

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 2933, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Bergstrom

Bergstrom-MD-FS-Req#3648
4/23/2018 4:17 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 FLOOR SUBSTITUTE

4 FOR ENGROSSED

HOUSE BILL NO. 2933

By: Mulready of the House

5 and

6 David of the Senate

7
8
9 FLOOR SUBSTITUTE

10 An Act relating to Professions and Occupations;
11 amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S.
12 Supp. 2017, Section 4200.2), which relates to
13 definitions; modifying definitions; amending Section
14 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017,
15 Section 4200.3), which relates to licensed massage
16 therapist; modifying prohibited acts; updating
17 statutory reference; prohibiting certain acts without
18 first obtaining a license; amending Section 4,
19 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section
20 4200.4), which relates to authority of State Board of
21 Cosmetology and Barbering; allowing Board to take
22 certain disciplinary action under certain
23 circumstances; providing certain construction;
24 directing Board to establish a fee schedule;
modifying fee amounts; amending Section 5, Chapter
292, O.S.L. 2016 (59 O.S. Supp. 2017, Section
4200.5), which relates to license requirements;
modifying date; clarifying provisions related to
applications; requiring national criminal history
record check; prohibiting certain acts without first
obtaining a massage therapy establishment license;
setting forth requirements for establishment license;
authorizing Board to deny establishment license or
place probationary conditions on establishment
license under certain conditions; defining terms;
providing for Board inspection authority; requiring
compliance with certain laws and rules; providing
license renewal procedures and requirements; amending

1 Section 6, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
2 2017, Section 4200.6), which relates to license
3 posting required; modifying type of license; amending
4 Section 7, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
5 2017, Section 4200.7), which relates to massage
6 therapy schools; including technology center schools
7 in certain provision; modifying types of allowable
8 education; amending Section 9, Chapter 292, O.S.L.
9 2016 (59 O.S. Supp. 2017, Section 4200.9), which
10 relates to out-of-state license holders; deleting
11 language; requiring disclosure of criminal history
12 records; establishing certain fee; requiring
13 therapist license to be renewed annually; setting
14 forth renewal procedures; amending Section 10,
15 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section
16 4200.10), which relates to preemption; adding
17 establishments to certain provision; providing
18 exceptions; allowing municipalities, counties and
19 political subdivisions to enact certain regulations;
20 prohibiting regulation during certain hours; amending
21 Section 11, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
22 2017, Section 4200.11), which relates to disciplinary
23 actions and proceedings; modifying disciplinary
24 actions and proceedings; providing procedure for
investigations; making certain records and
information confidential; setting maximum
administrative fine; amending Section 13, Chapter
292, O.S.L. 2016 (59 O.S. Supp. 2017, Section
4200.13), which relates to violations; modifying
action which shall constitute misdemeanors upon
conviction; prohibiting unauthorized use of certain
title; providing that massage therapy services shall
not be advertised in combination with certain
services; providing certain administrative fine and
legal recourse; providing for specific waiver of fees
for licensure or certification for certain persons;
defining term; directing certain entities to
promulgate rules; providing for codification; and
providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 292, O.S.L.

2016 (59 O.S. Supp. 2017, Section 4200.2), is amended to read as follows:

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

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

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

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

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

- a. the use of touch, pressure, friction, stroking, gliding, percussion, kneading, movement, positioning, holding, range of motion and nonspecific stretching

1 within the normal anatomical range of movement, and
2 vibration by manual or mechanical means with or
3 without the use of massage devices that mimic or
4 enhance manual measures, and

5 b. the external application of ice, heat and cold packs
6 for thermal therapy, water, lubricants, abrasives and
7 external application of herbal or topical preparations
8 not classified as prescription drugs; ~~and~~

9 5. "Massage therapy establishment" means any fixed business
10 location, address, building or property, other than a licensed
11 cosmetology or barbering establishment, where a person engages in,
12 conducts, carries on or permits to be engaged in the practice of
13 massage therapy; and

14 6. "Massage therapy school" means a facility providing
15 instruction in massage therapy.

