

1 **SENATE FLOOR VERSION**

2 February 21, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 100

By: Bergstrom of the Senate

and

Martinez of the House

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8
9 [Massage Therapy Practice Act - codification -
10 ~~effective date~~ - emergency]

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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY Section 2, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2018, Section 4200.2), is amended to read as
16 follows:

17 Section 4200.2. As used in the Massage Therapy Practice Act:

18 1. "Board" means the State Board of Cosmetology and Barbering;

19 2. "Direct access" means the ability that the public has to
20 seek out treatment by a massage therapist without the direct
21 referral from a medical or health care professional;

22 3. "Massage therapist" means an individual who practices
23 massage or massage therapy and is licensed ~~under~~ pursuant to the
24 Massage Therapy Practice Act. A massage therapist uses visual,

1 kinesthetic, and palpatory skills to assess the body and may
2 evaluate a condition to the extent of determining whether massage is
3 indicated or contraindicated;

4 4. "Massage therapy" means the skillful treatment of the soft
5 tissues of the human body. Massage is designed to promote general
6 relaxation, improve movement, relieve somatic and muscular pain or
7 dysfunction, stress and muscle tension, provide for general health
8 enhancement, personal growth, education and the organization,
9 balance and integration of the human body and includes, but is not
10 limited to:

11 a. the use of touch, pressure, friction, stroking,
12 gliding, percussion, kneading, movement, positioning,
13 holding, range of motion and nonspecific stretching
14 within the normal anatomical range of movement, and
15 vibration by manual or mechanical means with or
16 without the use of massage devices that mimic or
17 enhance manual measures, and

18 b. the external application of ice, heat and cold packs
19 for thermal therapy, water, lubricants, abrasives and
20 external application of herbal or topical preparations
21 not classified as prescription drugs; and

22 5. "Massage therapy establishment" means any fixed business
23 location, address, building or property, other than a licensed
24 cosmetology or barbering establishment, where a person engages in,

1 conducts, carries on or permits to be engaged in the practice of
2 massage therapy. This definition excludes offices or workplaces of
3 licensed healthcare professionals exempt from the provisions of the
4 Massage Therapy Practice Act;

5 6. "Massage therapy school" means a facility providing
6 instruction in massage therapy; and

7 7. "Person" means an individual, partnership, limited liability
8 company, corporation or association, unless the context otherwise
9 requires.

10 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.
11 2016 (59 O.S. Supp. 2018, Section 4200.3), is amended to read as
12 follows:

13 Section 4200.3. A. Unless a person is ~~a~~ licensed as a massage
14 therapist, a person shall not:

15 1. Practice massage therapy in this state;

16 2. Use the title of massage therapist;

17 ~~2.~~ 3. Represent himself or herself to be a massage therapist;

18 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
19 figures, signs or devices that indicate the person is a massage
20 therapist; or

21 ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or
22 "massage therapist" when advertising or printing promotional
23 material.

1 B. A person shall not maintain, manage or operate a massage
2 therapy school offering education, instruction or training in
3 massage therapy unless the school is a licensed or accredited
4 massage therapy school pursuant to Section 7 4200.7 of this ~~act~~
5 title.

6 C. Individuals practicing massage therapy ~~under~~ pursuant to the
7 Massage Therapy Practice Act shall not perform any of the following:

- 8 1. Diagnosis of illness or disease;
- 9 2. High-velocity, low-amplitude thrust;
- 10 3. Electrical stimulation;
- 11 4. Application of ultrasound;
- 12 5. Use of any technique that interrupts or breaks the skin; or
- 13 6. Prescribing of medicines.

