

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 693 By: Griffin of the Senate
3 and
4 Jordan of the House
5

6 [Massage Therapy Practice Act - definitions -
7 licensed therapists - State Board of Cosmetology
8 and Barbering - license requirements - massage
9 therapy schools - out-of-state licensees -
preemption of regulations - disciplinary actions
and proceedings - field citations - violations -
codification - ~~effective date~~ -
10 emergency]

11
12 AMENDMENT NO. 1. Replace the stricken title, enacting clause and
entire bill and insert

13
14 "An Act relating to professions and occupations;
15 amending 59 O.S. 2011, Sections 1033, as amended by
16 Section 1, Chapter 346, O.S.L. 2017, 1036, as
17 amended by Section 2, Chapter 346, O.S.L. 2017,
18 1038, as amended by Section 3, Chapter 346, O.S.L.
2017, 1041, as amended by Section 4, Chapter 346,
19 O.S.L. 2017, Section 5, Chapter 346, O.S.L. 2017,
(59 O.S. Supp. 2017, Sections 1033, 1036, 1038, 1041
20 and 1046), which relate to the Oklahoma Inspectors
21 Act; modifying definitions; modifying licensing
22 requirements; removing obsolete language;
eliminating required principal-agent relationship;
23 authorizing license renewal of unemployed
inspectors; specifying conditions; providing for
24 separate classification of inspector license;
specifying requirements for licensing; specifying
certain restrictions on license holders; and
providing an effective date.

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

2 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1033, as
3 amended by Section 1, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2017,
4 Section 1033), is amended to read as follows:

5 Section 1033. As used in the Oklahoma Inspectors Act:

6 1. "Board" means the Construction Industries Board;

7 2. "Committee" means the Oklahoma Inspector Examiners
8 Committee;

9 3. "Building and construction inspection" means the inspection
10 of plumbing, electrical, mechanical or structural aspects of
11 building and construction, for the purpose of enforcing compliance
12 with the applicable building codes or standards;

13 4. "Building and construction inspector" means any person
14 actively engaged in the inspection of any phase of building and
15 construction ~~by the political subdivision having managerial and~~
16 ~~superintending control over building codes as the code official for~~
17 the purpose of enforcing ~~and having the authority to enforce~~
18 compliance with the applicable building codes or standards and
19 includes, but is not limited to, plumbing inspectors, electrical
20 inspectors, mechanical inspectors and structural building
21 inspectors;

22 5. "Building official" means the licensed employee code
23 official having the duty to administer and the authority to enforce
24 building codes in the political subdivision;

1 6. "Certification" means successful passage of an examination
2 by a Committee-approved national certification program in a license
3 category pursuant to the Oklahoma Inspectors Act;

4 7. "Circuit rider inspector" means a person who acts as a
5 building and construction inspector for two or more municipalities
6 or other political subdivisions and is certified and licensed
7 pursuant to the Oklahoma Inspectors Act;

8 8. "Inactive building and construction inspector" means a
9 previously licensed building and construction inspector, having
10 successfully passed an examination by a Committee-approved national
11 certification program, who ~~is currently not employed by a political~~
12 ~~subdivision and therefore~~ does not meet all requirements of the
13 Oklahoma Inspectors Act to perform building and construction
14 inspections pursuant to the Oklahoma Inspectors Act until all
15 requirements are met;

16 9. "Provisional license" means a license issued to a building
17 and construction inspector who is an employee of a political
18 subdivision on a provisional basis and limited to a maximum of two
19 (2) years in each license category for the purpose of enabling an
20 applicant to meet the certification requirements;

21 10. "Report writer" means any person or agency ~~designated~~
22 recognized by a political subdivision having managerial and
23 superintending control over building codes as a report writer for
24 purposes of furnishing report-writing services on behalf of the

1 building official. This person must be approved by the building
2 official or designated code official, provided he or she has no
3 conflict of interest and satisfies the requirements of the political
4 subdivision as to qualifications, ethical standards and reliability
5 in the process and services. The individual's furnished written
6 reports ~~shall~~ may be provided and acceptable to the building
7 official, designated code official or political subdivision for
8 final code evaluation; and

9 11. "Authorized ~~agent~~ provider" means one who is not a
10 governmental employee but an independent contractor who, ~~through~~
11 ~~contract,~~ is ~~designated~~ recognized by a political subdivision that
12 issues building permits and who meets the requirements under the
13 Oklahoma Inspectors Act and rules promulgated on the requirements of
14 such licensure.