16 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.
17 2016 (59 O.S. Supp. 2017, Section 4200.3), is amended to read as
18 follows:

19 Section 4200.3. A. Unless a person is a licensed massage
20 therapist, a person shall not:

21 1. Practice massage therapy in this state;

22 2. Use the title of massage therapist;

23 ~~2.~~ 3. Represent himself or herself to be a massage therapist;

1 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
2 figures, signs or devices that indicate the person is a massage
3 therapist; or

4 ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or
5 "massage therapist" when advertising or printing promotional
6 material.

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

12 C. Individuals practicing massage therapy ~~under~~ pursuant to the
13 Massage Therapy Practice Act shall not perform any of the following:

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

20 D. Nothing in the Massage Therapy Practice Act shall be
21 construed to prevent:

22 1. Qualified members of other recognized professions who are
23 licensed or regulated ~~under~~ pursuant to Oklahoma law from rendering
24 services within the scope of the license of the person, provided the

1 person does not represent himself or herself as a massage therapist.
2 A physician or other licensed health care provider providing health
3 care services within the scope of practice of the physician or
4 provider shall not be required to be licensed by or registered with
5 the State Board of Cosmetology and Barbering;

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

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

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

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

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

3 6. The practice of any person in this state who uses touch,
4 words and directed movement to deepen awareness of existing patterns
5 of movement in the body as well as to suggest new possibilities of
6 movement while engaged within the scope of practice of a profession
7 with established standards and ethics, provided that the services
8 are not designated or implied to be massage or massage therapy.

9 Practices shall include but are not limited to the Feldenkrais
10 Method of somatic education, Rolf Movement Integration by the Rolf
11 Institute, the Trager Approach of movement education, and Body-Mind
12 Centering. Practitioners shall be recognized by or meet the
13 established standards of either a professional organization or
14 credentialing agency that represents or certifies the respective
15 practice based on a minimal level of training, demonstration of
16 competency, and adherence to ethical standards.

17 E. A physician or other licensed health care provider providing
18 health care services within their scope of practice shall not be
19 required to be licensed or registered with the State Board of
20 Cosmetology.

21 F. No person shall operate, maintain or manage a massage
22 therapy establishment without first obtaining an establishment
23 license from the Board.

1 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.

2 2016 (59 O.S. Supp. 2017, Section 4200.4), is amended to read as
3 follows:

4 Section 4200.4. A. The State Board of Cosmetology and
5 Barbering is hereby authorized to adopt and promulgate rules
6 pursuant to the Administrative Procedures Act that are necessary for
7 the implementation and enforcement of the Massage Therapy Practice
8 Act, including, but not limited to, qualifications for licensure,
9 renewals, reinstatements, and continuing education requirements.

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

14 C. If the Board becomes aware that an applicant for licensure
15 has committed a criminal offense within a ten-year period prior to
16 application for licensure, or the Board becomes aware that a
17 licensee has committed a criminal offense during the license term or
18 during any period prior to a renewal or reinstatement of a license,
19 the Board may deny the application or renewal, or suspend or revoke
20 the license, upon a determination that the person has been convicted
21 of, adjudicated on, pled nolo contendere to or received a deferred
22 judgment sentence on a criminal offense in a court of competent
23 jurisdiction, and that such offense, in the discretion of the Board,
24 poses a reasonable threat to, or substantially relates to, the

safety of the public or the fitness or ability of the person to
serve the public or work with others in the occupation. In such
cases, the Board may conduct an investigation or hold a hearing
inquiring into the facts of the offense, the criminal history record
of the person, the rehabilitation of the person and the length of
time since the offense. The order and decision of the Board shall
be a final ruling and may be appealed to the District Court of
Oklahoma County as authorized for administrative rulings in the
Administrative Procedures Act. Nothing in this subsection shall be
construed to prohibit licensure for the sole reason the person has
committed a criminal offense. Nothing in this subsection shall be
construed to prohibit the Board from placing probation conditions on
a licensee due to a criminal history record.

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

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

1 2. One member who shall be an administrator or faculty member
2 of a ~~nationally accredited school of~~ massage therapy school duly
3 licensed or accredited pursuant to Section 4200.7 of this title; and

4 3. One member who shall be a ~~citizen member~~ person who is not
5 licensed as a massage therapist and does not own an interest in a
6 massage therapy establishment.

7 ~~D.~~ E. 1. The Board shall establish a schedule of reasonable
8 and necessary administrative fees.

