

1 ENGROSSED SENATE
2 BILL NO. 687

By: Sykes and Sparks of the
Senate

3 and

4 Derby of the House

5
6
7 [professions and occupations - Massage Therapy
8 Practice Act - codification - provisional effective
9 date]
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 Cosmetology and Barbering;

22 2. "Direct access" means the ability that the public has to
23 seek out treatment by a massage therapist without the direct
24 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 the Massage Therapy
3 Practice Act. A massage therapist uses visual, kinesthetic, and
4 palpatory skills to assess the body and may evaluate a condition to
5 the extent of determining whether massage is indicated or
6 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, and provide for general
11 health enhancement, personal growth, education, and the
12 organization, balance and integration of the human body, and
13 includes, but is not 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;

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

3 6. "OBPVS" means the Oklahoma Board of Private Vocational
4 Schools.

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

8 A. Unless a person is a licensed massage therapist, a person
9 shall not:

- 10 1. Use the title of massage therapist;
- 11 2. Represent himself or herself to be a massage therapist;
- 12 3. Use any other title, words, abbreviations, letters, figures,
13 signs or devices that indicate the person is a massage therapist; or
- 14 4. Utilize the terms "massage", "massage therapy" or "massage
15 therapist" when advertising or printing promotional material.

16 B. A person shall not maintain, manage or operate a massage
17 therapy school offering education, instruction or training in
18 massage therapy unless the school is a licensed massage therapy
19 school pursuant to Section 7 of this act.

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

- 22 1. Diagnosis of illness or disease;
- 23 2. High-velocity, low-amplitude thrust;
- 24 3. Electrical stimulation;

1 4. Application of ultrasound;

2 5. Use of any technique that interrupts or breaks the skin; or

3 6. Prescribing of medicines.

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

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

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

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

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

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

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

10 A. The State Board of Cosmetology and Barbering is hereby
11 authorized to adopt and promulgate rules pursuant to the
12 Administrative Procedures Act that are necessary for the
13 implementation and enforcement of the Massage Therapy Practice Act,
14 including, but not limited to, qualifications for licensure,
15 renewals, reinstatements, and continuing education requirements.

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

20 C. Effective May 1, 2017, the fee or renewal fee for any
21 massage therapy license shall be Fifty Dollars (\$50.00) per year. A
22 temporary license authorized between the effective date of this act
23 and May 1, 2017, as provided in Section 5 of this act, and any
24 license issued between the effective date of this act and May 1,

1 2017, shall be Twenty-five Dollars (\$25.00). A duplicate license
2 fee shall be Ten Dollars (\$10.00).

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

6 A. Upon the effective date of this act, the State Board of
7 Cosmetology and Barbering shall issue a license to practice massage
8 therapy to any person who files a completed application, accompanied
9 by the required fees, and who submits satisfactory evidence that the
10 applicant:

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

12 2. Has passed the adopted examination to practice massage
13 therapy;

14 3. Provides proof of documentation that the applicant currently
15 maintains liability insurance for practice as a massage therapist;
16 and

17 4. Provides full disclosure to the Board of any criminal
18 proceeding taken against the applicant including, but not limited
19 to:

20 a. pleading guilty, pleading nolo contendere or receiving
21 a conviction of a felony,

22 b. pleading guilty, pleading nolo contendere or receiving
23 a conviction of a misdemeanor involving moral
24 turpitude, or

1 c. pleading guilty, pleading nolo contendere or receiving
2 a conviction for violation of federal or state
3 controlled dangerous substance laws.

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

9 B. 1. Except as provided in the Massage Therapy Practice Act,
10 every person desiring to practice massage therapy in this state
11 shall be required to first obtain a license from the State Board of
12 Cosmetology and Barbering.

13 2. Beginning on the effective date of this act, until May 1,
14 2017, the Board may grant a temporary license to an applicant who:

- 15 a. has completed the equivalent of five hundred (500)
16 hours of formal education in massage therapy from a
17 state-licensed school and proof stating that he or she
18 has been a massage therapist in this state for no less
19 than one (1) year,
20 b. has proof that he or she has been practicing massage
21 therapy for no less than three (3) years in this
22 state, or
23
24

1 c. has equivalent of seven hundred fifty (750) hours of
2 formal education in massage therapy from a state-
3 licensed school.

4 3. All temporary licenses shall expire May 1, 2017, at which
5 time the person must have qualified for full licensure to continue
6 practice.

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

10 A. A massage therapy license issued by the State Board of
11 Cosmetology and Barbering shall at all times be posted in a
12 conspicuous place in the holder's principal place of business.

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

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

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

20 B. A person shall not instruct as a massage therapist unless
21 the instruction is within the scope of curriculum at a licensed
22 massage therapy school.

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

4 The required examination adopted for the Massage Therapy
5 Practice Act shall be a standardized national massage therapy
6 examination that meets the following criteria, and shall be approved
7 by the State Board of Cosmetology and Barbering for licensure:

8 1. The exam must be statistically validated through a job
9 analysis under current standards for educational and professional
10 testing;

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

13 3. The exam must be available to all potential licensing
14 candidates;

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

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

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

22 A. The State Board of Cosmetology and Barbering may license an
23 applicant, provided that the applicant possesses a valid license or
24 registration to practice massage therapy issued by the appropriate

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

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

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

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

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

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

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

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

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

10 A. The Massage Therapy Practice Act shall supersede all
11 ordinances or regulations regulating massage therapists in any city,
12 county, or political subdivision.

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

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

19 A. The State Board of Cosmetology and Barbering may take
20 disciplinary action against a person licensed pursuant to the
21 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
9 complaint of any person, including members of the Board, and shall
10 conform to the provisions of the Administrative Procedures Act.

11 D. The Board shall establish the guidelines for the disposition
12 of disciplinary cases. Guidelines may include, but shall not be
13 limited to, periods of probation, conditions of probation,
14 suspension, revocation or reissuance of a license.

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

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

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

23 A. No member of the State Board of Cosmetology and Barbering
24 shall bear liability or be subject to civil damages or criminal

1 prosecution for any action undertaken or performed within the scope
2 of duty imposed pursuant to the Massage Therapy Practice Act.

3 B. No person or legal entity providing truthful and accurate
4 information to the Board, whether as a report, a complaint or
5 testimony, shall be subject to civil damages or criminal
6 prosecutions.

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

10 A. A person who does any of the following shall be guilty of a
11 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 license issued by the State Board of Cosmetology and Barbering;

17 3. Advertises or uses a designation, diploma or certificate
18 implying that the person offers massage therapy instruction or is a
19 massage therapy school unless the person holds a current valid
20 license issued by the Oklahoma Board of Private Vocational Schools;
21 or

22 4. Advertises or uses a designation, diploma, or certificate
23 implying that the person is a massage therapist unless the person
24

1 holds a current valid license issued by the State Board of
2 Cosmetology and Barbering.

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

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

10 3. Anyone who knowingly aids and abets one or more persons not
11 authorized to use a professional title regulated by the Massage
12 Therapy Practice Act or knowingly employs or contracts 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 services.

18 SECTION 14. This act shall become effective in accordance with
19 the provisions of Section 58 of Article V of the Oklahoma
20 Constitution.

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