

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 100

By: Bergstrom of the Senate

and

Martinez of the House

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7
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9 COMMITTEE SUBSTITUTE

10 An Act relating to the Massage Therapy Practice Act;
11 amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S.
12 Supp. 2018, Section 4200.2), which relates to
13 definitions; modifying definitions; amending Section
14 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018,
15 Section 4200.3), which relates to licensed massage
16 therapist; modifying prohibited acts; updating
17 statutory reference; prohibiting certain acts without
18 first obtaining a license; amending Section 4,
19 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
20 4200.4), which relates to authority of State Board of
21 Cosmetology and Barbering; allowing Board to take
22 certain disciplinary action under certain
23 circumstances; providing certain construction;
24 modifying Board members; providing staggered terms;
directing Board to establish a fee schedule;
modifying fee amounts; requiring provisional license
be posted; amending Section 5, Chapter 292, O.S.L.
2016 (59 O.S. Supp. 2018, Section 4200.5), which
relates to license requirements; modifying date;
clarifying provisions related to applications;
requiring national criminal history record check;
prohibiting certain acts without first obtaining a
massage therapy establishment license; setting forth
requirements for establishment license; authorizing
Board to deny establishment license or place
probationary conditions on establishment license
under certain conditions; defining terms; providing
for Board inspection authority; requiring compliance

1 with certain laws and rules; providing license
2 renewal procedures and requirements; establishing a
3 provisional license; stating criteria for certain
4 license; setting duration of certain license;
5 amending Section 6, Chapter 292, O.S.L. 2016 (59 O.S.
6 Supp. 2018, Section 4200.6), which relates to license
7 posting required; modifying type of license; amending
8 Section 7, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
9 2018, Section 4200.7), which relates to massage
10 therapy schools; including technology center schools
11 in certain provision; modifying types of allowable
12 education; amending Section 9, Chapter 292, O.S.L.
13 2016 (59 O.S. Supp. 2018, Section 4200.9), which
14 relates to out-of-state license holders; deleting
15 language; requiring disclosure of criminal history
16 records; establishing certain fee; requiring
17 therapist license to be renewed annually; setting
18 forth renewal procedures; amending Section 10,
19 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
20 4200.10), which relates to preemption; adding
21 establishments to certain provision; providing
22 exceptions; allowing municipalities, counties and
23 political subdivisions to enact certain regulations;
24 prohibiting regulation during certain hours; amending
Section 11, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
2018, Section 4200.11), which relates to disciplinary
actions and proceedings; modifying disciplinary
actions and proceedings; providing procedure for
investigations; making certain records and
information confidential; setting maximum
administrative fine; amending Section 13, Chapter
292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
4200.13), which relates to violations; modifying
action which shall constitute misdemeanors upon
conviction; prohibiting unauthorized use of certain
title; providing that massage therapy services shall
not be advertised in combination with certain
services; providing certain administrative fine and
legal recourse; providing for codification; providing
an effective date; and declaring an emergency.

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

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

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

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

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

9 3. "Massage therapist" means an individual who practices
10 massage or massage therapy and is licensed ~~under~~ pursuant to the
11 Massage Therapy Practice Act. A massage therapist uses visual,
12 kinesthetic, and palpatory skills to assess the body and may
13 evaluate a condition to the extent of determining whether massage is
14 indicated or contraindicated;

15 4. "Massage therapy" means the skillful treatment of the soft
16 tissues of the human body. Massage is designed to promote general
17 relaxation, improve movement, relieve somatic and muscular pain or
18 dysfunction, stress and muscle tension, provide for general health
19 enhancement, personal growth, education and the organization,
20 balance and integration of the human body and includes, but is not
21 limited to:

22 a. the use of touch, pressure, friction, stroking,
23 gliding, percussion, kneading, movement, positioning,
24 holding, range of motion and nonspecific stretching

1 within the normal anatomical range of movement, and
2 vibration by manual or mechanical means with or
3 without the use of massage devices that mimic or
4 enhance manual measures, and