9 2. The fee for any an original or renewal therapist or
10 establishment license issued between the effective date of this act
11 and May 1, 2017, shall be Twenty-five Dollars (\$25.00). The fee or
12 renewal fee for any massage therapy license issued after May 1,
13 2017, including a license by reciprocity, shall be Fifty Dollars
14 (\$50.00) per year. A duplicate license fee shall be Ten Dollars
15 ~~(\$10.00)~~ Five Dollars (\$5.00).

16 SECTION 4. AMENDATORY Section 5, Chapter 292, O.S.L.
17 2016 (59 O.S. Supp. 2017, Section 4200.5), is amended to read as
18 follows:

19 Section 4200.5. A. Between ~~the effective date of this act~~
20 August 26, 2016, and May 1, 2017 August 1, 2019, the State Board of
21 Cosmetology and Barbering ~~shall~~ may issue a license to practice
22 massage therapy to any person who files a completed application,
23 accompanied by the required fees, and who ~~submits satisfactory~~
24 ~~evidence that the applicant:~~

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

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

- 3 a. documentation that the applicant has completed and
4 passed a nationally recognized competency examination
5 in the practice of massage therapy,
6 b. an affidavit of at least five (5) years of work
7 experience ~~in the state~~ as a massage therapist, or
8 c. a certificate and transcript of completion from a
9 massage school with at least five hundred (500) hours
10 of education;

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

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

- 17 a. pleading guilty, pleading nolo contendere or receiving
18 a conviction of a felony, or
19 b. pleading guilty, pleading nolo contendere or receiving
20 a conviction of a misdemeanor ~~involving moral~~
21 ~~turpitude, or~~
22 ~~c. pleading guilty, pleading nolo contendere or receiving~~
23 ~~a conviction for violation of federal or state~~
24 ~~controlled dangerous substance laws.~~

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

6 ~~C. 1. After May 1, 2017, except as otherwise provided in the~~
7 ~~Massage Therapy Practice Act, every person desiring to practice~~
8 ~~massage therapy in this state shall be required to first obtain a~~
9 ~~license from the Board; and~~

10 5. Submits to a national criminal history record check as
11 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
12 costs associated with the national criminal history record check
13 shall be paid by the applicant.

14 ~~2. B. After May 1, 2017~~ August 1, 2019, the Board may issue a
15 license to ~~an applicant~~ any person who files a completed
16 application, accompanied by the required fees, and who:

17 ~~a. is~~

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

19 ~~b. provides~~

20 2. Provides documentation that the applicant has completed the
21 equivalent of five hundred (500) hours of formal education in
22 massage therapy from a state-licensed school~~ti~~

23 ~~c. provides~~

1 3. Provides documentation that the applicant has passed a
2 nationally recognized competency examination approved by the Board~~7~~i;

3 ~~d. provides~~

4 4. Provides proof that the applicant currently maintains
5 liability insurance for practice as a massage therapist~~7~~i; and

6 ~~e. provides full disclosure to the Board of any criminal~~
7 ~~proceeding taken against the applicant including, but~~
8 ~~not limited to:~~

9 ~~(1) pleading guilty, pleading nolo contendere or~~
10 ~~receiving a conviction of a felony,~~

11 ~~(2) pleading guilty, pleading nolo contendere or~~
12 ~~receiving a conviction of a misdemeanor involving~~
13 ~~moral turpitude, or~~

14 ~~(3) pleading guilty, pleading nolo contendere or~~
15 ~~receiving a conviction for violation of federal~~
16 ~~or state controlled dangerous substance laws.~~

17 5. Submits to a national criminal history record check as
18 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
19 costs associated with the national criminal history record check
20 shall be paid by the applicant.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4200.5.1 of Title 59, unless
23 there is created a duplication in numbering, reads as follows:
24

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

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

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

6 2. Provides proof that the establishment maintains general
7 liability insurance;

8 3. Discloses whether the applicant has been denied a massage
9 establishment license in another jurisdiction;

10 4. Discloses whether the applicant holds or has held a massage
11 establishment license in another jurisdiction and whether
12 disciplinary action has ever been taken against the applicant
13 including but not limited to suspension or revocation of the
14 license; and

15 5. Submits to a national criminal history record check as
16 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
17 costs associated with the national criminal history record check
18 shall be paid by the applicant.