15 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1036, as
16 amended by Section 2, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2017,
17 Section 1036), is amended to read as follows:

18 Section 1036. A. Applicants for certification and license
19 shall~~+~~

20 1. ~~Show~~ show proof of certification or licensing by a program
21 or governmental entity approved by the Construction Industries
22 Board, or by successful completion of an examination approved by the
23 Oklahoma Inspector Examiners Committee; ~~and~~

24 2. ~~Be employed by a political subdivision.~~

1 The Board shall issue a license to any person who has met the
2 requirements of ~~paragraphs 1 and 2~~ of this subsection and who has
3 paid the fees required by the Oklahoma Inspectors Act and has
4 otherwise complied with the applicable requirements of the Oklahoma
5 Inspectors Act. Provided, the Board may issue a provisional license
6 limited to two (2) years to enable an applicant to meet the
7 licensing requirements of this subsection while seeking
8 certification by examination.

9 B. Examinations shall be uniform and shall be practical in
10 nature but shall be sufficiently strict to test the qualifications
11 and fitness of the applicant as a building and construction
12 inspector. The examination shall be in whole or in part in writing.
13 Examination dates shall be set by the Committee or by the
14 examination provider. Any applicant failing to pass the examination
15 shall not be permitted to take another examination for a period of
16 thirty (30) days, and thereafter any such applicants subsequently
17 failing to pass the examination shall not be permitted to take a
18 subsequent examination for a period of ninety (90) days.

19 C. All licenses shall be nontransferable and it shall be
20 unlawful for any holder of a license issued pursuant to the Oklahoma
21 Inspectors Act to loan or allow the use of such license by any other
22 person, firm or corporation.

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1 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1038, as
2 amended by Section 3, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2017,
3 Section 1038), is amended to read as follows:

4 Section 1038. A. Other than two-year provisional licenses, no
5 license shall be issued for longer than one (1) year and all
6 licenses shall expire on the birth date of the licensee. The
7 Construction Industries Board shall establish by rule a method for
8 prorating license fees to coincide with the birth date of the
9 licensee.

10 B. An application for the renewal of a license which is
11 received more than thirty (30) days following the date of expiration
12 and which is accompanied by a fee established pursuant to Section
13 1000.5 of this title, and proof of current continuing education
14 requirements, may be accepted and the license reissued without
15 examination.

16 C. The fee for late renewal and the continuing education
17 requirements shall not be required of any holder of a license which
18 expires while such holder is in military service, if application for
19 renewal is made within one (1) year following the service discharge
20 of such person.

21 ~~D. If the licensed building and construction inspector is not~~
22 ~~employed at the time of renewal, the license may be renewed if the~~
23 ~~applicant is otherwise compliant with the requirements of the~~
24 ~~Oklahoma Inspectors Act including meeting continuing education~~

1 ~~requirements; however, the renewal application must reflect the~~
2 ~~change in employment along with a request to renew as inactive~~
3 ~~status. An inactive license status may be changed to active status~~
4 ~~upon notification of employment to the Construction Industries~~
5 ~~Board.~~

6 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1041, as
7 amended by Section 4, Chapter 346, O.S.L. 2017 (59 O.S. Supp. 2017,
8 Section 1041), is amended to read as follows:

9 Section 1041. Any municipality or other governmental entity
10 which employs any person as a building and construction inspector
11 for functions normally performed by a building and construction
12 inspector shall notify the Construction Industries Board of the
13 employment.

14 Any municipality or other political subdivision of the state
15 with a population of ten thousand (10,000) or less according to the
16 most current census published by the Oklahoma Employment Security
17 Board shall be exempt from the provisions of the Oklahoma Inspectors
18 Act, unless such municipality or other political subdivision of the
19 state employs the services of a circuit rider inspector or relies on
20 the use of an authorized agent provider.

