

1 **SENATE FLOOR VERSION**

February 15, 2016

2 **AS AMENDED**

3 SENATE BILL NO. 687

By: Sykes and Sparks of the
Senate

4 and

5 Derby of the House

6
7
8 **[professions and occupations - Massage Therapy**
9 **Practice Act - codification]**

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4200.1 of Title 59, unless there
14 is created a duplication in numbering, reads as follows:

15 This act shall be known and may be cited as the "Massage Therapy
16 Practice Act".

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 4200.2 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 As used in the Massage Therapy Practice Act:

21 1. "Board" means the State Board of Medical Licensure and
22 Supervision;

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 the Massage Therapy
6 Practice Act. A massage therapist uses visual, kinesthetic, and
7 palpatory skills to assess the body and may evaluate a condition to
8 the extent of determining whether massage is indicated or
9 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, and provide for general
14 health enhancement, personal growth, education, and the
15 organization, balance and integration of the human body, and
16 includes, but is not limited to:

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

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

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

7 6. "OBPVS" means the Oklahoma Board of Private Vocational
8 Schools.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4200.3 of Title 59, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Unless a person is a licensed massage therapist, a person
13 shall not:

14 1. Use the title of massage therapist;

15 2. Represent himself or herself to be a massage therapist;

16 3. Use any other title, words, abbreviations, letters, figures,
17 signs or devices that indicate the person is a massage therapist; or

18 4. Utilize the terms "massage", "massage therapy" or "massage
19 therapist" when advertising or printing promotional material.

20 B. A person shall not maintain, manage or operate a massage
21 therapy school offering education, instruction or training in
22 massage therapy unless the school is a licensed massage therapy
23 school pursuant to Section 7 of this act.

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

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

9 D. Nothing in the Massage Therapy Practice Act shall be
10 construed to prevent:

11 1. Qualified members of other recognized professions that are
12 licensed or regulated under Oklahoma law from rendering services
13 within the scope of the license, provided the person does not
14 represent himself or herself as a massage therapist;

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

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

23 4. Any nonresident person holding a current license,
24 registration, or certification in massage therapy from another state

1 or recognized national certification system determined as acceptable
2 by the Board when temporarily present in this state from providing
3 massage therapy services as a part of an emergency response team
4 working in conjunction with disaster relief officials or at special
5 events such as conventions, sporting events, educational field
6 trips, conferences, traveling shows or exhibitions; or

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.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4200.4 of Title 59, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The State Board of Medical Licensure and Supervision is
15 hereby authorized to adopt and promulgate rules pursuant to the
16 Administrative Procedures Act that are necessary for the
17 implementation and enforcement of the Massage Therapy Practice Act,
18 including, but not limited to, qualifications for licensure,
19 renewals, reinstatements, and continuing education requirements.

20 B. The State Board of Medical Licensure and Supervision is
21 hereby empowered to perform investigations, to require the
22 production of records and other documents relating to practices
23 regulated by the Massage Therapy Practice Act, and to seek
24 injunctive relief.

1 C. Effective May 1, 2016, the fee or renewal fee for any
2 massage therapy license shall be Fifty Dollars (\$50.00) per year. A
3 temporary license authorized between November 1, 2015, and May 1,
4 2016, as provided in Section 5 of this act, and any license issued
5 between November 1, 2015, and May 1, 2016, shall be Twenty-five
6 Dollars (\$25.00). A duplicate license fee shall be Ten Dollars
7 (\$10.00).

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4200.5 of Title 59, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Effective November 1, 2015, the State Board of Medical
12 Licensure and Supervision shall issue a license to practice massage
13 therapy to any person who files a completed application, accompanied
14 by the required fees, and who submits satisfactory evidence that the
15 applicant:

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

17 2. Has passed the adopted examination to practice massage
18 therapy;

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

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

- 1 a. pleading guilty, pleading nolo contendere or receiving
- 2 a conviction of a felony,
- 3 b. pleading guilty, pleading nolo contendere or receiving
- 4 a conviction of a misdemeanor involving moral
- 5 turpitude, or
- 6 c. pleading guilty, pleading nolo contendere or receiving
- 7 a conviction for violation of federal or state
- 8 controlled dangerous substance laws.

9 Before issuance of a license and to assist in determining the
10 applicant's entry-level competence, the Board may adopt rules
11 establishing additional standards or criteria for exam acceptance
12 and may adopt only those examinations that meet the standards
13 outlined in Section 8 of this act.

14 B. 1. Except as provided in the Massage Therapy Practice Act,
15 every person desiring to practice massage therapy in this state
16 shall be required to first obtain a license from the State Board of
17 Medical Licensure and Supervision.

18 2. Beginning November 1, 2015, until May 1, 2016, the Board may
19 grant a temporary license to an applicant who:

- 20 a. has completed the equivalent of five hundred (500)
- 21 hours of formal education in massage therapy from a
- 22 state-licensed school and proof stating that he or she
- 23 has been a massage therapist in this state for no less
- 24 than one (1) year,

1 b. has proof that he or she has been practicing massage
2 therapy for no less than three (3) years in this
3 state, or

4 c. has equivalent of seven hundred fifty (750) hours of
5 formal education in massage therapy from a state-
6 licensed school.

