

**Lesson Learned – TR Licensure**  
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As States pursue TR Licensure it may be helpful to preview lessons learned from States who have gone through and/or are currently in the process of pursuing State Licensure. Below is a list in progress of some of the lessons learned.

**Who should make the decision to pursue State Licensure in Therapeutic Recreation?**

**Oklahoma** – The decision to go for State Licensure was made by the TRAO (Therapeutic Recreation Association of Oklahoma) Board of Directors. – However, the Board of Directors planned a State Meeting of all CTRS's to discuss interest and concerns related to licensure. Without support of CTRS's within your State you will probably not be successful in achieving Licensure.

**North Carolina** – The decision to pursue state licensure in North Carolina was a natural progression from an established state certification legislation to a state practice act. All recreational therapists in the state were engaged in open forums and meeting, focus groups and decision making on the initial process for state certification and for the move to the North Carolina Recreational Therapy Practice Act, passed August 23, 2005, enacted October 1, 2005.

**Utah** - Pursuing State licensure sounds like a good idea and seems like good common sense. In reality it can be a long and difficult process. Prior to pursuing state licensing the state association needs to agree on exploring the process. At this point surveys and forums are very helpful to determine the commitment to the process by the recreational therapists within the state. At this point a great deal of education needs to start taking place so therapists have an idea what they are agreeing to or opposing. The first place to begin is within the profession and a united front needs to emerge from this decision.

**NH** –

Jill Gravink, as part of her Master's project, pulled together a task force of people who were employers of CTRSs, educators of RT Students and/or consumer organizations (e.g. Northeast Passage). UNH has a Legislative Affairs person who worked with us in understanding how to work the legislative maze in NH. The State of NH had an already existing Board of Licensed Allied Health Professionals that at the time included PT, OT, Speech, and Respiratory Therapy). The Chair of the Allied Health Governing Board at the time was a PT who managed to help set up the Allied Health Board, when PT wanted to get out from under the Governing Board for Medicine. She was instrumental in helping us to draft our a bill as an amendment to the existing Allied Health Professions statute and to use language consistent with the other disciplines and that would not overstep any scope of practice issues.

## **Do you need a lobbyist?**

**Oklahoma** – The President Pro-Tempor (Senator in charge of the Senate) recommended that TRAO obtain the services of a lobbyist. The individual that he recommended wanted \$44,000 to assist TRAO through the licensure process.

With an organization of less than 100 members, the employment of a lobbyist was not practical and TRAO was successful in obtaining licensure without this expense.

**North Carolina** - Like most states, the North Carolina Recreational Therapy Association did not have deep pockets to hire a lobbyist. The burden fell on the state associations and individual personal contacts with state legislators. North Carolina Recreational Therapy Association professionals and North Carolina Recreation and Park Association representatives solicited the assistance of personal contacts within the state house and senate to sponsor and to secure bi-partisan co-sponsorship for the bill (at both levels of certification and later licensure). The professional in the state hosted legislative education events at the state capital (including orange juice and donuts) to educate legislators about the licensure bill. Individuals then met with their state legislator and senator to individually solicit their support for the Chapter 90-C, The Recreational Therapy Practice Act.

**Utah** - Utah has been licensed for 37 years and over that time the government process has changed. In 1975 a lobbyist was very important. As a group of recreational therapists and with no support or guidance from a national level we were on our own. At that time many seasoned professionals who were very committed to this process donated money to start the process. The association began a fundraiser (so to speak) for the cost of pursuing licensing. At that time it cost the association over 20,000 (this was not just lobbyist costs) and the in-kind cost were enormous. As different legislative challenges appeared over the next 10 years the Utah Recreation Therapy Association (URTA) developed a savings account that is earmarked for legislative concerns. This money rolls over every year and is only used for lobbyist efforts. This last year the Legislative Committee within the association became the lobbyist for the revisions of the practice act. The members were willing to work very hard to educate legislators and be on capital hill. However, this is extremely time demanding and had Utah met more opposition we would have hired a part-time lobbyist.