21 SECTION 5. AMENDATORY Section 5, Chapter 346, O.S.L.
22 2017 (59 O.S. Supp. 2017, Section 1046), is amended to read as
23 follows:
24

1 Section 1046. A. For purposes of a building and construction
2 inspector performing functions normally performed by a building and
3 construction inspector for a political subdivision pursuant to the
4 Oklahoma Inspectors Act, the Construction Industries Board shall
5 create for one acting as or performing the work of a building and
6 construction inspector a separate classification of inspector
7 license to act as an authorized ~~agent~~ provider of a political
8 subdivision, and such licensure shall be governed by the Oklahoma
9 Inspectors Act and rules promulgated on the requirements of such
10 licensure.

11 B. As used in this section, "authorized ~~agent~~ provider" means
12 one who is not a governmental employee but an independent contractor
13 who, ~~through contract,~~ is ~~designated~~ recognized by a political
14 subdivision that issues building permits and who meets the
15 requirements under the Oklahoma Inspectors Act and rules promulgated
16 on the requirements of such licensure. An authorized ~~agent~~ provider
17 is excluded from the population limitations of Section 1041 of ~~Title~~
18 ~~59 of the Oklahoma Statutes~~ this title and is required to be
19 licensed regardless of the population of the political subdivision.

20 C. To obtain an authorized ~~agent~~ provider inspector license,
21 the individual or entity shall:

22 1. Be ~~engaged in an independently established business~~
23 ~~approved, individually accepted and designated~~ recognized by a
24 political subdivision, ~~meet~~ as meeting all requirements for a state

1 inspector's license in the category of the inspections being
2 performed and be free of direction and control of any contractor who
3 is requesting the inspection;

4 2. Pass the inspector examination approved by the Oklahoma
5 Inspector Examiners Committee and complete all other requirements in
6 the Oklahoma Inspectors Act and rules for each category sought; and

7 3. Complete an authorized ~~agent~~ provider inspector license
8 application for the examination, license or renewal of license. The
9 application shall be completed in writing on forms furnished by the
10 Construction Industries Board. Each application shall be
11 accompanied by a fee and proof of continuing education for renewals
12 as required in the Oklahoma Inspectors Act and rules. ~~Every~~
13 ~~applicant shall provide to the Construction Industries Board, on new~~
14 ~~and renewal applications, a notarized certification by a political~~
15 ~~subdivision's city or county manager, clerk or director of~~
16 ~~inspections department that the applicant will be performing as an~~
17 ~~authorized agent of that political subdivision.~~

18 D. It shall be unlawful for any person to act as or perform the
19 work of an authorized ~~agent~~ provider inspector unless such person is
20 qualified and licensed pursuant to the Oklahoma Inspectors Act. An
21 authorized ~~agent~~ provider inspector license does not authorize an
22 individual to issue permits.

23 E. Authorized ~~agent~~ provider inspectors licensed by the state
24 are deemed to be acting as independent contractors and not as

1 officers, employees or agents of the state. The state assumes no
2 liability for the actions or omissions of licensed authorized ~~agents~~
3 providers.

4 F. Authorized ~~agents~~ providers shall:

5 1. In addition to complying with the provisions of the Oklahoma
6 Inspectors Act, provide proof of insurance coverage of up to One
7 Million Dollars (\$1,000,000.00) in professional liability insurance,
8 in addition to One Million Dollars (\$1,000,000.00) in errors and
9 omissions insurance as set by rule. Proof of valid and current
10 insurance coverage must be provided upon application for
11 registration and renewal of registration in the form of an insurance
12 certificate listing the State of Oklahoma as the certificate holder.
13 Further, proof of compliance with the workers' compensation laws of
14 Oklahoma or exemption is required. Lapse of insurance shall result
15 in the change of license status to inactive;

16 2. Not be under the direction and control of any entity that
17 performs industrial, commercial or residential construction ~~within~~
18 ~~the political subdivision in~~ for which they would provide services;

