

1 ENGROSSED SENATE  
2 BILL NO. 1063

By: Bergstrom of the Senate

3 and

4 West (Tammy) of the House  
5

6 An Act relating to the Massage Therapy Practice Act;  
7 amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S.  
8 Supp. 2017, Section 4200.2), which relates to  
9 definitions; modifying definitions; amending Section  
10 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017,  
11 Section 4200.3), which relates to licensed massage  
12 therapist; modifying prohibited acts; updating  
13 statutory reference; prohibiting certain acts without  
14 first obtaining a license; amending Section 4,  
15 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section  
16 4200.4), which relates to authority of State Board of  
17 Cosmetology and Barbering; allowing Board to take  
18 certain disciplinary action under certain  
19 circumstances; providing certain construction;  
20 directing Board to establish a fee schedule;  
21 modifying fee amounts; amending Section 5, Chapter  
22 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section  
23 4200.5), which relates to license requirements;  
24 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  
Section 6, Chapter 292, O.S.L. 2016 (59 O.S. Supp.  
2017, Section 4200.6), which relates to license  
posting required; modifying type of license; amending  
Section 7, Chapter 292, O.S.L. 2016 (59 O.S. Supp.  
2017, Section 4200.7), which relates to massage  
therapy schools; including technology center schools  
in certain provision; modifying types of allowable  
education; amending Section 9, Chapter 292, O.S.L.

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

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

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

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

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

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

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

10          6.    "Massage therapy school" means a facility providing  
11     instruction in massage therapy.

12          SECTION 2.        AMENDATORY        Section 3, Chapter 292, O.S.L.  
13     2016 (59 O.S. Supp. 2017, Section 4200.3), is amended to read as  
14     follows:

15          Section 4200.3.   A.   Unless a person is a licensed massage  
16     therapist, a person shall not:

- 17          1.     Practice massage therapy in this state;  
18          2.    Use the title of massage therapist;  
19          ~~2.~~ 3.    Represent himself or herself to be a massage therapist;  
20          ~~3.~~ 4.    Use any other title, words, abbreviations, letters,  
21     figures, signs or devices that indicate the person is a massage  
22     therapist; or

1       ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or  
2 "massage therapist" when advertising or printing promotional  
3 material.

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

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

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

17       D. Nothing in the Massage Therapy Practice Act shall be  
18 construed to prevent:

19       1. Qualified members of other recognized professions who are  
20 licensed or regulated ~~under~~ pursuant to Oklahoma law from rendering  
21 services within the scope of the license of the person, provided the  
22 person does not represent himself or herself as a massage therapist.  
23 A physician or other licensed health care provider providing health  
24 care services within the scope of practice of the physician or

1 provider shall not be required to be licensed by or registered with  
2 the State Board of Cosmetology and Barbering;

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

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

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

19 5. Physicians or other health care professionals from  
20 appropriately referring to duly licensed massage therapists or limit  
21 in any way the right of direct access of the public to licensed  
22 massage therapists; or

23 6. The practice of any person in this state who uses touch,  
24 words and directed movement to deepen awareness of existing patterns

1 of movement in the body as well as to suggest new possibilities of  
2 movement while engaged within the scope of practice of a profession  
3 with established standards and ethics, provided that the services  
4 are not designated or implied to be massage or massage therapy.  
5 Practices shall include but are not limited to the Feldenkrais  
6 Method of somatic education, Rolf Movement Integration by the Rolf  
7 Institute, the Trager Approach of movement education, and Body-Mind  
8 Centering. Practitioners shall be recognized by or meet the  
9 established standards of either a professional organization or  
10 credentialing agency that represents or certifies the respective  
11 practice based on a minimal level of training, demonstration of  
12 competency, and adherence to ethical standards.

13 E. A physician or other licensed health care provider providing  
14 health care services within their scope of practice shall not be  
15 required to be licensed or registered with the State Board of  
16 Cosmetology.

17 F. No person shall operate, maintain or manage a massage  
18 therapy establishment without first obtaining an establishment  
19 license from the Board.

