



# WELCOME TO

## RECREATION THERAPY TITLE PROTECTION LAW 101

**A Session About Legal Regulation For Recreation Therapy In California  
Through The Recreation Therapy Title Protection Law**

**Where Are We?**

**How Did We Get Here?**

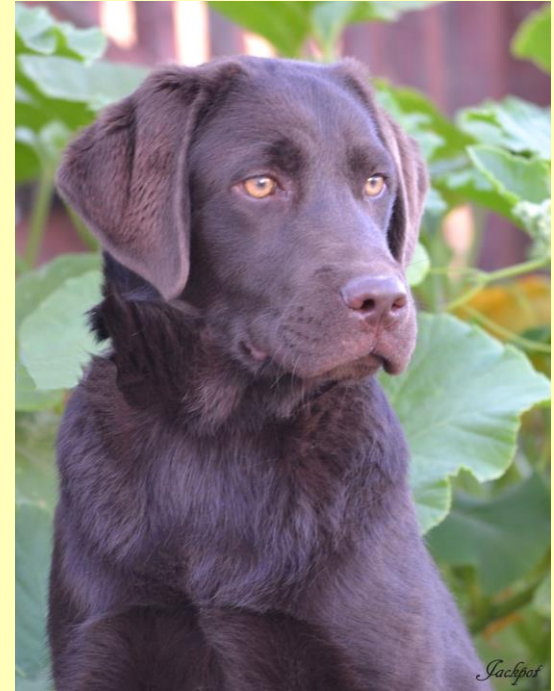
**Where Do We Want To Be?**

**What Are The Next Steps?**

## Your Presenter: Anne N. Battiste, MS, RTC

Graduate of the University of Utah with BS in Psychology in 1976 and M.S. in Leisure Studies with an emphasis in Recreation Therapy, Modern Dance and Special Education in 1982. NCTRC certified as CTRS in 1982-2006. CBRPC certified 1983- 2006 as an RTR. Reentered into CBRPC certification in 2006 through test certification  
Memberships: Member of American Therapeutic Recreation Association (ATRA) since 1990 and California Park and Recreation Society Recreation Therapy Section (CPRS RTS) since 1983. Served on Board of CPRS RTS Legislation and Regulations Committee Chairperson 2015-2016, 1992-2000. She served as President and Past President of CPRS RT Section Board participated actively in the legislative efforts of CPRS RT Section from 1994 - 1997 including leading legislative actions for AB 2853 and SB 1347 which resulted in enactment of Section 17505.2 California Business and Professions Codes. Personal: Anne is a physically disabled person. In 2003 she experienced serious injuries to both hands and spine resulting in surgeries including spinal (five level fusion of lumbar spine).

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She is accompanied by Stout, SDIT (service dog in training)

**This session is dedicated to Ricky, CSD Certified Service Dog  
Devoted companion 12/1/2002 to 11/24/2015.  
Thanks Ricky for letting me “lean on you!”.**





# A Closer Look At the Session

**Outcome #1 Legal regulation of professions**

**Outcome # 2 California Recreation Therapy Title Protection Law: The Law; Legislative and Implementation History Up to the Present Day; Ethics/ Standards And Choosing To Enforce The Law;**

**Outcome # 3: “Where Are We And Where Do We Want To Be? What are the next Steps?” A Violation Report Form Will Be Created. The Participants Will Create Personal And Group Implementation Plans For Full Execution Of The Title Law. The Civil (Small Claims) Court Process Will Be Reviewed.**

# Table of Contents Slide by Slide (The Playlist)

Item	Description	From Slide	To Slide
1	Let's get started by exploring the basic concepts of credentialing and accreditation to ensure consumer protection from harm; certification, Recreation Therapy Certification; and common options for legal regulation of professions through laws and regulations in the United States. We will look at registration, title protection laws, and licensure. Then we will study in depth Section 17505.2 of California Business and Professions Codes. Key terms will be defined. The facts of the code including "standing in the law", and the meaning of injury as stated in the law	8	36
2	The rationale for title laws to answer the call for deregulation and self-policing through title law will be considered. Recent times have seen a resurgence in legislative attempts to title protect other professions. The National Debate about what type of law is best will be reviewed.	37	37
3	How Section 17505.2 became coded law (the legislative history) and its implementation history will be reviewed. The key persons who worked for its passage will be identified. What issues and resolutions came up during the legislative process? These will be identified and those that continue to effect full implementation of the law will be highlighted. AB 1279 The Music Therapy Title ACT of 2015 will be discussed. The advocacy roles played by CPRS RTS; the CPRS Legislation Committee and our lobbyist, Doug Houston will be described.	38	44
4	The relationship of ethics; codes of conduct of recreation therapy; standards of practice; disciplinary processes of the certification boards specified in the law and the law itself will be discussed. More importantly we will talk about how ethics and laws compel recreation therapists to implement the law in their practice; administration of their services, and as a basis of sound professional relationships with their patients and colleagues. Center for Medicaid and Medicare Services and Informed Consent Criteria will also be included. Real life situations and reasons for not reporting will be explored.	45	51
5	Governance (applying coded laws to real life situations) planning using; strategic implementation as its model will be introduced including pitfalls, questions that need to be answered, five key components necessary to support application, and comprehensive implementation steps will be reviewed. Then the participants will develop strategic implementation plans for the title protection law. These will be shared with all the participants. The participants will compile a list of information to be included on a violation reporting form. The group will look at a sample and make recommendations about the reporting form.	52	57
6	The participants will consider some case scenarios and answer a round of questions about these to determine their understanding of application of the law to real life situations.	60	60
7	The session participants will be asked to brainstorm some ways that the Title Law affects the Department/Services Policy and Procedures, hiring practices, peer review, and any other human resource issues.	61	61
8	The Civil Suit Procedures State of California will be explored. Specific guidelines on the suit process and tips on how to win civil law suits will be shared with the group.	62	70
9	A Tool Box for Implementing the Recreation Therapy Title Protection Law . Suggested items to include in your own personal Tool Box. You will be given a list of documents and references that will be helpful to you.	71	71

"You mean to tell us that it took you seven slides just to tell us who you are and what you are going to tell us?"



## Recreation Therapy Title Protection Law: Where Are We And Where Do We Want To Be? What are the next steps?"

**Learning Objectives: The session objectives are divided into two groups**

### **Teaching, lecturing, receiving information:**

1. Receive information about the basic concepts of credentialing, accreditation and consumer protection laws.
2. increase knowledge about the recreation therapy title protection law including accurate information specific definitions and procedures in the law
3. Review the legislative history of the law
4. Learn about violations of the law in the hiring practices of the Department of Human Resources State of California (CALHR)
5. The participants will learn about strategic planning processes. The Implementation Checklist for The Recreation Therapy Title Law will be presented.
6. The small claims civil lawsuit process and tips on how to win a civil law suit will be covered.

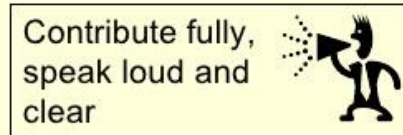
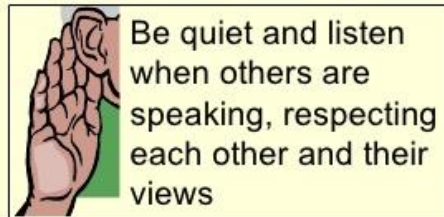
### **Application Of The Information Through Session Exercises**

1. The entire group will work on the development of **a violation report form.**
2. The group will be divided into several smaller work groups. They will analyze a scenario and report back to the entire group. **A Worksheet will be provided.**
3. Then each participant will be asked to create a list of personal goals for themselves about Recreation Therapy Title Law. Then they will work in their small group and share their ideas.
4. The work group will create a suggested implementation plan, they might individually take with them and to the organizations with whom they work. **These plans will be shared with the entire group of participants in the session.**

# Basic ground rules for this session

## Ground Rules

As a courtesy to your colleagues, please:



## GROUND RULES FROM THE PARTICIPANTS TODAY:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

**2016 is the twentieth anniversary of the submission of AB 2853 by Assemblyman Tom Bordanaro, of the 35<sup>th</sup> District. This was the first of two bills during the 1996 and 1997 legislative years to legally authorize the profession of Recreation Therapy. Later in 1997 SB 1347 Polanco, which contained language identical to AB 2853 passed through the California Legislature and became known as the Recreation Therapy Title Protection ACT. It created Section 17505.2 of the California Business and Professions Codes.**

The original idea was to create a license for Recreation Therapy. Because of the politics of the California Legislature at that time passage of a licensure act for any profession was unlikely. Governor Pete Wilson was deregulating state government. Yet recreation therapists promoted the idea and set in motion the actions that lead to the passage of a title law.

Then and today licensure will benefit consumers, Recreation Therapists, and the RT profession tremendously in many different ways. The primary purpose of licensure is to protect consumers, ensuring that they will receive quality Recreation Therapy services. For consumers, licensure will guarantee that only qualified professionals will provide Recreation Therapy services. Licensure also strengthens access to third party payments and entitlements, which provides consumers with more access to RT services.