**New Hampshire** – One of the Board Members on Northeast Passage's Board of Directors is a lobbyist in NH and had previously served in the NH State Legislature. He provided support to us pro bono. The UNH Legislative Affairs person helped us in monitoring our bill and with outlining the steps that we needed to take in following our bill. Jill Gravink, the Executive Director of Northeast Passage (located on the UNH campus) was the coordinator of the Task Force and was a liaison to our key legislative links including the Chair of the Governing Board for PT.

## **How do you Identify a Sponsor for Licensure Bill?**

**Oklahoma** – During the initial TRAO organizational meeting with CTRS's throughout the State, TRAO prepared a list of State Senators and State Representatives for each CTRS in the State. This task was easy to do based upon current home addresses and zip codes. We then identified a Senator to approach for possible sponsorship based upon the Senator who represented the most CTRS's in the State (7 individuals) as well as having several hospitals and rehabilitation centers within his district. After a meeting with the Senator, he agreed to submit our Bill. Our first attempt at Licensure, our Bill was referred to the Rules Committee which is basically a committee that is used to kill bills, allowing them to die in committee without action.

During the next State election, the immediate past President of Oklahoma State University was elected to the Senate. For our second attempt at Licensure we asked and got support from Dr. Halligan (Past – President of Oklahoma State) to sponsor our bill. With Dr. Halligan's support, we were successful in our licensure attempt. However, during the last vote in the Senate on our Bill only one Senator voted against our Bill. He was the individual that submitted our first bill and come to find out was, in general, against licensure of any kind. Just because some one agrees to sponsor your bill, don't assume that they will be a strong advocate. Check out his/her views and past positions on licensure prior to approaching them for their support.

**North Carolina** - The professional associations (North Carolina Recreational Therapy Association and the North Carolina Recreation and Park Association) and key recreational therapy professionals reached out to personal contacts to solicit a legislative sponsor. Individual meetings were held with the sponsor who solicited a bi-partisan co-sponsor. The key is to reach out to the profession for sponsors and co-sponsors among already established avenues (friends, neighbors, relatives, consumer contacts).

**Utah** - Again, keep in mind Utah has been through this process many times over the years. For the last 20 years we have had an amazing Senator who understands Recreational Therapy and has sponsored our bills. He has championed any opposition or discussion of Sunset legislation of the RT profession and helped us negotiate with groups like Utah Health Care. This relationship has been invaluable. The association has also tried to keep the legislators educated regarding our profession. The URTA legislative team is currently developing a 10-year schedule on how to keep legislators educated on the practice of Recreational Therapy.

**New Hampshire** – NH has a long legislative history of being conservative and relatively anti-regulatory for the most part. Our opportunity to take aggressive action surfaced when NH elected a Democratic Governor and a majority in both the NH House and Senate. The University of NH had two state senators who were willing to sponsor the legislation in the Senate. One Senator represented the district in which the University is located, the other Senator (the Senate Majority Leader) has a son with a disability who has participated in Northeast Passage programs and had been witness to the impact of recreational therapy on her son's psychosocial well being. They co-sponsored the bill and

the Senator from Portsmouth signed on in support of the bill. One representative from Portsmouth was a licensed school psychologist and he was willing to move the bill and sponsor it when it passed over to the House.

**Always request to read the final version of the bill before it is posted.**

**Oklahoma** - You will want to write a draft bill based upon other TR Licensure bills that have been implemented as well as bills covering related therapies (P.T., O.T. etc.) in your state. However, understand that the bill you submit will probably be edited and/or modified at the State level. In Oklahoma, Dr. Tim Passmore and Dr. Jerry Jordan drafted the initial bill using TR legislation from North Carolina and Utah as well as Physical Therapy and Occupational Therapy legislation in Oklahoma. The draft bill was submitted to the Research, Legal and Fiscal Divisions' staff who have the official responsibility for conducting research, reviewing draft documents, and developing the official piece of legislation. A few weeks after our draft bill was submitted for development, Dr. Jordan received a call from the National Physical Therapy Association saying they were against our bill because we were trying to control the practice of Physical Therapy. We obtained a copy of the newly posted legislation and sure enough, a statement referring to Physical Therapy was in the bill. The staff reviewing the bill saw fit to include a piece from the Oklahoma Physical Therapy Practice Act, but failed to take out the reference to Physical Therapy. Could have been a fatal blow even before we got started but the bill failed on our first attempt for other reasons and we were able to review the Bill before it was posted on our second attempt for licensure.