19 C. The Board may deny a license or place probationary
20 conditions on a license if the applicant has had a license denied or
21 has been the subject of disciplinary action in another jurisdiction
22 and if the grounds for the denial or disciplinary action would
23 constitute cause for denial or disciplinary action pursuant to the
24 Massage Therapy Practice Act or the Board's rules.

1 D. The Board may deny a license or place probationary
2 conditions on a license if the applicant has pleaded guilty, nolo
3 contendere or been convicted of a crime that substantially relates
4 to the ownership, operation or management of a massage establishment
5 or poses a reasonable threat to public health or safety.

6 For purposes of this subsection:

7 1. "Poses a reasonable threat" means the nature of criminal
8 conduct for which the person was convicted involved an act or threat
9 of harm against another and has a bearing on the fitness or ability
10 to serve the public or work with others in the occupation; and

11 2. "Substantially relates" means the nature of criminal conduct
12 for which the person was convicted has a direct bearing on the
13 fitness or ability to perform one or more of the duties or
14 responsibilities necessarily related to the occupation.

15 E. All massage establishments shall be subject to inspection by
16 the Board and shall comply with all provisions of the Massage
17 Therapy Practice Act and rules of the Board.

18 F. 1. An establishment license shall be renewed annually. The
19 renewal date shall be established by the Board through adoption of a
20 rule.

21 2. A licensee may renew a license by:

22 a. submitting a completed renewal application on a form
23 prepared by the Board,

24 b. tendering the required renewal fee,

- c. providing proof of liability insurance,
- d. disclosing any plea of guilty or nolo contendere or conviction of any crime other than minor traffic violations, and
- e. disclosing any administrative or legal action taken against the licensee in any other jurisdiction governing massage therapy.

3. A sixty (60) calendar day grace period shall be allowed each license holder after the end of the renewal period, during which time a license may be renewed upon payment of the renewal fee and a late fee as prescribed by the Board.

4. If a license is not renewed by the end of the sixty (60) calendar day grace period, the license shall expire.

SECTION 6. AMENDATORY Section 6, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section 4200.6), is amended to read as follows:

Section 4200.6. A. A massage ~~therapy~~ therapist or establishment license issued by the State Board of Cosmetology and Barbering shall at all times be posted in a conspicuous place in the principal place of business of the holder.

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

1 SECTION 7. AMENDATORY Section 7, Chapter 292, O.S.L.
2 2016 (59 O.S. Supp. 2017, Section 4200.7), is amended to read as
3 follows:

4 Section 4200.7. A. A person shall not advertise, maintain,
5 manage or operate a massage therapy school unless the school is
6 licensed by the Oklahoma Board of Private Vocational Schools or is a
7 technology center school accredited by the Oklahoma State Board of
8 Career and Technology Education.

9 B. A person shall not instruct as a massage therapist unless
10 the instruction is within the scope of curriculum at a ~~licensed~~
11 massage therapy school licensed or accredited in compliance with
12 this section or is within the scope of an approved continuing
13 education seminar.

14 SECTION 8. AMENDATORY Section 9, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2017, Section 4200.9), is amended to read as
16 follows:

17 Section 4200.9. A. The State Board of Cosmetology and
18 Barbering may issue a license by reciprocity to an applicant,
19 ~~provided that the applicant who~~ possesses a valid license or
20 registration to practice massage therapy issued by the appropriate
21 examining board ~~under~~ pursuant to the laws of any other state or
22 territory of the United States, the District of Columbia or any
23 foreign nation and has met educational and examination requirements
24

1 equal to or exceeding those established pursuant to the Massage
2 Therapy Practice Act.

3 B. ~~1. Massage therapy licenses shall expire biennially.~~
4 ~~Expiration dates shall be established by the Board through adoption~~
5 ~~of a rule.~~

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

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

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

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

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

1 ~~E. The Board shall fix the amount of fees so that the total~~
2 ~~fees collected shall be sufficient to meet the expenses of~~
3 ~~administering the provisions of the Massage Therapy Practice Act~~
4 ~~without unnecessary surpluses~~ An applicant for licensure by
5 reciprocity shall disclose any criminal history from the
6 jurisdiction where the applicant is licensed and shall submit to a
7 national criminal history record check as defined at Section 150.9
8 of Title 74 of the Oklahoma Statutes. The costs associated with the
9 national criminal history record check shall be paid by the
10 applicant.