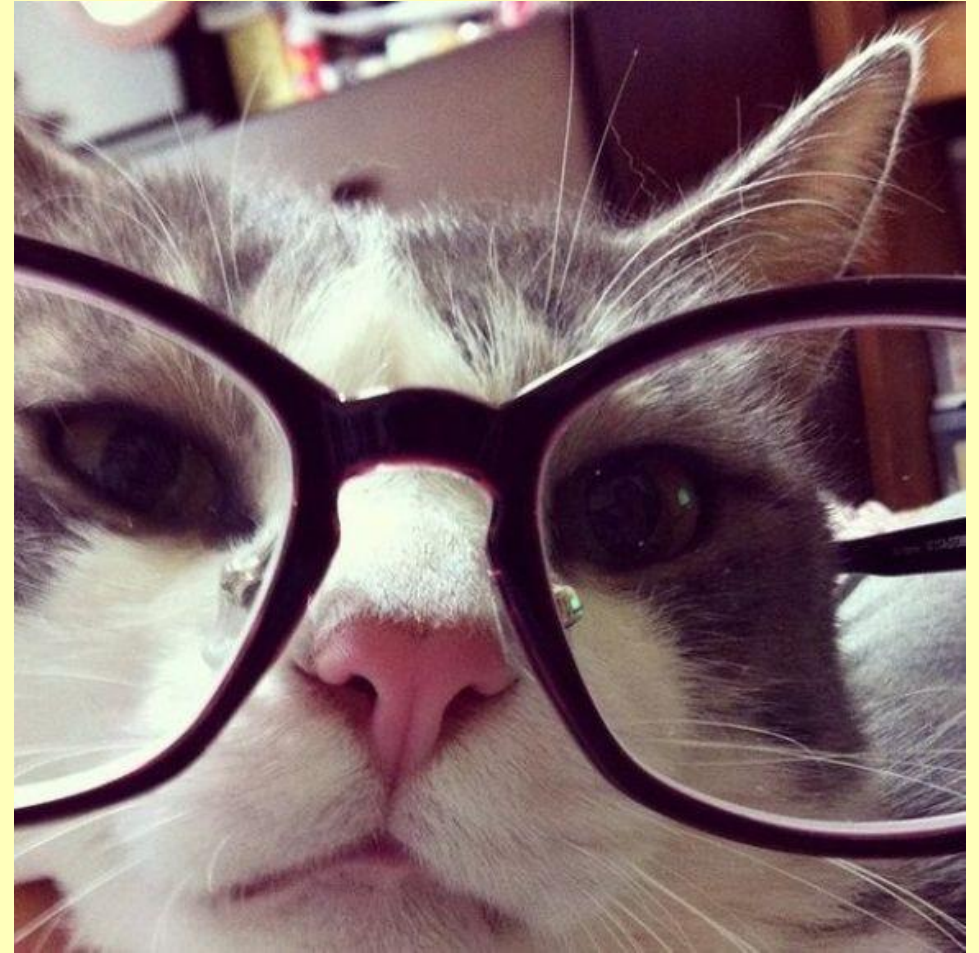
**California State facilities and other facilities in the state have abused the title of Recreation Therapist in their hiring practices.** Licensure is a way to stop this practice. It would create an oversight regulatory board and apply misdemeanor penalties for violations. Licensure assures people trained in RT are providing RT and legitimizes the field by holding professionals accountable. Licensure strengthens access to third party payments and entitlements thus providing clients more access to RT services and increasing the visibility of RT as a profession that protects clients from harm.

California has great potential for passage of a licensure law. With the assistance of the California Parks and Recreation Society (CPRS), California Board of Recreation and Park Certification (CBRPC), American Therapeutic Recreation Association (ATRA), and the National Council on Therapeutic Recreation Certification (NCTRC) would be successful in passing a licensure law. CPRS RTS Recreation Therapy Licensure Task Force created a strategic plan and are making considerable progress. In 2015 California Music Therapy Task Force passed legislation to regulate the use of their title. Governor Brown has established deregulation of the professions in an effort to reduce government spending. He vetoed this legislation. They wait for a time when the right political forces will allow for creation of a regulatory board and licensure of recreation therapy. For more information about this effort contact:

Licensure Task Force Chair Laura McLachlin at  
lmclachlin@csuchico.edu or 530-898-5227.



Let's get started by exploring basic concepts. First we will define a recreation therapist according to title law and look at the number of persons practicing in California. Then we will look at credentialing; of consumer protection laws, and options for legal regulation of professions.

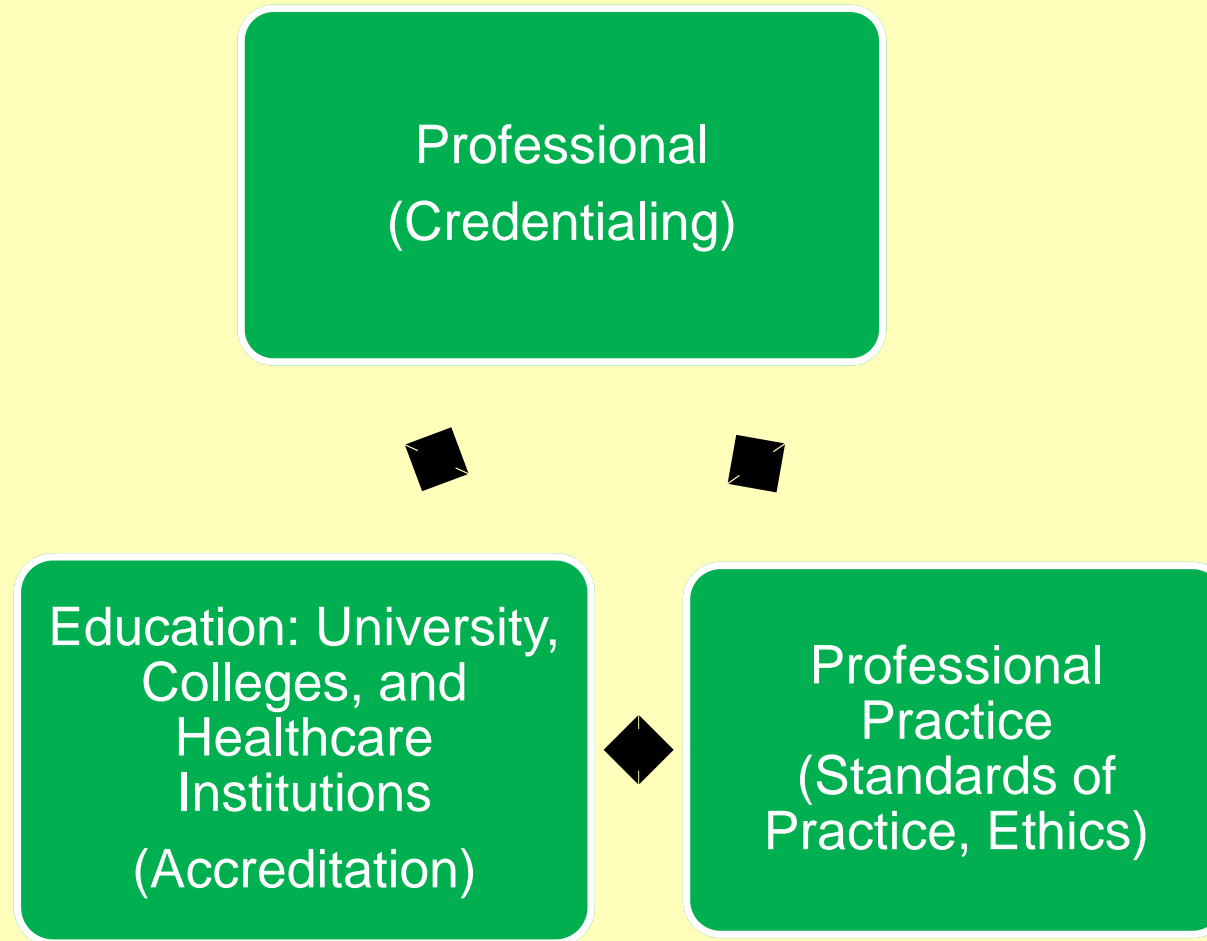


## **Who is a Recreation Therapist?**

An individual who meets the minimum eligibility criteria established by the national, state, or local law effecting their practice. Today, four states have licensure of recreation therapy, ten states are attempting to become licensed states, one state has registration and California is a title protected state. In all examples of regulatory laws of the profession certification by NCTRC and in the case of California eligibility for certification or certification by NCTRC or CBRPC is the minimum entry level criteria.

## **What is the national and state presence of recreation therapists?**

Recreation therapists held approximately 23,300 jobs in the United States during the year 2008. Most therapists are employed in hospital or personal care facilities but a growing number are being hired in residential facilities, community mental health centers, adult day care programs, substance abuse centers, hospice care, and community centers and in school systems. According to the U.S. Department of Labor rapid employment growth of therapists is expected in assisted living, outpatient physical and psychiatric rehabilitation and services for individuals with disabling conditions. In California, there are 1,500 Recreation Therapists. There are approximately 700 CTRS's, 452 RTC's, and 160 that hold dual certification. (2010 statistics)



The foundation of credentialing and quality in Recreation Therapy are education, standards of practice and ethics.

# What is Credentialing?

- Credentialing is about the individual meeting certification standards and education.
- Credentialing is recognition of professional or technical competence (**Austin Glossary of Recreation Therapy and Occupational Therapy**)
- Process where by the competency of a professional is ensured as a provider of quality services. Professions and governments establish minimum standards of competency required for practice by a professional in order to protect consumers as they receive services.
- Defines minimum competence to practice
- Federal and State regulatory laws require uniform services based on consumer need and duty to prevent harm.
- Federal and State regulatory laws legally enhance credentialing: Registration, Title Protection Laws, and Licensure laws
- A governmental or non-governmental agency grants recognition to an individual who has met certain predetermined qualifications of Education & professional practice.

