

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2117

By: Ortega

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8 AS INTRODUCED

9 An Act relating to the Massage Therapy Practice Act;  
10 amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S.  
11 Supp. 2018, Section 4200.2), which relates to  
12 definitions; modifying definitions; amending Section  
13 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018,  
14 Section 4200.3), which relates to licensed massage  
15 therapists; modifying prohibited acts; updating  
16 statutory reference; prohibiting certain acts without  
17 first obtaining a license; amending Section 4,  
18 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section  
19 4200.4), which relates to authority of State Board of  
20 Cosmetology and Barbering; providing for Board  
21 inspection authority; modifying appointment of Board  
22 members; directing Board to establish a fee schedule;  
23 authorizing Board to issue licenses and temporary  
24 work permits; defining terms; 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; prohibiting certain acts without first  
obtaining a massage therapy establishment license;  
setting forth requirements for establishment license;  
requiring compliance with certain laws and rules;  
amending Section 6, Chapter 292, O.S.L. 2016 (59 O.S.  
Supp. 2018, Section 4200.6), which relates to license  
posting requirement; modifying type of license;  
amending Section 7, Chapter 292, O.S.L. 2016 (59 O.S.  
Supp. 2018, Section 4200.7), which relates to massage  
therapy schools; including technology center schools  
in certain provision; modifying types of allowable  
education; amending Section 9, Chapter 292, O.S.L.

1 2016 (59 O.S. Supp. 2018, Section 4200.9), which  
2 relates to out-of-state license holders; deleting  
3 language; requiring disclosure of criminal history  
4 records; providing for issuance of temporary work  
5 permit; requiring therapist license to be renewed  
6 annually; setting forth renewal procedures; amending  
7 Section 10, Chapter 292, O.S.L. 2016 (59 O.S. Supp.  
8 2018, Section 4200.10), which relates to preemption;  
9 adding establishments to certain provision; providing  
10 exceptions; amending Section 11, Chapter 292, O.S.L.  
11 2016 (59 O.S. Supp. 2018, Section 4200.11), which  
12 relates to disciplinary actions and proceedings;  
13 modifying disciplinary actions and proceedings;  
14 providing procedure for investigations; making  
15 certain records and information confidential; setting  
16 maximum administrative fine; amending Section 13,  
17 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section  
18 4200.13), which relates to violations; modifying  
19 actions which shall constitute misdemeanors upon  
20 conviction; providing that massage therapy services  
21 shall not be advertised in combination with certain  
22 services; providing certain administrative fine and  
23 legal recourse; providing for codification; and  
24 providing an effective date.

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

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

Section 4200.2 As used in the Massage Therapy Practice Act:

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

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

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

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

- 17           a. the use of touch, pressure, friction, stroking,  
18               gliding, percussion, kneading, movement, positioning,  
19               holding, range of motion and nonspecific stretching  
20               within the normal anatomical range of movement, and  
21               vibration by manual or mechanical means with or  
22               without the use of massage devices that mimic or  
23               enhance manual measures, and  
24

1           b.    the external application of ice, heat and cold packs  
2                    for thermal therapy, water, lubricants, abrasives and  
3                    external application of herbal or topical preparations  
4                    not classified as prescription drugs; ~~and~~

5           5.    "Massage therapy establishment" means any fixed business  
6 location, address, building or property where a person engages in,  
7 conducts, carries on or permits to be engaged in the practice of  
8 massage therapy. This definition excludes offices or workplaces of  
9 licensed health care professionals exempted from the provisions of  
10 the Massage Therapy Practice Act;

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

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

16           SECTION 2.           AMENDATORY           Section 3, Chapter 292, O.S.L.  
17 2016 (59 O.S. Supp. 2018, Section 4200.3), is amended to read as  
18 follows:

19           Section 4200.3 A. Unless a person is ~~a~~ licensed as a massage  
20 therapist by the State Board of Cosmetology and Barbering, a person  
21 shall not:

22           1.    Practice massage therapy in this state;

23           2. Use the title of massage therapist;

24           ~~2.~~ 3. Represent himself or herself to be a massage therapist;

1       ~~3.~~ 4. Use any other title, words, abbreviations, letters,  
2 figures, signs or devices that indicate the person is a massage  
3 therapist; or

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

7       B. A person shall not maintain, manage or operate a massage  
8 therapy school offering education, instruction or training in  
9 massage therapy unless the school is a licensed or accredited  
10 massage therapy school pursuant to Section ~~7~~ 4200.7 of this ~~act~~  
11 title.

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

- 14       1. Diagnosis of illness or disease;
- 15       2. High-velocity, low-amplitude thrust;
- 16       3. Electrical stimulation;
- 17       4. Application of ultrasound;
- 18       5. Use of any technique that interrupts or breaks the skin; or
- 19       6. Prescribing of medicines.

