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March 1, 2018

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1063

By: Bergstrom

[Massage Therapy Practice Act - 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 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;

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

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

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

19 5. "Massage therapy establishment" means any fixed business
20 location, address, building or property, other than a licensed
21 cosmetology or barbering establishment, where a person engages in,
22 conducts, carries on or permits to be engaged in the practice of
23 massage therapy;
24

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

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

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

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

12 1. Practice massage therapy in this state;

13 2. Use the title of massage therapist;

14 ~~2.~~ 3. Represent himself or herself to be a massage therapist;

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

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

21 B. A person shall not maintain, manage or operate a massage
22 therapy school offering education, instruction or training in
23 massage therapy unless the school is a licensed or accredited
24

1 message therapy school pursuant to Section 7 4200.7 of this ~~act~~
2 title.

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

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

11 D. Nothing in the Massage Therapy Practice Act shall be
12 construed to prevent:

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

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

23 3. Visiting massage therapy instructors from another state or
24 territory of the United States, the District of Columbia or any

1 foreign nation from teaching massage therapy, provided the
2 instructor is duly licensed or registered, if required, and is
3 qualified in the instructor's place of residence for the practice of
4 massage therapy;

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

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

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

1 Institute, the Trager Approach of movement education, and Body-Mind
2 Centering. Practitioners shall be recognized by or meet the
3 established standards of either a professional organization or
4 credentialing agency that represents or certifies the respective
5 practice based on a minimal level of training, demonstration of
6 competency, and adherence to ethical standards.

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

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

14 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.
15 2016 (59 O.S. Supp. 2017, Section 4200.4), is amended to read as
16 follows:

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

23 B. The State Board of Cosmetology and Barbering is hereby
24 empowered to perform investigations, to require the production of

1 records and other documents relating to practices regulated by the
2 Massage Therapy Practice Act, and to seek injunctive relief.

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

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

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

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

19 D. 1. The Board shall establish a schedule of reasonable and
20 necessary administrative fees.

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

1 ~~2017, including a license by reciprocity,~~ shall be Fifty Dollars
2 (\$50.00) per year. A duplicate license fee shall be ~~Ten Dollars~~
3 ~~(\$10.00)~~ Five Dollars (\$5.00).

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

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

- 13 1. Is at least eighteen (18) years of age;
- 14 2. ~~Has~~ Submits one or more of the following:
 - 15 a. documentation that the applicant has completed and
16 passed a nationally recognized competency examination
17 in the practice of massage therapy,
 - 18 b. an affidavit of at least five (5) years of work
19 experience ~~in the state~~ as a massage therapist, or
 - 20 c. a certificate and transcript of completion from a
21 massage school with at least five hundred (500) hours
22 of education;

23

24

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

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

7 a. pleading guilty, pleading nolo contendere or receiving
8 a conviction of a felony, or

9 b. pleading guilty, pleading nolo contendere or receiving
10 a conviction of a misdemeanor ~~involving moral~~
11 ~~turpitude, or~~

12 ~~c. pleading guilty, pleading nolo contendere or receiving~~
13 ~~a conviction for violation of federal or state~~
14 ~~controlled dangerous substance laws.~~

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

20 ~~C. 1. After May 1, 2017, except as otherwise provided in the~~
21 ~~Massage Therapy Practice Act, every person desiring to practice~~
22 ~~massage therapy in this state shall be required to first obtain a~~
23 ~~license from the Board; 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 ~~2. B.~~ After ~~May 1, 2017~~ August 1, 2019, the Board may issue a
6 license to ~~an applicant~~ any person who files a completed
7 application, accompanied by the required fees, and who:

8 ~~a. is~~

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

10 ~~b. provides~~

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

14 ~~c. provides~~

15 3. Provides documentation that the applicant has passed a
16 nationally recognized competency examination approved by the Board;
17 and

18 ~~d. provides~~

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

21 ~~e. provides full disclosure to the Board of any criminal~~
22 ~~proceeding taken against the applicant including, but~~
23 ~~not limited to:~~

1 ~~(1) pleading guilty, pleading nolo contendere or~~
2 ~~receiving a conviction of a felony,~~
3 ~~(2) pleading guilty, pleading nolo contendere or~~
4 ~~receiving a conviction of a misdemeanor involving~~
5 ~~moral turpitude, or~~
6 ~~(3) pleading guilty, pleading nolo contendere or~~
7 ~~receiving a conviction for violation of federal~~
8 ~~or state controlled dangerous substance laws.~~

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

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

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

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

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

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

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

1 4. Discloses whether the applicant holds or has held a massage
2 establishment license in another jurisdiction and whether
3 disciplinary action has ever been taken against the applicant
4 including but not limited to suspension or revocation of the
5 license; and

