

1 **SENATE FLOOR VERSION**

2 February 27, 2023

3 **AS AMENDED**

4 SENATE BILL NO. 633

5 By: Daniels

6 [**massage therapy - licensing - authority -**
7 **appointments - fees - conditions - disclosure - record**
8 **check - insurance - renewal - license postage -**
9 **massage therapy schools - work permits - continuing**
10 **education - reapplication - preemption - disciplinary**
11 **actions and proceedings - investigations - exception -**
12 **fines - citations - hearing - punishment - violations**
13 **- repealer - codification - effective date]**

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

15 SECTION 1. AMENDATORY 59 O.S. 2021, Section 4200.2, is
16 amended to read as follows:

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

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

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

22 3. "Massage therapist" means an individual who practices
23 massage or massage therapy and is licensed under the Massage Therapy
24 Practice Act. A massage therapist uses visual, kinesthetic, and
palpatory skills to assess the body and may evaluate a condition to

1 the extent of determining whether massage is indicated or
2 contraindicated;

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

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

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

21 5. "Massage therapy establishment" means any fixed business
22 location, address, building, or property, where a person engages in,
23 conducts, carries on, or permits the practice of massage therapy.
24 This term shall exclude offices or workplaces of licensed health

1 care professionals exempted from the provisions of the Massage
2 Therapy Practice Act;

3 6. "Massage therapy school" means a facility providing
4 instruction in massage therapy;

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

8 8. "Poses a reasonable threat" means the nature of criminal
9 conduct for which the person was convicted, charged, or to which the
10 person has pleaded guilty or nolo contendere, involved an act or
11 threat of harm against another and has a bearing on the fitness or
12 ability to serve the public or work with others in massage therapy
13 consistent to the provisions in Section 4000.1 of this title; and

14 9. "Substantially relates" means the nature of the criminal
15 conduct for which the person was convicted, charged, or to which the
16 person pleaded guilty or nolo contendere, has a direct bearing on
17 the fitness or ability to perform one or more of the duties or
18 responsibilities necessarily related to massage therapy consistent
19 to the provisions in Section 4000.1 of this title.

20 SECTION 2. AMENDATORY 59 O.S. 2021, Section 4200.3, is
21 amended to read as follows:

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

- 1 1. Practice massage therapy in this state;
- 2 2. Use the title of massage therapist;
- 3 ~~2.~~ 3. Represent himself or herself to be a massage therapist;
- 4 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
- 5 figures, signs or devices that indicate the person is a massage
- 6 therapist; or
- 7 ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or
- 8 "massage therapist" when advertising or printing promotional
- 9 material.

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

15 C. Individuals practicing massage therapy under the Massage
16 Therapy Practice Act shall not perform any of the following:

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

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1 D. No person shall own or operate a massage therapy
2 establishment without first obtaining an establishment license from
3 the Board.

4 E. Nothing in the Massage Therapy Practice Act shall be
5 construed to prevent:

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

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

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

22 4. Any nonresident person holding a current license,
23 registration or certification in massage therapy from another state
24 or recognized national certification system determined as acceptable

1 by the Board when temporarily present in this state from providing
2 massage therapy services as a part of an emergency response team
3 working in conjunction with disaster relief officials or at special
4 events such as conventions, sporting events, educational field
5 trips, conferences, traveling shows or exhibitions, as long as the
6 services are not open to the general public;

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

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

1 ~~E.~~ F. A physician or other licensed health care provider
2 providing health care services within their scope of practice shall
3 not be required to be licensed or registered with the State Board of
4 Cosmetology.

5 SECTION 3. AMENDATORY 59 O.S. 2021, Section 4200.4, is
6 amended to read as follows:

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

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

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

1 conduct of massage therapists. The Advisory Board on Massage
2 Therapy shall consist of five (5) members to be appointed by the
3 Governor for four-year terms as follows:

4 1. Three members who shall be licensed massage therapists and
5 have practiced in Oklahoma for not less than three (3) years prior
6 to their appointment. One member shall be appointed to an initial
7 term that shall expire on June 30, 2025. One member shall be
8 appointed to an initial term that shall expire on June 30, 2026.
9 One member shall be appointed to an initial term that shall expire
10 on June 30, 2027. All successive terms for the positions provided
11 in this subsection shall be for four (4) years each;

12 2. One member who shall be an administrator or faculty member
13 of a ~~nationally accredited school of~~ massage therapy school duly
14 licensed or accredited pursuant to Section 4200.7 of this title.
15 The member shall be appointed to an initial term that shall expire
16 on June 30, 2025. All successive terms for this position shall be
17 for four (4) years each; and

18 3. One member who shall be a ~~citizen~~ public member. The member
19 shall be appointed to an initial term that shall expire on June 30,
20 2026. All successive terms for this position shall be for four (4)
21 years each.