20       D. No person shall own or operate a massage therapy  
21 establishment without first obtaining an establishment license from  
22 the Board.

1        E. 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, as long as the  
3 services are not open to the general public;

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

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

22 E. F. A physician or other licensed health care provider  
23 providing health care services within their scope of practice shall  
24

1 not be required to be licensed or registered with the State Board of  
2 Cosmetology and Barbering.

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

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

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. 1. There is hereby created an Advisory Board on Massage  
20 Therapy. The Advisory Board on Massage Therapy shall assist the  
21 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 four-year terms~~ as follows:

3 ~~1. Three~~

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

14 ~~2. One~~

15 b. one member who shall be an administrator or faculty  
16 member of a ~~nationally accredited school of~~ massage  
17 therapy; ~~and~~ school duly licensed or accredited  
18 pursuant to Section 4200.7 of this title. The member  
19 shall be appointed to an initial term that shall  
20 expire on June 30, 2021. All successive terms for  
21 this position shall be for four (4) years each,

22 ~~3. One~~

23 c. one member who shall be a ~~citizen~~ public member. The  
24 member shall be appointed to an initial term that

1 shall expire on June 30, 2022. All successive terms  
2 for this position shall be for four (4) years each,  
3 and

4 d. one member who shall hold an establishment license.

5 The member shall be appointed to an initial term that  
6 expires on June 30, 2023. All successive terms for  
7 this position shall be for four (4) years each.

8 2. A person appointed to fill a position that has become vacant  
9 shall serve the remainder of the term of the vacated position. The  
10 person shall be eligible for reappointment to successive four-year  
11 terms thereafter.

12 D. 1. The Board shall establish a schedule of reasonable and  
13 necessary administrative fees.

14 2. The initial or renewal fee for any a therapist license  
15 issued between the effective date of this act and May 1, 2017, shall  
16 be Twenty-five Dollars (\$25.00). The fee or renewal fee for any  
17 massage therapy license issued after May 1, 2017, shall be Fifty  
18 Dollars (\$50.00) per year. The initial or renewal fee for an  
19 establishment license shall be \$30.00 per year. A duplicate license  
20 fee shall be ~~Ten Dollars (\$10.00)~~ Five Dollars (\$5.00).

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 4200.4.1 of Title 59, unless  
23 there is created a duplication in numbering, reads as follows:  
24

1       A. The State Board of Cosmetology and Barbering shall have  
2 authority to issue original licenses and temporary work permits as  
3 provided for in the Massage Therapy Practice Act.

4       B. The Board may deny or place probationary conditions on an  
5 original massage therapist license or temporary work permit if:

6       1. The applicant has pleaded guilty or nolo contendere to, or  
7 been convicted of, a crime that substantially relates to the  
8 practice of massage therapy;

9       2. The applicant has pleaded guilty or nolo contendere to, or  
10 been convicted of, a crime that poses a reasonable threat to public  
11 health or safety;

12       3. The applicant has had a license or permit denied or has been  
13 the subject of disciplinary action in another jurisdiction and the  
14 grounds for the denial or disciplinary action would constitute cause  
15 for denial or disciplinary action under the Massage Therapy Practice  
16 Act or the Board's rules;

17       4. The applicant has previously held a license or permit by the  
18 Board and the license or permit has been revoked or the applicant  
19 has been the subject of disciplinary action by the Board; or

20       5. The applicant attempts to obtain the license or permit by  
21 means of fraud, misrepresentation, deceit or concealment of material  
22 facts.

23       C. The Board may deny or place probationary conditions on an  
24 original massage establishment license if:

1 1. The applicant has pleaded guilty or nolo contendere to, or  
2 been convicted of, a crime that substantially relates to the  
3 ownership, operation or management of a massage establishment;

4 2. The applicant has pleaded guilty or nolo contendere to, or  
5 been convicted of, a crime that poses a reasonable threat to public  
6 health or safety;

7 3. The applicant has had a license or permit denied or has been  
8 the subject of disciplinary action in another jurisdiction and the  
9 grounds for the denial or disciplinary action would constitute cause  
10 for denial or disciplinary action under the Massage Therapy Practice  
11 Act or the Board's rules;

12 4. The applicant has previously held a license or permit by the  
13 Board and the license or permit has been revoked or the applicant  
14 has been the subject of disciplinary action by the Board; or

15 5. The applicant attempts to obtain the license or permit by  
16 means of fraud, misrepresentation, deceit or concealment of material  
17 facts.

18 D. As used in this section:

19 1. "Substantially relates" means the nature of criminal conduct  
20 for which the person was convicted or pled has a direct bearing on  
21 the fitness or ability to perform one or more of the duties or  
22 responsibilities necessarily related to the occupation; and

23 2. "Poses a reasonable threat" means the nature of criminal  
24 conduct for which the person was convicted or pled involved an act

1 or threat of harm against another and has a bearing on the fitness  
2 or ability to serve the public or work with others in the  
3 occupation.

4 SECTION 5. 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 an original license to  
10 practice massage therapy to any person who files a completed  
11 application, accompanied by the required fees, and who ~~submits~~  
12 ~~satisfactory 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; and

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,~~

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~~

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

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

7 a. ~~is~~

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

9 b. ~~provides~~

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

13 c. ~~provides~~

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

17 d. ~~provides proof that the applicant currently maintains~~  
18 ~~liability insurance for practice as a massage~~  
19 ~~therapist, and~~

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

23 ~~(1) pleading guilty, pleading nolo contendere or~~  
24 ~~receiving a conviction of a felony,~~

1                   ~~(2) pleading guilty, pleading nolo contendere or~~  
2                   ~~receiving a conviction of a misdemeanor involving~~  
3                   ~~moral turpitude, or~~

4                   ~~(3) pleading guilty, pleading nolo contendere or~~  
5                   ~~receiving a conviction for violation of federal~~  
6                   ~~or state controlled dangerous substance laws.~~

7                   4. Discloses whether the applicant has pleaded guilty or nolo  
8                   contendere to, or been convicted of, a crime other than a minor  
9                   traffic violation.

10                  SECTION 6.        NEW LAW        A new section of law to be codified  
11                  in the Oklahoma Statutes as Section 4200.5.1 of Title 59, unless  
12                  there is created a duplication in numbering, reads as follows:

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

16                  B. The Board may issue an original license to an applicant who:

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

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

20                    3. Discloses whether the applicant holds or has held a massage  
21                    establishment license in another jurisdiction and whether  
22                    disciplinary action has ever been taken against the applicant  
23                    including, but not limited to, suspension or revocation of the  
24                    license; and



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

4 C. All massage establishments shall be subject to inspection by  
5 the Board and shall comply with all provisions of the Massage  
6 Therapy Practice Act and rules of the Board.

7 SECTION 7. AMENDATORY Section 6, Chapter 292, O.S.L.  
8 2016 (59 O.S. Supp. 2018, Section 4200.6), is amended to read as  
9 follows:

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

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

16 SECTION 8. AMENDATORY Section 7, Chapter 292, O.S.L.  
17 2016 (59 O.S. Supp. 2018, Section 4200.7), is amended to read as  
18 follows:

19 Section 4200.7 A. A person shall not advertise, maintain,  
20 manage or operate a massage therapy school unless the school is  
21 licensed by the Oklahoma Board of Private Vocational Schools or is a  
22 technology center school accredited by the Oklahoma State Board of  
23 Career and Technology Education.

24

1 B. A person shall not instruct as a massage therapist unless  
2 the instruction is within:

3 1. Within the scope of curriculum at a ~~licensed~~ massage therapy  
4 school licensed or accredited in compliance with this section; or

5 2. Within the scope of an approved continuing education  
6 seminar.

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

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

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

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

23 ~~3. A thirty day grace period shall be allowed each license~~  
24 ~~holder after the end of the renewal period, during which time a~~

1 ~~license may be renewed upon payment of the renewal fee and a late~~  
2 ~~fee as prescribed by the Board.~~

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

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

14 ~~D. The Board shall establish a schedule of reasonable and~~  
15 ~~necessary administrative fees.~~

16 ~~E. The Board shall fix the amount of fees so that the total~~  
17 ~~fees collected shall be sufficient to meet the expenses of~~  
18 ~~administering the provisions of the Massage Therapy Practice Act~~  
19 ~~without unnecessary surpluses~~

20 An applicant for licensure pursuant to this section shall  
21 disclose whether the applicant has pleaded guilty or nolo contendere  
22 to, or been convicted of, a crime other than a minor traffic  
23 violation.

24

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

4 A. The Board may issue a temporary work permit to a person who  
5 submits a completed application accompanied by the required fees,  
6 and who:

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

11 3. Discloses whether the applicant has pleaded guilty or nolo  
12 contendere to, or been convicted of, a crime other than a minor  
13 traffic violation.

14 B. A temporary work permit issued pursuant to this section  
15 shall authorize the recipient to practice massage therapy under the  
16 direct supervision of a licensed massage therapist in accordance  
17 with rules promulgated by the Board. The permit shall expire ninety  
18 (90) days after the date it is issued and is not renewable.

19 SECTION 11. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 4200.9.2 of Title 59, unless  
21 there is created a duplication in numbering, reads as follows:

22 A. A massage therapist license shall be renewed annually. The  
23 renewal date shall be established by the State Board of Cosmetology  
24 and Barbering through adoption of a rule.