5 b. the external application of ice, heat and cold packs
6 for thermal therapy, water, lubricants, abrasives and
7 external application of herbal or topical preparations
8 not classified as prescription drugs; ~~and~~

9 5. "Massage therapy establishment" means any fixed business
10 location, address, building or property, other than a licensed
11 cosmetology or barbering establishment, where a person engages in,
12 conducts, carries on or permits to be engaged in the practice of
13 massage therapy. This definition excludes offices or workplaces of
14 licensed healthcare professionals exempt from the provisions of the
15 Massage Therapy Practice Act;

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

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

21 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.
22 2016 (59 O.S. Supp. 2018, Section 4200.3), is amended to read as
23 follows:
24

1 Section 4200.3. A. Unless a person is a licensed as a massage
2 therapist, a person shall not:

3 1. Practice massage therapy in this state;

4 2. Use the title of massage therapist;

5 ~~2.~~ 3. Represent himself or herself to be a massage therapist;

6 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
7 figures, signs or devices that indicate the person is a massage
8 therapist; or

9 ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or
10 "massage therapist" when advertising or printing promotional
11 material.

12 B. A person shall not maintain, manage or operate a massage
13 therapy school offering education, instruction or training in
14 massage therapy unless the school is a licensed or accredited
15 massage therapy school pursuant to Section ~~7~~ 4200.7 of this ~~act~~
16 title.

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

19 1. Diagnosis of illness or disease;

20 2. High-velocity, low-amplitude thrust;

21 3. Electrical stimulation;

22 4. Application of ultrasound;

23 5. Use of any technique that interrupts or breaks the skin; or

24 6. Prescribing of medicines.

1 D. Nothing in the Massage Therapy Practice Act shall be
2 construed to prevent:

3 1. Qualified members of other recognized professions who are
4 licensed or regulated ~~under~~ pursuant to Oklahoma law from rendering
5 services within the scope of the license of the person, provided the
6 person does not represent himself or herself as a massage therapist.
7 A physician or other licensed health care provider providing health
8 care services within the scope of practice of the physician or
9 provider shall not be required to be licensed by or registered with
10 the State Board of Cosmetology and Barbering;

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

13 3. Visiting massage therapy instructors from another state or
14 territory of the United States, the District of Columbia or any
15 foreign nation from teaching massage therapy, provided the
16 instructor is duly licensed or registered, if required, and is
17 qualified in the instructor's place of residence for the practice of
18 massage therapy;

19 4. Any nonresident person holding a current license,
20 registration or certification in massage therapy from another state
21 or recognized national certification system determined as acceptable
22 by the Board when temporarily present in this state from providing
23 massage therapy services as a part of an emergency response team
24 working in conjunction with disaster relief officials or at special

1 events such as conventions, sporting events, educational field
2 trips, conferences, traveling shows or exhibitions;

3 5. Physicians or other health care professionals from
4 appropriately referring to duly licensed massage therapists or limit
5 in any way the right of direct access of the public to licensed
6 massage therapists; or

7 6. The practice of any person in this state who uses touch,
8 words and directed movement to deepen awareness of existing patterns
9 of movement in the body as well as to suggest new possibilities of
10 movement while engaged within the scope of practice of a profession
11 with established standards and ethics, provided that the services
12 are not designated or implied to be massage or massage therapy.
13 Practices shall include but are not limited to the Feldenkrais
14 Method of somatic education, Rolf Movement Integration by the Rolf
15 Institute, the Trager Approach of movement education, and Body-Mind
16 Centering. Practitioners shall be recognized by or meet the
17 established standards of either a professional organization or
18 credentialing agency that represents or certifies the respective
19 practice based on a minimal level of training, demonstration of
20 competency, and adherence to ethical standards.

21 E. A physician or other licensed health care provider providing
22 health care services within their scope of practice shall not be
23 required to be licensed or registered with the State Board of
24 Cosmetology.

1 F. No person shall operate, maintain or manage a massage
2 therapy establishment without first obtaining an establishment
3 license from the Board.