20 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.  
21 2016 (59 O.S. Supp. 2017, Section 4200.4), is amended to read as  
22 follows:

23 Section 4200.4. A. The State Board of Cosmetology and  
24 Barbering is hereby authorized to adopt and promulgate rules

1 pursuant to the Administrative Procedures Act that are necessary for  
2 the implementation and enforcement of the Massage Therapy Practice  
3 Act, including, but not limited to, qualifications for licensure,  
4 renewals, reinstatements, and continuing education requirements.

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

9 C. If the Board becomes aware that an applicant for licensure  
10 has committed a criminal offense within a ten-year period prior to  
11 application for licensure, or the Board becomes aware that a  
12 licensee has committed a criminal offense during the license term or  
13 during any period prior to a renewal or reinstatement of a license,  
14 the Board may deny the application or renewal, or suspend or revoke  
15 the license, upon a determination that the person has been convicted  
16 of, adjudicated on, pled nolo contendere to or received a deferred  
17 judgment sentence on a criminal offense in a court of competent  
18 jurisdiction, and that such offense, in the discretion of the Board,  
19 poses a reasonable threat to, or substantially relates to, the  
20 safety of the public or the fitness or ability of the person to  
21 serve the public or work with others in the occupation. In such  
22 cases, the Board may conduct an investigation or hold a hearing  
23 inquiring into the facts of the offense, the criminal history record  
24 of the person, the rehabilitation of the person and the length of



1 time since the offense. The order and decision of the Board shall  
2 be a final ruling and may be appealed to the District Court of  
3 Oklahoma County as authorized for administrative rulings in the  
4 Administrative Procedures Act. Nothing in this subsection shall be  
5 construed to prohibit licensure for the sole reason the person has  
6 committed a criminal offense. Nothing in this subsection shall be  
7 construed to prohibit the Board from placing probation conditions on  
8 a licensee due to a criminal history record.

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

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

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

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

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

3     2. The fee for any an original or renewal therapist or  
4     establishment license issued between the effective date of this act  
5     and May 1, 2017, shall be Twenty-five Dollars (\$25.00). The fee or  
6     renewal fee for any massage therapy license issued after May 1,  
7     2017, including a license by reciprocity, shall be Fifty Dollars  
8     (\$50.00) per year. A duplicate license fee shall be Ten Dollars  
9     ~~(\$10.00)~~ Five Dollars (\$5.00).

10     SECTION 4.           AMENDATORY           Section 5, Chapter 292, O.S.L.  
11     2016 (59 O.S. Supp. 2017, Section 4200.5), is amended to read as  
12     follows:

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

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

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

21             a. documentation that the applicant has completed and  
22                 passed a nationally recognized competency examination  
23                 in the practice of massage therapy,

1           b.    an affidavit of at least five (5) years of work  
2                   experience ~~in the state~~ as a massage therapist, or

3           c.    a certificate and transcript of completion from a  
4                   massage school with at least five hundred (500) hours  
5                   of education;

6           3.    Provides proof of documentation that the applicant currently  
7 maintains liability insurance for practice as a massage therapist;  
8 and

9           4.    Provides full disclosure to the Board of any criminal  
10 proceeding taken against the applicant including, but not limited  
11 to:

12           a.    pleading guilty, pleading nolo contendere or receiving  
13                   a conviction of a felony, or

14           b.    pleading guilty, pleading nolo contendere or receiving  
15                   a conviction of a misdemeanor ~~involving moral~~  
16                   turpitude, ~~or~~

17           ~~c.    pleading guilty, pleading nolo contendere or receiving~~  
18                   ~~a conviction for violation of federal or state~~  
19                   ~~controlled dangerous substance laws.~~

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

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

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

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

12 ~~a. is~~

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

14 ~~b. provides~~

15 2. Provides documentation that the applicant has completed the  
16 equivalent of five hundred (500) hours of formal education in  
17 massage therapy from a state-licensed school;

18 ~~c. provides~~

19 3. Provides documentation that the applicant has passed a  
20 nationally recognized competency examination approved by the Board;  
21 and

22 ~~d. provides~~

23 4. Provides proof that the applicant currently maintains  
24 liability insurance for practice as a massage therapist; and

