with autism, dementia, depression, and other disorders.

Like other mental health providers, art therapists occupy a special position with their clients. They hold a position of power and authority. They often serve young children, emotionally fragile clients, and an overall population that can be seen as especially vulnerable. Their clients need competent help. Art therapists subscribe to professional standards of conduct set by the Art Therapy Credentials Board (ATCB) Code of Professional Practice. They provide psychotherapy and use "... the application of therapeutic techniques to understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behavior which interferes with effective emotional, social, or mental functioning." See 26 V.S.A. § 4082(4) for the existing statutory definition of "Psychotherapy."

Vermont Art Therapists

It is unknown how many Vermont practitioners use art as a therapeutic tool or means of therapy. There are an estimated 60 individuals in Vermont who possess a master's degree or higher in Art Therapy. There is no art therapy educational program in Vermont. The Vermont

applicants report that all are either registered on the roster of psychotherapists who are nonlicensed and noncertified or have gone on to achieve licensure as clinical mental health counselors. At the public hearing participants were invited to submit their resumes or disclosure of qualification statements. It appears from an unscientific survey of the information received that Vermont art therapists are indeed a highly trained group. Even some who are licensed as clinical mental health counselors have an Art Therapy Credentials Board certification (which they term “ATR-BC”). These individuals would be immediately eligible for licensure, if it is adopted. It appears that almost all of the others known to the applicants and Office have degrees and training or current ATR-BC. They, too, would qualify for examination and licensure. All art therapists present at the public hearing indicated they would seek licensure as soon as it was available.

Art therapists in Vermont have a good record of safe and healthy practice. The Office of Professional Regulation has received no direct complaints regarding improper use of art therapy or about people improperly claiming art therapy expertise. The insurance available to art therapists costs approximately \$200 per year for coverage of up to \$1 million. This suggests that art therapy providers practice safely. The only known complaints involving art therapy were those provided as part of the sunrise application. The applicants report that since its creation in 1993 the Art Therapy Credentials Board has credentialed more than 5,000 art therapists. Since then there have been only seventeen investigations for alleged violations of its ethics code. Disciplinary action was taken against only two. A Westlaw review of Vermont court decisions revealed no cases in which the terms “art therapy” or “art therapist” appeared.

Overlap with Other Licensed Professions

The client population whom art therapists serve may be seen by clinical mental health counselors, marriage and family therapists, clinical social workers, drug and alcohol counselors, psychologists, psychiatrists, speech language pathologists, and school teachers. Each one of these professions brings its own distinct philosophy, approach to treatment, and its own licensing or registration requirements and standards of practice. Members of other professions may use artist media as one therapeutic tool within their practices. Art therapy as practiced by trained art therapists is seen by the applicants as a distinct discipline. Art therapy is informed by its philosophical basis and treatment modality.

Use of art in schools can provide therapeutic benefits. Art teachers and mental health practitioners’ practices are not guided by the philosophy underlying art therapy education and training. Art teachers and mental health practitioners’ use of art media is very different from art therapists’ practice.

Qualification Comparison to other Licensed Therapy Providers

Applicants propose that art therapists meet the following requirements to become licensed: 1) be at least 18 years old, 2) hold a masters or doctoral degree in art therapy from an accredited educational institution, 3) have completed a minimum of 60 graduate credits in an art therapy program approved by the American Art Therapy Association, or substantially equivalent program 4) complete supervised practice of not less than 2 years with a minimum of 2,000 hours,

and 5) pass the certification examination of the Art Therapy Credentials Board.

The American Art Therapy Association has specific Masters Education Standards which they apply to approve art therapy educational programs. Approval requires that an educational institution be accredited by a regional or national accrediting body. Student and faculty standards are prescribed. Curriculum is specific and includes: art therapy specific courses, psychopathology, human growth and development, counseling and psychological theories, cultural and social diversity, assessment, research, studio art, career and lifestyle development, supervised internships and supervised practice. Future art therapists register with the Art Therapy Credentials Board. Once a registered applicant has successfully completed the Board Certification examination, the individual receives the Art Therapy Credential Board's "Board Certification." (ATR-BC).

All of this can be documented by an applicant receiving board certification from the Art Therapy Credentials Board. Proof of current certification would be required for license renewal. Continued certification by the ATCB requires an average of 10 hours continuing education per year.

