

1 STATE OF OKLAHOMA

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

3 SENATE BILL 100

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to the Massage Therapy Practice Act;
8 amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S.
9 Supp. 2018, Section 4200.2), which relates to
10 definitions; modifying definitions; amending Section
11 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018,
12 Section 4200.3), which relates to licensed massage
13 therapist; modifying prohibited acts; updating
14 statutory reference; prohibiting certain acts without
15 first obtaining a license; amending Section 4,
16 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
17 4200.4), which relates to authority of State Board of
18 Cosmetology and Barbering; allowing Board to take
19 certain disciplinary action under certain
20 circumstances; providing certain construction;
21 directing Board to establish a fee schedule;
22 modifying fee amounts; amending Section 5, Chapter
23 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
24 4200.5), which relates to license requirements;
25 modifying date; clarifying provisions related to
26 applications; requiring national criminal history
27 record check; prohibiting certain acts without first
28 obtaining a massage therapy establishment license;
29 setting forth requirements for establishment license;
30 authorizing Board to deny establishment license or
31 place probationary conditions on establishment
32 license under certain conditions; defining terms;
33 providing for Board inspection authority; requiring
34 compliance with certain laws and rules; providing
35 license renewal procedures and requirements; amending
36 Section 6, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
37 2018, Section 4200.6), which relates to license
38 posting required; modifying type of license; amending
39 Section 7, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
40 2018, Section 4200.7), which relates to massage
41 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; establishing certain fee; requiring
7 therapist license to be renewed annually; setting
8 forth renewal procedures; amending Section 10,
9 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
10 4200.10), which relates to preemption; adding
11 establishments to certain provision; providing
12 exceptions; allowing municipalities, counties and
13 political subdivisions to enact certain regulations;
14 prohibiting regulation during certain hours; amending
15 Section 11, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
16 2018, Section 4200.11), which relates to disciplinary
17 actions and proceedings; modifying disciplinary
18 actions and proceedings; providing procedure for
19 investigations; making certain records and
20 information confidential; setting maximum
21 administrative fine; amending Section 13, Chapter
22 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
23 4200.13), which relates to violations; modifying
24 action which shall constitute misdemeanors upon
25 conviction; prohibiting unauthorized use of certain
26 title; providing that massage therapy services shall
27 not be advertised in combination with certain
28 services; providing certain administrative fine and
29 legal recourse; providing for codification; and
30 providing an effective date.

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

32 SECTION 1. AMENDATORY Section 2, Chapter 292, O.S.L.
33 2016 (59 O.S. Supp. 2018, Section 4200.2), is amended to read as
34 follows:

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

36 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

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, other than a licensed
7 cosmetology or barbering establishment, where a person engages in,
8 conducts, carries on or permits to be engaged in the practice of
9 massage therapy; and

10 6. "Massage therapy school" means a facility providing
11 instruction in massage therapy.

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 massage
16 therapist, a person shall not:

- 17 1. Practice massage therapy in this state;
18 2. Use the title of massage therapist;
19 ~~2.~~ 3. Represent himself or herself to be a massage therapist;
20 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
21 figures, signs or devices that indicate the person is a massage
22 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. Nothing in the Massage Therapy Practice Act shall be
18 construed to prevent:

- 19 1. Qualified members of other recognized professions who are
20 licensed or regulated ~~under~~ pursuant to Oklahoma law from rendering
21 services within the scope of the license of the person, provided the
22 person does not represent himself or herself as a massage therapist.
23 A physician or other licensed health care provider providing health
24 care services within the scope of practice of the physician or

1 provider shall not be required to be licensed by or registered with
2 the State Board of Cosmetology and Barbering;

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

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

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

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

23 6. The practice of any person in this state who uses touch,
24 words and directed movement to deepen awareness of existing patterns

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

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

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

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

23 Section 4200.4. A. The State Board of Cosmetology and
24 Barbering is hereby authorized to adopt and promulgate rules

1 pursuant to the Administrative Procedures Act that are necessary for
2 the implementation and enforcement of the Massage Therapy Practice
3 Act, including, but not limited to, qualifications for licensure,
4 renewals, reinstatements, and continuing education requirements.

5 B. The State Board of Cosmetology and Barbering is hereby
6 empowered to perform investigations, to require the production of
7 records and other documents relating to practices regulated by the
8 Massage Therapy Practice Act, and to seek injunctive relief.

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

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

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

17 1. Three members who shall be licensed massage therapists and
18 have practiced in Oklahoma for not less than three (3) years prior
19 to their appointment;

20 2. One member who shall be an administrator or faculty member
21 of a ~~nationally accredited school of~~ massage therapy school duly
22 licensed or accredited pursuant to Section 4200.7 of this title; and
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1 3. One member who shall be a ~~citizen member~~ person who is not
2 licensed as a massage therapist and does not own an interest in a
3 massage therapy establishment.

