

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 687

By: Sykes

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5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 creating the Massage Therapy Practice Act; providing  
9 short title; defining terms; requiring certain  
10 license; prohibiting certain actions; requiring  
11 license for certain schools; limiting certain  
12 practice; providing for exceptions; authorizing State  
13 Board of Medical Licensure and Supervision to adopt  
14 certain rules; providing for certain powers of the  
15 Board; setting fees; establishing requirements for  
16 licensure of certain persons; authorizing State Board  
17 of Medical Licensure and Supervision to grant certain  
18 licenses under certain circumstances; authorizing  
19 certain continuing education requirements for certain  
20 renewal; requiring posting of certain license;  
21 stating certain license is not assignable or  
22 transferable; providing for reciprocity; providing  
23 for licensure by credentials; providing for  
24 expiration of certain licenses; establishing  
procedure for renewal of license; providing for  
certain inactive status and procedures for restoring  
status; providing for certain fees; setting limits of  
certain fees; requiring certain information in  
certain advertising; providing for power of county or  
municipal governments; authorizing Board to take  
certain disciplinary actions; authorizing Board to  
take certain actions based on certain unprofessional  
conduct; providing for the institution of certain  
disciplinary proceedings; providing for certain  
guidelines for the disposition of disciplinary cases;  
providing for responsibility for certain costs;  
prohibiting certain liability, civil damages or  
criminal prosecution; creating criminal offenses and  
punishments; authorizing the use of certain terms;  
making the use of certain professional title subject  
to certain discipline; stating violation of the act;

1 providing for codification; and providing an  
2 effective date.

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

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

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

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

13 As used in the Massage Therapy Practice Act:

14 1. "Board" means the State Board of Medical Licensure and  
15 Supervision;

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

19 3. "Massage therapist" means an individual who practices  
20 massage or massage therapy and is licensed under the Massage Therapy  
21 Practice Act. A massage therapist uses visual, kinesthetic, and  
22 palpatory skills to assess the body and may evaluate a condition to  
23 the extent of determining whether massage is indicated or  
24 contraindicated;

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

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

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

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

21 6. "OBPVS" means the Oklahoma Board of Private Vocational  
22 Schools.  
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1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 4200.3 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. Unless a person is a licensed massage therapist, a person  
5 shall not:

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

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

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

- 18          1. Diagnosis of illness or disease;
  - 19          2. High-velocity, low-amplitude thrust;
  - 20          3. Electrical stimulation;
  - 21          4. Application of ultrasound;
  - 22          5. Use of any technique that interrupts or breaks the skin; or
  - 23          6. Prescribing of medicines.
- 24

1 D. Nothing in the Massage Therapy Practice Act shall be  
2 construed to prevent:

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

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

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

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

23 5. Physicians or other health care professionals from  
24 appropriately referring to duly licensed massage therapists or limit

1 in any way the right of direct access of the public to licensed  
2 massage therapists.

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

6 A. The State Board of Medical Licensure and Supervision is  
7 hereby authorized to adopt and promulgate rules pursuant to the  
8 Administrative Procedures Act that are necessary for the  
9 implementation and enforcement of the Massage Therapy Practice Act,  
10 including, but not limited to, qualifications for licensure,  
11 renewals, reinstatements, and continuing education requirements.

12 B. The State Board of Medical Licensure and Supervision is  
13 hereby empowered to perform investigations, to require the  
14 production of records and other documents relating to practices  
15 regulated by the Massage Therapy Practice Act, and to seek  
16 injunctive relief.

17 C. Effective May 1, 2016, the fee or renewal fee for any  
18 massage therapy license shall be Fifty Dollars (\$50.00) per year. A  
19 temporary license authorized between November 1, 2015, and May 1,  
20 2016, as provided in Section 5 of this act, and any license issued  
21 between November 1, 2015, and May 1, 2016, shall be Twenty-five  
22 Dollars (\$25.00). A duplicate license fee shall be Ten Dollars  
23 (\$10.00).  
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1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 4200.5 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Effective November 1, 2015, the State Board of Medical  
5 Licensure and Supervision shall issue a license to practice massage  
6 therapy to any person who files a completed application, accompanied  
7 by the required fees, and who submits satisfactory evidence that the  
8 applicant:

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

10 2. Has passed the adopted examination to practice massage  
11 therapy;

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

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

18 a. pleading guilty, pleading nolo contendere or receiving  
19 a conviction of a felony,

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

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   Medical Licensure and Supervision.

13           2.   Beginning November 1, 2015, until May 1, 2016, the Board may  
14   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

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, 2016, 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 Medical Licensure and Supervision 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 Medical Licensure and Supervision for  
8 licensure:

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

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

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

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

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

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

23 A. The State Board of Medical Licensure and Supervision may  
24 license an applicant, provided that the applicant possesses a valid

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

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

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

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

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

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

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 Medical Licensure and Supervision may  
20 take 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 Medical Licensure and  
24 Supervision shall bear liability or be subject to civil damages or

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

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

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

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

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

15 2. Renders or attempts to render massage therapy services or  
16 massage therapy instruction without the required current valid  
17 license issued by the State Board of Medical Licensure and  
18 Supervision;

19 3. Advertises or uses a designation, diploma or certificate  
20 implying that the person offers massage therapy instruction or is a  
21 massage therapy school unless the person holds a current valid  
22 license issued by the Oklahoma Board of Private Vocational Schools;  
23 or  
24

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

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

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

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

20 SECTION 14. This act shall become effective November 1, 2015.

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