19 3. Not be under the direction and control of any entity that
20 designs industrial, commercial or residential projects ~~within the~~
21 ~~political subdivision in~~ for which they would provide services;

22 4. Provide written reports acceptable to the political
23 subdivision according to the political subdivision requirements;

24

1 5. Not be prohibited in this act from providing other plan
2 review and inspection services for jurisdictions that pertain to
3 infrastructure projects, utilities projects or other services not
4 regulated by the Oklahoma Inspectors Act, except as restricted or
5 limited by the political subdivision;

6 6. Not be allowed to apply for a provisional license as
7 described in Section 1036 of ~~Title 59 of the Oklahoma Statutes~~ this
8 title; and

9 7. Provide evidence of being certified for the specific license
10 category for which they are applying and shall only provide services
11 in the area of certification and licensing.

12 SECTION 6. This act shall become effective November 1, 2018."

13 Passed the House of Representatives the 26th day of April, 2018.

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Presiding Officer of the House of
Representatives

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18 Passed the Senate the ____ day of _____, 2018.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 693

By: Griffin of the Senate

3 and

4 Jordan of the House

5
6 [Massage Therapy Practice Act - definitions -
7 licensed therapists - State Board of Cosmetology and
8 Barbering - license requirements - massage therapy
9 schools - out-of-state licensees - preemption of
regulations - disciplinary actions and proceedings -
field citations - violations - codification -
~~effective date -~~
emergency]

10

11

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

13 SECTION 7. AMENDATORY Section 2, Chapter 292, O.S.L.
14 2016 (59 O.S. Supp. 2016, Section 4200.2), is amended to read as
15 follows:

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

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

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

21 3. "Massage therapist" means an individual who practices
22 massage or massage therapy and is licensed under the Massage Therapy
23 Practice Act. A massage therapist uses visual, kinesthetic, and
24 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 to be engaged in the practice of
24 massage therapy;

1 ~~5.~~ 6. "Massage therapy school" means a facility providing
2 instruction in massage therapy; and

3 7. "Person" means a natural person, firm, partnership,
4 association, corporation, limited liability company, joint stock
5 company or other business entity or combination of individuals of
6 whatever form and character.

7 SECTION 8. AMENDATORY Section 3, Chapter 292, O.S.L.
8 2016 (59 O.S. Supp. 2016, Section 4200.3), is amended to read as
9 follows:

10 Section 4200.3. A. Unless a person is a licensed massage
11 therapist, a person shall not:

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

18 B. A person shall not maintain, manage or operate a massage
19 therapy school offering education, instruction or training in
20 massage therapy unless the school is a licensed massage therapy
21 school pursuant to ~~Section 7 of this act~~ Section 4200.7 of this
22 title.

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

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

7 D. Nothing in the Massage Therapy Practice Act shall be
8 construed to prevent:

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

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

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

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

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

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

1 practice based on a minimal level of training, demonstration of
2 competency, and adherence to ethical standards.

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

7 F. No person shall operate, maintain or manage a massage
8 therapy establishment without first obtaining an establishment
9 license from the Board.

10 SECTION 9. AMENDATORY Section 4, Chapter 292, O.S.L.
11 2016 (59 O.S. Supp. 2016, Section 4200.4), is amended to read as
12 follows:

13 Section 4200.4. A. The State Board of Cosmetology and
14 Barbering is hereby authorized to adopt and promulgate rules
15 pursuant to the Administrative Procedures Act that are necessary for
16 the implementation and enforcement of the Massage Therapy Practice
17 Act, including, but not limited to, qualifications for licensure,
18 renewals, reinstatements, and continuing education requirements.

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

23 C. There is hereby created an Advisory Board on Massage
24 Therapy. The Advisory Board on Massage Therapy shall assist the

1 Board in carrying out the provisions of this section regarding the
2 qualifications, examination, registration, regulation, and standards
3 of professional conduct of massage therapists. The Advisory Board
4 on Massage Therapy shall consist of five (5) members to be appointed
5 by the Governor for four-year terms as follows:

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

9 2. One member who shall be an administrator or faculty member
10 of a nationally accredited school of massage therapy; and

11 3. One who shall be a ~~citizen~~ member of the public.