# What does credentialing do?

- Enables the public, government, and third party payers to distinguish those who have attained some qualifying level of competency from those who have not
- Provides prestige, recognition and earning power
- Increases the quality and accountability of services to the consumer
- Increases credibility, respect, and professionalism
- Increases the minimal qualifications of the professional
- Increases the likelihood of providing uniform services based on consumer need
- Encourages education and continuing education

# What is accreditation?

Accreditation is about the agency or institution meeting standards

Accreditation is a voluntary process by which standards are applied to an institution in order to determine if they are met. For example, hospitals and health facilities may be accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). College and university curricula may be accredited by an accrediting body. (Austin Glossary of Recreation Therapy and Occupational Therapy)

# Examples of Accreditation Organizations Impacting on Recreation Therapy (Healthcare Accreditation)

**Joint Commission (JC)** An independent, not-for-profit organization, The Joint Commission accredits and certifies nearly 21,000 health care organizations and programs in the United States. Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards.

**Founded in 1951**, The Joint Commission seeks to continuously improve health care for the public by evaluating health care organizations and inspiring them to excel in providing safe and effective care of the highest quality and value. The Joint Commission evaluates and accredits more than 21,000 health care organizations and programs in the United States. An independent, not-for-profit organization, The Joint Commission is the nation's oldest and largest standards-setting and accrediting body in health care.

**Our Mission:** To continuously improve health care for the public, in collaboration with other stakeholders, by evaluating health care organizations and inspiring them to excel in providing safe and effective care of the highest quality and value.

**Vision Statement:** All people always experience the safest, highest quality, best-value health care across all settings.

**Commission on Accreditation of Rehabilitation Facilities, (CARF) Founded in 1966** as Commission on Accreditation of Rehabilitation Facilities the CARF International is an independent, nonprofit accreditor of health and human services in the following areas:

Aging Services

Behavioral Health, Opioid Treatment Program

Business and Services Management Networks

Child and Youth Services

Employment and Community Services

One-Stop Career Centers

Vision Rehabilitation Services

Medical Rehabilitation

DMEPOS (Durable Medical Equipment, Prosthetics, Orthotics, and Supplies)

# Accreditation of Organizations (Educational) Impacting on Recreation Therapy

## ■ Council on Accreditation of Allied Health Education Programs (CAAHEP)

**What is CAAHEP?** CAAHEP is the largest programmatic accreditor in the health sciences field. In collaboration with its Committees on Accreditation, CAAHEP reviews and accredits over 2000 educational programs in twenty-eight (28) health science occupations.

CAAHEP is recognized by the Council for Higher Education Accreditation ([CHEA](#)). CAAHEP is also member of the Association of Specialized & Professional Accreditors ([ASPA](#)).

## ■ Committee on Accreditation of Recreational Therapy Education (CARTE)

**What is CARTE?** The Committee on Accreditation of Recreational Therapy Education (CARTE), an organization created to develop minimal quality standards for accrediting university education programs in the field, was established in 2010 and is sponsored by ATRA. CARTE is an approved accreditation program under the Commission on Accreditation of Allied Health Education Programs (CAAHEP)



# What is Certification?

Certification is a process by which a nongovernment agency or association evaluates and recognizes an individual as meeting predetermined standards (Austin Glossary of Recreation Therapy and Occupational Therapy)

**There are three commonly accepted certification boards for Recreation Therapy Certification.**

**California Board of Recreation and Park Certification (CBRPC)**

**The Consortium for Therapeutic Recreation/Activities Certification, Inc. (CTRAC)**

**National Council for Therapeutic Recreation Certification(NCTRC)**



# **National Council for Therapeutic Recreation Certification(NCTRC)**

## **Become a CTRS**

NCTRC certification signifies that a recreational therapist has the knowledge, skill, and ability that is well recognized as being essential for the practice of recreational therapy.

How to Become a CTRS: the Qualified Provider of Recreational Therapy Services

Individuals seeking certification apply to NCTRC and must meet established standards that include education, experience, and continuing professional development. The Certified Therapeutic Recreation Specialist (CTRS) credential is granted by NCTRC after the specific educational and experiential qualifications are met, eligibility to take the exam is established, and testing is successfully completed. Candidates are eligible to register for the NCTRC certification exam if they are in compliance with NCTRC's Certification Standards and Prerequisites, and it has been determined by NCTRC that all professional eligibility requirements have been met through either the academic or equivalency paths. When a candidate is awarded the CTRS credential, it serves as evidence that the individual, through knowledge and experience, has met NCTRC's CTRS Certification Standards. The award of the CTRS credential is a limited license to use the titles of "Certified Therapeutic Recreation Specialist®" and "CTRS®" subject to NCTRC's Certification Standards. NCTRC is a national body that tests and certifies therapeutic recreation specialists; Certified Therapeutic Recreation Specialist (CTRS in the United States (Austin Glossary of Recreation Therapy and Occupational Therapy). The Pre-Application Coursework Review Process is designed to assist potential applicants in determining whether they meet current certification coursework requirements prior to submitting a formal application. This process will allow for early confirmation of coursework to individuals who are not certain if previously completed coursework will meet NCTRC eligibility requirements.

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# **California Board of Recreation and Park Certification (CBRPC)**

Established in 1954 Non-profit Incorporation

California certification promotes pride and excellence in the profession

**CBRPC** tests and certifies Recreation Therapist Certified (RTC) Certified Recreator (RC).

To establish specific standards informing the general public and employing agencies of basic professional competencies.

To identify leaders engaged professionally in the recreation profession.

To inform consumers and employers - recreation professional has tested competent through examination on specific standards identified by the profession and CBRPC.

To verify adequate preparation of the professional while at the same time indicating validity of the profession.

To provide, upon request, verification to agencies of certificates original certification date, current standing and expiration date.

To have an impact on university curriculum.

To deliver, administer and maintain certification examination procedures locally.

To organize a base of both Recreator and Recreation Therapist Certification

***The purpose of the California Board of Recreation and Park Certification is to develop and maintain a program of voluntary registration and certification that will assure high standards for professional preparation and conduct of recreation and park personnel in order to protect the health and welfare of consumers of recreation and park services in our great state of California.***

## **Why Professionals in California Should Be Certified:**

Certification promotes professionalism

Certification encourages respect from colleagues

Certification links university curricula with practical experience

Certification promotes increased salaries and more jobs

Certification provides accountability

CBRPC exams are administered at the local level

CBRPC exams were developed by California professionals

State certification plans are more accessible to professionals and responsive to their needs

State certification plans keep costs at a lower level than other plans

CBRPC was established in 1954 and is one of the oldest certification plans

**California Board of Recreation and Park Certification, Inc.**

**PO Box 900489 Palmdale CA 93590-0489**

**V/M: 661 528-1332**

**F: 661 274-8600**

**Email: [cbrpc@roadrunner.com](mailto:cbrpc@roadrunner.com)**

**<http://www.cbrpc.org/>**



## Consortium for Therapeutic Recreation/Activities Certification, Inc.

Texas **The Consortium for Therapeutic Recreation/Activities Certification, Inc. (CTRAC)** assures the general public and employing agency of the competence of therapeutic recreation and activity personnel by certifying that they meet basic and prescribed standards. Consortium for Therapeutic Recreation/Activities Certification, Inc. is the credentialing body for persons working in therapeutic recreation/activity settings in Texas. This certification attests that an individual is qualified by training and experience to conduct and administer therapeutic recreation and/or activity services as an AD, TRA or TRS level. There are currently over 1200 people who have chosen, to certify in Texas.

CBRPC provides the standardized test for CTRAC. Certification in California and Texas are reciprocal.



## ■ Certification & Licensure

- Credentialing is the process by which an agency grants recognition of compliance to recognized standards to individuals who have met stated qualifications. Credentialing programs develop when there is a need to define entry standards and assure compliance with these standards to protect the public, assist employers, and increase the credibility of the discipline.
- It is highly encouraged that RT/TR professionals undergo the voluntary process of national credentialing. In fact, you will find that many employers will not hire practitioners who have not obtained national certification (or in the case of new graduates, individuals who are in the process of obtaining certification). Certification in RT/TR is administered by the National Council for Therapeutic Recreation Certification® (NCTRC®). For more information on certification, please follow this link to [NCTRC](#).
- Licensure is a legal non-voluntary process regulated by state government. This means that in states that have RT/TR licensure, you can not practice without a license. Currently, four states have RT/TR licensure laws and other states are in the process of creating legislation to achieve licensure in their state. For more information on the national effort to achieve RT/TR licensure, consult the [Joint Task Force for Recreational Therapy Licensure](#).
- In addition to licensure, states may regulate the practice of RT/TR in other ways; California has Title Protection and Washington has Registration.
- It is important that all practitioners in regulated states understand the laws governing RT/TR practice. Please follow the links below to the offices that administer state level licensure, registration, and title protection.

## States with Licensure

### New Hampshire

[Office of Licensed Allied Health Professionals](#)  
[New Hampshire law](#)

### North Carolina

[Board of Recreational Therapy Licensure](#)  
[North Carolina law](#)

### Oklahoma

[Medical Board](#)  
[Oklahoma law](#)

### Utah

[Division of Occupational and Professional Licensing](#)  
[Utah law](#)

## States with Other Regulations

### California

[California Title Protection](#) (scroll to Section 17505.2)  
Also, see <http://www.cbrpc.org/>

### Washington

[Washington Registration](#)

## Address:

629 North Main Street  
Hattiesburg, MS 39401

## Contact

[Please get in touch with us.](#)

Tel. 601.450.2872

Fax: 601.582.3354

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We'd love to hear from you.

Contact us at

[webmaster@atra-online.com](mailto:webmaster@atra-online.com)

## United States Government Legal Authorization of Professions

Registration and title protection laws regulate the education and experience of a professional by establishing credentialing criteria as the minimum eligibility for title and definition of services provided.

**Licensure laws do this and more.** They provide a scope of practice naming specific treatment interventions and approaches appropriate to the profession.