14 D. Nothing in the Massage Therapy Practice Act shall be
15 construed to prevent:

- 16 1. Qualified members of other recognized professions who are
17 licensed or regulated ~~under~~ pursuant to Oklahoma law from rendering
18 services within the scope of the license of the person, provided the
19 person does not represent himself or herself as a massage therapist.
20 A physician or other licensed health care provider providing health
21 care services within the scope of practice of the physician or
22 provider shall not be required to be licensed by or registered with
23 the State Board of Cosmetology and Barbering;

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1 2. Students from rendering massage therapy services within the
2 course of study when enrolled at a licensed massage therapy school;

3 3. Visiting massage therapy instructors from another state or
4 territory of the United States, the District of Columbia or any
5 foreign nation from teaching massage therapy, provided the
6 instructor is duly licensed or registered, if required, and is
7 qualified in the instructor's place of residence for the practice of
8 massage therapy;

9 4. Any nonresident person holding a current license,
10 registration or certification in massage therapy from another state
11 or recognized national certification system determined as acceptable
12 by the Board when temporarily present in this state from providing
13 massage therapy services as a part of an emergency response team
14 working in conjunction with disaster relief officials or at special
15 events such as conventions, sporting events, educational field
16 trips, conferences, traveling shows or exhibitions;

17 5. Physicians or other health care professionals from
18 appropriately referring to duly licensed massage therapists or limit
19 in any way the right of direct access of the public to licensed
20 massage therapists; or

21 6. The practice of any person in this state who uses touch,
22 words and directed movement to deepen awareness of existing patterns
23 of movement in the body as well as to suggest new possibilities of
24 movement while engaged within the scope of practice of a profession

1 with established standards and ethics, provided that the services
2 are not designated or implied to be massage or massage therapy.
3 Practices shall include but are not limited to the Feldenkrais
4 Method of somatic education, Rolf Movement Integration by the Rolf
5 Institute, the Trager Approach of movement education, and Body-Mind
6 Centering. Practitioners shall be recognized by or meet the
7 established standards of either a professional organization or
8 credentialing agency that represents or certifies the respective
9 practice based on a minimal level of training, demonstration of
10 competency, and adherence to ethical standards.

11 E. A physician or other licensed health care provider providing
12 health care services within their scope of practice shall not be
13 required to be licensed or registered with the State Board of
14 Cosmetology.

15 F. No person shall operate, maintain or manage a massage
16 therapy establishment without first obtaining an establishment
17 license from the Board.

18 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.
19 2016 (59 O.S. Supp. 2018, Section 4200.4), is amended to read as
20 follows:

21 Section 4200.4. A. The State Board of Cosmetology and
22 Barbering is hereby authorized to adopt and promulgate rules
23 pursuant to the Administrative Procedures Act that are necessary for
24 the implementation and enforcement of the Massage Therapy Practice

1 Act, including, but not limited to, qualifications for licensure,
2 renewals, reinstatements, provisional licenses, sanitation,
3 professional conduct, and continuing education requirements.

4 B. The State Board of Cosmetology and Barbering is hereby
5 empowered to perform investigations, to require the production of
6 records and other documents relating to practices regulated by the
7 Massage Therapy Practice Act, and to seek injunctive relief in a
8 court of competent jurisdiction without bond.

9 C. If the Board becomes aware that an applicant for licensure
10 has committed a criminal offense within a ten-year period prior to
11 application for licensure, or the Board becomes aware that a
12 licensee has committed a criminal offense during the license term or
13 during any period prior to a renewal or reinstatement of a license,
14 the Board may deny the application or renewal, or suspend or revoke
15 the license, upon a determination that the person has been convicted
16 of, adjudicated on, pled nolo contendere to or received a deferred
17 judgment sentence on a criminal offense in a court of competent
18 jurisdiction, and that such offense, in the discretion of the Board,
19 poses a reasonable threat to, or substantially relates to, the
20 safety of the public or the fitness or ability of the person to
21 serve the public or work with others in the occupation. In such
22 cases, the Board may conduct an investigation or hold a hearing
23 inquiring into the facts of the offense, the criminal history record
24 of the person, the rehabilitation of the person and the length of

1 time since the offense. The order and decision of the Board shall
2 be a final ruling and may be appealed to the District Court of
3 Oklahoma County as authorized for administrative rulings in the
4 Administrative Procedures Act. Nothing in this subsection shall be
5 construed to prohibit licensure for the sole reason the person has
6 committed a criminal offense. Nothing in this subsection shall be
7 construed to prohibit the Board from placing probation conditions on
8 a licensee due to a criminal history record.

