

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2117

By: Ortega

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8
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 therapists; 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; providing for Board
22 inspection authority; modifying appointment of Board
23 members; directing Board to establish a fee schedule;
24 authorizing Board to issue licenses and temporary
 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

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

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

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

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

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

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

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

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

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

12 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.
13 2016 (59 O.S. Supp. 2018, Section 4200.3), is amended to read as
14 follows:

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

- 18 1. Practice massage therapy in this state;
- 19 2. Use the title of massage therapist;
- 20 ~~2.~~ 3. Represent himself or herself to be a massage therapist;
- 21 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
22 figures, signs or devices that indicate the person is a massage
23 therapist; or

1 4. 5. Utilize the terms "massage", "massage therapy" or
2 "massage therapist" when advertising or printing promotional
3 material.

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

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

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

17 D. No person shall own or operate a massage therapy
18 establishment without first obtaining an establishment license from
19 the Board.

20 E. Nothing in the Massage Therapy Practice Act shall be
21 construed to prevent:

- 22 1. Qualified members of other recognized professions who are
23 licensed or regulated ~~under~~ pursuant to Oklahoma law from rendering
24 services within the scope of the license of the person, provided the

1 person does not represent himself or herself as a massage therapist.
2 A physician or other licensed health care provider providing health
3 care services within the scope of practice of the physician or
4 provider shall not be required to be licensed by or registered with
5 the State Board of Cosmetology and Barbering;

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

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

14 4. Any nonresident person holding a current license,
15 registration or certification in massage therapy from another state
16 or recognized national certification system determined as acceptable
17 by the Board when temporarily present in this state from providing
18 massage therapy services as a part of an emergency response team
19 working in conjunction with disaster relief officials or at special
20 events such as conventions, sporting events, educational field
21 trips, conferences, traveling shows or exhibitions, provided the
22 services are not open to the general public;

23 5. Physicians or other health care professionals from
24 appropriately referring to duly licensed massage therapists or limit

1 in any way the right of direct access of the public to licensed
2 massage therapists; or

3 6. The practice of any person in this state who uses touch,
4 words and directed movement to deepen awareness of existing patterns
5 of movement in the body as well as to suggest new possibilities of
6 movement while engaged within the scope of practice of a profession
7 with established standards and ethics, provided that the services
8 are not designated or implied to be massage or massage therapy.

9 Practices shall include but are not limited to the Feldenkrais
10 Method of somatic education, Rolf Movement Integration by the Rolf
11 Institute, the Trager Approach of movement education, and Body-Mind
12 Centering. Practitioners shall be recognized by or meet the
13 established standards of either a professional organization or
14 credentialing agency that represents or certifies the respective
15 practice based on a minimal level of training, demonstration of
16 competency, and adherence to ethical standards.

17 ~~E.~~ F. A physician or other licensed health care provider
18 providing health care services within ~~their~~ his or her scope of
19 practice shall not be required to be licensed or registered with the
20 State Board of Cosmetology and Barbering.

21 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.
22 2016 (59 O.S. Supp. 2018, Section 4200.4), is amended to read as
23 follows:

24

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

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

14 C. 1. There is hereby created an Advisory Board on Massage
15 Therapy. The Advisory Board on Massage Therapy shall assist the
16 State Board of Cosmetology and Barbering in carrying out the
17 provisions of this section regarding the qualifications,
18 examination, registration, regulation, and standards of professional
19 conduct of massage therapists. The Advisory Board on Massage
20 Therapy shall consist of ~~five (5)~~ seven (7) members to be appointed
21 by the Governor ~~for four-year terms~~ as follows:

22 ~~1. Three~~

23 a. four members who shall be licensed massage therapists
24 and have practiced in Oklahoma for not less than three

1 (3) years prior to their appointment~~+~~. One member
2 shall be appointed to an initial term that shall
3 expire on June 30, 2021. One member shall be
4 appointed to an initial term that shall expire on June
5 30, 2022. Two members shall be appointed to an
6 initial term that shall expire on June 30, 2023. All
7 successive terms for the positions under this
8 subsection shall be for four (4) years each,

9 ~~2. One~~

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

17 ~~3. One~~

18 c. one member who shall be a ~~citizen~~ public member. The
19 member shall be appointed to an initial term that
20 shall expire on June 30, 2022. All successive terms
21 for this position shall be for four (4) years each,
22 and
23 d. one member who shall hold an establishment license.
24 The member shall be appointed to an initial term that

1 expires on June 30, 2023. All successive terms for
2 this position shall be for four (4) years each.

3 2. A person appointed to fill a position that has become vacant
4 shall serve the remainder of the term of the vacated position. The
5 person shall be eligible for reappointment to successive four-year
6 terms thereafter.

7 D. 1. The Board shall establish a schedule of reasonable and
8 necessary administrative fees.

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

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

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

23 B. The Board may deny or place probationary conditions on an
24 original massage therapist license or temporary work permit 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 practice of massage therapy;

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

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

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

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

9 4. The applicant has previously held a license or permit by the
10 Board and the license or permit has been revoked or the applicant
11 has been the subject of disciplinary action by the Board; or

12 5. The applicant attempts to obtain the license or permit by
13 means of fraud, misrepresentation, deceit or concealment of material
14 facts.

15 D. As used in this section:

16 1. "Substantially relates" means the nature of criminal conduct
17 for which the person was convicted, or to which the person has
18 pleaded guilty or nolo contendere, has a direct bearing on the
19 fitness or ability to perform one or more of the duties or
20 responsibilities necessarily related to the occupation; and

21 2. "Poses a reasonable threat" means the nature of criminal
22 conduct for which the person was convicted, or to which the person
23 pleaded guilty or nolo contendere, involved an act or threat of harm
24

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

3 E. The Board may require an applicant for an original therapist
4 license or an original establishment license to submit to a national
5 criminal history record check as defined at Section 150.9 of Title
6 74 of the Oklahoma Statutes. The costs associated with the national
7 criminal history record check shall be paid by the applicant.

8 SECTION 5. AMENDATORY Section 5, Chapter 292, O.S.L.
9 2016 (59 O.S. Supp. 2018, Section 4200.5), is amended to read as
10 follows:

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

- 17 1. Is at least eighteen (18) years of age;
- 18 2. ~~Has~~ Submits one or more of the following:
 - 19 a. documentation that the applicant has completed and
20 passed a nationally recognized competency examination
21 in the practice of massage therapy,
 - 22 b. an affidavit of at least five (5) years of work
23 experience ~~in the state~~ as a massage therapist, or
24

1 c. a certificate and transcript of completion from a
2 massage school with at least five hundred (500) hours
3 of education; and

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

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

10 a. ~~pleading guilty, pleading nolo contendere or receiving~~
11 ~~a conviction of a felony,~~

12 b. ~~pleading guilty, pleading nolo contendere or receiving~~
13 ~~a conviction of a misdemeanor involving moral~~
14 ~~turpitude, or~~

15 c. ~~pleading guilty, pleading nolo contendere or receiving~~
16 ~~a conviction for violation of federal or state~~
17 ~~controlled dangerous substance laws.~~

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

23 ~~C. 1. After May 1, 2017, except as otherwise provided in the~~
24 ~~Massage Therapy Practice Act, every person desiring to practice~~

1 ~~message therapy in this state shall be required to first obtain a~~
2 ~~license from the Board~~

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

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

9 ~~a. is~~

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

11 ~~b. provides~~

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

15 ~~c. provides~~

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

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

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

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

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

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

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

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

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

22 3. Discloses whether the applicant holds or has held a massage
23 establishment license in another jurisdiction and whether
24 disciplinary action has ever been taken against the applicant

1 including, but not limited to, suspension or revocation of the
2 license; and

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

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

9 D. Establishment licenses shall be renewed annually. The
10 renewal date shall be established by the Board through
11 administrative rules.

12 E. A licensee may renew a license by:

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

15 2. Tendering the required renewal fee;

16 3. Disclosing any plea of guilty or nolo contendere to, or
17 conviction of, a crime other than minor traffic violations; and

18 4. Disclosing any administrative or legal action taken against
19 the licensee in any other jurisdiction governing massage therapy.

20 SECTION 7. AMENDATORY Section 6, Chapter 292, O.S.L.
21 2016 (59 O.S. Supp. 2018, Section 4200.6), is amended to read as
22 follows:

23 Section 4200.6 A. A massage ~~therapy~~ therapist or establishment
24 license issued by the State Board of Cosmetology and Barbering shall

1 at all times be posted in a conspicuous place in the principal place
2 of business of the holder.

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

5 SECTION 8. AMENDATORY Section 7, Chapter 292, O.S.L.
6 2016 (59 O.S. Supp. 2018, Section 4200.7), is amended to read as
7 follows:

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

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

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

17 2. Within the scope of an approved continuing education
18 seminar.

19 SECTION 9. AMENDATORY Section 9, Chapter 292, O.S.L.
20 2016 (59 O.S. Supp. 2018, Section 4200.9), is amended to read as
21 follows:

22 Section 4200.9 A. The State Board of Cosmetology and Barbering
23 may issue an original license to an applicant, ~~provided that the~~
24 ~~applicant~~ who possesses a valid license or registration to practice

1 massage therapy issued by the appropriate examining board ~~under~~
2 pursuant to the laws of any other state or territory of the United
3 States, the District of Columbia or any foreign nation and has met
4 educational and examination requirements equal to or exceeding those
5 established pursuant to the Massage Therapy Practice Act.

6 B. 1. ~~Massage therapy licenses shall expire biennially.~~
7 ~~Expiration dates shall be established by the Board through adoption~~
8 ~~of a rule.~~

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

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

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

20 2. ~~If within a period of one (1) year from the date the license~~
21 ~~was placed on inactive status the massage therapist wishes to resume~~
22 ~~practice, the massage therapist shall notify the Board in writing~~
23 ~~and, upon receipt of proof of completion of all continuing education~~
24

1 ~~requirements and payment of an amount set by the Board in lieu of~~
2 ~~all lapsed renewal fees, the license shall be restored in full.~~

3 ~~D. The Board shall establish a schedule of reasonable and~~
4 ~~necessary administrative fees.~~

5 ~~E. The Board shall fix the amount of fees so that the total~~
6 ~~fees collected shall be sufficient to meet the expenses of~~
7 ~~administering the provisions of the Massage Therapy Practice Act~~
8 ~~without unnecessary surpluses~~

9 An applicant for licensure pursuant to this section shall
10 disclose whether the applicant has pleaded guilty or nolo contendere
11 to, or been convicted of, a crime other than a minor traffic
12 violation.

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

16 A. The State Board of Cosmetology and Barbering may issue a
17 temporary work permit to a person who submits a completed
18 application accompanied by the required fees, and who:

- 19 1. Is at least eighteen (18) years of age;
- 20 2. Provides documentation that the applicant has completed the
21 equivalent of five hundred (500) hours of formal education in
22 massage therapy from a state-licensed school; and
- 23
- 24

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

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

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

15 B. A licensee may renew a license by:

16 1. Submitting a completed renewal application on a form
17 prepared by the Board;

18 2. Tendering the required renewal fee;

19 3. Submitting proof of completion of all continuing education
20 requirements;

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

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

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

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

7 2. Submitting proof of completion of all continuing education
8 requirements cumulative for the year or years since the license
9 expired.

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

13 SECTION 12. AMENDATORY Section 10, Chapter 292, O.S.L.
14 2016 (59 O.S. Supp. 2018, Section 4200.10), is amended to read as
15 follows:

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

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

1 C. Municipalities, counties and political subdivisions may
2 enact ordinances or resolutions regulating the operation times of a
3 massage therapy establishment. No municipal ordinance, resolution
4 or other political subdivision requirement shall prohibit the
5 operation of a massage therapy establishment between the hours of
6 9:00 a.m. and 9:00 p.m.

7 SECTION 13. AMENDATORY Section 11, Chapter 292, O.S.L.
8 2016 (59 O.S. Supp. 2018, Section 4200.11), is amended to read as
9 follows:

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

- 14 1. ~~Deny or refuse to renew a license;~~
15 2. ~~Suspend or revoke a license;~~
16 3. 2. Issue an administrative reprimand; ~~or~~
17 4. 3. Impose probationary conditions ~~when the licensee or~~
18 ~~applicant has engaged in unprofessional conduct that has endangered~~
19 ~~or is likely to endanger the health, welfare or safety of the~~
20 ~~public; or~~

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

1 B. The Board ~~shall~~ may take disciplinary action upon a finding
2 that ~~the a licensee or person has committed an act of unprofessional~~
3 ~~conduct or committed a violation of rule or law~~ violated a provision
4 of the Massage Therapy Practice Act, violated a rule promulgated by
5 the Board, violated other applicable law or has engaged in
6 unprofessional conduct as defined by the Board.

7 C. Disciplinary proceedings may be instituted by ~~sworn~~ the
8 filing of a complaint of any person, including members of the Board,
9 and shall conform to the provisions of the Administrative Procedures
10 Act. The Board shall conduct investigations in the same manner and
11 according to the same terms as provided for in the Oklahoma
12 Cosmetology and Barbering Act. Records and information obtained in
13 connection with an investigation of alleged violations shall be
14 confidential in the same manner as provided for in the Oklahoma
15 Cosmetology and Barbering Act and rules of the Board. However,
16 information obtained in the course of an investigation may be
17 referred to the appropriate law enforcement or regulatory agency.

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

22 E. A license holder who has been found ~~culpable~~ in violation of
23 the Massage Therapy Practice Act or rules promulgated by the Board
24 or other applicable law and has been sanctioned by the Board shall

1 be responsible for the payment of all costs of the disciplinary
2 proceedings and any administrative ~~fees~~ fines imposed.

3 ~~F.~~ E. The surrender or expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with disciplinary
5 action.

6 F. The Board may issue field citations in enforcing the Massage
7 Therapy Practice Act. Field citations may require the performance
8 of an action, fines, or both. Such citations shall provide notice
9 of a hearing as provided for under this section. However, a person
10 who receives a citation may waive the hearing and pay the fine.
11 Payment of the fine shall constitute acknowledgment of the violation
12 and may be considered in any future disciplinary actions by the
13 Board.

14 SECTION 14. AMENDATORY Section 13, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2018, Section 4200.13), is amended to read as
16 follows:

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

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

21 2. ~~Renders~~ Advertises, offers, renders or attempts to render
22 massage therapy services ~~or massage therapy instruction~~ without the
23 required current valid therapist or establishment license or

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1 temporary work permit issued by the State Board of Cosmetology and
2 Barbering;

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

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

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

17 2. ~~Any person who uses a professional title regulated by the~~
18 ~~Massage Therapy Practice Act who is not authorized to use the~~
19 ~~professional title shall be subject to disciplinary action by the~~
20 ~~Board.~~

21 3. Any person who knowingly aids and abets one or more persons
22 not authorized to use a professional title regulated by the Massage
23 Therapy Practice Act or knowingly employs or contracts with a person
24 or persons not authorized to use a regulated professional title in

1 the course of the employment, shall also be subject to disciplinary
2 action by the Board. ~~It shall be a violation of the Massage Therapy
3 Practice Act for any person to advertise massage therapy services in
4 any combination with any escort or dating service as provided by
5 Section 15 of this act.~~

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

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

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

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

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

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

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

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

13 D. The Board may issue field citations in enforcing this
14 section. Such citations may impose fines. Such citations shall
15 provide notice of a hearing as provided for under this section.
16 However, a person who receives a citation may waive the hearing and
17 pay the fine. Payment of the fine shall constitute acknowledgment
18 of the violation and may be considered in any future actions by the
19 Board.

20 SECTION 16. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
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23
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
5 02/18/2019 - DO PASS, As Amended.

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