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

14 2. The fee for ~~any~~ an original or renewal therapist or
15 establishment license issued between the effective date of this act
16 and May 1, 2017, including a license by reciprocity, shall be ~~Twenty-~~
17 five Dollars (\$25.00) Fifty Dollars (\$50.00). The fee or renewal
18 fee for any massage therapy license issued after May 1, 2017, shall
19 be ~~Fifty Dollars (\$50.00) per year.~~ A duplicate license fee shall
20 be Ten Dollars (\$10.00).

21 SECTION 10. AMENDATORY Section 5, Chapter 292, O.S.L.
22 2016 (59 O.S. Supp. 2016, Section 4200.5), is amended to read as
23 follows:
24

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

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

7 2. ~~Has one or more of the following:~~

8 a. ~~documentation that the applicant has completed and~~
9 ~~passed a nationally recognized competency examination~~
10 ~~in the practice of massage therapy,~~

11 b. ~~an affidavit of at least five (5) years of work~~
12 ~~experience in the state, or~~

13 c. ~~a certificate and transcript of completion from a~~
14 ~~massage school with at least five hundred (500) hours~~
15 ~~of education;~~

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

18 and

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

22 a. ~~pleading guilty, pleading nolo contendere or receiving~~
23 ~~a conviction of a felony,~~

1 ~~b. pleading guilty, pleading nolo contendere or receiving~~
2 ~~a conviction of a misdemeanor involving moral~~
3 ~~turpitude, or~~

4 ~~c. pleading guilty, pleading nolo contendere or receiving~~
5 ~~a conviction for violation of federal or state~~
6 ~~controlled dangerous substance laws.~~

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

12 ~~C. 1. After May 1, 2017, except as otherwise provided in the~~
13 ~~Massage Therapy Practice Act, every Every person desiring to~~
14 ~~practice massage therapy in this state shall be required to first~~
15 ~~obtain a license from the State Board of Cosmetology and Barbering.~~

16 ~~2. After May 1, 2017, the~~

17 ~~B. The Board may issue a license to an applicant who:~~

18 ~~a. is at least eighteen (18) years of age,~~

19 ~~1. Is of good moral character;~~

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

21 ~~b.~~

22 ~~3. provides Provides documentation that the applicant has~~
23 ~~completed the equivalent of five hundred (500) hours of formal~~
24 ~~education in massage therapy from a state-licensed school;~~

1 e. ~~provides~~

2 4. Provides documentation that the applicant has passed a
3 nationally recognized competency examination approved by the Board~~;~~
4 and

5 5. Submits to a national criminal history record check as
6 defined by Section 150.9 of Title 74 of the Oklahoma Statutes. The
7 costs associated with the record check shall be paid by the
8 applicant

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

12 ~~e. provides full disclosure to the Board of any criminal~~
13 ~~proceeding taken against the applicant including, but~~
14 ~~not limited to:~~

15 ~~(1) pleading guilty, pleading nolo contendere or~~
16 ~~receiving a conviction of a felony,~~

17 ~~(2) pleading guilty, pleading nolo contendere or~~
18 ~~receiving a conviction of a misdemeanor involving~~
19 ~~moral turpitude, or~~

20 ~~(3) pleading guilty, pleading nolo contendere or~~
21 ~~receiving a conviction for violation of federal~~
22 ~~or state controlled dangerous substance laws.~~

1 C. The Board shall deny a license to an applicant who has been
2 convicted of any of the following crimes or who has been convicted
3 of the equivalent of such crimes in any other jurisdiction:

4 1. First degree murder as defined by Section 701.7 of Title 21
5 of the Oklahoma Statutes;

6 2. Second degree murder as defined by Section 701.8 of Title 21
7 of the Oklahoma Statutes;

8 3. Poisoning with intent to kill as defined by Section 651 of
9 Title 21 of the Oklahoma Statutes;

10 4. Attempts to kill another person as described and provided
11 for by Sections 652 and 653 of Title 21 of the Oklahoma Statutes;