**North Carolina** - The initial certification legislation that was drafted in 1985 included defined qualifications in the original Chapter 90C, The Therapeutic Recreation Personnel Certification Act. This initial effort became problematic as qualifications changed over time. The changes in qualifications, over time, under NCTRC made the content (language) of the law incongruent with contemporary practice. To ensure future evolution in the field, the North Carolina Task Force on Licensure drafted initial language that was then introduced and revised by the bill writers for the State legislative staff. All versions were reviewed and revised to address all issues identified. The key to the licensure act was to include only that which was necessary, and to define other elements in Rules (guidelines to interpret the law). Once legislation is written and Rules established, it requires constant monitoring and identification of problem areas in Rules versus the law itself.

**Utah** - The legislative committee of URTA has always drafted the bill. That writing is reviewed in community forums with recreational therapists. Changes are made from the input. That draft is taken to outside bodies that have an interest in the practice of Recreational Therapy (i.e. Utah Health Care, OT, PT, universities) input is again obtained and changes if appropriate are made. When the bill is submitted, by the Senator (or sponsor) what you hope is the legislative writer is given the name of someone in the legislative committees to call and ask questions. This allows the association to have a voice up front. If you have a good relationship with the writers they are usually very good about giving you 24 hours to review the changes. (It can happen that you will get

an email at 11:00 PM and they want the law reviewed by 9:00 AM the next morning.) If the Senator is pushing your bill he may want it on the table immediately. The legislative process is unpredictable. Writing the law as clear as possible is critical and then if given the opportunity to read a final draft check for the little things as well as major changes. Watching for changes in words like: and, or, including, not, is critical. The folks writing, formatting, and editing your law usually have NO idea about Recreational Therapy.

**Have a way of monitoring everything that is going on with your bill on a daily bases.**

**Oklahoma** - The day before the bill was to be heard in committee we got a call from Senator Halligan's office that the Oklahoma State Medical Association (OSMA) had come out against our bill. We called Senator Halligan's office and got the name of the OSMA Lobbyist who had filed the concern. We called the lobbyist and found out that the OSMA Board of Directors was meeting that evening in Oklahoma City. A call to the President of the OSMA got us on their agenda. Dr. Jordan attended that meeting and discussed TR licensure with the Board. With the addition of language to clarify that TR services are provided after the request by a physician and that the TR Licensure Committee would work under the direction of the Oklahoma Medical Licensure Board the OSMA withdrew their complaint.

**North Carolina** – Key individuals accepted responsibility for working with the sponsoring and co-sponsoring legislators in both the State House and State Senate. As key meeting and committee votes were planned, notices went out for attendance and presence of RT professional across the state to attend and show support. Following introduction of the initial bill, committees such as Healthcare, Finance and Occupational Licensing Board Oversight Committee called for RT representative to attend and be ready to testify on both the House and Senate side. The RT professionals needed to be knowledgeable of potential numbers and cost figures.