9 D. There is hereby created an Advisory Board on Massage
10 Therapy. The Advisory Board on Massage Therapy shall assist the
11 ~~Board~~ State Board of Cosmetology and Barbering in carrying out the
12 provisions of this section regarding the qualifications,
13 examination, registration, regulation, and standards of professional
14 conduct of massage therapists. The Advisory Board on Massage
15 Therapy shall consist of ~~five (5)~~ seven (7) members to be appointed
16 by the Governor for staggered four-year terms as follows:

17 1. ~~Three~~ Four members ~~who~~ shall be licensed massage therapists
18 and have practiced in Oklahoma for not less than three (3) years
19 prior to their appointment. One member shall be appointed to an
20 initial term that shall expire on June 30, 2021. One member shall
21 be appointed to an initial term that shall expire June 30, 2022.
22 Two members shall be appointed to initial terms that shall expire on
23 June 30, 2023. All successive terms for the positions appointed
24 under this subsection shall be for a term of four (4) years each;

1 2. One member ~~who~~ shall be an administrator or faculty member
2 of a ~~nationally accredited school of~~ massage therapy school duly
3 licensed or accredited pursuant to Section 4200.7 of this title.

4 The member shall be appointed to an initial term that shall expire
5 on June 30, 2021, thereafter the term shall be four (4) years; and

6 3. One ~~who~~ member shall be a ~~citizen-member~~ person who is not
7 licensed as a massage therapist and does not own an interest in a
8 massage therapy establishment. The member shall be appointed to an
9 initial term that shall expire on June 30, 2022, thereafter the term
10 shall be four (4) years; and

11 4. One member shall hold a massage therapy establishment
12 license. The member shall be appointed to an initial term that
13 shall expire on June 30, 2023, thereafter the term shall be four (4)
14 years.

15 A person appointed to fill a vacancy shall serve the remainder
16 of the term. The person shall be eligible for reappointment to a
17 successive four-year term.

18 ~~D.~~ E. 1. The State Board of Cosmetology and Barbering shall
19 establish a schedule of reasonable and necessary administrative
20 fees.

21 2. The fee for any an original or renewal therapist or
22 establishment license issued between the effective date of this act
23 and May 1, 2017, shall be Twenty five Dollars (\$25.00). The fee or
24 renewal fee for any massage therapy license issued after May 1,

1 ~~2017, including a license by reciprocity,~~ shall be Fifty Dollars
2 (\$50.00) per year. A duplicate license fee shall be ~~Ten Dollars~~
3 ~~(\$10.00)~~ Five Dollars (\$5.00).

4 SECTION 4. AMENDATORY Section 5, Chapter 292, O.S.L.
5 2016 (59 O.S. Supp. 2018, Section 4200.5), is amended to read as
6 follows:

7 Section 4200.5. A. Between ~~the effective date of this act~~
8 August 26, 2016, and ~~May 1, 2017~~ August 1, 2020, the State Board of
9 Cosmetology and Barbering ~~shall~~ may issue a license to practice
10 massage therapy to any person who files a completed application,
11 accompanied by the required fees, and who ~~submits satisfactory~~
12 ~~evidence that the applicant:~~

- 13 1. Is at least eighteen (18) years of age;
- 14 2. ~~Has~~ Submits one or more of the following:
 - 15 a. documentation that the applicant has completed and
16 passed a nationally recognized competency examination
17 in the practice of massage therapy,
 - 18 b. an affidavit of at least five (5) years of work
19 experience ~~in the state~~ as a massage therapist, or
 - 20 c. a certificate and transcript of completion from a
21 massage school with at least five hundred (500) hours
22 of education;

23

24

1 3. Provides proof of documentation that the applicant currently
2 maintains liability insurance for practice as a massage therapist;
3 ~~and~~

4 4. Provides full disclosure to the Board of any criminal
5 proceeding taken against the applicant including, but not limited
6 to:

7 a. pleading guilty, pleading nolo contendere or receiving
8 a conviction of a felony, or

9 b. pleading guilty, pleading nolo contendere or receiving
10 a conviction of a misdemeanor ~~involving moral~~
11 ~~turpitude, or~~

12 ~~c. pleading guilty, pleading nolo contendere or receiving~~
13 ~~a conviction for violation of federal or state~~
14 ~~controlled dangerous substance laws.~~

15 ~~B. To assist in determining the entry level competence of an~~
16 ~~applicant who makes application for a license after May 1, 2017, the~~
17 ~~Board may adopt rules establishing additional standards or criteria~~
18 ~~for examination acceptance and may adopt only those examinations~~
19 ~~that meet the standards outlined in Section 8 of this act.~~

20 ~~C. 1. After May 1, 2017, except as otherwise provided in the~~
21 ~~Massage Therapy Practice Act, every person desiring to practice~~
22 ~~massage therapy in this state shall be required to first obtain a~~
23 ~~license from the Board; and~~

1 5. Submits to a national criminal history record check as
2 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
3 costs associated with the national criminal history record check
4 shall be paid by the applicant.

5 ~~2. B.~~ After ~~May 1, 2017~~ August 1, 2020, the Board may issue a
6 license to ~~an applicant~~ any person who files a completed
7 application, accompanied by the required fees, and who:

8 ~~a. is~~

9 1. Is at least eighteen (18) years of age;

10 ~~b. provides~~

11 2. Provides documentation that the applicant has completed the
12 equivalent of five hundred (500) hours of formal education in
13 massage therapy from a state-licensed school;

14 ~~c. provides~~

15 3. Provides documentation that the applicant has passed a
16 nationally recognized competency examination approved by the Board;
17 and

18 ~~d. provides~~

19 4. Provides proof that the applicant currently maintains
20 liability insurance for practice as a massage therapist; and

21 ~~e. provides full disclosure to the Board of any criminal~~
22 ~~proceeding taken against the applicant including, but~~
23 ~~not limited to:~~

24

1 ~~(1) pleading guilty, pleading nolo contendere or~~
2 ~~receiving a conviction of a felony,~~
3 ~~(2) pleading guilty, pleading nolo contendere or~~
4 ~~receiving a conviction of a misdemeanor involving~~
5 ~~moral turpitude, or~~
6 ~~(3) pleading guilty, pleading nolo contendere or~~
7 ~~receiving a conviction for violation of federal~~
8 ~~or state controlled dangerous substance laws.~~

9 5. Submits to a national criminal history record check as
10 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
11 costs associated with the national criminal history record check
12 shall be paid by the applicant.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4200.5.1 of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

16 A. No person shall own, operate or manage a massage therapy
17 establishment without obtaining an establishment license from the
18 State Board of Cosmetology and Barbering.

19 B. The Board may issue a massage therapy establishment license
20 to an applicant who:

- 21 1. Is at least eighteen (18) years of age;
- 22 2. Provides proof that the establishment maintains general
23 liability insurance;

1 3. Discloses whether the applicant has been denied a massage
2 establishment license in another jurisdiction;

3 4. Discloses whether the applicant holds or has held a massage
4 establishment license in another jurisdiction and whether
5 disciplinary action has ever been taken against the applicant
6 including but not limited to suspension or revocation of the
7 license; and

8 5. Submits to a national criminal history record check as
9 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
10 costs associated with the national criminal history record check
11 shall be paid by the applicant.

12 C. The Board may deny a massage therapy establishment license
13 or place probationary conditions on a license if the applicant has
14 had a license denied or has been the subject of disciplinary action
15 in another jurisdiction and if the grounds for the denial or
16 disciplinary action would constitute cause for denial or
17 disciplinary action pursuant to the Massage Therapy Practice Act or
18 the Board's rules.

19 D. The Board may deny a massage therapy establishment license
20 or place probationary conditions on a license if the applicant has
21 pleaded guilty, nolo contendere or been convicted of a crime that
22 substantially relates to the ownership, operation or management of a
23 massage establishment or poses a reasonable threat to public health
24 or safety.