12 5. First degree rape as provided by Section 1111, 1114 or 1115
13 of Title 21 of the Oklahoma Statutes;

14 6. Child abuse, child sexual abuse or child sexual exploitation
15 as provided for in Section 843.5 of Title 21 of the Oklahoma
16 Statutes;

17 7. Lewd molestation of a child as defined in Section 1123 of
18 Title 21 of the Oklahoma Statutes;

19 8. Abuse of a vulnerable adult as defined in Section 10-103 of
20 Title 43A of the Oklahoma Statutes who is a resident of a nursing
21 facility; or

22 9. Human trafficking as provided for in Section 748 of Title 21
23 of the Oklahoma Statutes.

1 D. The Board may deny or place probationary conditions on a
2 license if an applicant has been convicted of a crime of moral
3 turpitude not otherwise listed in this section.

4 E. The Board may deny or place probationary conditions on a
5 license if an applicant has pleaded guilty, nolo contendere or been
6 convicted of a felony not otherwise listed in this section which
7 involved conduct that endangered or was likely to endanger the
8 health, welfare or safety of the public.

9 SECTION 11. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4200.5.1 of Title 59, unless
11 there is created a duplication in numbering, reads as follows:

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

15 B. The Board may issue a license to an applicant who:

16 1. Is of good moral character;

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

18 3. Provides proof that the establishment maintains general
19 liability insurance; and

20 4. Submits to a national criminal history record check as
21 defined at Section 150.9 of Title 74 of the Oklahoma Statutes. The
22 costs associated with the national criminal history record check
23 shall be paid by the applicant.

1 C. The Board shall deny a license to an applicant who has been
2 convicted of any of the following crimes or who has been convicted
3 of the equivalent of such crimes in any other jurisdiction:

4 1. First degree murder as defined in Section 701.7 of Title 21
5 of the Oklahoma Statutes;

6 2. Second degree murder as defined by Section 701.8 of Title 21
7 of the Oklahoma Statutes;

8 3. Poisoning with intent to kill as defined by Section 651 of
9 Title 21 of the Oklahoma Statutes;

10 4. Attempts to kill another person as described and provided
11 for in Sections 652 and 653 of Title 21 of the Oklahoma Statutes;

12 5. First degree rape as provided for in Section 1111, 1114 or
13 1115 of Title 21 of the Oklahoma Statutes;

14 6. Child abuse as provided for in Section 843.5 of Title 21 of
15 the Oklahoma Statutes;

16 7. Lewd molestation of a child as defined in Section 1123 of
17 Title 21 of the Oklahoma Statutes;

18 8. Abuse of a vulnerable adult as defined in Section 10-103 of
19 Title 43A of the Oklahoma Statutes who is a resident of a nursing
20 facility; or

21 9. Human trafficking as provided for in Section 748 of Title 21
22 of the Oklahoma Statutes.

23 D. Any applicant convicted of a felony involving forgery,
24 embezzlement, obtaining money under false pretense, extortion,

1 conspiracy to defraud, fraud, or any other similar offense or
2 offenses shall not be eligible to obtain an establishment license
3 within five (5) years of the completion of any criminal sentence,
4 including parole and probation.

5 E. The Board may deny or place probationary conditions on a
6 license if an applicant has been convicted of a crime of moral
7 turpitude not otherwise listed in this section.

8 F. The Board may deny or place probationary conditions on a
9 license if an applicant has been convicted of a felony not otherwise
10 listed in this section which involved conduct that endangered or was
11 likely to endanger the health, welfare or safety of the public.

12 G. 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 SECTION 12. AMENDATORY Section 7, Chapter 292, O.S.L.
16 2016 (59 O.S. Supp. 2016, Section 4200.7), is amended to read as
17 follows:

18 Section 4200.7. A. A person shall not advertise, maintain,
19 manage or operate a massage therapy school unless the school is
20 licensed by the Oklahoma Board of Private Vocational Schools or is a
21 technology center school accredited by the Oklahoma State Board of
22 Career and Technology Education.