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

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

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

21 For purposes of this subsection:

22 1. "Poses a reasonable threat" means the nature of criminal
23 conduct for which the person was convicted involved an act or threat
24

1 of harm against another and has a bearing on the fitness or ability
2 to serve the public or work with others in the occupation; and

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

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

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

13 2. A licensee may renew a license by:

- 14 a. submitting a completed renewal application on a form
 - 15 prepared by the Board,
 - 16 b. tendering the required renewal fee,
 - 17 c. providing proof of liability insurance,
 - 18 d. disclosing any plea of guilty or nolo contendere or
 - 19 conviction of any crime other than minor traffic
 - 20 violations, and
 - 21 e. disclosing any administrative or legal action taken
 - 22 against the licensee in any other jurisdiction
 - 23 governing massage therapy.
- 24

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

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

7 SECTION 6. AMENDATORY Section 6, Chapter 292, O.S.L.
8 2016 (59 O.S. Supp. 2017, Section 4200.6), is amended to read as
9 follows:

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

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

16 SECTION 7. AMENDATORY Section 7, Chapter 292, O.S.L.
17 2016 (59 O.S. Supp. 2017, Section 4200.7), is amended to read as
18 follows:

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

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

6 SECTION 8. AMENDATORY Section 9, Chapter 292, O.S.L.
7 2016 (59 O.S. Supp. 2017, Section 4200.9), is amended to read as
8 follows:

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

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

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

23 ~~3. A thirty day grace period shall be allowed each license~~
24 ~~holder after the end of the renewal period, during which time a~~

1 ~~license may be renewed upon payment of the renewal fee and a late~~
2 ~~fee as prescribed by the Board.~~

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

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

14 ~~D. The Board shall establish a schedule of reasonable and~~
15 ~~necessary administrative fees.~~

16 ~~E. The Board shall fix the amount of fees so that the total~~
17 ~~fees collected shall be sufficient to meet the expenses of~~
18 ~~administering the provisions of the Massage Therapy Practice Act~~
19 ~~without unnecessary surpluses~~ An applicant for licensure by
20 reciprocity shall disclose any criminal history from the
21 jurisdiction where the applicant is licensed and shall submit to a
22 national criminal history record check as defined at Section 150.9
23 of Title 74 of the Oklahoma Statutes. The costs associated with the
24

1 national criminal history record check shall be paid by the
2 applicant.

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

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

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

12 B. A licensee may renew a license by:

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

15 2. Tendering the required renewal fee;

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

18 4. Providing proof of liability insurance;

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

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

23 C. 1. A sixty (60) calendar day grace period shall be allowed
24 each license holder after the end of the renewal period, during

1 which time a license may be renewed upon payment of the renewal fee
2 and a late fee as prescribed by the Board.

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

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

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

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

6 SECTION 10. AMENDATORY Section 10, Chapter 292, O.S.L.
7 2016 (59 O.S. Supp. 2017, Section 4200.10), is amended to read as
8 follows:

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

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

17 C. Municipalities, counties and political subdivisions may
18 enact ordinances or resolutions regulating the operation times of a
19 massage establishment. No municipal ordinance, resolution or other
20 political subdivision requirement shall prohibit the operation of a
21 massage establishment between the hours of 9:00 a.m. and 9:00 p.m.
22 Monday through Saturday.
23
24

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. Deny or refuse to renew a license;~~
- ~~2.~~ Suspend or revoke a license;
- ~~3.~~ 2. Issue an administrative reprimand; ~~or~~
- ~~4.~~ 3. Impose probationary conditions ~~when the licensee or applicant has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare or safety of the public;~~
4. Assess an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation of the Massage Therapy Practice Act or rule of the Board. Each day a violation continues shall constitute a separate offense; or
5. By taking a combination of the above-stated actions.

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

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

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

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

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

22 SECTION 12. AMENDATORY Section 13, Chapter 292, O.S.L.
23 2016 (59 O.S. Supp. 2017, Section 4200.13), is amended to read as
24 follows:

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

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

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

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

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

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

23 2. ~~Any~~ No person ~~who uses~~ shall use a professional title
24 regulated by the Massage Therapy Practice Act who is not authorized

1 to use the professional title ~~shall be subject to disciplinary~~
2 ~~action by the Board.~~

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

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

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

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

22 1. After notice and hearing in accordance with the
23 Administrative Procedures Act, and upon finding a violation, impose
24

1 a fine of not more than Five Hundred Dollars (\$500.00) for each
2 violation of the act or rule;

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

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
21 March 1, 2018 - DO PASS AS AMENDED
22
23
24