**Develop a system for activating a calling network to key legislators during critical times.**

**Oklahoma** – The Oklahoma legislative session is very short and several times during the three month process, we had just a few hours to contact legislators in order to keep the TR Practice Act moving forward. Key committee members make decisions related to which bills are placed on their agenda's for consideration and which bills will not be considered. More times than not, the decision to consider a Bill is based upon support for the Bill as evidenced by individual contacts to the decision makers office (they actually count numbers of telephone calls and emails). Twice the TR Practice Act almost died in committee but the activation of our calling network created the support necessary to keep the Bill moving forward. *As you move toward licensure remember that it is not bad or*

*an in-position on your congressman for you to call and/or email them. They expect and want those calls and emails so that they understand that your bill is important.*

**North Carolina** - The establishment of state-wide email trees was critical to success. The RT Licensure Task Force and the Chair of the Task Force used email trees to communicate with professionals across the state for key times to communicate with their respective House Representative or Senator. North Carolina had the luxury of a key person to centralize communications. This was key in order to have flexibility to attend legislative committee meetings with very little notice and expedite legislative support from professionals. Notices went out on a regular basis and individuals were charged with contacting their elected official. Individuals were given written boiler plate letters and information and contact information. Communication via phone and email were encouraged. Formation of a data base identifying the legislative districts of all RT professionals prior to actions was key. Identifying Legislative membership to select committees such as Healthcare Committee and Occupational Licensing Boards Oversight Committee expedited support when necessary.

**Utah** - Access to the members at the drop of a hat is a system that must be in place. This is a good system to have in place within the association for many reasons. The key is to not over use the emergency contact system or it will loose its importance. Utah works a triple system: email alert, web site alert, and a key responder call system of individuals who are strategically located across the state.

**New Hampshire** - The turn around time once a bill is introduced is quick and a bill then gets assigned to a Committee. The Committee that is responsible in NH for any credentialing is the Committee on Executive Departments and Administration. We obtained a listing of the committee members and targeted the legislators that either represented our districts or districts that had health care organizations in them. The committee Chair of the EDA who lead the hearing had been employed as an RN at NE Rehabilitation Hospital and represented the district in which the hospital was located. NRH does employ CTRS.

Our task force also established a list of Provider Organizations such as Hospital Associations, NH Health Care Association (skilled nursing homes, long term facilities, assisted living facilities, Mental Health Organizations (Chapters of the National Alliance of Mental Illness) and we shared information with OT, PT and Speech organizations and staff with whom we worked throughout the state. We contacted and identified key constituents who could testify in support of passing the bill and move it out of committee with an “ought to pass recommendation”. We identified consumers first; parents next, the Medical Director at Northeast Rehabilitation Hospital wrote a letter in support, the Executive Director of Crotched Mountain Rehabilitation Center (also an employer of CTRSs) had previously served in the state of NH as the Commissioner of Health and Human Services, Clinical Specialists from other disciplines, we asked anybody and everyone to write letters of support and send to the committee members that were on the EDA committee.

One of the OTs employed at NH State Hospital and the NH OTA legislative liaison testified against the bill. There were significant questions as to how RT was different from the other disciplines as well as how it was similar and questions regarding volunteers who work with Special Olympics and Adaptive Skiing programs and other community based recreation programs and organizations. One representative was strong on not taking away opportunities for people to be able to volunteer. We clearly had to define the TR process as assessment, planning, implementation, and evaluation based on individuals needs, interests, abilities and routines and articulate recreational therapy's role in contributing to health and well-being and in reducing secondary health conditions i.e. depression, chronic conditions, etc.

As a result of the discussion on of the one of the committee members stipulated that we require a significant number of hours of continuing education in our bill before he would agree to move to pass the bill out of committee with an "ought to pass vote" to move the bill forward to a vote in the Senate and the pass along to the House for a vote. Many of the bills in NH die in Committee – and never make it to the floor. Once the bill moves to the Senate the Majority Leader can decide to not bring the bill to the floor to vote even if the committee has recommended it with and "ought to pass" recommendation. In the process of legislative review a determination is made as to the fiscal impact of the bill and some bills don't get to committee if there is no determination of fiscal impact. As we were actually amending an existing statute the fiscal rules were already established and we were not adding a new regulatory board in the state. Every Board in the state has to raise 125% above the operating costs to run a Board so our fees would be the same as the other allied health professions boards as the rules were already written for that and we were not changing any established rules that had already be approved by the Joint Committee on Legislative Rules (the rules guys). The Rules part is harder than getting the law passed!