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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 13. AMENDATORY Section 9, Chapter 292, O.S.L.
5 2016 (59 O.S. Supp. 2016, Section 4200.9), is amended to read as
6 follows:

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

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

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

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

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

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

12 ~~D. The Board shall establish a schedule of reasonable and~~
13 ~~necessary administrative fees.~~

14 ~~E. The Board shall fix the amount of fees so that the total~~
15 ~~fees collected shall be sufficient to meet the expenses of~~
16 ~~administering the provisions of the Massage Therapy Practice Act~~
17 ~~without unnecessary surpluses.~~

18 B. An applicant for licensure by reciprocity shall disclose any
19 criminal history from the jurisdiction where the applicant is
20 licensed and shall submit to a national criminal history record
21 check as defined at Section 150.9 of Title 74 of the Oklahoma
22 Statutes. The costs associated with the national criminal history
23 record check shall be paid by the applicant.

1 C. The Board shall deny a license to an applicant who has been
2 convicted of any of the following crimes or who has been convicted
3 of the equivalent of such crimes in any other jurisdiction:

4 1. First degree murder as defined in Section 701.7 of Title 21
5 of the Oklahoma Statutes;

6 2. Second degree murder as defined by Section 701.8 of Title 21
7 of the Oklahoma Statutes;

8 3. Poisoning with intent to kill as defined by Section 651 of
9 Title 21 of the Oklahoma Statutes;

10 4. Attempts to kill another person as described and provided
11 for in Sections 652 and 653 of Title 21 of the Oklahoma Statutes;

12 5. First degree rape as provided for in Section 1111, 1114 or
13 1115 of Title 21 of the Oklahoma Statutes;

14 6. Child abuse as provided for in Section 843.5 of Title 21 of
15 the Oklahoma Statutes;

16 7. Lewd molestation of a child as defined in Section 1123 of
17 Title 21 of the Oklahoma Statutes;

18 8. Abuse of a vulnerable adult as defined in Section 10-103 of
19 Title 43A of the Oklahoma Statutes who is a resident of a nursing
20 facility; or

21 9. Human trafficking as provided for in Section 748 of Title 21
22 of the Oklahoma Statutes.

1 D. The Board may deny a license to an applicant who has pleaded
2 guilty or been convicted of a crime of moral turpitude not otherwise
3 listed in this section.

4 E. The Board may deny or place probationary conditions on a
5 license if an applicant has been convicted of a felony not otherwise
6 listed in this section which involved conduct that endangered or was
7 likely to endanger the health, welfare or safety of the public.

8 F. An applicant for licensure by reciprocity shall also pay a
9 non-refundable processing fee of Thirty Dollars (\$30.00).

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

13 A. Massage therapist and establishment licenses shall be
14 renewed annually. The renewal date shall be established by the
15 Board through adoption of a rule.

16 B. A licensee shall renew a license by:

17 1. Submitting a renewal application form as prepared by the
18 Board;

19 2. Providing all information required on the renewal
20 application form;

21 3. Tendering the required renewal fee;

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

24 5. Providing proof of liability insurance; and

1 6. Disclosing any plea of guilty, nolo contendere or conviction
2 of any crime of moral turpitude or any felony.

3 C. 1. A thirty (30) day grace period shall be allowed each
4 license holder after the end of the renewal period, during which
5 time a license may be renewed upon payment of the renewal fee and a
6 late fee as prescribed by the Board.

7 2. If a license is not renewed by the end of the thirty (30)
8 day grace period, the license shall be placed on inactive status for
9 a period not to exceed one (1) year. At the end of one (1) year, if
10 the license has not been reactivated, it shall automatically expire.
11 A person whose license has expired cannot renew the license but must
12 apply for original licensure and meet all necessary requirements.

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

20 SECTION 15. AMENDATORY Section 10, Chapter 292, O.S.L.
21 2016 (59 O.S. Supp. 2016, Section 4200.10), is amended to read as
22 follows:

23 Section 4200.10. A. The Massage Therapy Practice Act shall
24 supersede all ordinances or regulations regulating massage

1 therapists and massage therapy establishments in any city, county,
2 or political subdivision.