1 For purposes of this subsection:

2 1. "Poses a reasonable threat" means the nature of criminal
3 conduct for which the person was convicted involved an act or threat
4 of harm against another and has a bearing on the fitness or ability
5 to serve the public or work with others in the occupation; and

6 2. "Substantially relates" means the nature of criminal conduct
7 for which the person was convicted has a direct bearing on the
8 fitness or ability to perform one or more of the duties or
9 responsibilities necessarily related to the occupation.

10 E. All massage establishments shall be subject to inspection by
11 the Board and shall comply with all provisions of the Massage
12 Therapy Practice Act and rules of the Board.

13 F. 1. An establishment license shall be renewed annually. The
14 renewal date shall be established by the Board through adoption of a
15 rule.

16 2. A licensee may renew a license by:

- 17 a. submitting a completed renewal application on a form
18 prepared by the Board,
19 b. tendering the required renewal fee,
20 c. providing proof of liability insurance,
21 d. disclosing any plea of guilty or nolo contendere or
22 conviction of any crime other than minor traffic
23 violations, and
24

1 e. disclosing any administrative or legal action taken
2 against the licensee in any other jurisdiction
3 governing massage therapy.

4 3. A sixty (60) calendar day grace period shall be allowed each
5 license holder after the end of the renewal period, during which
6 time a license may be renewed upon payment of the renewal fee and a
7 late fee as prescribed by the Board.

8 4. If a license is not renewed by the end of the sixty (60)
9 calendar day grace period, the license shall expire.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4200.5.2 of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The State Board of Cosmetology and Barbering may issue a
14 provisional license to a person who submits a completed application
15 accompanied by the required fees, and who:

16 1. Is at least eighteen (18) years of age;

17 2. Provides documentation that the applicant has completed the
18 equivalent of five hundred (500) hours of formal education in
19 massage therapy from a state-licensed school; and

20 3. Discloses whether the applicant has pleaded guilty, nolo
21 contendere, or been convicted of a crime other than a minor traffic
22 violation.

23 B. A provisional license issued pursuant to this section shall
24 authorize the recipient to practice massage therapy under the direct

1 supervision of a licensed massage therapist in accordance with rules
2 promulgated by the Board.

3 C. A provisional license shall expire ninety (90) days after
4 the date it is issued and is not renewable.

5 D. A provisional license shall be for students, persons pending
6 their examination requirements or results, persons pending
7 reciprocal license requirements, and any person pending completion
8 of their criminal history records search.

9 SECTION 7. AMENDATORY Section 6, Chapter 292, O.S.L.
10 2016 (59 O.S. Supp. 2018, Section 4200.6), is amended to read as
11 follows:

12 Section 4200.6. A. A massage ~~therapy~~ therapist or massage
13 therapy establishment license or provisional license issued by the
14 State Board of Cosmetology and Barbering shall at all times be
15 posted in a conspicuous place in the principal place of business of
16 the holder.

17 B. A license issued pursuant to the Massage Therapy Practice
18 Act is not assignable or transferable.

19 SECTION 8. AMENDATORY Section 7, Chapter 292, O.S.L.
20 2016 (59 O.S. Supp. 2018, Section 4200.7), is amended to read as
21 follows:

22 Section 4200.7. A. A person shall not advertise, maintain,
23 manage or operate a massage therapy school unless the school is
24 licensed by the Oklahoma Board of Private Vocational Schools or is a

1 technology center school accredited by the Oklahoma State Board of
2 Career and Technology Education.

3 B. A person shall not instruct as a massage therapist unless
4 the instruction is within the scope of curriculum at a ~~licensed~~
5 massage therapy school licensed or accredited in compliance with
6 this section or is within the scope of an approved continuing
7 education seminar.