11 C. In addition to all other required fees, an applicant for
12 licensure by reciprocity shall pay a non-refundable processing fee
13 of Thirty Dollars (\$30.00).

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4200.9.1 of Title 59, unless
16 there is created a duplication in numbering, reads as follows:

17 A. A Massage Therapist license shall be renewed annually. The
18 renewal date shall be established by the State Board of Cosmetology
19 and Barbering through adoption of a rule.

20 B. A licensee may renew a license by:

21 1. Submitting a completed renewal application on a form
22 prepared by the Board;

23 2. Tendering the required renewal fee;

1 3. Submitting proof of completion of all continuing education
2 requirements;

3 4. Providing proof of liability insurance;

4 5. Disclosing any plea of guilty, nolo contendere or conviction
5 of any crime other than minor traffic violations; and

6 6. Disclosing any administrative or legal action taken against
7 the licensee in any other jurisdiction governing massage therapy.

8 C. 1. A sixty (60) calendar day grace period shall be allowed
9 each license holder after the end of the renewal period, during
10 which time a license may be renewed upon payment of the renewal fee
11 and a late fee as prescribed by the Board.

12 2. If a license is not renewed by the end of the sixty (60)
13 calendar day grace period, the license shall be placed on inactive
14 status during which time the person shall not practice massage
15 therapy.

16 3. A person may renew a license on inactive status by:

17 a. submitting a completed renewal application on a form
18 prepared by the Board,

19 b. tendering the required renewal fee for the year in
20 which the license is reactivated,

21 c. tendering a late fee as prescribed by the Board,

22 d. submitting proof of completion of all continuing
23 education requirements cumulative for the years the
24 license was inactive,

- 1 e. submitting proof of completion of forty (40) review
2 hours and twelve (12) hours of sanitation and body
3 care in addition to the cumulative continuing
4 education requirements,
5 f. providing proof of liability insurance, and
6 g. disclosing any plea of guilty, nolo contendere or
7 conviction of any crime other than minor traffic
8 violations.

9 4. If a license on inactive status is not renewed within five
10 (5) years from the original renewal date, it shall expire. If the
11 person who held the license wishes to practice massage therapy, the
12 person must apply for original licensure and complete all licensure
13 requirements.

14 SECTION 10. AMENDATORY Section 10, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2017, Section 4200.10), is amended to read as
16 follows:

17 Section 4200.10. A. The Massage Therapy Practice Act shall
18 supersede all ordinances or regulations regulating massage
19 therapists and massage therapy establishments in any city, county,
20 or political subdivision, except as listed in subsections B and C of
21 this section.

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

1 C. Municipalities, counties and political subdivisions may
2 enact ordinances or resolutions regulating the operation times of a
3 massage establishment. No municipal ordinance, resolution or other
4 political subdivision requirement shall prohibit the operation of a
5 massage establishment between the hours of 9:00 a.m. and 10:00 p.m.
6 Monday through Saturday.

7 SECTION 11. AMENDATORY Section 11, Chapter 292, O.S.L.
8 2016 (59 O.S. Supp. 2017, Section 4200.11), is amended to read as
9 follows:

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

14 1. ~~Deny or refuse to renew a license;~~
15 2. ~~Suspend or revoke a license;~~
16 3. ~~2.~~ Issue an administrative reprimand; or
17 4. ~~3.~~ Impose probationary conditions when the licensee or
18 applicant has engaged in unprofessional conduct that has endangered
19 or is likely to endanger the health, welfare or safety of the
20 public;

21 4. Assess an administrative fine of not more than Five Hundred
22 Dollars (\$500.00) for each violation of the Massage Therapy Practice
23 Act or rule of the Board. Each day a violation continues shall
24 constitute a separate offense; or

1 5. By taking a combination of the above-stated actions.

2 B. The Board ~~shall~~ may take disciplinary action upon a finding
3 that ~~the~~ a licensee or person has violated a provision of the
4 Massage Therapy Practice Act, or rules promulgated by the Board
5 ~~committed an act of unprofessional conduct or committed a violation~~
6 ~~of rule or law.~~

7 C. Disciplinary proceedings may be instituted by ~~sworn~~ the
8 filing of a complaint of any person, including members of the Board,
9 and shall conform to the provisions of the Administrative Procedures
10 Act. The Board shall conduct investigations in the same manner and
11 according to the same terms as provided for in the Oklahoma
12 Cosmetology and Barber Act. Records and information obtained in
13 connection with an investigation of alleged violations shall be
14 confidential in the same manner as provided for in the Oklahoma
15 Cosmetology and Barber Act and rules of the Board.