4 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.
5 2016 (59 O.S. Supp. 2018, Section 4200.4), is amended to read as
6 follows:

7 Section 4200.4. A. The State Board of Cosmetology and
8 Barbering is hereby authorized to adopt and promulgate rules
9 pursuant to the Administrative Procedures Act that are necessary for
10 the implementation and enforcement of the Massage Therapy Practice
11 Act, including, but not limited to, qualifications for licensure,
12 renewals, reinstatements, provisional licenses, sanitation,
13 professional conduct, and continuing education requirements.

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

19 C. If the Board becomes aware that an applicant for licensure
20 has committed a criminal offense within a ten-year period prior to
21 application for licensure, or the Board becomes aware that a
22 licensee has committed a criminal offense during the license term or
23 during any period prior to a renewal or reinstatement of a license,
24 the Board may deny the application or renewal, or suspend or revoke

1 the license, upon a determination that the person has been convicted
2 of, adjudicated on, pled nolo contendere to or received a deferred
3 judgment sentence on a criminal offense in a court of competent
4 jurisdiction, and that such offense, in the discretion of the Board,
5 poses a reasonable threat to, or substantially relates to, the
6 safety of the public or the fitness or ability of the person to
7 serve the public or work with others in the occupation. In such
8 cases, the Board may conduct an investigation or hold a hearing
9 inquiring into the facts of the offense, the criminal history record
10 of the person, the rehabilitation of the person and the length of
11 time since the offense. The order and decision of the Board shall
12 be a final ruling and may be appealed to the District Court of
13 Oklahoma County as authorized for administrative rulings in the
14 Administrative Procedures Act. Nothing in this subsection shall be
15 construed to prohibit licensure for the sole reason the person has
16 committed a criminal offense. Nothing in this subsection shall be
17 construed to prohibit the Board from placing probation conditions on
18 a licensee due to a criminal history record.

19 D. There is hereby created an Advisory Board on Massage
20 Therapy. The Advisory Board on Massage Therapy shall assist the
21 ~~Board~~ State Board of Cosmetology and Barbering in carrying out the
22 provisions of this section regarding the qualifications,
23 examination, registration, regulation, and standards of professional
24 conduct of massage therapists. The Advisory Board on Massage

1 Therapy shall consist of ~~five (5)~~ seven (7) members to be appointed
2 by the Governor for staggered four-year terms as follows:

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

11 2. One member ~~who~~ shall be an administrator or faculty member
12 of a ~~nationally accredited school of~~ massage therapy school duly
13 licensed or accredited pursuant to Section 4200.7 of this title.
14 The member shall be appointed to an initial term that shall expire
15 on June 30, 2021, thereafter the term shall be four (4) years; and

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

21 4. One member shall hold a massage therapy establishment
22 license. The member shall be appointed to an initial term that
23 shall expire on June 30, 2023, thereafter the term shall be four (4)
24 years.

1 A person appointed to fill a vacancy shall serve the remainder
2 of the term. The person shall be eligible for reappointment to a
3 successive four-year term.

4 ~~D.~~ E. 1. The State Board of Cosmetology and Barbering shall
5 establish a schedule of reasonable and necessary administrative
6 fees.

7 2. The fee for any an original or renewal therapist or
8 establishment license issued between the effective date of this act
9 and May 1, 2017, shall be Twenty five Dollars (\$25.00). The fee or
10 renewal fee for any massage therapy license issued after May 1,
11 2017, including a license by reciprocity, shall be Fifty Dollars
12 (\$50.00) per year. A duplicate license fee shall be Ten Dollars
13 (\$10.00) Five Dollars (\$5.00).

14 SECTION 4. AMENDATORY Section 5, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2018, Section 4200.5), is amended to read as
16 follows:

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

- 23 1. Is at least eighteen (18) years of age;
24 2. ~~Has~~ Submits one or more of the following:

- a. documentation that the applicant has completed and passed a nationally recognized competency examination in the practice of massage therapy,
- b. an affidavit of at least five (5) years of work experience ~~in the state~~ as a massage therapist, or
- c. a certificate and transcript of completion from a massage school with at least five hundred (500) hours of education;

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

and

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

- a. pleading guilty, pleading nolo contendere or receiving a conviction of a felony, or
- b. pleading guilty, pleading nolo contendere or receiving a conviction of a misdemeanor ~~involving moral turpitude, or~~
- ~~c. pleading guilty, pleading nolo contendere or receiving a conviction for violation of federal or state controlled dangerous substance laws.~~

~~B. To assist in determining the entry level competence of an applicant who makes application for a license after May 1, 2017, the~~

1 ~~Board may adopt rules establishing additional standards or criteria~~
2 ~~for examination acceptance and may adopt only those examinations~~
3 ~~that meet the standards outlined in Section 8 of this act.~~

4 ~~C. 1. After May 1, 2017, except as otherwise provided in the~~
5 ~~Massage Therapy Practice Act, every person desiring to practice~~
6 ~~massage therapy in this state shall be required to first obtain a~~
7 ~~license from the Board; 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 ~~2. B. After May 1, 2017~~ August 1, 2020, the Board may issue a
13 license to ~~an applicant~~ any person who files a completed
14 application, accompanied by the required fees, and who:

15 ~~a. is~~

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

17 ~~b. provides~~

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

21 ~~c. provides~~

22 3. Provides documentation that the applicant has passed a
23 nationally recognized competency examination approved by the Board~~;~~i
24 and

1 ~~d. provides~~

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

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

7 ~~(1) pleading guilty, pleading nolo contendere or~~
8 ~~receiving a conviction of a felony,~~

9 ~~(2) pleading guilty, pleading nolo contendere or~~
10 ~~receiving a conviction of a misdemeanor involving~~
11 ~~moral turpitude, or~~

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

15 5. Submits to a national criminal history record check as
16 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
17 costs associated with the national criminal history record check
18 shall be paid by the applicant.

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

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

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

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

4 2. Provides proof that the establishment maintains general
5 liability insurance;

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

8 4. Discloses whether the applicant holds or has held a massage
9 establishment license in another jurisdiction and whether
10 disciplinary action has ever been taken against the applicant
11 including but not limited to suspension or revocation of the
12 license; and

13 5. Submits to a national criminal history record check as
14 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
15 costs associated with the national criminal history record check
16 shall be paid by the applicant.

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

24

1 D. The Board may deny a massage therapy establishment license
2 or place probationary conditions on a license if the applicant has
3 pleaded guilty, nolo contendere or been convicted of a crime that
4 substantially relates to the ownership, operation or management of a
5 massage establishment or poses a reasonable threat to public health
6 or safety.

7 For purposes of this subsection:

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

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

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

19 F. 1. An establishment license shall be renewed annually. The
20 renewal date shall be established by the Board through adoption of a
21 rule.

22 2. A licensee may renew a license by:

23 a. submitting a completed renewal application on a form
24 prepared by the Board,

- b. tendering the required renewal fee,
- c. providing proof of liability insurance,
- d. disclosing any plea of guilty or nolo contendere or conviction of any crime other than minor traffic violations, and
- e. disclosing any administrative or legal action taken against the licensee in any other jurisdiction governing massage therapy.

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

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

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

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

1. Is at least eighteen (18) years of age;
2. Provides documentation that the applicant has completed the equivalent of five hundred (500) hours of formal education in massage therapy from a state-licensed school; and

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

4 B. A provisional license issued pursuant to this section shall
5 authorize the recipient to practice massage therapy under the direct
6 supervision of a licensed massage therapist in accordance with rules
7 promulgated by the Board.

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

10 D. A provisional license shall be for students, persons pending
11 their examination requirements or results, persons pending
12 reciprocal license requirements, and any person pending completion
13 of their criminal history records search.

14 SECTION 7. AMENDATORY Section 6, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2018, Section 4200.6), is amended to read as
16 follows:

17 Section 4200.6. A. A massage ~~therapy~~ therapist or massage
18 therapy establishment license or provisional license issued by the
19 State Board of Cosmetology and Barbering shall at all times be
20 posted in a conspicuous place in the principal place of business of
21 the holder.

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

24

1 SECTION 8. AMENDATORY Section 7, Chapter 292, O.S.L.
2 2016 (59 O.S. Supp. 2018, Section 4200.7), is amended to read as
3 follows:

4 Section 4200.7. A. A person shall not advertise, maintain,
5 manage or operate a massage therapy school unless the school is
6 licensed by the Oklahoma Board of Private Vocational Schools or is a
7 technology center school accredited by the Oklahoma State Board of
8 Career and Technology Education.

9 B. A person shall not instruct as a massage therapist unless
10 the instruction is within the scope of curriculum at a ~~licensed~~
11 massage therapy school licensed or accredited in compliance with
12 this section or is within the scope of an approved continuing
13 education seminar.

14 SECTION 9. AMENDATORY Section 9, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2018, Section 4200.9), is amended to read as
16 follows:

17 Section 4200.9. A. The State Board of Cosmetology and
18 Barbering may issue a license by reciprocity to an applicant,
19 ~~provided that the applicant~~ who possesses a valid license or
20 registration to practice massage therapy issued by the appropriate
21 examining board ~~under~~ pursuant to the laws of any other state or
22 territory of the United States, the District of Columbia or any
23 foreign nation and has met educational and examination requirements
24

1 equal to or exceeding those established pursuant to the Massage
2 Therapy Practice Act.

3 B. ~~1. Massage therapy licenses shall expire biennially.~~
4 ~~Expiration dates shall be established by the Board through adoption~~
5 ~~of a rule.~~

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

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

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

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

23 D. ~~The Board shall establish a schedule of reasonable and~~
24 ~~necessary administrative fees.~~

1 ~~E. The Board shall fix the amount of fees so that the total~~
2 ~~fees collected shall be sufficient to meet the expenses of~~
3 ~~administering the provisions of the Massage Therapy Practice Act~~
4 ~~without unnecessary surpluses~~ An applicant for licensure by
5 reciprocity shall disclose any criminal history from the
6 jurisdiction where the applicant is licensed and shall submit to a
7 national criminal history record check as defined at Section 150.9
8 of Title 74 of the Oklahoma Statutes. The costs associated with the
9 national criminal history record check shall be paid by the
10 applicant.

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

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

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

20 B. A licensee may renew a license by:

21 1. Submitting a completed renewal application on a form
22 prepared by the Board;

23 2. Tendering the required renewal fee;

24

1 3. Submitting proof of completion of all continuing education
2 requirements;

3 4. Providing proof of liability insurance;

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

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

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

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

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

17 a. submitting a completed renewal application on a form
18 prepared by the Board,

19 b. tendering the required renewal fee for the year in
20 which the license is reactivated,

21 c. tendering a late fee as prescribed by the Board,

22 d. submitting proof of completion of all continuing
23 education requirements cumulative for the years the
24 license was inactive,

- e. providing proof of liability insurance, and
- f. disclosing any plea of guilty, nolo contendere or conviction of any crime other than minor traffic violations.

4. If a license on inactive status is not renewed within five (5) years from the original renewal date, it shall expire. If the person who held the license wishes to practice massage therapy, the person must apply for original licensure and complete all licensure requirements.

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

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

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

C. Municipalities, counties and political subdivisions may enact ordinances or resolutions regulating the operation times of a massage establishment. No municipal ordinance, resolution or other political subdivision requirement shall prohibit the operation of a

1 massage establishment between the hours of 7:00 a.m. and 9:00 p.m.
2 daily.