The educational requirements for art therapists appear substantially equivalent to those required for clinical mental health counselors, marriage and family therapists, social workers or psychologists licensed at the master's level. While art therapists propose 2,000 hours of supervision, Clinical Mental Health counselors, marriage and family therapists, and licensed clinical social workers must obtain 3,000 hours supervised practice. Psychologists require 4,000 hours.

Regulation of Art Therapists

The U.S. Department of Labor, Bureau of Labor statistics recognizes art therapists as a subset of therapists "not elsewhere classified." It is a relatively new profession. The art therapist sunrise application shows that their profession is regulated in eight states: Wisconsin, New York, Maryland, New Mexico, Texas, Pennsylvania, Kentucky and Mississippi.

Vermont art therapists recognize that providing art therapy falls within the definition of psychotherapy as defined by 26 V.S.A. § 4082. They are required to register on the roster of psychotherapists who are nonlicensed and noncertified (the roster). All are either registered on the roster or have become licensed in one of the mental health professions. They are currently regulated under statutes and rules of the Board of Allied Mental Health Practitioners. As psychotherapists, art therapists are obligated to disclose to their clients detailed information about their education, training, supervision, scope of practice, treatment methods, actions that constitute unprofessional conduct, and how to file a complaint. See 26 V.S.A. § 4090 and Administrative Rule 5.4 of the Board of Allied Mental Health Practitioners. They are required to file copies of their disclosure statements with the Board of Allied Mental Health Practitioners.

Art Therapists Arguments for Licensure

Regulation of a profession is warranted when the profession *left unregulated* poses a

threat to the public health, safety, and welfare. This report addresses those arguments of harm below.

Applicants suggest that licensure of art therapists will provide an opportunity to measure the benefits of art therapy and help meet the need for trained mental health professionals by encouraging art therapists to remain in Vermont. Regulation will allow, they suggest, eventual insurance reimbursement “at no cost to school districts.” Regulation will encourage art therapists to move to Vermont rather than leave it. The question for this sunrise review is not, “how does licensure benefit a profession?” It is, “what regulation of art therapists is needed?” These proffered rationales are not recognized by Chapter 57 as legitimate arguments for licensure.

Rationale for Regulating Art Therapists: Harm

Unqualified Practitioners: Applicants’ examples of unqualified practitioners involve other future or currently licensed professionals who use art therapy. Their scenarios incorrectly assume that licensure of art therapists would prevent other mental health treatment professional from using art in any way. Applicants mentioned one instance of a person who lacked full art therapy training claiming to be an art therapist. They suggest that there is a potential for harm when people from vulnerable populations receive treatment purporting to be art therapy when that treatment is not properly provided. Use of art therapy materials, the applicants suggest, carries significant risk to clients’ emotional stability if improperly applied. The harm here is speculative. No instance of actual harm from art therapy wrongly practiced has been reported to OPR for this sunrise review.

One complaint cited by the applicants involved an unidentified therapist who declined to provide a patient’s art work to her surviving spouse. If the therapist was properly registered, he or she would be subject to the regulatory authority of the Board of Allied Mental Health Practitioners. If shown to have committed unprofessional conduct, the individual could be disciplined. If not registered on the roster, the individual could still be penalized for unauthorized practice. Licensure of art therapists would provide no additional public protection.

Another complaint alleged that a licensed clinical mental health counselor used her interpretation of a child’s art work as proof of the child’s sexual abuse. Whether or not the mental health counselor properly interpreted the art is unknown. The counselor is answerable under 3 V.S.A. § 129a(a)(b) for failure to practice competently, or performing treatments or providing services which the licensee is not qualified to perform or which are beyond the scope of his or her education, training, capabilities, experience, or scope of practice. 3 V.S.A. § 129a(a)(13).

A third claim in support of regulation of art therapists involved a psychology intern working in a school. The intern used art materials to make a mask for a child who became upset. The report did not say whether an art therapist at the school or someone else was supervising the intern. Regulation of art therapists would not prevent other practitioners or student interns from inflicting harm.

A psychologist reported to an art therapist her confusion at a child being “overwhelmed” when using paints. The art therapist, according to the report, understood why the child reacted poorly. This report, if verified, does not argue for licensing art therapists. It might suggest a need to investigate the psychologist.