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, 2019, 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, 2019, 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;

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;

21 c. ~~provides~~

22 3. Provides documentation that the applicant has passed a
23 nationally recognized competency examination approved by the Board;
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 license to an applicant who:

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

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

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

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

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

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

22 D. The Board may deny a license or place probationary
23 conditions on a license if the applicant has pleaded guilty, nolo
24 contendere or been convicted of a crime that substantially relates

1 to the ownership, operation or management of a massage establishment
2 or poses a reasonable threat to public health or safety.

3 For purposes of this subsection:

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

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

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

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

18 2. A licensee may renew a license by:

- 19 a. submitting a completed renewal application on a form
20 prepared by the Board,
21 b. tendering the required renewal fee,
22 c. providing proof of liability insurance,

1 d. disclosing any plea of guilty or nolo contendere or
2 conviction of any crime other than minor traffic
3 violations, and

4 e. disclosing any administrative or legal action taken
5 against the licensee in any other jurisdiction
6 governing massage therapy.

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

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

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

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

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

22 SECTION 7. AMENDATORY Section 7, Chapter 292, O.S.L.
23 2016 (59 O.S. Supp. 2018, Section 4200.7), is amended to read as
24 follows:

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

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

11 SECTION 8. AMENDATORY Section 9, Chapter 292, O.S.L.
12 2016 (59 O.S. Supp. 2018, Section 4200.9), is amended to read as
13 follows:

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

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

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

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

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

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

21 D. ~~The Board shall establish a schedule of reasonable and~~
22 ~~necessary administrative fees.~~

23 E. ~~The Board shall fix the amount of fees so that the total~~
24 ~~fees collected shall be sufficient to meet the expenses of~~

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

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

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

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

18 B. A licensee may renew a license by:

19 1. Submitting a completed renewal application on a form
20 prepared by the Board;

21 2. Tendering the required renewal fee;

22 3. Submitting proof of completion of all continuing education
23 requirements;

24 4. Providing proof of liability insurance;

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

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

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

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

- 13 3. A person may renew a license on inactive status by:
- 14 a. submitting a completed renewal application on a form
 - 15 prepared by the Board,
 - 16 b. tendering the required renewal fee for the year in
 - 17 which the license is reactivated,
 - 18 c. tendering a late fee as prescribed by the Board,
 - 19 d. submitting proof of completion of all continuing
 - 20 education requirements cumulative for the years the
 - 21 license was inactive,
 - 22 e. submitting proof of completion of forty (40) review
 - 23 hours and twelve (12) hours of sanitation and body
 - 24

1 care in addition to the cumulative continuing
2 education requirements,

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

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

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

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

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

23 C. Municipalities, counties and political subdivisions may
24 enact ordinances or resolutions regulating the operation times of a

1 massage establishment. No municipal ordinance, resolution or other
2 political subdivision requirement shall prohibit the operation of a
3 massage establishment between the hours of 9:00 a.m. and 9:00 p.m.
4 Monday through Saturday.

5 SECTION 11. AMENDATORY Section 11, Chapter 292, O.S.L.
6 2016 (59 O.S. Supp. 2018, Section 4200.11), is amended to read as
7 follows:

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

- 12 1. ~~Deny or refuse to renew a license;~~
 - 13 2. ~~Suspend or revoke a license;~~
 - 14 3. ~~2.~~ Issue an administrative reprimand; or
 - 15 4. ~~3.~~ Impose probationary conditions when the licensee or
16 applicant has engaged in unprofessional conduct that has endangered
17 or is likely to endanger the health, welfare or safety of the
18 public;
 - 19 4. Assess an administrative fine of not more than Five Hundred
20 Dollars (\$500.00) for each violation of the Massage Therapy Practice
21 Act or rule of the Board. Each day a violation continues shall
22 constitute a separate offense; or
 - 23 5. By taking a combination of the above-stated actions.
- 24
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1 B. The Board ~~shall~~ may take disciplinary action upon a finding
2 that ~~the~~ a licensee or person has violated a provision of the
3 Massage Therapy Practice Act, or rules promulgated by the Board
4 ~~committed an act of unprofessional conduct or committed a violation~~
5 ~~of rule or law.~~

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

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

19 ~~E.~~ A license holder who has been found ~~culpable~~ in violation of
20 the Massage Therapy Practice Act or rules promulgated by the Board
21 and has been sanctioned by the Board shall be responsible for the
22 payment of all costs of the disciplinary proceedings and any
23 administrative ~~fees~~ finer imposed.
24

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

4 SECTION 12. AMENDATORY Section 13, Chapter 292, O.S.L.
5 2016 (59 O.S. Supp. 2018, Section 4200.13), is amended to read as
6 follows:

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

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

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

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

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

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

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

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

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

20 SECTION 13. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 4200.14 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 A. In addition to any civil or criminal actions authorized by
24 law, whenever, in the judgment of the Oklahoma Board of Cosmetology
25

1 and Barbering, any unlicensed person has engaged in any acts or
2 practices which constitute a violation of the Massage Therapy
3 Practice Act or rules of the Board, the Board may:

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

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

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

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

23 C. Each day a violation continues shall be a separate offense.
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1 SECTION 14. This act shall become effective November 1, 2019.

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