1 ~~e. provides full disclosure to the Board of any criminal~~  
2 ~~proceeding taken against the applicant including, but~~  
3 ~~not limited to:~~  
4 ~~(1) pleading guilty, pleading nolo contendere or~~  
5 ~~receiving a conviction of a felony,~~  
6 ~~(2) pleading guilty, pleading nolo contendere or~~  
7 ~~receiving a conviction of a misdemeanor involving~~  
8 ~~moral turpitude, or~~  
9 ~~(3) pleading guilty, pleading nolo contendere or~~  
10 ~~receiving a conviction for violation of federal~~  
11 ~~or state controlled dangerous substance laws.~~

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

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

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

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

23 1. Is at least eighteen (18) years of age;  
24

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

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

5        4. Discloses whether the applicant holds or has held a massage  
6 establishment license in another jurisdiction and whether  
7 disciplinary action has ever been taken against the applicant  
8 including but not limited to suspension or revocation of the  
9 license; 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       C. The Board may deny a license or place probationary  
15 conditions on a license if the applicant has had a license denied or  
16 has been the subject of disciplinary action in another jurisdiction  
17 and if the grounds for the denial or disciplinary action would  
18 constitute cause for denial or disciplinary action pursuant to the  
19 Massage Therapy Practice Act or the Board's rules.

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

For purposes of this subsection:

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

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

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

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

2. A licensee may renew a license by:

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

1 e. disclosing any administrative or legal action taken  
2 against the licensee in any other jurisdiction  
3 governing massage therapy.

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

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

10 SECTION 6. AMENDATORY Section 6, Chapter 292, O.S.L.  
11 2016 (59 O.S. Supp. 2017, Section 4200.6), is amended to read as  
12 follows:

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

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

19 SECTION 7. AMENDATORY Section 7, Chapter 292, O.S.L.  
20 2016 (59 O.S. Supp. 2017, Section 4200.7), is amended to read as  
21 follows:

22 Section 4200.7. A. A person shall not advertise, maintain,  
23 manage or operate a massage therapy school unless the school is  
24 licensed by the Oklahoma Board of Private Vocational Schools or is a



1 technology center school accredited by the Oklahoma State Board of  
2 Career and Technology Education.

3 B. A person shall not instruct as a massage therapist unless  
4 the instruction is within the scope of curriculum at a ~~licensed~~  
5 massage therapy school licensed or accredited in compliance with  
6 this section or is within the scope of an approved continuing  
7 education seminar.

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

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

20 B. ~~1. Massage therapy licenses shall expire biennially.~~  
21 ~~Expiration dates shall be established by the Board through adoption~~  
22 ~~of a rule.~~

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

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

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

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

16       ~~D. The Board shall establish a schedule of reasonable and~~  
17 ~~necessary administrative fees.~~

18       ~~E. The Board shall fix the amount of fees so that the total~~  
19 ~~fees collected shall be sufficient to meet the expenses of~~  
20 ~~administering the provisions of the Massage Therapy Practice Act~~  
21 ~~without unnecessary surpluses~~ An applicant for licensure by  
22 reciprocity shall disclose any criminal history from the  
23 jurisdiction where the applicant is licensed and shall submit to a  
24 national criminal history record check as defined at Section 150.9

1 of Title 74 of the Oklahoma Statutes. The costs associated with the  
2 national criminal history record check shall be paid by the  
3 applicant.

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

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

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

13 B. A licensee may renew a license by:

14 1. Submitting a completed renewal application on a form  
15 prepared by the Board;

16 2. Tendering the required renewal fee;

17 3. Submitting proof of completion of all continuing education  
18 requirements;

19 4. Providing proof of liability insurance;

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

22 6. Disclosing any administrative or legal action taken against  
23 the licensee in any other jurisdiction governing massage therapy.  
24

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

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

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

- 10 a. submitting a completed renewal application on a form  
11 prepared by the Board,
  - 12 b. tendering the required renewal fee for the year in  
13 which the license is reactivated,
  - 14 c. tendering a late fee as prescribed by the Board,
  - 15 d. submitting proof of completion of all continuing  
16 education requirements cumulative for the years the  
17 license was inactive,
  - 18 e. submitting proof of completion of forty (40) review  
19 hours and twelve (12) hours of sanitation and body  
20 care in addition to the cumulative continuing  
21 education requirements,
  - 22 f. providing proof of liability insurance, and
- 23  
24

1           g.   disclosing any plea of guilty, nolo contendere or  
2               conviction of any crime other than minor traffic  
3               violations.