22 D. A person appointed to fill a position that has become vacant
23 shall serve the remainder of the term of the vacated position. The
24

1 person shall be eligible for appointment to successive four-year
2 terms thereafter.

3 E. The initial and renewal fee for any a massage therapy
4 license issued between the effective date of this act and May 1,
5 2017, shall be Twenty five Dollars (\$25.00). The fee or renewal fee
6 for any massage therapy license issued after May 1, 2017, shall be
7 Fifty Dollars (\$50.00) per year. The initial and renewal fee for an
8 establishment license shall be Fifty Dollars (\$50.00). A duplicate
9 license fee shall be ~~Ten Dollars (\$10.00)~~ Five Dollars (\$5.00).

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

13 A. The State Board of Cosmetology and Barbering shall have
14 authority to issue massage therapy licenses, temporary work permits,
15 and massage establishment licenses as provided in the Massage
16 Therapy Practice Act.

17 B. The Board may deny or place probationary conditions on a
18 massage therapy license or temporary work permit if:

19 1. The applicant has pleaded guilty, nolo contendere or been
20 convicted of a crime, or has a criminal charge currently pending,
21 that substantially relates to the practice of massage therapy and
22 that poses a reasonable threat to public health or safety;

23 2. The applicant has had a license or permit denied or has been
24 the subject of disciplinary action in another jurisdiction, if the

1 grounds for the denial or disciplinary action would constitute cause
2 for denial or disciplinary action pursuant to the Massage Therapy
3 Practice Act or the Board's rules;

4 3. The applicant has previously held a license or permit by the
5 Board and the license or permit has been revoked or the applicant
6 has been the subject of disciplinary action by the Board; or

7 4. The applicant attempts to obtain the license or permit by
8 means of fraud, misrepresentation, deceit, or concealment of
9 material facts.

10 C. The Board may deny or place probationary conditions on a
11 massage establishment license if:

12 1. The applicant has pleaded guilty, nolo contendere, or been
13 convicted of a crime, or has a criminal charge currently pending,
14 that substantially relates to the ownership, operation, or
15 management of a massage therapy establishment and that poses a
16 reasonable threat to public health and safety;

17 2. The applicant has had a license or permit denied or has been
18 the subject of disciplinary action in another jurisdiction, if the
19 grounds for the denial or disciplinary action would constitute cause
20 for denial or disciplinary action pursuant to the Massage Therapy
21 Practice Act or the Board's rule;

22 3. The applicant has previously held a license or permit by the
23 Board and the license or permit has been revoked or the applicant
24 has been the subject of disciplinary action by the Board; or

1 4. The applicant attempts to obtain the license or permit by
2 means of fraud, misrepresentation, deceit, or concealment of
3 material facts.

4 D. The Board may require an applicant for an initial massage
5 therapy license, temporary work permit, or an initial establishment
6 license to submit to a national criminal history record check as
7 defined at Section 150.9 of Title 74 of the Oklahoma Statutes. The
8 costs associated with the national criminal history record check
9 shall be paid by the applicant.

10 SECTION 5. AMENDATORY 59 O.S. 2021, Section 4200.5, is
11 amended to read as follows:

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

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

18 2. ~~Has 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, or~~

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

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 to~~
9 ~~pleading guilty or nolo contendere to, or receiving a conviction~~
10 ~~for, a felony crime that substantially relates to the practice of~~
11 ~~massage therapy and poses a reasonable threat to public safety.~~

12 ~~B. To assist in determining the entry level competence of an~~
13 ~~applicant who makes application for a license after May 1, 2017, the~~
14 ~~Board may adopt rules establishing additional standards or criteria~~
15 ~~for examination acceptance and may adopt only those examinations~~
16 ~~that meet the standards outlined in Section 4200.8 of this title.~~

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

21 ~~2. After May 1, 2017, the B. The Board may issue a an initial~~
22 ~~massage therapy license to an applicant a person who files a~~
23 ~~completed application, accompanied by the required fees, and who:~~

24 ~~a. is 1. Is at least eighteen (18) years of age;~~

1 ~~b. provides~~ 2. Provides documentation that the applicant has
2 ~~completed the equivalent of five hundred (500) hours of formal~~
3 ~~education in massage therapy from a state licensed school,~~

4 ~~e. provides~~ graduated from a state licensed or accredited
5 massage therapy school with at least five hundred (500) clock hours
6 of formal education;

7 3. Provides documentation that the applicant has passed a
8 nationally recognized competency examination approved by the Board,

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

11 ~~e. provides; and~~

12 4. Provides full disclosure to the Board of any criminal
13 proceeding taken against the applicant including pending criminal
14 charges, pleading guilty or nolo contendere to, or receiving a
15 conviction for, a ~~felony~~ crime that substantially relates to the
16 practice of massage therapy and poses a reasonable threat to public
17 safety.