8 SECTION 9. AMENDATORY Section 9, Chapter 292, O.S.L.
9 2016 (59 O.S. Supp. 2018, Section 4200.9), is amended to read as
10 follows:

11 Section 4200.9. A. The State Board of Cosmetology and
12 Barbering may issue a license by reciprocity to an applicant,
13 ~~provided that the applicant who~~ possesses a valid license or
14 registration to practice massage therapy issued by the appropriate
15 examining board ~~under~~ pursuant to the laws of any other state or
16 territory of the United States, the District of Columbia or any
17 foreign nation and has met educational and examination requirements
18 equal to or exceeding those established pursuant to the Massage
19 Therapy Practice Act.

20 B. ~~1. Massage therapy licenses shall expire biennially.~~
21 ~~Expiration dates shall be established by the Board through adoption~~
22 ~~of a rule.~~

23 ~~2. A license shall be renewed by submitting a renewal~~
24 ~~application on a form provided by the Board.~~

1 ~~3. A thirty day grace period shall be allowed each license~~
2 ~~holder after the end of the renewal period, during which time a~~
3 ~~license may be renewed upon payment of the renewal fee and a late~~
4 ~~fee as prescribed by the Board.~~

5 ~~C. 1. If a massage therapy license is not renewed by the end~~
6 ~~of the thirty-day grace period, the license shall be placed on~~
7 ~~inactive status for a period not to exceed one (1) year. At the end~~
8 ~~of one (1) year, if the license has not been reactivated, it shall~~
9 ~~automatically expire.~~

10 ~~2. If within a period of one (1) year from the date the license~~
11 ~~was placed on inactive status the massage therapist wishes to resume~~
12 ~~practice, the massage therapist shall notify the Board in writing~~
13 ~~and, upon receipt of proof of completion of all continuing education~~
14 ~~requirements and payment of an amount set by the Board in lieu of~~
15 ~~all lapsed renewal fees, the license shall be restored in full.~~

16 ~~D. The Board shall establish a schedule of reasonable and~~
17 ~~necessary administrative fees.~~

18 ~~E. The Board shall fix the amount of fees so that the total~~
19 ~~fees collected shall be sufficient to meet the expenses of~~
20 ~~administering the provisions of the Massage Therapy Practice Act~~
21 ~~without unnecessary surpluses An applicant for licensure by~~
22 ~~reciprocity shall disclose any criminal history from the~~
23 ~~jurisdiction where the applicant is licensed and shall submit to a~~
24 ~~national criminal history record check as defined at Section 150.9~~

1 of Title 74 of the Oklahoma Statutes. The costs associated with the
2 national criminal history record check shall be paid by the
3 applicant.

4 C. In addition to all other required fees, an applicant for
5 licensure by reciprocity shall pay a non-refundable processing fee
6 of Thirty Dollars (\$30.00).

7 SECTION 10. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4200.9.1 of Title 59, unless
9 there is created a duplication in numbering, reads as follows:

10 A. A Massage Therapist license shall be renewed annually. The
11 renewal date shall be established by the State Board of Cosmetology
12 and Barbering through adoption of a rule.

13 B. A licensee may renew a license by:

14 1. Submitting a completed renewal application on a form
15 prepared by the Board;

16 2. Tendering the required renewal fee;

17 3. Submitting proof of completion of all continuing education
18 requirements;

19 4. Providing proof of liability insurance;

20 5. Disclosing any plea of guilty, nolo contendere or conviction
21 of any crime other than minor traffic violations; and

22 6. Disclosing any administrative or legal action taken against
23 the licensee in any other jurisdiction governing massage therapy.

24

1 C. 1. A sixty (60) calendar day grace period shall be allowed
2 each license holder after the end of the renewal period, during
3 which time a license may be renewed upon payment of the renewal fee
4 and a late fee as prescribed by the Board.

5 2. If a license is not renewed by the end of the sixty (60)
6 calendar day grace period, the license shall be placed on inactive
7 status during which time the person shall not practice massage
8 therapy.

9 3. A person may renew a license on inactive status by:

- 10 a. submitting a completed renewal application on a form
11 prepared by the Board,
12 b. tendering the required renewal fee for the year in
13 which the license is reactivated,
14 c. tendering a late fee as prescribed by the Board,
15 d. submitting proof of completion of all continuing
16 education requirements cumulative for the years the
17 license was inactive,
18 e. providing proof of liability insurance, and
19 f. disclosing any plea of guilty, nolo contendere or
20 conviction of any crime other than minor traffic
21 violations.