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

6 SECTION 16. AMENDATORY Section 11, Chapter 292, O.S.L.
7 2016 (59 O.S. Supp. 2016, Section 4200.11), is amended to read as
8 follows:

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

12 1. ~~Deny or refuse~~ Refuse to renew a license;

13 2. Suspend or revoke a license;

14 3. Issue an administrative reprimand; ~~or~~

15 4. 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; or~~

19 5. Assess an administrative fine of not more than Fifty Dollars
20 (\$50.00) for each violation. Each day a violation continues shall
21 constitute a separate offense.

22 B. The Board shall take disciplinary action upon a finding that
23 ~~the~~ a licensee ~~or person~~ has committed an act of unprofessional
24 conduct or committed a violation of rule or law.

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

4 D. The Board shall establish the guidelines for the disposition
5 of disciplinary cases. Guidelines may include, but shall not be
6 limited to, periods of probation, conditions of probation,
7 suspension, revocation or reissuance of a license.

8 E. A license holder who has been found ~~culpable~~ in violation of
9 the Massage Therapy Practice Act, the administrative rules of the
10 Board or any other applicable law or regulation and sanctioned by
11 the Board shall be responsible for the payment of all costs of the
12 disciplinary proceedings and any administrative ~~fees~~ fines imposed.

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

15 G. The Board shall have the authority to issue field citations.
16 The field citation may contain an order of abatement fixing a
17 reasonable time for abatement of the violation, and may contain an
18 assessment of an administrative fine consistent with the provisions
19 of this section. The Board shall promulgate rules for the issuance
20 of field citations and shall include an opportunity for the licensee
21 to contest the citation.

22 SECTION 17. AMENDATORY Section 13, Chapter 292, O.S.L.
23 2016 (59 O.S. Supp. 2016, Section 4200.13), is amended to read as
24 follows:

1 Section 4200.13. A. A person who does any of the following
2 shall be guilty of a misdemeanor upon conviction:

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

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

9 3. Advertises or uses a designation, diploma or certificate
10 implying that the person offers massage therapy instruction or is a
11 massage therapy school unless the person holds a current valid
12 license issued by the Oklahoma Board of Private Vocational Schools
13 or is a technology center school accredited by the Oklahoma State
14 Board of Career and Technology Education; or

15 4. ~~Advertises or uses a designation, diploma, or certificate~~
16 ~~implying that the person is a massage therapist unless the person~~
17 ~~holds a current valid license issued by the State Board of~~
18 ~~Cosmetology and Barbering~~ Advertises or offers massage therapy
19 services in any combination with any escort or dating services.

20 ~~B. 1. Therapists regulated by the Massage Therapy Practice Act~~
21 ~~shall be designated as "massage therapists" and entitled to utilize~~
22 ~~the term "massage" when advertising or printing promotional~~
23 ~~material.~~

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

5 ~~3. Any person who knowingly aids and abets one or more persons~~
6 ~~not authorized to use a professional title regulated by the Massage~~
7 ~~Therapy Practice Act or knowingly employs or contracts with a person~~
8 ~~or persons not authorized to use a regulated professional title in~~
9 ~~the course of the employment, shall also be subject to disciplinary~~
10 ~~action by the Board. It shall be a violation of the Massage Therapy~~
11 ~~Practice Act for any person to advertise massage therapy services in~~
12 ~~any combination with any escort or dating service.~~

13 SECTION 18. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4200.13 of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

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

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

1 2. Make application to the appropriate court for an order
2 enjoining such acts or practices, and upon a showing by the Board
3 that such person has engaged in any such acts or practices, an
4 injunction, restraining order, or such other order as may be
5 appropriate shall be granted by such court, without bond.

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

15 C. Each day a violation continues shall be construed as a
16 separate offense.

17 ~~SECTION 19. This act shall become effective July 1, 2017.~~

18 ~~SECTION 20. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.~~

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1 Passed the Senate the 8th day of March, 2017.

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Presiding Officer of the Senate

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5 Passed the House of Representatives the ____ day of _____,

6 2017.

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Presiding Officer of the House
of Representatives

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