18 ~~D. As used in this section:~~

19 ~~1. "Substantially relates" means the nature of criminal conduct~~
20 ~~for which the person was convicted has a direct bearing on the~~
21 ~~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 involved an act or threat~~

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

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

6 A. No person shall own or operate a massage therapy
7 establishment without obtaining an establishment license from the
8 State Board of Cosmetology and Barbering.

9 B. The Board may issue an initial establishment license to an
10 applicant who:

- 11 1. Is at least eight (18) years of age;
- 12 2. Discloses whether the applicant has been denied a massage
13 therapy establishment license in another jurisdiction;
- 14 3. Discloses whether the applicant holds or has held a massage
15 therapy establishment license in another jurisdiction and whether
16 disciplinary action has ever been taken against the applicant
17 including, but not limited to, suspension or revocation of the
18 license; and
- 19 4. Discloses whether the applicant has pleaded guilty, nolo
20 contendere or been convicted of a crime, or has a criminal charge
21 currently pending, that substantially relates to the practice of
22 massage therapy and that poses a reasonable threat to public health
23 and safety.

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1 C. All massage therapy establishments shall be subject to
2 inspection by the Board and shall comply with all provisions of the
3 Massage Therapy Practice Act and rules of the Board. Inspection of
4 a private residence licensed as a massage therapy establishment
5 shall be limited to areas where massage therapy is practiced,
6 including any restroom made available to massage therapy clients.

7 D. A massage therapy establishment license shall be renewed
8 annually. The renewal date shall be established by the Board
9 through adoption of a rule.

10 E. A licensee may renew a massage therapy establishment license
11 by:

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

14 2. Tendering the required renewal fee;

15 3. Disclosing any plea of guilty, nolo contendere or conviction
16 of a crime, or pending criminal charge, other than a minor traffic
17 violation in any jurisdiction within the preceding licensure year;
18 and

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

21 SECTION 7. AMENDATORY 59 O.S. 2021, Section 4200.6, is
22 amended to read as follows:

23 Section 4200.6. A. A massage therapy license or massage
24 therapy establishment license issued by the State Board of

1 Cosmetology and Barbering shall at all times be posted in a
2 conspicuous place in ~~the principal~~ each place of business of the
3 holder in which massage therapy is performed.

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

6 SECTION 8. AMENDATORY 59 O.S. 2021, Section 4200.7, is
7 amended to read as 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 the scope of curriculum at a licensed~~
15 ~~massage therapy school.~~

16 SECTION 9. AMENDATORY 59 O.S. 2021, Section 4200.9, is
17 amended to read as follows:

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

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1 ~~and examination requirements equal to or exceeding those established~~
2 ~~pursuant to the Massage Therapy Practice Act.~~

3 ~~B. 1. Massage therapy licenses shall expire biennially.~~

4 ~~Expiration dates shall be established by the Board through adoption~~
5 ~~of a rule.~~

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

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

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

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

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

1 ~~E. The Board shall fix the amount of fees so that the total~~
2 ~~fees collected shall be sufficient to meet the expenses of~~
3 ~~administering the provisions of the Massage Therapy Practice Act~~
4 ~~without unnecessary surpluses.~~

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

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

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

12 2. Provides documentation that the applicant has graduated from
13 a state licensed or accredited massage therapy school with at least
14 five hundred (500) clock hours of formal education; and

15 3. Discloses whether the applicant has pleaded guilty, nolo
16 contendere or been convicted of a crime, or has a criminal charge
17 currently pending, that substantially relates to the practice of
18 massage therapy and that poses a reasonable threat to public health
19 or safety.

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

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

4 A. A massage therapy license shall be renewed biannually. The
5 renewal date shall be established by the State Board of Cosmetology
6 and Barbering through adoption of a rule.

7 B. A licensee may renew a license by:

8 1. Submitting a completed renewal application on a form
9 prepared by the Board;

10 2. Tendering the required renewal fee;

11 3. Submitting proof of completion of all continuing education
12 requirements;

13 4. Disclosing any plea of guilty, nolo contendere or conviction
14 of a crime, or pending criminal charge, other than a minor traffic
15 violation in any jurisdiction within the preceding licensure year;
16 and

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

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

22 1. Paying the regular renewal license fee and a late fee of Ten
23 Dollars (\$10.00) for each expired year, which becomes due sixty (60)
24 days after the expiration date; and

1 2. Submitting proof of completion of all continuing education
2 requirement cumulative for the years since the license expired.