**Merriam-Webster:**  
**physical or mental**  
**damage or injury :**  
**something that causes**  
**someone or something to**  
**be hurt, broken, made**  
**less valuable or**  
**successful, etc. ... These**  
**new regulations could**  
**cause lasting *harm* to**  
**small businesses. ...**  
**injure, *harm*, hurt,**  
**damage, impair, mean to**  
**affect injuriously**

# Protection of the Public

“While recreation therapy practice has the potential to be beneficial for persons served, it also has the potential to cause harm if not practiced according to the most current therapeutic recreation professional standards and ethical guidelines. **The issue of protecting the public from harm resulting from unregulated recreation therapy practice is the most important basis for legal recognition.** The process of seeking legal regulation requires that professional leaders provide direct evidence of public harm that has or could result from the unregulated practice of recreation therapy. This is typically provided in the form of “case review” and/or assessment of available qualified service providers and is usually germane to the state or province in which the regulation is being sought.”



There are three types of State laws that regulate the profession of Recreation Therapy.

These are consumer protection laws designed to protect the public from harm. They are also referred to as regulatory laws.

1. Registration
2. Title Protection
3. Licensure

**A simple voluntary listing of people who practice in a profession and meet stated criteria. This is a continuous process. The criteria may include evidence of education on aspects of the provision of the services. In the case of registration of health care professionals this education is usually about public health issues.**

**The process by which qualified individuals are listed on an official roster maintained by a governmental or non-governmental agency**  
**Could be state, national or professional organization**  
**Can look at education & professional experience**

# **Registration**

- **Strictest form of legal regulation**
- **Requires state government to enact legislation that defines the professional practice**
- **Practice protection-illegal to practice if not licensed**
- **An agency of government grants permission to an individual to engage in a given occupation upon finding that applicant has attained the minimal degree of competency required to ensure that the public health, safety, and welfare will be reasonably well protected**
- **Statutorily define the scope of practice; the academic and experiential requirements of the profession; definitions of recreation therapy that impact directly on policy and procedures**
- **Provides a criminal process by which uphold under penalty of criminal prosecution the state mandated qualifications for practice. When an unqualified person provides professional services a licensure board (professionals and consumers) meets and polices the practice because they are funded and supported by the state's legal systems.**

## **Licensure Laws**

- **adopt certification standards**
- **define the minimum entry criteria of the profession**
- **address the basic education and training of the professional and passage of a written standardized examination.**
- **includes continuous meeting of certification standards used to define the minimum entry criteria**
- **use civil procedures for collection of fines to strengthen enforcement**
- **follow legal guidelines for false advertising or unfair business practices**
- **require that the members of the profession voluntarily police the practice in the absence of state mandated and tax payer supported procedures.**

## **Title Protection Laws**



**Excuse me just between you and I.....**

**“A profession can assure the state government and public that their services are provided by qualified persons with the requisite education and training when they are title protected by state law.**

**Because a profession is subject to the ethical standards and codes of their profession; a title law that includes certification is impactful on reducing the risk of public harm from workers who are ill informed, and uneducated in the specialty. “**

# Recreation Therapy Title Law

**We will examine carefully Section 17505.2 California Business and Professions Code Business and Professions Codes.**

**“what it says?” “what it means?” “how to comply with this law?”**

**“What the consequences are for violation of it?”**

**We will review a simple understandable history of Section 17505.2 from legislative action to create the law to implementation of the law following enactment.**

**It will describe the actions of California RT professionals who worked tirelessly to pass the legislation; implement the law; and address violations using few computer based communication methods in advance of the resources of the internet. It will describe the challenges of working dependent on state government agencies, like the California Department of Consumer Affairs.**

The Recreation Therapy Title Protection Law establishes minimum entry level criteria that must be met to use the term recreation therapist or to describe services as recreation therapy. The law states that an individual must meet criteria of academic preparation and internships and passage (continued eligibility to take) a standardized test of knowledge by either of the certification boards known as CBRPC or NCTRC. Certification or eligibility for certification criteria allows the person to advertise that their services are recreation therapy. Certified individuals meet all three criteria and must recertify according to the by laws of the certification boards to continue to qualify.



# What is injury?

Injury n. any harm done to a person by the acts or omissions of another. Injury may include physical hurt as well as damage to reputation or dignity, loss of a legal right or breach of contract. If the party causing the injury was either willful (intentionally causing harm) or negligent then he/she is responsible (liable) for payment of damages for the harm caused. Theoretically, potential or continuing injury may be prevented by an order of the court upon a petition for an injunction.

<http://dictionary.law.com/Default.aspx?selecte d=964#ixzz41gEoojlo>

ON THE OTHER HAND..... JUST TELL ME THIS.....



**Standing**, or locus standi, is capacity of a party to bring suit in court. State laws **define standing**. At the heart of these statutes is the requirement that plaintiffs have sustained or will sustain direct injury or harm and that this harm is redress able.

[https://www.google.com/?gws\\_rd=ssl#q=legal+standing+definition](https://www.google.com/?gws_rd=ssl#q=legal+standing+definition)

**WHO HAS LEGAL STANDING IN A CIVIL LAW SUIT ALLEGING A VIOLATION OF SECTION 17505.2 CALIFORNIA BUSINESS AND PROFESSIONS CODES?**

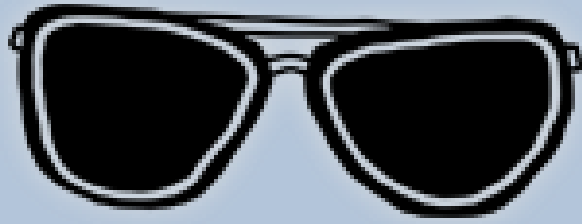
1. **Recreation Therapists who meet Section 17505.2**
2. **Patients who have been treated by persons who do not meet Section 17505.2.**
3. **Persons doing business with persons who do not meet Section 17505.2 and contract with them unaware of the violation.**
4. **Persons who exchange goods or services at a discounted rate because the person who is contracting with them do not meet Section 17505.2.**
5. **Persons who hire an individual who does not meet Section 17505.2 and claim that they do.**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

Section 17505.2 of the California Business and Professions Code.

**17505.2.** (a) It is unlawful for a person to represent himself or herself as a recreation therapist, to represent the services he or she performs as recreation therapy, or to use terms set forth in subdivision (c) in connection with his or her services, name, or place of business, unless he or she meets all of the following requirements: (1) Graduation from an accredited college or university with a minimum of a baccalaureate degree in recreation therapy or in recreation and leisure studies with a specialization in recreation therapy. Alternatively, a person who does not have one of the preceding degrees may qualify if he or she has a baccalaureate degree in a specialization acceptable for certification or eligible for certification by any accrediting body specified in paragraph (2). (2) Current certification or eligibility for certification as a recreation therapist by the California Board of Recreation and Park Certification or by the National Council for Therapeutic Recreation Certification, Inc. (b) No person shall represent himself or herself as a recreation therapist assistant, or represent the services he or she performs as being in any way related to recreation therapy, unless he or she at a minimum has current certification, or has eligibility for certification, by the California Board of Recreation and Park Certification or by the National Council for Therapeutic Recreation Certification, Inc., as a recreation therapist assistant. (c) A person who does not meet the requirements of subdivision (a) or (b) may not use any of the following words or abbreviations in connection with his or her services, name, or place of business: (1) Recreation therapist registered. (2) Recreation therapist certified. (3) Certified therapeutic recreation specialist. (4) Recreation therapist. (5) Recreation therapist assistant registered. (6) Certified therapeutic recreation assistant. (7) RTR. (8) RTC. (9) CTRS. (10) RT. (11) RTAR. (12) CTRA. (d) For purposes of subdivision (c), the abbreviation RT shall not be construed to include rehabilitation therapist or respiratory therapist. (e) Any person injured by a violation of this section may bring a civil action and may recover one thousand five hundred dollars (\$1,500) for the first violation and two thousand five hundred dollars (\$2,500) for each subsequent violation. This is the sole remedy for a violation of this section.

# Section 17505.2 of the California Business and Professions Code



## FOCUS IN ON

**It is unlawful for a person to represent himself or herself as a recreation therapist, to represent the services he or she performs as recreation therapy, or to use terms set forth in subdivision (c) in connection with his or her services, name, or place of business, unless he or she meets all of the following requirements:**

- (1) Graduation from an accredited college or university with a minimum of a baccalaureate degree in recreation therapy or in recreation and leisure studies with a specialization in recreation therapy. Alternatively, a person who does not have one of the preceding degrees may qualify if he or she has a baccalaureate degree in a specialization acceptable for certification or eligible for certification by any accrediting body specified in paragraph (2).
- (2) (2) Current certification or eligibility for certification as a recreation therapist by the California Board of Recreation and Park Certification or by the National Council for Therapeutic Recreation Certification, Inc.

**No person shall represent himself or herself as a recreation therapist assistant, or represent the services he or she performs as being in any way related to recreation therapy, unless he or she at a minimum has current certification, or has eligibility for certification, by the California Board of Recreation and Park Certification or by the National Council for Therapeutic Recreation Certification, Inc., as a recreation therapist assistant.**



## FOCUS IN ON

**A person who does not meet the requirements of subdivision (a) or (b) may not use any of the following words or abbreviations in connection with his or her services, name, or place of business:** (1) Recreation therapist registered. (2) Recreation therapist certified. (3) Certified therapeutic recreation specialist. (4) Recreation therapist. (5) Recreation therapist assistant registered. (6) Certified therapeutic recreation assistant. (7) RTR. (8) RTC. (9) CTRS. (10) RT. (11) RTAR. (12) CTRA.