Applicants state that “body tracings” of children are performed by many disciplines. They suggest that body tracings should only be performed by art therapists because of the risks they may pose to traumatized children when done by insufficiently trained personnel. The extent to which body tracings may have been used in Vermont is unknown. Literature suggests that body tracing can be useful for young adults suffering from bulimia. The harm from using them is speculative. The current licensure system can adequately address harmful conduct by licensed or registered professionals.

Applicants report that there are a number of mental health programs in Vermont where baccalaureate level case managers with no formal training in art therapy are providing art therapy to their clients. Applicants have heard of “alternative schools” in Vermont whose staff are teaching case managers how to “do” art therapy. There is no specific report of harm to any identified individual. The harm claimed is speculative. There is no way to confirm this claim.

Applicants claim that an increasing threat to public safety comes from on-line and university based certificate and master’s programs which require little, if any, clinical preparation. A Vermonter having such a certificate or degree would be required to be on the roster of psychotherapists who are nonlicensed and noncertified. That individual would be subject to disciplinary action for any unprofessional conduct. The harm, if any, in this scenario is speculative. No such complaint has been filed with OPR. A rostered individual is subject to discipline under current law.

Applicants submit that, “There are some programs and practices in Vermont that show arts and health activities existing in a grey area where creative projects that involve linkage to personal material can become art as therapy by default, with the power of art making the subjective seem real.” A non-art therapist, they suggest, is not “equipped to completely assess this possibility or to manage the outcome and could potentially cause harm.” This harm is speculative. Current regulation of rostered psychotherapists is sufficient to respond to harm

“[B]oth art and art as therapy carry a risk of harm and is amplified massively when the participant has a vulnerable psychological disposition.” The applicants suggest that only art therapists should be permitted to use art therapy. Barring other mental health care professionals from using art as part of their therapy is beyond the scope of this review. Again, current regulation of clinical mental health counselors, psychotherapists, marriage and family therapists, social workers, psychologists, and psychiatrists adequately can, when invoked, protect the public from real harm. Each member of those professions is subject to 3 V.S.A. § 129a(a)(13) which defines unprofessional conduct to include, “performing treatments or providing services which the licensee is not qualified to perform or which are beyond the scope of the licensee’s education, training, capabilities, experience, or scope of practice.”

Art and Helping through the Arts

This report must note that Vermonters are exposed to hands-on use of art in many venues. Art is believed to enhance brain development. From public and private schools, to private or group art classes, users of art media are exposed to its profound effects. School teachers and others are aware of how use of art can produce learning and better self-expression. Art proponents speak of how the arts can teach creative thinking, problem solving, non-verbal communication, perseverance, and inspire confidence.

Many, including formal organizations in Vermont use art to educate. Some use it as a therapeutic tool.

“SafeArt” based in Chelsea, Vermont is a 501(c)(3) non-profit organization. It uses expressive arts to “address issues of bullying, dating violence, domestic abuse, and sexual assault.” It provides after school arts programs using several art media and artist mentors for young adults. The offer residencies through schools whose goals are to “educate students about healthy and unhealthy relationships.” SafeArt has programs for women who have “experienced trauma of any sort to foster healing through dialogue, expressive arts and sisterhood.” SafeArt Webpage. SafeArt is listed by Vermont’s Sexual Violence Prevention Technical Assistance Resource Guide as a resource for schools who incorporate sexual violence prevention into their curricula. See, 16 V.S.A. § 131(11).

The Arts Bus Project is another 501(c)(3) non-profit. Located in Randolph, Vermont it provides children “opportunities to discover their own innate creativity by exposing them to transformative experiences, guided by inspiring artist mentors.” The Arts Bus, like a bookmobile, travels to different towns. It offers pre-school and school aged children ongoing activities and classes in the arts. After tropical storm Irene the Arts Bus joined pediatricians and mental health care professionals attending to children traumatized by the storm and its effects. The artistic process the Arts Bus provides was recognized for its “profound therapeutic effect,” said Dr. Lou DiNicola, pediatrician. He added, “We should be aware of the curative power of the arts and should call on our artists as essential disaster workers.” The Arts Bus Project in partnership with the Vermont Chapter of the American Academy of Pediatrics published a book on children trauma, and the arts. Their work was the subject of a Vermont Public Radio interview.