3 D. Any person who fails to renew a license within five (5)
4 years of the expiration date shall apply for a new license and meet
5 all the requirements for initial licensure.

6 SECTION 12. AMENDATORY 59 O.S. 2021, Section 4200.10, is
7 amended to read as follows:

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

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

17 SECTION 13. AMENDATORY 59 O.S. 2021, Section 4200.11, is
18 amended to read as follows:

19 Section 4200.11. A. The State Board of Cosmetology and
20 Barbering may take disciplinary action against a person licensed
21 pursuant to the Massage Therapy Practice Act as follows:

- 22 1. Deny or refuse to renew a license;
- 23 2. Suspend or revoke a license;
- 24 3. Issue an administrative reprimand; or

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

5 B. The Board shall take disciplinary action upon a finding that
6 the licensee or person has committed an act of unprofessional
7 conduct or committed a violation of rule or law.

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

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

1 E. A license holder who has been found ~~culpable~~ in violation of
2 the Massage Therapy Practice Act, rules of the Board, or other
3 applicable law and sanctioned by the Board shall be responsible for
4 the payment of all costs of the disciplinary proceedings and any
5 administrative fees imposed.

6 F. The surrender or expiration of a license shall not deprive
7 the Board of jurisdiction to proceed with disciplinary action.

8 G. The Board may assess an administrative fine of not more than
9 Two Hundred and Fifty Dollars (\$250.00) for each violation of the
10 Massage Therapy Practice Act or rule of the Board, except as
11 provided in subsection H of this section. Each day a violation
12 continues shall constitute a continued or flagrant violation of
13 these rules, such that the Board may refuse to renew the related
14 license or issue an initial license where the individual cited is
15 unlicensed, unless and until the citation is paid.

16 H. The Board shall have the authority to levy administrative
17 finest not to exceed Two Hundred Fifty Dollars (\$250.00) for persons
18 practicing massage therapy without a license, and for owners of a
19 massage therapy establishments who allow unlicensed individuals to
20 practice massage therapy without a license in their establishment.
21 Each day a violation continues shall be a separate offense;
22 provided, the administrative fine for violations of this subsection
23 shall not exceed a total of Two Hundred Fifty Dollars (\$250.00) per
24 month.

1 I. The Board may issue field citations in enforcing the Massage
2 Therapy Practice Act. Field citations may require the performance
3 of an action and impose fines. Such citations shall provide notice
4 of a hearing as provided under this section; provided, a person who
5 receives a citation may waive the hearing and pay the fine. Payment
6 of the fine shall constitute acknowledgement of the violation and
7 may be considered in any further disciplinary action by the Board.

8 SECTION 14. AMENDATORY 59 O.S. 2021, Section 4200.13, is
9 amended to read as follows:

10 Section 4200.13. A. A person who does any of the following
11 shall be guilty of a misdemeanor ~~upon conviction~~:

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

14 2. Renders or attempts to render massage therapy services or
15 massage therapy instruction without the required current valid
16 massage therapy or massage therapy establishment license or
17 temporary work permit issued by the State Board of Cosmetology and
18 Barbering;

19 3. Permits any person in one's employ, supervision, or control
20 to practice massage therapy unless that person has obtained an
21 appropriate license from the Board;

22 4. Advertises or uses a designation, diploma or certificate
23 implying that the person offers massage therapy instruction or is a
24 massage therapy school unless the person holds a current valid

1 license issued by the Oklahoma Board of Private Vocational Schools
2 or is a technology center school accredited by the Oklahoma State
3 Board of Career and Technology Education; or

4 ~~4.~~ 5. Advertises or uses a designation, diploma, or certificate
5 implying that the person is a massage therapist unless the person
6 holds a current valid license issued by the State Board of
7 Cosmetology and Barbering.

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

12 2. Any person who uses a professional title regulated by the
13 Massage Therapy Practice Act who is not authorized to use the
14 professional title shall be subject to disciplinary action by the
15 Board.

16 3. Any person who knowingly aids and abets one or more persons
17 not authorized to use a professional title regulated by the Massage
18 Therapy Practice Act or knowingly employs or contracts with a person
19 or persons not authorized to use a regulated professional title in
20 the course of the employment, shall also be subject to disciplinary
21 action by the Board. It shall be a violation of the Massage Therapy
22 Practice Act for any person to advertise massage therapy services in
23 any combination with any escort or dating service.

24

1 SECTION 15. REPEALER 59 O.S. 2021, Section 4200.8, is
2 hereby repealed.

3 SECTION 16. This act shall become effective November 1, 2023.

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
5 February 27, 2023 - DO PASS AS AMENDED
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