7 3. All temporary licenses shall expire May 1, 2016, at which
8 time the person must have qualified for full licensure to continue
9 practice.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4200.6 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. A massage therapy license issued by the State Board of
14 Medical Licensure and Supervision shall at all times be posted in a
15 conspicuous place in the holder's principal place of business.

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

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4200.7 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 A. A person shall not advertise, maintain, manage or operate a
22 massage therapy school unless the school is licensed by the OBPVS.

1 B. A person shall not instruct as a massage therapist unless
2 the instruction is within the scope of curriculum at a licensed
3 massage therapy school.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4200.8 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

7 The required examination adopted for the Massage Therapy
8 Practice Act shall be a standardized national massage therapy
9 examination that meets the following criteria, and shall be approved
10 by the State Board of Medical Licensure and Supervision for
11 licensure:

12 1. The exam must be statistically validated through a job
13 analysis under current standards for educational and professional
14 testing;

15 2. The exam standards must comply with pertinent state and
16 federal equal employment opportunity guidelines;

17 3. The exam must be available to all potential licensing
18 candidates;

19 4. The exam must be delivered through a professional testing
20 company with high-security test centers located nationwide; and

21 5. The exam must require not less than the equivalent of seven
22 hundred fifty (750) hours of formal massage education.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4200.9 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The State Board of Medical Licensure and Supervision may
5 license an applicant, provided that the applicant possesses a valid
6 license or registration to practice massage therapy issued by the
7 appropriate examining board under the laws of any other state or
8 territory of the United States, the District of Columbia or any
9 foreign nation and has met educational and examination requirements
10 equal to or exceeding those established pursuant to the Massage
11 Therapy Practice Act.

12 B. 1. Massage therapy licenses shall expire biennially.
13 Expiration dates shall be established by rule of the Board.

14 2. A license shall be renewed by submitting a renewal
15 application on a form provided by the Board.

16 3. A thirty-day grace period shall be allowed each license
17 holder after the end of the renewal period, during which time a
18 license may be renewed upon payment of the renewal fee and a late
19 fee as prescribed by the Board.

20 C. 1. A massage therapy license not renewed at the end of the
21 thirty-day grace period shall be placed on inactive status for a
22 period not to exceed one (1) year. At the end of one (1) year, if
23 the license has not been reactivated, it shall automatically expire.

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1 2. If within a period of one (1) year from the date the license
2 was placed on inactive status the massage therapist wishes to resume
3 practice, the Board shall be notified in writing and, upon proof of
4 completion of all continuing education requirements and payment of
5 an amount set by the Board in lieu of all lapsed renewal fees, the
6 license shall be restored in full.

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

9 E. The Board shall fix the amount of fees so that the total
10 fees collected shall be sufficient to meet the expenses of
11 administering the provisions of the Massage Therapy Practice Act
12 without unnecessary surpluses.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4200.10 of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

16 A. The Massage Therapy Practice Act shall supersede all
17 ordinances or regulations regulating massage therapists in any city,
18 county, or political subdivision.

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

22 SECTION 11. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4200.11 of Title 59, unless
24 there is created a duplication in numbering, reads as follows:

1 A. The State Board of Medical Licensure and Supervision may
2 take disciplinary action against a person licensed pursuant to the
3 Massage Therapy Practice Act as follows:

4 1. Deny or refuse to renew a license;

5 2. Suspend or revoke a license;

6 3. Issue an administrative reprimand; or

7 4. Impose probationary conditions when the licensee or
8 applicant has engaged in unprofessional conduct that has endangered
9 or is likely to endanger the health, welfare, or safety of the
10 public.

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

14 C. Disciplinary proceedings may be instituted by sworn
15 complaint of any person, including members of the Board, and shall
16 conform to the provisions of the Administrative Procedures Act.

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

21 E. License holders who have been found culpable and sanctioned
22 by the Board shall be responsible for the payments of all costs of
23 the disciplinary proceedings and any administrative fees imposed.

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

3 SECTION 12. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4200.12 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 A. No member of the State Board of Medical Licensure and
7 Supervision shall bear liability or be subject to civil damages or
8 criminal prosecution for any action undertaken or performed within
9 the scope of duty imposed pursuant to the Massage Therapy Practice
10 Act.

11 B. No person or legal entity providing truthful and accurate
12 information to the Board, whether as a report, a complaint, or
13 testimony, shall be subject to civil damages or criminal
14 prosecutions.

15 SECTION 13. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4200.13 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

18 A. A person who does any of the following shall be guilty of a
19 misdemeanor upon conviction:

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

22 2. Renders or attempts to render massage therapy services or
23 massage therapy instruction without the required current valid
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1 license issued by the State Board of Medical Licensure and
2 Supervision;

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

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

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

16 2. Anyone not authorized to use a professional title regulated
17 by the Massage Therapy Practice Act, and who uses such professional
18 title, shall be subject to disciplinary action by the Board.

19 3. Anyone who knowingly aids and abets one or more persons not
20 authorized to use a professional title regulated by the Massage
21 Therapy Practice Act or knowingly employs or contracts persons not
22 authorized to use a regulated professional title in the course of
23 the employment, shall also be subject to disciplinary action by the
24 Board. It shall be a violation of the Massage Therapy Practice Act

1 for any person to advertise massage therapy services in any
2 combination with any escort or dating services.

3 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
4 February 15, 2016 - DO PASS AS AMENDED

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