There are, no doubt, many other individuals and programs working with Vermonters who benefit from therapeutic effects of art. The policy question is: when, if ever, does working with Vermonters and using art as a tool to deal with troubles constitute “psychotherapy?” “Psychotherapy’ means the provision of treatment, diagnosis, evaluation, or counseling services to individuals or groups, for a consideration, for the purpose of alleviating mental disorders.” 26 V.S.A. § 4082(4). Whether these individuals or organizations provide “psychotherapy” as it is defined by statute cannot be determined by this report. They are mentioned because the line between providing therapeutic assistance and providing psychotherapy is not clear. If they are providing psychotherapy (for which they should be registered on the roster), then licensure of art therapists and restricting use of art therapy to practitioners with specific education and training could prevent them from providing the kind of “art therapy” services described above.

Benefits of Licensure

Applicants suggest that licensing art therapists will enhance the status of the profession, make finding a qualified art therapist easier, and permit insurance and governmental reimbursement for art therapy services. As a licensed profession, art therapists report they will more easily find employment. They believe that the benefits of licensure will attract candidates to Vermont and increase the pool of qualified mental health practitioners in Vermont. The ultimate beneficiaries, they posit, will be the clients who at this time do not have access to and would benefit from art therapy. The question for this sunrise review is not, “how does licensure benefit a profession?” It is, “is regulation of art therapists needed?” These arguments for regulation are not consistent with the statutory rationale for imposing regulation on a profession.

Statutory Criteria for Regulation and Conclusions

The Office of Professional Regulation is asked in this Sunrise Review to report whether art therapists meet the criteria and standards for regulation set by 26 V.S.A. § 3105(a). Unlike other sunrise requests, this one comes from a profession whose practice already is subject to state regulation.

Applying the statutory standards to this application, we must address these questions:

Can it be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative? 26 V.S.A. § 3105. This criterion is of less importance in this sunrise review of art therapists. Art therapists as a distinct mental health profession have not shown that the potential for harm is recognizable, as opposed to remote or speculative. However, the legislature has already determined that public protection requires, at the very least, registration of those providing psychotherapy. Since art therapists provide psychotherapy, they are already subject to regulation and disciplinary action with the full panoply of sanctions for any unprofessional conduct. Certification or licensure of art therapists may provide an assurance of initial competence not currently mandated by roster requirements. But the evidence suggests that art therapists’ disclosure requirements as rostered psychotherapists is sufficient.

Can the public reasonably be expected to benefit from an assurance of initial and continuing professional ability? The current statutory disclosure requirements for psychotherapists permit Vermonters to know the qualifications of their therapist. Disclosure of their national certification allows art therapists to distinguish themselves from less qualified providers. While rostered psychotherapists have no formal continuing education requirements, an art therapist practicing on the roster may disclose continuing education used to maintain national certification.

Can the public be protected by any other means? The legislature has determined that public protection requires registration with possible discipline of those who practice psychotherapy. Art therapists are already subject to regulation.

If regulation is needed, 26 V.S.A. § 3105(b) mandates that "...the least restrictive method of regulation shall be imposed." "If the threat to the public health, safety, or welfare including economic welfare is relatively small, regulation should be through a system of registration." 26 V.S.A. § 3105(b)(3). "If the consumer may have a substantial interest in relying on the qualifications of the practitioner, regulation should be through a system of certification." 26 V.S.A. § 3105(b)(4). Only when it is "apparent that the public cannot be adequately protected by any other means, a system of licensure should be imposed." 26 V.S.A. § 3105(5). The legislature has already determined that registration of those practicing psychotherapy is sufficient to protect the public. The statutes and rules governing those on the roster and the disciplinary authority of the Board of Allied Mental Health Practitioners protect the public. Nothing in OPR practice or experience indicates that the current regulatory scheme has been inadequate. We cannot conclude that more regulation of art therapists is necessary to protect the public.

Licensure? Certification?

Art therapists, as a profession of fewer than 70 people in Vermont, seek recognition of their profession as a discrete profession through licensure.