The year following the passage of our amendment and establishing the NH Governing Board for Recreational Therapy, a bill was introduced by a State Representative who had an OT in his district who asked him to amend the language in our definition of our scope of practice. The bill was scheduled in the EDA Committee with the same Chair. The Chair chastised the OT who got up to testify in support of a change in definition as she remembered her from the previous stance she took against our original bill. She told her that she had not been well prepared in opposition to our original bill and since our statute had not been fully implemented yet as we were in the rule making process, the Chair ruled to table the bill and not move it out of committee.

This past year, the NH legislature changed back to Red with the influx of new Tea Party representatives and Senators who also represent the "Free State" movement. In this legislative session a bill was introduced to eliminate 34 occupational licenses that are regulated by the state including, barbers, cosmetologists, fish and game wardens, landscape architects, massage therapists, recreational therapists, athletic trainers (also a new Governing Board under the Licensed Allied Health Professions), etc. Once again we had to mobilize resources to attend and testify at a hearing.

This time the conversation was ridiculously scary! The turnout of people against the bill was so large the hearing had to be rescheduled to area that could hold a larger number of

participants. Fortunately, since the representative who drafted the bill did not do a good analysis as to why the need to eliminate these licensed professions, the Committee came to a decision that it was “inexpedient to legislate” this bill at this time. So the bill was killed in Committee. It does not necessarily mean that it won’t come back again so **CONSTANT LEGISLATIVE VIGILANCE** is necessary even if there is a law in place. *This is why the privilege and right to vote in this country is so important and that every vote does count no matter at what level it may be.*

### **What other lessons are essential?**

**North Carolina** – As NCBRTL has worked to offer oversight of Chapter 90C and Rules, the application of sanctions, citations, and warnings for non-compliance has been an important issue. Individuals and agencies must be educated, violations prosecuted and non-compliance monitored. It is essential that consistency be used in the determination of penalties for varying degrees of non-compliance. The application of fines, legal actions, and other penalties is a difficult and trying exercise. Have discussion prior to having to take action. There is a required federal register for some penalties but not for warnings. Find the balance in the exercise of actions for non-compliance or other levels of violation.

**Utah** - There are so many lessons to be learned when going for licensing. The most difficult is, everything is always changing and being on top of changes not just in your law but, in other laws is a full time job. The process of maintaining licensing is a forever job. When a state assumes licensing of their profession you have made a commitment till the end of time. The profession is saying they believe recreational therapy is a healthcare profession that needs to be monitored to protect the health and safety of individuals within your state. This is an enormous responsibility. Licensed recreational therapists must monitor that people practice with a license and if they don’t they need to be investigated. Acts of harm by licensed and unlicensed recreational therapists need to be monitored and a record kept for later reference. Keeping legislators informed about the profession and what a recreational therapist does is so important.

### **Would you do anything differently?**

**North Carolina**- We might add the legal authority to follow civil procedures, this would allow the Board to issue fines for non-compliance as a deterrent. These fines would be issued and collected by the Board but given to the state. NCBRTL would also consider the issue of malpractice. The current Practice Act monitors qualifications of licensees and prohibits those who practice without a license but does not allow authority over actual malpractice.

**Utah -**

There are many things I think we would do differently, every time is new and something unexpected happens. But, the one thing most profound is, making the Legislative Chair of the State Association as important of a position as the President of the association. This person needs to be committed for a minimum of five years and the association needs to train them on legislative process. The person needs to watch other legislation and be actively involved in other agencies. This person is critical to the profession and from a personal standpoint could be a paid position within an association.

**Oklahoma** - In Oklahoma you can get a temporary license after graduating from an accredited program and work under the direct supervision of a licensed therapist, the temporary license is good until your first attempt to pass the NCTRC exam. Pass the NCTRC exam and you are granted a full license, fail the NCTRC exam and you lose your temporary license. If we had it to do over again we would give the individual a full year to pass the NCTRC exam prior to losing the temporary license.