1 B. A licensee may renew a license by:

2 1. Submitting a completed renewal application on a form  
3 prepared by the Board;

4 2. Tendering the required renewal fee;

5 3. Submitting proof of completion of all continuing education  
6 requirements;

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

9 5. Disclosing any administrative or legal action taken against  
10 the licensee in any other jurisdiction governing massage therapy.

11 C. Any person who fails to renew the license within the  
12 required time may make application for renewal at any time within  
13 five (5) years from the expiration date of the license by:

14 1. Paying the regular renewal license fee and a late fee of Ten  
15 Dollars (\$10.00), which becomes due two (2) months after the  
16 expiration date; or

17 2. Submitting proof of completion of all continuing education  
18 requirements cumulative for the year or years since the license  
19 expired.

20 D. Any person who fails to renew a license within five (5)  
21 years of the expiration date must apply for a new license and meet  
22 all the requirements for original licensure.

1 SECTION 12. AMENDATORY Section 10, Chapter 292, O.S.L.  
2 2016 (59 O.S. Supp. 2018, Section 4200.10), is amended to read as  
3 follows:

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

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

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

18 SECTION 13. AMENDATORY Section 11, Chapter 292, O.S.L.  
19 2016 (59 O.S. Supp. 2018, Section 4200.11), is amended to read as  
20 follows:

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

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

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

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

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

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

12       B. The Board ~~shall~~ may take disciplinary action upon a finding  
13 that ~~the a licensee or person has committed an act of unprofessional~~  
14 ~~conduct or committed a violation of rule or law~~ violated a provision  
15 of the Massage Therapy Practice Act, violated a rule promulgated by  
16 the Board, violated other applicable law or has engaged in  
17 unprofessional conduct as defined by the Board.

18       C. Disciplinary proceedings may be instituted by ~~sworn~~ the  
19 filing of a complaint of any person, including members of the Board,  
20 and shall conform to the provisions of the Administrative Procedures  
21 Act. The Board shall conduct investigations in the same manner and  
22 according to the same terms as provided for in the Oklahoma  
23 Cosmetology and Barbering Act. Records and information obtained in  
24 connection with an investigation of alleged violations shall be

1 confidential in the same manner as provided for in the Oklahoma  
2 Cosmetology and Barbering Act and rules of the Board. However,  
3 information obtained in the course of an investigation may be  
4 referred to the appropriate law enforcement or regulatory agency.

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, rules promulgated by the Board or  
11 other applicable law and has been sanctioned by the Board shall be  
12 responsible for the payment of all costs of the disciplinary  
13 proceedings and any 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 F. The Board may issue field citations in enforcing the Massage  
18 Therapy Practice Act. Field citations may require the performance  
19 of an action and/or impose fines. Such citations shall provide  
20 notice of a hearing as provided for under this section. However, a  
21 person who receives a citation may waive the hearing and pay the  
22 fine. Payment of the fine shall constitute acknowledgement of the  
23 violation and may be considered in any future disciplinary actions  
24 by the Board.



1 SECTION 14. 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 or  
11 temporary work permit issued by the State Board of Cosmetology and  
12 Barbering;

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

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

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

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

3 ~~2. Any person who uses a professional title regulated by the~~  
4 ~~Massage Therapy Practice Act who is not authorized to use the~~  
5 ~~professional title shall be subject to disciplinary action by the~~  
6 ~~Board.~~

7 ~~3. Any person who knowingly aids and abets one or more persons~~  
8 ~~not authorized to use a professional title regulated by the Massage~~  
9 ~~Therapy Practice Act or knowingly employs or contracts with a person~~  
10 ~~or persons not authorized to use a regulated professional title in~~  
11 ~~the course of the employment, shall also be subject to disciplinary~~  
12 ~~action by the Board. It shall be a violation of the Massage Therapy~~  
13 ~~Practice Act for any person to advertise massage therapy services in~~  
14 ~~any combination with any escort or dating service as provided by~~  
15 ~~Section 15 of this act.~~

16 ~~2. It shall be a violation of the Massage Therapy Practice Act~~  
17 ~~for any person to advertise massage therapy services in any~~  
18 ~~combination with any escort or dating service.~~

19 SECTION 15. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 4200.14 of Title 59, unless  
21 there is created a duplication in numbering, reads as follows:

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

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; and/or

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.

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

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

22 D. The Board may issue field citations in enforcing this  
23 section. Such citations may impose fines. Such citations shall  
24 provide notice of a hearing as provided for under this section.

1 However, a person who receives a citation may waive the hearing and  
2 pay the fine. Payment of the fine shall constitute acknowledgement  
3 of the violation and may be considered in any future actions by the  
4 Board.

5 SECTION 16. This act shall become effective November 1, 2019.

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