Licensing and licensure are defined by 26 V.S.A. § 3101a(1). "'Licensing' and 'licensure' mean a process by which a statutory regulatory entity grants to an individual, who has met certain prerequisite qualifications, the right to perform prescribed professional and occupational tasks and to use the title of the profession or occupation. Practice without a license is unlawful." 26 V.S.A. § 3101a(2). No person would be permitted to practice art therapy or "use in connection with the person's name any letters, words, or insignia indicating or implying that the person is an art therapist unless the person is licensed in accordance with statutes licensing art therapists." "A person who violates this section shall be subject to the penalties provided in 3 V.S.A. § 127(c)." See, for example, the limiting statutory language of 26 V.S.A. § 3262(c)(clinical mental health counselors). Licensure of art therapists would limit entry to the profession to those individuals with demonstrated qualifications. Licensure limits the practice of a profession. As noted above, art therapists are already regulated via registration. Licensure of art therapists is not required for public protection. The case for limiting art therapy to those who are ATR-CB certified is not compelling.

"Certification" is defined in 26 V.S.A. § 3101a(2). It means "a voluntary process by which a statutory regulatory entity [OPR or a board] grants to an individual, who has met certain prerequisite qualifications, the right to assume or to use the title of the profession or occupation, or the right to assume or use the term "certified" in conjunction with the title. Use of the title or the term "licensed" or "certified," as the case may be, by a person who is not licensed or certified is unlawful." The one "loop hole" in Vermont's statutory scheme, however, is that any individual who is not qualified to become a licensed or certified art therapist, could use art therapy tools and practice as a rostered psychotherapist so long as she did not hold herself out as practicing or qualified to practice art therapy.

Statutes for "certification" or "licensure" as an art therapist could adopt the standards recommended above, education, examination, and supervised practice under a qualified mentor. It would assure the public that "certified" art therapists have meet accepted standards of initial

and continued competence. “Certification” of Vermont art therapists would assure initial and continued competence of qualified individuals.

Either certification or licensure would distinguish those with documented training from those lacking it. Certification or licensure would be granted upon documented certification by the ATCB. State certification or licensure of ATCB certified art therapists would protect the public from less qualified practitioners. Adopting state certification could be confusing since an individual could be ATR-BC certified and not state certified.

Either would prohibit those without approved training from calling themselves certified or licensed. Certification would not limit or prevent others from practicing art therapy, only from calling themselves certified art therapists. Those not qualified to be “certified” would still have to register on the roster.

Under a licensing scheme, an unlicensed practitioner would not be permitted to practice art therapy. An individual who is not ATCB certified would be not entitled to use the term “certified art therapist.” Use of the term “certified art therapist” by someone not “certified” by the State of Vermont would be unlawful. 26 V.S.A. § 3101a(1). Disciplinary accountability for unprofessional conduct committed by either a certified or licensed art therapist would remain as it is now.

If deemed necessary to protect the public, expanded regulation of art therapists can be accomplished by recognition of ATR-BC certification as showing an acceptable level of initial and continuing competence. Issuing a license or certification to an ATR-BC would require additional regulatory resources from OPR.

Conclusions

Following the criteria of 26 V.S.A. § 3105,

- (1) **It has been demonstrated that the unregulated practice of psychotherapy which includes art therapy** can clearly harm or endanger the health, safety, or welfare of the public. Existing registration and disclosure required of psychotherapists recognizes a need for regulation. The potential for the harm caused by art therapists or those claiming to be art therapists appears to be remote, infrequent or indirect.
- (2) **The public can reasonably be expected to benefit from an assurance of initial and continuing professional ability.** Certification or licensure can assure that an art therapist has sufficient education and training to enter the profession. However, as rostered-psychotherapists, art therapists are required by current law to disclose their education and training to their clients. The public currently has available through disclosure an art therapist’s indicia of initial competency.
- (3) While the public is effectively protected from art therapists by the existing roster, the roster does not require continuing education to assure continuing competency. It does, however, permit discipline against any psychotherapist who fails to meet the essential

standards of practice. Existing regulation as well as common law sanctions protect the public. Further regulation is not expected to lessen any potential harm.

(5) No stronger civil remedies or criminal sanctions have been required, tried, or found to be insufficient.

(6) A lesser form of regulation, registration is in effect. Moving from registration to licensure is not required, but can be justified only by a determination that there is a need to better assure initial and continued competence.

Recommendation

The Office of Professional Regulation concludes that existing regulation of art therapists adequately protects the public and should continue. Certification or licensure *is not necessary*.

Respectfully submitted:

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