22 4. If a license on inactive status is not renewed within five
23 (5) years from the original renewal date, it shall expire. If the
24 person who held the license wishes to practice massage therapy, the

1 person must apply for original licensure and complete all licensure
2 requirements.

3 SECTION 11. AMENDATORY Section 10, Chapter 292, O.S.L.
4 2016 (59 O.S. Supp. 2018, Section 4200.10), is amended to read as
5 follows:

6 Section 4200.10. A. The Massage Therapy Practice Act shall
7 ~~supersede preempt~~ all ordinances or regulations regulating massage
8 therapists and massage therapy establishments in any city, county,
9 or political subdivision, except as listed in subsections B and C of
10 this section.

11 B. This section shall not affect the regulations of a city,
12 county or a political subdivision relating to zoning requirements or
13 occupational license fees pertaining to health care professions.

14 C. Municipalities, counties and political subdivisions may
15 enact ordinances or resolutions regulating the operation times of a
16 massage establishment. No municipal ordinance, resolution or other
17 political subdivision requirement shall prohibit the operation of a
18 massage establishment between the hours of 7:00 a.m. and 9:00 p.m.
19 daily.

20 SECTION 12. AMENDATORY Section 11, Chapter 292, O.S.L.
21 2016 (59 O.S. Supp. 2018, Section 4200.11), is amended to read as
22 follows:

23 Section 4200.11. A. The State Board of Cosmetology and
24 Barbering ~~may~~ shall have the authority to take disciplinary action

1 against a person licensed pursuant to the Massage Therapy Practice
2 Act as follows:

3 1. ~~Deny or refuse to renew a license;~~

4 2. ~~Suspend or revoke a license;~~

5 3. ~~2.~~ Issue an administrative reprimand; or

6 4. ~~3.~~ Impose probationary conditions when the licensee or
7 applicant has engaged in unprofessional conduct that has endangered
8 or is likely to endanger the health, welfare or safety of the
9 public;

10 4. Assess an administrative fine of not more than Five Hundred
11 Dollars (\$500.00) for each violation of the Massage Therapy Practice
12 Act or rule of the Board. Each day a violation continues shall
13 constitute a separate offense; or

14 5. By taking a combination of the above-stated actions.

15 B. The Board ~~shall~~ may take disciplinary action upon a finding
16 that ~~the~~ a licensee or person has violated a provision of the
17 Massage Therapy Practice Act, or rules promulgated by the Board
18 ~~committed an act of unprofessional conduct or committed a violation~~
19 ~~of rule or law.~~

20 C. Disciplinary proceedings may be instituted by ~~sworn~~ the
21 filing of a complaint of any person, including members of the Board,
22 and shall conform to the provisions of the Administrative Procedures
23 Act. The Board shall conduct investigations in the same manner and
24 according to the same terms as provided for in the Oklahoma

1 Cosmetology and Barber Act. Records and information obtained in
2 connection with an investigation of alleged violations shall be
3 confidential in the same manner as provided for in the Oklahoma
4 Cosmetology and Barber Act and rules of the Board.

5 ~~D. The Board shall establish the guidelines for the disposition~~
6 ~~of disciplinary cases. Guidelines may include, but shall not be~~
7 ~~limited to, periods of probation, conditions of probation,~~
8 ~~suspension, revocation or reissuance of a license.~~

9 ~~E.~~ A license holder who has been found culpable in violation of
10 the Massage Therapy Practice Act or rules promulgated by the Board
11 and has been sanctioned by the Board shall be responsible for the
12 payment of all costs of the disciplinary proceedings and any
13 administrative ~~fees~~ fines imposed.

14 ~~F.~~ E. The surrender or expiration of a license shall not
15 deprive the Board of jurisdiction to proceed with disciplinary
16 action.