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

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

12           Section 4200.10.   A.   The Massage Therapy Practice Act shall  
13   supersede all ordinances or regulations regulating massage  
14   therapists and massage therapy establishments in any city, county,  
15   or political subdivision, except as listed in subsections B and C of  
16   this section.

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

20           C.   Municipalities, counties and political subdivisions may  
21   enact ordinances or resolutions regulating the operation times of a  
22   massage establishment. No municipal ordinance, resolution or other  
23   political subdivision requirement shall prohibit the operation of a  
24

1 massage establishment between the hours of 9:00 a.m. and 9:00 p.m.  
2 Monday through Saturday.

3 SECTION 11. AMENDATORY Section 11, Chapter 292, O.S.L.  
4 2016 (59 O.S. Supp. 2017, Section 4200.11), is amended to read as  
5 follows:

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

- 10 1. ~~Deny or refuse to renew a license;~~
- 11 ~~2.~~ Suspend or revoke a license;
- 12 ~~3.~~ 2. Issue an administrative reprimand; ~~or~~
- 13 ~~4.~~ 3. Impose probationary conditions ~~when the licensee or~~  
14 ~~applicant has engaged in unprofessional conduct that has endangered~~  
15 ~~or is likely to endanger the health, welfare or safety of the~~  
16 ~~public;~~
- 17 4. Assess an administrative fine of not more than Five Hundred  
18 Dollars (\$500.00) for each violation of the Massage Therapy Practice  
19 Act or rule of the Board. Each day a violation continues shall  
20 constitute a separate offense; or

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

22 B. The Board ~~shall~~ may take disciplinary action upon a finding  
23 that ~~the~~ a licensee ~~or person~~ has violated a provision of the  
24 Massage Therapy Practice Act, or rules promulgated by the Board

1 ~~committed an act of unprofessional conduct or committed a violation~~  
2 ~~of rule or law.~~

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

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

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

21 ~~F.~~ E. The surrender or expiration of a license shall not  
22 deprive the Board of jurisdiction to proceed with disciplinary  
23 action.

1       SECTION 12.       AMENDATORY       Section 13, Chapter 292, O.S.L.  
2       2016 (59 O.S. Supp. 2017, Section 4200.13), is amended to read as  
3       follows:

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

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

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

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

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

22      B.   1.   Therapists regulated by the Massage Therapy Practice Act  
23      shall be designated as "massage therapists" and entitled to utilize  
24



1 the term "massage" when advertising or printing promotional  
2 material.

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

7 3. ~~Any~~ No person who shall knowingly ~~aids and abets~~ aid or abet  
8 one or more persons not authorized to use a professional title  
9 regulated by the Massage Therapy Practice Act or knowingly ~~employs~~  
10 ~~or contracts~~ employ or contract with a person or persons not  
11 authorized to use a regulated professional title in the course of  
12 the employment, ~~shall also be subject to disciplinary action by the~~  
13 ~~Board. It shall be a violation of the Massage Therapy Practice Act~~  
14 ~~for any person to advertise massage therapy services in any~~  
15 ~~combination with any escort or dating service.~~

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

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

21 A. In addition to any civil or criminal actions authorized by  
22 law, whenever, in the judgment of the Oklahoma Board of Cosmetology  
23 and Barbering, any unlicensed person has engaged in any acts or  
24

practices which constitute a violation of the Massage Therapy Practice Act or rules of the Board, the Board may:

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

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

3. Take both of the above-stated actions.

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

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

SECTION 14. This act shall become effective November 1, 2018.

1 Passed the Senate the 12th day of March, 2018.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2018.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives