

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
4/24/2018 10:14 AM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

FLOOR SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 2933

By: Mulready of the House

and

David of the Senate

FLOOR SUBSTITUTE

[Professions and Occupations - cosmetology and
barbering - specific waiver of fees - codification -
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

1 Massage Therapy Practice Act. A massage therapist uses visual,
2 kinesthetic, and palpatory skills to assess the body and may
3 evaluate a condition to the extent of determining whether massage is
4 indicated or contraindicated;

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

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

19 b. the external application of ice, heat and cold packs
20 for thermal therapy, water, lubricants, abrasives and
21 external application of herbal or topical preparations
22 not classified as prescription drugs; ~~and~~

23 5. "Massage therapy establishment" means any fixed business
24 location, address, building or property, other than a licensed

1 cosmetology or barbering establishment, where a person engages in,
2 conducts, carries on or permits to be engaged in the practice of
3 massage therapy; and

4 6. "Massage therapy school" means a facility providing
5 instruction in massage therapy.

6 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.
7 2016 (59 O.S. Supp. 2017, Section 4200.3), is amended to read as
8 follows:

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

11 1. Practice massage therapy in this state;

12 2. Use the title of massage therapist;

13 ~~2.~~ 3. Represent himself or herself to be a massage therapist;

14 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
15 figures, signs or devices that indicate the person is a massage
16 therapist; or

17 ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or
18 "massage therapist" when advertising or printing promotional
19 material.

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

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

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

9 D. Nothing in the Massage Therapy Practice Act shall be
10 construed to prevent:

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

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

21 3. Visiting massage therapy instructors from another state or
22 territory of the United States, the District of Columbia or any
23 foreign nation from teaching massage therapy, provided the
24 instructor is duly licensed or registered, if required, and is

1 qualified in the instructor's place of residence for the practice of
2 massage therapy;

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

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

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

1 established standards of either a professional organization or
2 credentialing agency that represents or certifies the respective
3 practice based on a minimal level of training, demonstration of
4 competency, and adherence to ethical standards.

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

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

12 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.
13 2016 (59 O.S. Supp. 2017, Section 4200.4), is amended to read as
14 follows:

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

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

1 C. If the Board becomes aware that an applicant for licensure
2 has committed a criminal offense within a ten-year period prior to
3 application for licensure, or the Board becomes aware that a
4 licensee has committed a criminal offense during the license term or
5 during any period prior to a renewal or reinstatement of a license,
6 the Board may deny the application or renewal, or suspend or revoke
7 the license, upon a determination that the person has been convicted
8 of, adjudicated on, pled nolo contendere to or received a deferred
9 judgment sentence on a criminal offense in a court of competent
10 jurisdiction, and that such offense, in the discretion of the Board,
11 poses a reasonable threat to, or substantially relates to, the
12 safety of the public or the fitness or ability of the person to
13 serve the public or work with others in the occupation. In such
14 cases, the Board may conduct an investigation or hold a hearing
15 inquiring into the facts of the offense, the criminal history record
16 of the person, the rehabilitation of the person and the length of
17 time since the offense. The order and decision of the Board shall
18 be a final ruling and may be appealed to the District Court of
19 Oklahoma County as authorized for administrative rulings in the
20 Administrative Procedures Act. Nothing in this subsection shall be
21 construed to prohibit licensure for the sole reason the person has
22 committed a criminal offense. Nothing in this subsection shall be
23 construed to prohibit the Board from placing probation conditions on
24 a licensee due to a criminal history record.

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

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

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

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

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

19 2. The fee for any an original or renewal therapist or
20 establishment license issued between the effective date of this act
21 and May 1, 2017, shall be Twenty five Dollars (\$25.00). The fee or
22 renewal fee for any massage therapy license issued after May 1,
23 2017, including a license by reciprocity, shall be Fifty Dollars
24

1 (\$50.00) per year. A duplicate license fee shall be ~~Ten Dollars~~
2 ~~(\$10.00)~~ Five Dollars (\$5.00).

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

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

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

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

14 a. documentation that the applicant has completed and
15 passed a nationally recognized competency examination
16 in the practice of massage therapy,

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

19 c. a certificate and transcript of completion from a
20 massage school with at least five hundred (500) hours
21 of education;

22 3. Provides proof of documentation that the applicant currently
23 maintains liability insurance for practice as a massage therapist;
24 ~~and~~

1 4. Provides full disclosure to the Board of any criminal
2 proceeding taken against the applicant including, but not limited
3 to:

4 a. pleading guilty, pleading nolo contendere or receiving
5 a conviction of a felony, or

6 b. pleading guilty, pleading nolo contendere or receiving
7 a conviction of a misdemeanor ~~involving moral~~
8 ~~turpitude, or~~

9 ~~c. pleading guilty, pleading nolo contendere or receiving~~
10 ~~a conviction for violation of federal or state~~
11 ~~controlled dangerous substance laws.~~

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

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

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

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

4 ~~a. — is~~

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

6 ~~b. — provides~~

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

10 ~~c. — provides~~

11 3. Provides documentation that the applicant has passed a
12 nationally recognized competency examination approved by the Board ;

13 ~~d. — provides~~

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

16 ~~e. — provides full disclosure to the Board of any criminal~~
17 ~~proceeding taken against the applicant including, but~~
18 ~~not limited to:~~

19 ~~(1) pleading guilty, pleading nolo contendere or~~
20 ~~receiving a conviction of a felony,~~

21 ~~(2) pleading guilty, pleading nolo contendere or~~
22 ~~receiving a conviction of a misdemeanor involving~~
23 ~~moral turpitude, or~~

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

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

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

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

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

1. Is at least eighteen (18) years of age;
2. Provides proof that the establishment maintains general
liability insurance;
3. Discloses whether the applicant has been denied a massage
establishment license in another jurisdiction;
4. Discloses whether the applicant holds or has held a massage
establishment license in another jurisdiction and whether
disciplinary action has ever been taken against the applicant
including but not limited to suspension or revocation of the
license; and

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

5 C. The Board may deny a license or place probationary
6 conditions on a license if the applicant has had a license denied or
7 has been the subject of disciplinary action in another jurisdiction
8 and if the grounds for the denial or disciplinary action would
9 constitute cause for denial or disciplinary action pursuant to the
10 Massage Therapy Practice Act or the Board's rules.

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

16 For purposes of this subsection:

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

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

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

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

7 2. A licensee may renew a license by:

- 8 a. submitting a completed renewal application on a form
9 prepared by the Board,
- 10 b. tendering the required renewal fee,
- 11 c. providing proof of liability insurance,
- 12 d. disclosing any plea of guilty or nolo contendere or
13 conviction of any crime other than minor traffic
14 violations, and
- 15 e. disclosing any administrative or legal action taken
16 against the licensee in any other jurisdiction
17 governing massage therapy.

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

22 4. If a license is not renewed by the end of the sixty (60)
23 calendar day grace period, the license shall expire.
24

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.

SECTION 7. AMENDATORY Section 7, Chapter 292, O.S.L.

2016 (59 O.S. Supp. 2017, Section 4200.7), is amended to read as follows:

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

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

1 SECTION 8. AMENDATORY Section 9, Chapter 292, O.S.L.
2 2016 (59 O.S. Supp. 2017, Section 4200.9), is amended to read as
3 follows:

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

13 B. ~~1. Massage therapy licenses shall expire biennially.~~
14 ~~Expiration dates shall be established by the Board through adoption~~
15 ~~of a rule.~~

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

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

22 C. ~~1. If a massage therapy license is not renewed by the end~~
23 ~~of the thirty-day grace period, the license shall be placed on~~
24 ~~inactive status for a period not to exceed one (1) year. At the end~~

1 ~~of one (1) year, if the license has not been reactivated, it shall~~
2 ~~automatically expire.~~

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

9 ~~D. The Board shall establish a schedule of reasonable and~~
10 ~~necessary administrative fees.~~

11 ~~E. The Board shall fix the amount of fees so that the total~~
12 ~~fees collected shall be sufficient to meet the expenses of~~
13 ~~administering the provisions of the Massage Therapy Practice Act~~
14 ~~without unnecessary surpluses~~ An applicant for licensure by
15 reciprocity shall disclose any criminal history from the
16 jurisdiction where the applicant is licensed and shall submit to a
17 national criminal history record check as defined at Section 150.9
18 of Title 74 of the Oklahoma Statutes. The costs associated with the
19 national criminal history record check shall be paid by the
20 applicant.

21 C. In addition to all other required fees, an applicant for
22 licensure by reciprocity shall pay a non-refundable processing fee
23 of Thirty Dollars (\$30.00).
24

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

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

7 B. A licensee may renew a license by:

8 1. Submitting a completed renewal application on a form
9 prepared by the Board;

10 2. Tendering the required renewal fee;

11 3. Submitting proof of completion of all continuing education
12 requirements;

13 4. Providing proof of liability insurance;

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

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

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

22 2. If a license is not renewed by the end of the sixty (60)
23 calendar day grace period, the license shall be placed on inactive
24

1 status during which time the person shall not practice massage
2 therapy.

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

- 4 a. submitting a completed renewal application on a form
5 prepared by the Board,
- 6 b. tendering the required renewal fee for the year in
7 which the license is reactivated,
- 8 c. tendering a late fee as prescribed by the Board,
- 9 d. submitting proof of completion of all continuing
10 education requirements cumulative for the years the
11 license was inactive,
- 12 e. submitting proof of completion of forty (40) review
13 hours and twelve (12) hours of sanitation and body
14 care in addition to the cumulative continuing
15 education requirements,
- 16 f. providing proof of liability insurance, and
- 17 g. disclosing any plea of guilty, nolo contendere or
18 conviction of any crime other than minor traffic
19 violations.

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

SECTION 10. AMENDATORY Section 10, Chapter 292, O.S.L.

2016 (59 O.S. Supp. 2017, Section 4200.10), is amended to read as follows:

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

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

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

SECTION 11. AMENDATORY Section 11, Chapter 292, O.S.L.

2016 (59 O.S. Supp. 2017, Section 4200.11), is amended to read as follows:

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

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

2 ~~2.~~ Suspend or revoke a license;

3 ~~3.~~ 2. Issue an administrative reprimand; ~~or~~

4 ~~4.~~ 3. Impose probationary conditions ~~when the licensee or~~
5 ~~applicant has engaged in unprofessional conduct that has endangered~~
6 ~~or is likely to endanger the health, welfare or safety of the~~
7 ~~public;~~

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

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

13 B. The Board ~~shall~~ may take disciplinary action upon a finding
14 that ~~the a licensee or person~~ has violated a provision of the
15 Massage Therapy Practice Act, or rules promulgated by the Board
16 ~~committed an act of unprofessional conduct or committed a violation~~
17 ~~of rule or law.~~

18 C. Disciplinary proceedings may be instituted by ~~sworn~~ the
19 filing of a complaint of any person, including members of the Board,
20 and shall conform to the provisions of the Administrative Procedures
21 Act. The Board shall conduct investigations in the same manner and
22 according to the same terms as provided for in the Oklahoma
23 Cosmetology and Barber Act. Records and information obtained in
24 connection with an investigation of alleged violations shall be

1 confidential in the same manner as provided for in the Oklahoma
2 Cosmetology and Barber Act and rules of the Board.

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

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

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

15 SECTION 12. AMENDATORY Section 13, Chapter 292, O.S.L.
16 2016 (59 O.S. Supp. 2017, Section 4200.13), is amended to read as
17 follows:

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

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

22 2. ~~Renders~~ Advertises, offers, renders or attempts to render
23 massage therapy services ~~or massage therapy instruction~~ without the
24

1 required current valid therapist or establishment license issued by
2 the State Board of Cosmetology and Barbering;

3 3. Advertises or uses a designation, diploma or certificate
4 implying that the person offers massage therapy instruction or is a
5 massage therapy school unless the person holds a current valid
6 license issued by the Oklahoma Board of Private Vocational Schools
7 or is a technology center school accredited by the Oklahoma State
8 Board of Career and Technology Education; or

9 4. Advertises or uses a designation, diploma, or certificate
10 implying that the person is a massage therapist unless the person
11 holds a current valid license issued by the State Board of
12 Cosmetology and Barbering.

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

17 2. ~~Any~~ No person ~~who uses~~ shall use a professional title
18 regulated by the Massage Therapy Practice Act who is not authorized
19 to use the professional title ~~shall be subject to disciplinary~~
20 ~~action by the Board.~~

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

1 authorized to use a regulated professional title in the course of
2 the employment, ~~shall also be subject to disciplinary action by the~~
3 ~~Board. It shall be a violation of the Massage Therapy Practice Act~~
4 ~~for any person to advertise massage therapy services in any~~
5 ~~combination with any escort or dating service.~~

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

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

11 A. In addition to any civil or criminal actions authorized by
12 law, whenever, in the judgment of the Oklahoma Board of Cosmetology
13 and Barbering, any unlicensed person has engaged in any acts or
14 practices which constitute a violation of the Massage Therapy
15 Practice Act or rules of the Board, the Board may:

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

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

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

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

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

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

15 A. Every administrative body, state agency director or official
16 with authority over any occupational or professional license or
17 certification, and each of the respective examining and licensing
18 boards, upon presentation of satisfactory evidence that an applicant
19 for licensure or certification is a low-income individual shall
20 grant a one-year waiver of any fees associated with such licensure
21 or certification. For purposes of the section, "low-income
22 individual" means an individual who is enrolled in a state or
23 federal public assistance program, including, but not limited to,
24 the Temporary Assistance for Needy Families, Medicaid or the

1 Supplemental Nutrition Assistance Program, or whose household
2 adjusted gross income is below one hundred forty percent (140%) of
3 the federal poverty line or a higher threshold to be set by the
4 executive branch department that oversees business regulation.

5 B. Each administrative body, state agency director or official
6 with authority over any occupational or professional license or
7 certification, and each of the respective examining and licensing
8 boards, shall promulgate rules to implement the provisions of this
9 section.

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

11

12 56-2-3648 MD 4/24/2018 10:14:52 AM

13

14

15

16

17

18

19

20

21

22

23

24