3 SECTION 12. AMENDATORY Section 11, Chapter 292, O.S.L.
4 2016 (59 O.S. Supp. 2018, Section 4200.11), is amended to read as
5 follows:

6 Section 4200.11. A. The State Board of Cosmetology and
7 Barbering ~~may~~ shall have the authority to take disciplinary action
8 against a person licensed pursuant to the Massage Therapy Practice
9 Act as follows:

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

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

12 ~~3.~~ 2. Issue an administrative reprimand; ~~or~~

13 ~~4.~~ 3. Impose probationary conditions ~~when the licensee or~~
14 ~~applicant has engaged in unprofessional conduct that has endangered~~
15 ~~or is likely to endanger the health, welfare or safety of the~~
16 ~~public;~~

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

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

22 B. The Board ~~shall~~ may take disciplinary action upon a finding
23 that ~~the~~ a licensee ~~or person~~ has violated a provision of the
24 Massage Therapy Practice Act, or rules promulgated by the Board

1 ~~committed an act of unprofessional conduct or committed a violation~~
2 ~~of rule or law.~~

3 C. Disciplinary proceedings may be instituted by ~~sworn~~ the
4 filing of a complaint of any person, including members of the Board,
5 and shall conform to the provisions of the Administrative Procedures
6 Act. The Board shall conduct investigations in the same manner and
7 according to the same terms as provided for in the Oklahoma
8 Cosmetology and Barber Act. Records and information obtained in
9 connection with an investigation of alleged violations shall be
10 confidential in the same manner as provided for in the Oklahoma
11 Cosmetology and Barber Act and rules of the Board.

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

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

21 ~~F.~~ E. The surrender or expiration of a license shall not
22 deprive the Board of jurisdiction to proceed with disciplinary
23 action.

24

1 SECTION 13. AMENDATORY Section 13, Chapter 292, O.S.L.
2 2016 (59 O.S. Supp. 2018, Section 4200.13), is amended to read as
3 follows:

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

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

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

12 3. Advertises or uses a designation, diploma or certificate
13 implying that the person offers massage therapy instruction or is a
14 massage therapy school unless the person holds a current valid
15 license issued by the Oklahoma Board of Private Vocational Schools
16 or is a technology center school accredited by the Oklahoma State
17 Board of Career and Technology Education; or

18 4. Advertises or uses a designation, diploma, or certificate
19 implying that the person is a massage therapist unless the person
20 holds a current valid license issued by the State Board of
21 Cosmetology and Barbering.

22 B. 1. Therapists regulated by the Massage Therapy Practice Act
23 shall be designated as "massage therapists" and entitled to utilize
24

1 the term "massage" when advertising or printing promotional
2 material.

3 2. ~~Any~~ No person who uses shall use a professional title
4 regulated by the Massage Therapy Practice Act who is not authorized
5 to use the professional title ~~shall be subject to disciplinary~~
6 ~~action by the Board.~~

7 3. ~~Any~~ No person who shall knowingly ~~aids and abets~~ aid or abet
8 one or more persons not authorized to use a professional title
9 regulated by the Massage Therapy Practice Act or knowingly ~~employs~~
10 ~~or contracts~~ employ or contract with a person or persons not
11 authorized to use a regulated professional title in the course of
12 the employment, ~~shall also be subject to disciplinary action by the~~
13 ~~Board. It shall be a violation of the Massage Therapy Practice Act~~
14 ~~for any person to advertise massage therapy services in any~~
15 ~~combination with any escort or dating service.~~

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

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

21 A. In addition to any civil or criminal actions authorized by
22 law, whenever, in the judgment of the Oklahoma Board of Cosmetology
23 and Barbering, any unlicensed person has engaged in any acts or
24

1 practices which constitute a violation of the Massage Therapy
2 Practice Act or rules of the Board, the Board may:

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

7 2. Make application to the appropriate court for an order
8 enjoining such acts or practices, and upon a showing by the Board
9 that such person has engaged in any such acts or practices, an
10 injunction, restraining order or such other order as may be
11 appropriate shall be granted by the court, without bond; or

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

13 B. Any administrative fines imposed pursuant to this section
14 shall be enforceable in the district courts of this state. The
15 order of the Board shall become final and binding on all parties
16 unless appealed to the district court as provided in the
17 Administrative Procedures Act. If an appeal is not made, such order
18 may be entered on the judgment docket of the district court in a
19 county in which the debtor has property and thereafter enforced in
20 the same manner as an order of the district court for collection
21 actions.

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

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

24

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

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