**For purposes of subdivision (c), the abbreviation RT shall not be construed to include rehabilitation therapist or respiratory therapist.**

**Any person injured by a violation of this section may bring a civil action and may recover one thousand five hundred dollars (\$1,500) for the first violation and two thousand five hundred dollars (\$2,500) for each subsequent violation. This is the sole remedy for a violation of this section.**

# The National Debate

“State regulatory laws may regulate a profession through licensure, certification, or registration. Many states use these terms interchangeably. Typically, however, "licensure" is mandatory regulation prohibiting unlicensed persons from practicing a profession. "Certification" and "registration" may be either voluntary or mandatory depending on the type of laws enacted. Although the laws tend to differ in style, generally the laws will restrict (i) the practice of the profession ("practice restriction"), (ii) the use of certain descriptions or titles ("title restriction"), or (iii) practice and title use. While some states do not want to enact new laws restricting practice, some have been willing to enact title protection laws. When a state passes a title protection law, it may refer to national certification standards and a national exam. The state benefits from this model because it does not have to bear the financial burden of developing standards and a standardized exam. The professional regulated under this type of model may be required to pay twice for the same certification: once at the national level plus any fees the state may levy for the title protection.”

**From the fall 1995 NCTRC Newsletter was critical of the title protection laws. At this time NCTRC commanded the conversation about the suitability of each option. In Licensure: Questions for the Profession by Peg Connolly, PhD., CTRS.**

# Rationale for Title Laws

1. State governments are required by Federal mandates such as Center for Medicaid and Medicare Services CMS (Social Security) and Civil Rights Laws that protect patients from harm, discrimination, and substandard services.
2. Private voluntary and accreditation standards of Joint Commission (JC), CARF, set high standards of practice for all of the healthcare workers to reduce the risk of harm and to provide quality services to consumers.
3. Failure to do the above may increase the risk of in legal actions, closure of facilities, loss of revenue, and fines.
4. In the past accountability depended on audits, plans of corrections and slow administrative processes. Identification of non compliant programs has sped up and states are overburdened by regulatory expenses to meet the demand.
5. Cumbersome costly oversight by licensure boards is not sufficient. There are accusations of elitism in practices by these boards, restriction of free trade, and unfair labor practices. The task of maintaining the data bases and sanctioning of violators is being turned back to the professions. At an increasing rate implementation of the certification standards, title laws, are becoming a professional expense.
6. More and more state government look to the individual professions to police themselves that are not a burden to the state budgets.

# How Recreation Therapy Became Title Protected in California

- In 1990's the Clinton Presidency introduced "Healthcare Reform". This resulted in accelerated efforts to establish legal authorization of the title or recreation therapy. Advocacy efforts began for legal authorization of the practice.
- We developed a political agenda because we concluded that legal authorization through licensure would elevate the profession to the stature it deserved and protect the public from harm caused by unqualified persons.
- Legislation occurs in the political arena. California government leadership was downsizing regulatory laws. The smaller government model of Governor Wilson was difficult to overcome.
- Late in December 1995 Assemblyman Tom Bordonaro of the 35<sup>th</sup> District (Republican) was asked to look at the prototype. He recommended that we try to establish title protection. The bill AB 2853, made its way through the legislative process. It was unsuccessful in its passing out of the final committee review in the Senate.
- Bordonaro remained supportive of the recreation therapists.
- CPRS RTS and the task group went back and considered their options. In 1997 Senator Polanco attached the bill language onto an omnibus bill along with several other coded laws. This was SB 1347. He believed that the bill would succeed in going through the Senate and with Bordonaro's support it would go through the Assembly.
- It made progress easily through the Senate and its committees and then through the Assembly. The bill passed out of all Assembly committees and on to the Governor Wilson.
- Largely because of this bipartisan effort; and Bordonaro's relationship of with the Governor Wilson signed the bill into law.
- The professional members of recreation therapy in California were made responsible for oversight of the enforcement of the law recreation therapy without the creation of an oversight board.
- Recreation therapy had a place in coded California Law along with other healthcare disciplines. This was non-traditional law protecting the title and definition reflecting its academic, experience, and certification standards. The law established a civil process for violations. It was a compromise but a step in the right direction. It was a bittersweet but welcome end to a two-year journey toward legally authorizing recreation therapy. CPRS RTS began to implement the law and provided training for its members. The Department of Consumer Affairs was mandated to inform the departments of California Government of the law. The Legislative Digest of 1997 noted that recreation therapy had become a title protected profession.

# Champions of Recreation Therapy





**Tom J. Bordonaro, Jr.** (born March 22, 1959) is a former [Republican California State Assemblyman](#) who served from 1994-1998. **He was the first person confined to a wheelchair to be elected to the State Assembly.** He left the role in 1998 after having made one unsuccessful run for Congress, in a special election against [Lois Capps](#) in early 1998 after the death of her husband [Walter Capps](#). Bordonaro lost to Capps again in November 1998. Bordonaro is currently the [San Luis Obispo County \(CA\) Assessor](#).<sup>[1]</sup> Born in [Fullerton, California](#), Bordonaro graduated from [California Polytechnic State University](#) with a degree in agricultural management.<sup>[2]</sup>



**Richard G. Polanco** (born 4 March 1951) is a former California State Senate Majority leader and member of the [California State Assembly](#). He is known for his significant efforts in increasing Latino representation in the California Legislature.





Mark Leno California State Senate member. Mark Leno is an American politician, representing California's 11th State Senate district, which includes San Francisco and part of San Mateo County. He was first elected to the State Senate in 2008 and is the first openly gay man to serve there.

Born: September 24, 1951 (age 64), [Milwaukee, WI](#)

Party: [Democratic Party](#)

Office: California State Assembly member since 2002

Education: [University of Colorado Boulder](#), [Hebrew Union College - Jewish Institute of Religion](#)

1. In 2013 Senator Mark Leno, Chair California Legislature Joint Legislative Budget Committee, called for oversight of Job Specifications and Classifications by the Department of Human Resources (CALHR). A Legislative Analyst audit revealed there were obsolete classifications, erroneous job specifications, duplication of classifications and problems in the classifications. He voiced concerns about the state's current policy for ensuring that state classifications conform to state law. At that time there were nearly 4500 classifications.
2. Job Specifications for the classes of recreation therapists and rehabilitation therapists (recreation therapy) used by CALHR were part of these troublesome classifications. The State Recreation Therapy classifications are not consistent with current law and the State's classification review process failed to identify this incongruity.
3. In 2013 Bargaining Unit 19, AFSCME 163 of the 300 employees of CALHR in the recreation classifications who did not meet the minimum eligibility or fifty percent non-compliance.
4. March 3, 2014 CAL HR submitted a report outlining steps to be taken to correct this circumstance. They requested additional funding to provide fees to pay for analysis of eligibility for certification by either CBRPC or NCTRC of its 163 non compliant employees.
5. In April 2014 he informed CALHR that according to the Legislative Analyst Office (LAO) it was not until 2014 that State Personnel Board (SPB) identified the incongruity between the law and the state's classifications. He concluded that CALHR did not conscientiously follow its own policy as evidenced by its failure to do so in 1997 when the law was enacted and again in 2000 when the most recent of the three recreation classifications were established concluded that this policy may lead to serious legal consequences to the State, if this practice were to continue.
6. Recommended that CALHR conduct a classifications study, by meeting with the affected departments, conduct meet and confer with BU 19 and consult legal experts. The State Personnel Board (SPB) and CALHR began a project to correct these errors.

1. Early Implementation history was an up hill journey. This was the case at the State of California Human Resources now known as CALHR. The Department of Consumer Affairs opposed the passage of the law. It is thought that DCA did minimal notification of departments about the law. Egregious examples of violation of the law were discovered by and reported to CPRS RTS and contacts were made. CPRS RTS met with CALHR administrative staff. They told us the circumstances would be addressed and staff would be brought into compliance with the law. We provided them with information and services. We took them at their word. Nothing happened. Why was this the case? The primary champions of the title law were no longer in the legislature. Federal healthcare reform fell on the wayside. The likelihood that the law would get attention from anyone other than the recreation therapy professionals was low. It is thought that state agencies were not notified about the law. Unless directly contacted they continued to provide recreation therapy services without regard for the title law. There were a few strongholds where certification was established as the minimum entry criteria. Here the therapists practiced easily but in isolation of the mainstream workforce.
2. In February 2015 CALHR proposed changes to the specifications statements. This was following the advocacy work done by Senator Leno.
3. CPRS RTS and others sent letters of opposition to CALHR about the process they used to create the documents the specifications, and the omission of the supervisory classifications for revisions. Recommendations were made for improvement. The body of recreation therapy professionals identified their willingness to assist CALHR in its compliance efforts.
4. In January 2016 after a year of delays CALHR scheduled review of new specifications for the classifications and adoption of these corrected specifications. CPRS-RTS Board reviewed the changes and notified SPB that nothing had changed except the job specifications now referenced Section 17505.2 as establishing the minimum entry criteria. The skills and job duties did not meet the standards set by the certification boards. A letter was sent from the CPRS RTS accepting the inclusion of the law and asking for further review. Prior to receiving the letter CALHR withdrew its proposed new job specifications.
5. In January 2016 after a year of delays CALHR scheduled review of new specifications for the classifications and adoption of these corrected specifications. CPRS-RTS Board reviewed the changes and notified SPB that nothing had changed except the job specifications now referenced Section 17505.2 as establishing the minimum entry criteria. The skills and job duties did not meet the standards set by the certification boards. A letter was sent from the CPRS RTS accepting the inclusion of the law and asking for further review.
6. CALHR once again withdrew the job specification statements to continue to work on them. The current status of the non compliant employees is not known. The job specifications remain unchanged.
7. In the future CPRS RTS is prepared advise CALHR that they will accept appropriate changes to the specifications if they include the following: Job Specifications that are reflective of the academic and practice standards as set by American Therapeutic Recreation Association (ATRA), National Council for Therapeutic Recreation Certification (NCTRC), California Board of Park and Recreation Certification (CBRPC), and California Park and Recreation Society Recreation Therapy Section (CPRSRTS).
8. Because California Board of Recreation and Park Certification (CBRPC) and National Council Therapeutic Recreation Certification (NCTRC) are named in Section 17505.2 as the credentialing experts for recreation therapy they play a critical roles in determining the professional and regulatory standards of the profession. They provide pre-screening criteria for Recreation Therapy education; skill and professional development; internship programs competency and skill testing; established recertification and continuing education programs and professional affiliation with colleagues and peers. These keep the practitioner updated on evidenced based approaches.
9. Section 17505.2 criteria is continuous including a recertification process of board review of employment experience and any disciplinary actions by the boards and completion continuing education units a statement that acknowledges the continuing recertification or renewal of eligibility for certification should be included. This should apply throughout the lifetime of the incumbents' during their employment with State of California. Descriptive language from Section 17505.2 of graduation, internship and certification and or eligibility for certification should be included to make the criteria clear. Therefore, CPRS RTS will suggest that the statement, is amended to read, "Shall meet annually and at the time of lateral transfer, or reinstatement of employment with CALHR of all current professional and regulatory standards as outlined in Business and Professions Codes, Section 17505.2. These are graduation from an accredited college or university with a minimum of a baccalaureate degree in recreation therapy or in recreation and leisure studies with a specialization in recreation therapy. Alternatively, a person who does not have one of the preceding degrees may qualify if he or she has a baccalaureate degree in a specialization acceptable for certification or eligible for certification by any accrediting body specified in paragraph
10. (2) Current certification or eligibility for certification as a recreation therapist by the California Board of Recreation and Park Certification or by the National Council for Therapeutic Recreation Certification, Inc."(Section 17505.2 California Business and Professions Codes). The specifications statements list tasks and duties of the classifications. Adoption of Section 17505.2 means that the individual therapist shall meet all regulatory and professional standards as outlined (stated) in the law, and the services rendered must be in alignment with the stated services and standards of the certification boards, NCTRC and CBRPC.