17 SECTION 13. AMENDATORY Section 13, Chapter 292, O.S.L.
18 2016 (59 O.S. Supp. 2018, Section 4200.13), is amended to read as
19 follows:

20 Section 4200.13. A. A person who ~~does~~ commits any of the
21 following acts shall be guilty of a misdemeanor upon conviction:

22 1. Violates a provision of the Massage Therapy Practice Act or
23 rules adopted pursuant to the Massage Therapy Practice Act;

24

1 2. ~~Renders~~ Advertises, offers, renders or attempts to render
2 massage therapy services ~~or massage therapy instruction~~ without the
3 required current valid therapist or establishment license issued by
4 the State Board of Cosmetology and Barbering;

5 3. Advertises or uses a designation, diploma or certificate
6 implying that the person offers massage therapy instruction or is a
7 massage therapy school unless the person holds a current valid
8 license issued by the Oklahoma Board of Private Vocational Schools
9 or is a technology center school accredited by the Oklahoma State
10 Board of Career and Technology Education; or

11 4. Advertises or uses a designation, diploma, or certificate
12 implying that the person is a massage therapist unless the person
13 holds a current valid license issued by the State Board of
14 Cosmetology and Barbering.

15 B. 1. Therapists regulated by the Massage Therapy Practice Act
16 shall be designated as "massage therapists" and entitled to utilize
17 the term "massage" when advertising or printing promotional
18 material.

19 2. ~~Any~~ No person ~~who uses~~ shall use a professional title
20 regulated by the Massage Therapy Practice Act who is not authorized
21 to use the professional title ~~shall be subject to disciplinary~~
22 ~~action by the Board.~~

23 3. ~~Any~~ No person ~~who~~ shall knowingly ~~aids and abets~~ aid or abet
24 one or more persons not authorized to use a professional title

1 regulated by the Massage Therapy Practice Act or knowingly ~~employs~~
2 ~~or contracts~~ employ or contract with a person or persons not
3 authorized to use a regulated professional title in the course of
4 the employment, ~~shall also be subject to disciplinary action by the~~
5 ~~Board. It shall be a violation of the Massage Therapy Practice Act~~
6 ~~for any person to advertise massage therapy services in any~~
7 ~~combination with any escort or dating service.~~

8 4. No person shall advertise massage therapy services in any
9 combination with any escort or dating service.

10 SECTION 14. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4200.14 of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

13 A. In addition to any civil or criminal actions authorized by
14 law, whenever, in the judgment of the Oklahoma Board of Cosmetology
15 and Barbering, any unlicensed person has engaged in any acts or
16 practices which constitute a violation of the Massage Therapy
17 Practice Act or rules of the Board, the Board may:

18 1. After notice and hearing in accordance with the
19 Administrative Procedures Act, and upon finding a violation, impose
20 a fine of not more than Five Hundred Dollars (\$500.00) for each
21 violation of the act or rule;

22 2. Make application to the appropriate court for an order
23 enjoining such acts or practices, and upon a showing by the Board
24 that such person has engaged in any such acts or practices, an

1 injunction, restraining order or such other order as may be
2 appropriate shall be granted by the court, without bond; or

3 3. Take both of the above-stated actions.

4 B. Any administrative fines imposed pursuant to this section
5 shall be enforceable in the district courts of this state. The
6 order of the Board shall become final and binding on all parties
7 unless appealed to the district court as provided in the
8 Administrative Procedures Act. If an appeal is not made, such order
9 may be entered on the judgment docket of the district court in a
10 county in which the debtor has property and thereafter enforced in
11 the same manner as an order of the district court for collection
12 actions.

13 C. Each day a violation continues shall be a separate offense.

14 ~~SECTION 15. This act shall become effective July 1, 2019.~~

15 ~~SECTION 16. It being immediately necessary for the preservation~~
16 ~~of the public peace, health or safety, an emergency is hereby~~
17 ~~declared to exist, by reason whereof this act shall take effect and~~
18 ~~be in full force from and after its passage and approval.~~

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
20 February 21, 2019 - DO PASS AS AMENDED

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