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

20 E. A license holder who has been found ~~culpable~~ in violation of
21 the Massage Therapy Practice Act or rules promulgated by the Board
22 and has been sanctioned by the Board shall be responsible for the
23 payment of all costs of the disciplinary proceedings and any
24 administrative ~~fees~~ finer imposed.

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

4 SECTION 12. AMENDATORY Section 13, Chapter 292, O.S.L.
5 2016 (59 O.S. Supp. 2017, Section 4200.13), is amended to read as
6 follows:

7 Section 4200.13. A. A person who ~~does~~ commits any of the
8 following acts shall be guilty of a misdemeanor upon conviction:

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

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

15 3. Advertises or uses a designation, diploma or certificate
16 implying that the person offers massage therapy instruction or is a
17 massage therapy school unless the person holds a current valid
18 license issued by the Oklahoma Board of Private Vocational Schools
19 or is a technology center school accredited by the Oklahoma State
20 Board of Career and Technology Education; or

21 4. Advertises or uses a designation, diploma, or certificate
22 implying that the person is a massage therapist unless the person
23 holds a current valid license issued by the State Board of
24 Cosmetology and Barbering.

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

5 2. ~~Any~~ No person who uses shall use a professional title
6 regulated by the Massage Therapy Practice Act who is not authorized
7 to use the professional title ~~shall be subject to disciplinary~~
8 ~~action by the Board.~~

9 3. ~~Any~~ No person who shall knowingly ~~aids and abets~~ aid or abet
10 one or more persons not authorized to use a professional title
11 regulated by the Massage Therapy Practice Act or knowingly ~~employs~~
12 ~~or contracts~~ employ or contract with a person or 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 service.~~

18 4. No person shall advertise massage therapy services in any
19 combination with any escort or dating service.

20 SECTION 13. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 4200.14 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

23 A. In addition to any civil or criminal actions authorized by
24 law, whenever, in the judgment of the Oklahoma Board of Cosmetology

1 and Barbering, any unlicensed person has engaged in any acts or
2 practices which constitute a violation of the Massage Therapy
3 Practice Act or rules of the Board, the Board may:

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

8 2. Make application to the appropriate court for an order
9 enjoining such acts or practices, and upon a showing by the Board
10 that such person has engaged in any such acts or practices, an
11 injunction, restraining order or such other order as may be
12 appropriate shall be granted by the court, without bond; or

13 3. Take both of the above-stated actions.

14 B. Any administrative fines imposed pursuant to this section
15 shall be enforceable in the district courts of this state. The
16 order of the Board shall become final and binding on all parties
17 unless appealed to the district court as provided in the
18 Administrative Procedures Act. If an appeal is not made, such order
19 may be entered on the judgment docket of the district court in a
20 county in which the debtor has property and thereafter enforced in
21 the same manner as an order of the district court for collection
22 actions.

23 C. Each day a violation continues shall be a separate offense.
24

1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4003 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Every administrative body, state agency director or official
5 with authority over any occupational or professional license or
6 certification, and each of the respective examining and licensing
7 boards, upon presentation of satisfactory evidence that an applicant
8 for licensure or certification is a low-income individual shall
9 grant a one-year waiver of any fees associated with such licensure
10 or certification. For purposes of the section, "low-income
11 individual" means an individual who is enrolled in a state or
12 federal public assistance program, including, but not limited to,
13 the Temporary Assistance for Needy Families, Medicaid or the
14 Supplemental Nutrition Assistance Program, or whose household
15 adjusted gross income is below one hundred forty percent (140%) of
16 the federal poverty line or a higher threshold to be set by the
17 executive branch department that oversees business regulation.

18 B. Each administrative body, state agency director or official
19 with authority over any occupational or professional license or
20 certification, and each of the respective examining and licensing
21 boards, shall promulgate rules to implement the provisions of this
22 section.

SECTION 15. This act shall become effective November 1, 2018.

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