## Summary Remarks About Implementation History

1. CPRS RTS suggested revisions set the foundational work for a clearer, concise, accurate representation of the profession and the services it provides for the benefit of the consumers and the providers. Compliance with Section 17505.2 guarantees that Recreation Therapy services conform to the Joint Commission and Centers for Medicare & Medicaid Services mandates to reduce the risk of harm to patients. These are our greatest concern. CALHR will re issue proposed job specifications for approval by SPB soon. Its activities are monitored by the Legislation and Regulations Committee Chair and future actions, letters and communications with SPB will reflect high standards of practice and ethical considerations.
2. Effective implementation of title laws can lead to increased likelihood for other options of authorization (licensure). Implementation of Section 17505.2 creates case law that will be evidence in future legislative and policy challenges for recreation therapy and music therapy.
3. CPRS RTS is poised in waiting for the next legislative or administrative event regarding our title. The Legislation/ Regulations Committee monitors the activities of the legislature and the State of California government departments
4. Likewise we are appraised of the activities similarly at the Federal level through our affiliation with ATRA, NCTRC, and the Federal Legislation representative on the CPRS Legislation Committee. We are currently tracking and initiating advocacy for two H.R. Bills. H.R. 1906 and H.R. 359 for the 2016 Legislation Session

# MUSIC THERAPY TITLE PROTECTION ACT 2015

## AN APPLICATION OF SECTION 17505.2

### CALIFORNIA RECREATION THERAPY SPOKE FROM EXPERIENCE AND ADVOCATED FOR TITLE PROTECTION FOR MUSIC THERAPY

California Music Therapy Task Force (CMTTF) On Feb 27, 2015 through its advocate, Assemblyman Chris Holden (D) introduced AB 1279. They asserted the need to protect the public from harm by unqualified providers and called for legal recognition of Music Therapy as an important unique valued service. They provided excellent and well supported information and defined a music therapist as a Board Certified Music Therapist. They recommended serious penalties for violation of the law.

AB 1279 moved through the Assembly quickly and on to the Senate Business Professions and Economic Development Committee where it was amended to reflect the issues of interested stakeholders. A proposed amendment to the bill suggested establishing a second separate statutory definition of a therapist. This would apply to employees of the State of California. These therapists would not be require to meet the BC-MT criteria. This version of the music therapist definition did not meet the JC or CMS mandates

#### **CPRS RTS Legislative Activities**

CPRS RTS voiced concern about the amendment through the CPRS Legislation Committee; contacting the members of legislative committees and representation at hearings. Ultimately, the amendment was withdrawn. Then AB 1279 met the high standards set for the practitioners of music therapy. CPRS RTS worked with CMTTF to pass the Music Therapy Act. They espoused legal regulation of the profession as a foundation for the integrity of profession. They stood ready to share the experience of implementation of Recreation Therapy Law and aid California Music Therapy to implement their new title protection law. The bill passed through both houses unanimously. It was sent to the Governor for review and enactment.

**Results:** Governor Brown's policy is to reduce legal regulation of the professions through elimination of licensure boards or other costly regulatory boards. He has declared a stated policy of not approving any new regulatory laws. Governor Brown vetoed the unanimous actions of the Legislature to regulate Music Therapy. He asserted that professions with certification boards are able to effectively assert their legal regulation without the aid of the state laws.

**Future Legislative Agenda 2016 -2017:** CPRS RTS supports legal regulation of Music Therapy through state law that defines, establishes the highest level of credentialing, and provides legal authorization to enforce these to protect the public from harm. Through its legislative agenda it works to implement fully its title law, develop knowledge about the effectiveness of this law in protecting the public, appropriately defining the profession and enforcing these standards. It prepares through its legislation and regulatory activities; education programs; and monitoring the political trends of the legislative and executive branches of State of California government to consider other methods of legal authorization of both recreation therapy and music therapy, including licensure laws in the future.

Review of effects of ethics, standards of practice, codes of ethics, and other concepts.  
Let's review some ideas presented at the March 2015 Institute.

## Ethics, Law, Regulations and Recreation Therapy: A Guide For Advocacy



The Journey: The Maps, Compass,  
and Fellow Travelers

Go where others have dreamed of  
going.  
Take with you your virtues and your  
lessons learned.  
Pack your compass last and keep it  
close by.

# What Are Ethics?

**Ethics is a set of moral principles and a code for behavior that govern an individual's actions with other individuals and within society.**

**Ethics is standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues.**

**Morality is what people believe to be right and good, while ethics is a critical reflection about morality.**

**Ethics is the study and development of one's ethical standards**

# What is Law?

**A binding custom or practice of a community.**

**A rule of conduct or action prescribed and enforced by a controlling authority**

**Laws are societal rules or regulations that are must be observed.**

**Laws can result from tension, agitation and conflict by dramatic situations.**

**Laws protect the welfare and safety of society, resolve conflicts, and are constantly evolving.**

**Laws governing the practice of medicine have been around for over one hundreds years**

# Comparing Law and Ethics

Law, ethics, and bioethics are different concepts.

Laws are mandatory and all citizens must obey or risk civil or criminal liability.

Ethics is about morals and help us organize complex information and competing values and interests to formulate consistent and coherent decisions.

## What Are Ethical Principles Effecting Decisions about Title Law?

- **Autonomy:** Self-Determination: which is the freedom to act independently.
- **Veracity:** The duty to tell the truth.
- **Beneficence/ No maleficence:** The principle and obligation of doing good and avoiding harm.
- **Fidelity:** Strict observance of promises or duties.
- **Justice:** The principle that deals with fairness, equity and equality and provides for an individual to claim that to which they are entitled.

# How Do Ethical Principles Help With Decision Making?

Conflict is inevitable. Ethical principles provide the tools which help individuals and society to resolve conflict in a fair, just and moral manner.

## Ethics are rooted in our Values

### ■ What is a Value?

Values are our fundamental beliefs. Values provide guidance as we determine the right versus the wrong, the good versus the bad. They are our standards.

Typical values include honesty, integrity, compassion, courage, honor, responsibility, patriotism, respect and fairness

### ■ What is Virtue?

According to Elliot “The ancient Greek philosopher, Aristotle, called certain ethical values virtues. Virtues express moral excellence, which is sometimes called good character. People who exhibit good character are those who strive for a middle point between the extremes. (Golden Mean)

Virtuous thinking is aligned with ethical behaviors in literature. We believe we can increase the likelihood of ethical decision making by moral education of the young.



# What is a Code of Ethics?

A code of ethics is a written document listing the values held by a profession and expected standards of conduct for members of a profession. (Jacobson and James, 2001). From Austin, 2013

## Professional/Discipline Code of Ethics

Describes the established duties and obligations of the professional in order to protect the human rights of service recipients.

Based on various ethical theories

Used as tool to define and understand crisis in decision making and resolve differences.

Four bioethical principles are autonomy, beneficence, non maleficence, and justice.

## ATRA, NTRS, NCTRC, CPRSRTS, and CBRPC Codes of Ethics

Serve as the basis of legal and professional mechanisms that regulate the practice of recreation therapy.

David Austin in his Therapeutic Recreation Processes and Techniques, 7<sup>th</sup> Edition, 2013 tells us that “capable recreation therapists believe in ethical principles and are moral and ethical in their interactions with clients and colleagues. Professional ethics comprise a system of principles or standards of behavior that govern conduct in terms of right and wrong.

# ETHICS AND LAW

## WHAT TO DO ABOUT TITLE PROTECTION?

## HOW TO MAKE THE DECISION TO IMPLEMENT, ENFORCE, OR IGNORE?

**Why a person should do what's right when other people are doing things that are harmful to others?**

Ethics also involves individual choices that are made regardless of how other people are behaving. Individuals can exercise and increase their ethical capacities. It is based on the assumption that thinking about doing what's ethical will lead to more ethical choices. Acting in a moral and ethical manner is a part of the human condition.

### **Ethical Thinking and Behaving**

This is a good framework for a discussion of the relationship of ethical thinking and behaving. It will assist us in our consideration of the law, regulations, and specifically those that regulate the recreation therapy practice. Ethical guidelines in recreation therapy interplay with laws, regulations, and practical problem solving issues. Since the beginning of the profession we have coined and adhered to codes of ethics, standards of practice; and certification and accreditation guidelines and requirements. In addition recreation therapy programs and approaches are governed by healthcare laws and regulations because they provide care to disabled and ill persons. These are numerous and varied. Job analysis and evidence based outcome research determine the behaviors of the recreation therapist as well.

**Session Exercise**

Reasons Why People Act and Reasons Why People Hesitate and Fail to Take Action When Someone is Violating the Law ?.....


**Let's Take a few minutes and create a list of each of these.**

**Reasons To Act**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_

**Reasons To Not Act**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
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11. \_\_\_\_\_
12. \_\_\_\_\_



**IMPLEMENTATION  
PLAN FOR  
CALIFORNIA TITLE  
PROTECTION LAW**

# Implementation Plan 2016

## Closing The Implementation Gap Between Enactment And Application Of The Recreation Therapy Title Law Title Law

- **Where Are We And Where Do We Want To Be? Taking the next steps: creating implementation plans and working with other professions.**
- Based on a new understanding of title protection for music and recreation therapy the participants will learn about strategic implementation of the laws.
- Participants will be given a template for an implementation plan, and explore the steps to take and roles professionals can play in the enactment of an effective implementation plan.
- Each participant will be asked to write a specific personal implementation goal and a plan.

# Implementation Renewal for the Title Protection Law

## First Some words about Implementation Pitfalls

### Why do Implementation Plans Fail?

- 1. Lack of ownership:** The most common reason a plan fails is lack of ownership. If people don't have a stake and responsibility in the plan, it'll be business as usual for all but a frustrated few.
- 2. Lack of communication:** The plan doesn't get communicated to employees, and they don't understand how they contribute.
- 3. Getting mired in the day-to-day:** Owners and managers, consumed by daily operating problems, lose sight of long-term goals. \_ Out of the ordinary: The plan is treated as something separate and removed from the management process.
- 4. An overwhelming plan:** The goals and actions generated in the strategic planning session are too numerous because the team failed to make tough choices to eliminate non-critical actions. Employees don't know where to begin.
- 5. A meaningless plan:** The vision, mission, and value statements are viewed as fluff and not supported by actions or don't have employee buy-in.
- 6. Annual strategy:** Strategy is only discussed at yearly weekend retreats. \_ Not considering implementation: Implementation isn't discussed in the strategic planning process. The planning document is seen as an end in itself.
- 7. No progress report:** There's no method to track progress, and the plan only measures what's easy, not what's important. No one feels any forward momentum.
- 8. No accountability:** Accountability and high visibility help drive change. This means that each measure, objective, data source, and initiative must have an owner.
- 9. Lack of empowerment:** Although accountability may provide strong motivation for improving performance, employees must also have the authority, responsibility, and tools necessary to impact relevant measures. Otherwise, they may resist involvement and ownership. It's easier to avoid pitfalls when they're clearly identified. Now that you know what they are, you're more likely to jump right over them!
- 10. Covering all your bases** As a business owner, executive, or department manager, your job entails making sure you're set up for a successful implementation. Before you start this process, evaluate your strategic plan and how you may implement it by answering a few questions to keep yourself in check.

# **Title Protection Law Implementation Renewal**

## **Your Personal Plan**

**Take a moment to honestly answer the following questions for yourself.**

- 1. How committed are you to implementing the plan to move recreation therapy forward?**
- 2. How do you plan to communicate the plan throughout to other recreation therapists?**
- 3. Are there sufficient people who have a buy-in to drive the plan forward?**
- 4. How are you going to motivate others?**
- 5. Have you identified internal processes that are key to driving the plan forward?**
- 6. Are you going to commit money, resources, and time to support the plan?**
- 7. What are the roadblocks to implementing and supporting the plan?**
- 8. How will you take available resources and achieve maximum results with them?**

**You don't need to have the perfect answers to all these questions right now, but just make sure that you've given all the questions equal consideration. You don't want to look back six months from now, and wish you had identified some big issues that are now threatening your success. If you've identified some red flags, assess if they're huge obstacles or small ones. If they're big, get them out of the way before you implement, even if it means pushing your timeline out for awhile.**

# the five key components necessary to support implementation

**People** The first stage of implementing your plan is to make sure to have the right people on board. The right people include those folks with required competencies and skills that are needed to support the plan. In the months following the planning process, expand skills through training, recruitment, or new recruits to include new competencies required by the strategic plan

**Structure** Set your structure of appropriate lines of authority, and have clear, open lines of communication. A plan owner and regular strategy meetings are the two easiest ways to put a structure in place. Meetings to review the progress should be scheduled monthly or quarterly, depending on the level of activity and time frame of the plan.

**Systems** technology systems help track the progress of the plan and make it faster to adapt to changes. As part of the system, build milestones into the plan that must be achieved within a specific time frame. A scorecard is one tool used by many organizations that incorporates progress tracking and milestones.

**Resources** You need to have sufficient funds and enough time to support implementation. Often, true costs are underestimated or not identified. True costs can include a realistic time commitment to achieve a goal, a clear identification of expenses associated with a tactic, or unexpected cost overruns.

**Culture** Create an environment that connects to the organization's mission. To reinforce the importance of focusing on strategy and vision, reward success. Develop some creative positive and negative consequences for achieving or not achieving the strategy. The rewards may be big or small, as long as they lift the strategy above the day-to-day so people make it a priority.



**Implementing your plan includes several different pieces. Implementing a plan can sometimes feel like it needs another plan of its own.**

## **comprehensive implementation steps:**

- 1. Finalize your strategic plan after obtaining input from all invested parties.**
- 2. Align your budget to annual goals based on your financial assessment.**
- 3. Produce the various versions of your plan for each group.**
- 4. Establish your scorecard system for tracking and monitoring your plan.**
- 5. Establish your performance management and reward system.**
- 6. Roll out your plan to the whole organization**
- 7. Build all department annual plans around the corporate plan**
- 8. Set up monthly strategy meetings with established reporting to monitor your progress.**
- 9. Set up annual strategic review dates, including new assessments and a large group meeting for an annual plan review.**

<http://onstrategyhq.com/resources/strategic-implementation/>

## **Session Exercise:**

### **The Recreation Therapy Title Law Section 17505.2 Violation Reporting Form**

**Creating an effective data gathering form to collect important information about compliance and non compliance with the law.**

## Session Exercise:

### The Recreation Therapy Title Law Section 17505.2 Violation Reporting Form Creating an effective data gathering form to collect important information about compliance and non compliance with the law.

1. Brief statement describing the violation including date of violation you are reporting. Provide a specific date that you know the violation was occurring. Include what services the violator is providing, documentation they are doing, titles they are using, recognition by the violator that they are violating the law.
2. Name of the violator
3. Identification information of the violator:
4. Phone numbers
5. Agencies where the violator works.
6. Supervision of the violator name and certifications in recreation therapy or other professions (licenses)
7. Address of violator work and home mailing address, street, city, state, zip code
8. Salary or hourly pay the violator is receiving for the services provided.
9. Name of reporter(s)
10. Identification information of the reporter
11. Phone numbers
12. Agencies where the violator works.
13. Supervision of the violator
14. Address of violator work and home mailing address, street, city, state, zip code
15. \_\_\_\_\_
16. \_\_\_\_\_
17. \_\_\_\_\_
18. \_\_\_\_\_
19. \_\_\_\_\_
20. \_\_\_\_\_

# case scenarios

- Case scenarios law will be described. Participants will be asked to analyze each and answer questions about each.
- They will be asked how to proceed in reporting the violation.
- This will include identifying what is the violation.
- The participants will be asked to identify where and when the paper work needs to be filed. The participant will identify the name of the defendant and determine if there is more than one.

# Department/Services Policy And Procedures Are Affected By The Recreation Therapy Title Law

- The implementation history and recent events at CALHR are illustrative of policy and procedural effects of the law.
- Participants are encouraged to explore ways to place title protection as the centerpiece of their service plans including job duty statements, setting of specifications to meet the criteria in the law. Standards of practice of both certification boards set guidelines for scope of practice and treatment modalities that follow evidence based studies.
- Work proactively for implementation of the law at the worksite.
- credential reviews, and through other administrative tools.
- Keep in mind the mandates of JC, CARF and CMS. Also know that patients rights to know who is providing treatment because of the “Informed Consent” criteria that is guaranteed by the Patient’s Bill of Rights must be kept in situations where violations of Section 17505.2 occur.
- **Let’s brainstorm some other important considerations to keep in mind about the law and management of recreation therapy services, departments, and human resources**
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

# Small Claims Process in California

The Best of the Best Resources

[http://www.dca.ca.gov/publications/small\\_claims/](http://www.dca.ca.gov/publications/small_claims/)

<http://www.cc-courthelp.org/>

# General Guidelines for Civil Law Suits in State of California

## What is Small Claims Court?

Small claims court is a special court where disputes are resolved quickly and inexpensively. The rules are simple and informal. The person who sues is called the plaintiff. The person who is sued is called the defendant. You are not allowed to have a lawyer represent you at the hearing in small claims court. But you can talk to a lawyer before or after court.

## Who can sue in small claims courts? You can sue in small claims court if you are:

At least 18 years old, OR An [emancipated](#) child.

If you are not mentally competent, or you are under 18 years old (and not emancipated), a judge must appoint a "guardian ad litem" to represent you in small claims court. A guardian ad litem is an adult appointed by the court to represent you ONLY in the case in question.

## What kind of cases are heard in the small claims court?

There are different kinds of cases you can file in small claims court.

Some common types of small claims cases are disputes about:

Property damage or personal injury from a car accident;

Landlord/tenant security deposits;

Damage to your property by a neighbor;

Disputes with contractors about repairs or home improvement jobs;

Collection of money owed;

Homeowner association disputes; and

Many other issues.

# When must you file the claim?

The statute of limitations is the deadline to file a lawsuit. Most lawsuits **MUST** be filed within a certain amount of time. In general, once the statute of limitations on a case "runs out," the legal claim is not valid any longer.

The period of time you have to sue someone varies depending to the type of legal claim.

## **Here are the statutes of limitations for some common types of legal disputes:**

If you are suing because you **got hurt**, you can file a claim for up to 2 years after you were hurt.

If you are suing because a **spoken agreement** was broken, you have 2 years to file after the agreement was broken.

If you are suing because a **written agreement** was broken, you have 4 years to file after the agreement was broken.

If you are suing because your **property was damaged**, you have 3 years to file after your property was damaged.

If you are suing because of **fraud**, you have 3 years to file after you find out about the fraud. Fraud is when you lose money because someone lied to you or tricked you on purpose.

If you are suing a **government or public agency**, you usually have 6 months to file a claim with that agency. They have 45 days to make a decision. If no decision is made with 45 days, then the claim is considered denied. If they reject your claim, you have 6 months to file a claim with a small claims court. If you do not receive a rejection or acceptance of your claim in those 45 days, you may have more time to file your claim but, to be safe, act within the 6 months or talk to a lawyer to find out for sure how much time you have to file your lawsuit. Find out more about [suing a government agency](#).

It is not easy to figure out if it is too late to file (and even knowing whether a contract is written or oral can be very difficult). If you are not sure, get advice from the [small claims advisor](#) or a lawyer if you can, and if not, file your case and let the judge decide.



## The filing fee:

The filing fee is based on the amount of your claim and the number of claims you have filed in the past 12 months:

Currently, the filing fees, if you have filed 12 or fewer claims in the past 12 months, are:

If you have filed more than 12 claims in the past 12 months, the filing fee is \$100 (for any claim amount). Filing fees change, so make sure you check to see what the current filing fees for small claims cases are at the time of your filing.

Amount of Your Claim	Filing Fee
\$0 to \$1,500	\$30
\$1,500.01 to \$5,000	\$50
\$5,000.01 to \$10,000	\$75

## Who must appear in court on a small claims?

**If you are suing someone, you must go to court. You will go to court between 20 and 70 days after you file your claim.**

**You cannot send anyone else (even a lawyer) to represent you in small claims court. But there are some exceptions:**

You may not have to go to court if: (1) you are serving on active duty in the armed forces, (2) you were assigned to your duty station after your claim arose, and (3) your assignment is for more than 6 months.

For more information about exceptions, read [California Code of Civil Procedure section 116.540](#). Also, check out: *Authorization to Appear (Small Claims)* ([Form SC-109](#)).

**If you are being sued, you must go to court if you want your side of the case to be considered.** If you do not go to court, a judgment may be entered against you. This would be a judgment based on the evidence that the side suing you provided, without you having a chance to provide any evidence.

## Your small claims hearing

Many cases are usually scheduled for the same time and the calendar can be very crowded. This makes it impossible for any one case to take a lot of time because the court has to get through all the cases on the calendar. This is why it is so important to be well prepared so you can present your case quickly and efficiently. The judge will listen to both sides of the story. To help tell your side, take evidence to support your claims, like:

Witness testimony (in most cases this requires the witness to be present in court, but in limited circumstances, the testimony may be admissible through declaration);

Photos; Bills; Receipts; Contracts; and Other relevant documents that support your side.

The judge may make a decision at your hearing or mail it to you later. The judge may need to make additional inquiries into the facts before deciding the case, or research a legal point, so if the judge says that he or she is “taking the matter under submission,” you will get the decision in the mail.

Instead of a judge, you may have a commissioner or temporary judge at your hearing. They both serve in the same role as judges. A commissioner is hired by the court to sit as a judge and hear certain types of cases that the law allows commissioners to hear, such as traffic infractions and small claims cases. A temporary judge (called a "judge pro tem" or "judge pro tempore") is someone who has been a lawyer for at least 10 years and is specially trained to hear and decide small claims cases. If you do not want a temporary judge, you can ask the court to have a judge hear your case. You may have to come back another day. Find out [how to get ready for court](#).

If the person being sued does not show up for the hearing, the plaintiff still needs to prove his or her case. If the defendant can show a good reason for missing the court date, such as a medical emergency, the defendant may be able to get the judgment canceled and a new trial date set. Read about [vacating a judgment to learn how](#).

## Appeals, Who can file an appeal?

You cannot appeal if you were the person who filed the claim.

If someone else files a claim against you and you lose, you can appeal.

This means that if you are the plaintiff suing a defendant and you lose, you cannot appeal the court's decision. But if the defendant filed a defendant's claim against you (sued you back) and wins against you on the defendant's claim, then you CAN appeal. When you appeal the part of the lawsuit against you, the entire court's decision (not just the part against you) is reviewed all over again.

The superior court does not consider the decision of the small claims court in deciding the appeal. The trial is called a "trial de novo" or trial from the start. This means that you have to prove your side all over again, including bringing all the evidence you want the court to consider. You CAN, but do not have to, have a lawyer represent you on an appeal.

### **To file an appeal**

If you were at the hearing, you must file a form with the superior court called *Notice of Appeal* ([Form SC-140](#)) You have 30 days to do this after the date the clerk mails the *Notice of Entry of Judgment* ([Form SC-130](#) or [Form SC-200](#)). The current cost to file a *Notice of Appeal* is \$75.

### **What happens if someone else appeals?**

You will have a new trial and you cannot enforce your judgment while the appeal is pending. You will have to bring your evidence and tell your side of the story again. This time, you can bring a lawyer to represent you. Click for [help finding a lawyer](#).

# Be Prepared for Your Trial

## 1. Plan what you are going to say

You will have to explain to the judge why you are filing a claim and what you want him or her to order. Decide what your main points are and take proof. Try to think of what the other person might say and how you will answer. You can also talk to a [small claims advisor](#) or a lawyer before court.

## 2. Prepare the proof to take to court

Take any papers that support your story and take 2 more copies of everything. This is called "evidence." Evidence can be:

- Contracts
- Estimates (take at least 2)
- Bills
- Photographs
- Diagrams that show how an accident happened
- Police reports

If you need papers that someone else has, fill out a Small Claims Subpoena for Personal Appearance and Production of Documents at Trial or Hearing and Declaration ([Form SC-107](#)) and request these documents. [Learn more about subpoenas](#).

## 3. Take copies of all your court papers and your Proof of Service

# Be Prepared For Your Trial

## 4. Take people to support your story (witnesses)

Take witnesses who saw what happened or who are experts on that subject. For example, a neighbor who saw the accident or a mechanic who looked at your car.

- Do not bring people unless you know they will support you. Witnesses who are not friends or relatives may be more effective in proving your case. But sometimes the only witnesses are your friends and relatives. They should testify and present themselves in a professional manner and be objective and not emotional.
- If you need a witness to go to your hearing that cannot or will not go voluntarily, fill out a Small Claims Subpoena ([Form SC-107](#)) to order them to go. [Learn more about subpoenas.](#)

## 5. If you do not speak English well, take an interpreter to help you

Ask your court clerk at least 1 week before your hearing to see if the court can provide an interpreter for you. In some courts, they can provide interpreters for free if you qualify for a [fee waiver](#). If not, you have to take your own interpreter. Do not ask a child or a witness to interpret for you. Get [tips to help you work with a court interpreter](#).

- *You have the right to get your hearing delayed so you can get an interpreter.*

## 6. If you are deaf, hard-of-hearing, or have another disability request an accommodation

Ask your court's ADA coordinator or court clerk at least 1 week before your hearing. Get more information about the rights of [persons with disabilities and a form to request an accommodation](#).

You are now ready to [go to your trial!](#)

# CIVIL SUIT PROCEDURES STATE OF CALIFORNIA

## Resources:

[http://www.leginfo.ca.gov/.html/ccp\\_table\\_of\\_contents.html](http://www.leginfo.ca.gov/.html/ccp_table_of_contents.html)

<http://www.courts.ca.gov/selfhelp-smallclaims.htm>

<http://www.courts.ca.gov/selfhelp-glossary.htm#t>

[http://www.dca.ca.gov/publications/small\\_claims/intro.shtml](http://www.dca.ca.gov/publications/small_claims/intro.shtml)

# A Tool Box for Implementing the Recreation Therapy Title Protection Law

In the Tool Box are ideas and specific procedures to address the following three areas. These tools will provide basic information needed to apply the recreation therapy title law in the workplace will be covered. This includes

1. **Identifying Violations And Deciding To Sue:** how to identify violations of the law
2. **Civil Suit Procedures:** what civil suit procedures need to be followed to report and prosecute violations of the law
3. **Policy Making:** What are policy and procedure changes that need to be made to apply the law in a Recreation Therapy Service

Let's put together the forms, documents, especially a copy of the proposed violation form, and a copy of the law.

Wrap Up and Summarize; Answers to Questions and Insights