

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1063

By: Bergstrom

AS INTRODUCED

An Act relating to the Massage Therapy Practice Act; amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section 4200.2), which relates to definitions; adding definitions; amending Section 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section 4200.3), which relates to licensed massage therapist; modifying prohibited acts; updating statutory reference; prohibiting certain acts without first obtaining a license; amending Section 4, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section 4200.4), which relates to authority of State Board of Cosmetology and Barbering; clarifying provisions related to seeking an injunction and Board membership; directing Board to establish a fee schedule; modifying fee amounts; amending Section 5, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section 4200.5), which relates to license requirements; modifying date; clarifying provisions related to applications; setting forth procedures for, requirements for and disqualifying factors for license; allowing applicant to request waiver of ineligibility under certain conditions; providing factors for Board consideration of waiver; authorizing Board to grant probationary license; authorizing Board to deny license or place probationary conditions on license under certain conditions; providing certain construction; 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; providing for Board inspection authority; requiring compliance with certain laws and rules; providing license renewal

1 procedures and requirements; amending Section 6,  
2 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section  
3 4200.6), which relates to license posting required;  
4 modifying type of license; amending Section 7,  
5 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2017, Section  
6 4200.7), which relates to massage therapy schools;  
7 including technology center schools in certain  
8 provision; modifying types of allowable education;  
9 amending Section 9, Chapter 292, O.S.L. 2016 (59 O.S.  
10 Supp. 2017, Section 4200.9), which relates to out-of-  
11 state license holders; setting forth procedures for,  
12 requirements for and disqualifying factors for  
13 license by reciprocity; allowing applicant to request  
14 waiver of ineligibility under certain conditions;  
15 providing factors for Board consideration of waiver;  
16 authorizing Board to grant probationary license;  
17 authorizing Board to deny license or place  
18 probationary conditions on license under certain  
19 conditions; providing certain construction;  
20 establishing certain fee; requiring therapist license  
21 to be renewed annually; setting forth renewal  
22 procedures; amending Section 10, Chapter 292, O.S.L.  
23 2016 (59 O.S. Supp. 2017, Section 4200.10), which  
24 relates to preemption; adding establishments to  
certain provision; amending Section 11, Chapter 292,  
O.S.L. 2016 (59 O.S. Supp. 2017, Section 4200.11),  
which relates to disciplinary actions and  
proceedings; modifying disciplinary actions and  
proceedings; providing procedure for investigations;  
making certain records and information confidential;  
authorizing issuance of field citations and  
imposition of fines; amending Section 13, Chapter  
292, O.S.L. 2016 (59 O.S. Supp. 2017, Section  
4200.13), which relates to violations; modifying  
action which shall constitute misdemeanors upon  
conviction; prohibiting unauthorized use of certain  
title; providing that massage therapy services shall  
not be advertised in combination with certain  
services; providing certain administrative fine and  
legal recourse; providing for codification; and  
providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 7. "Person" means a natural person, firm, partnership,  
17 association, corporation, limited liability company, joint stock  
18 company or other business entity or combination of individuals of  
19 whatever form and character;

20 8. "Poses a reasonable threat" means the nature of criminal  
21 conduct for which the person was convicted involved an act or threat  
22 of harm against another and has a bearing on the fitness or ability  
23 to serve the public or work with others in the occupation; and  
24

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

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

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

- 10        1. Practice massage therapy in this state;  
11        2. Use the title of massage therapist;  
12        ~~2.~~ 3. Represent himself or herself to be a massage therapist;  
13        ~~3.~~ 4. Use any other title, words, abbreviations, letters,  
14 figures, signs or devices that indicate the person is a massage  
15 therapist; or  
16        ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or  
17 "massage therapist" when advertising or printing promotional  
18 material.

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



1 Massage Therapy Practice Act, and to seek injunctive relief in a  
2 court of competent jurisdiction without bond.

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 who shall be a ~~citizen~~ public member who is not licensed  
17 as a massage therapist and does not own an interest in a massage  
18 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;

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,~~

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~~

1        Submits to a national criminal history record check as defined  
2 at Section 150.9 of Title 74 of the Oklahoma Statutes. The costs  
3 associated with the national criminal history record check shall be  
4 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 ~~;~~ ;

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

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

C. 1. An applicant is not eligible for licensure pursuant to  
this section if the person has been convicted of, or received a  
deferred sentence for or has pled guilty or nolo contendere to any  
of the following offenses, whether a misdemeanor or a felony unless  
otherwise indicated:

- a. prostitution,
- b. pandering,
- c. operating a house of prostitution,
- d. human trafficking,
- e. sexual assault,
- f. crimes of violence against a person,
- g. grand larceny, or
- h. robbery.

2. An applicant may request in writing that the Board consider  
waiving ineligibility pursuant to this subsection if the plea,  
conviction or deferred sentence was for a misdemeanor and the plea,

1 conviction or deferred sentence was at least three (3) years prior  
2 to the date of the application.

3 3. An applicant may request in writing that the Board consider  
4 waiving ineligibility pursuant to this subsection if the plea,  
5 conviction or deferred sentence was for a felony and the plea,  
6 conviction or deferred sentence was at least five (5) years prior to  
7 the date of the application.

8 4. An applicant's written request for waiver must be submitted  
9 to the Board within twenty (20) business days of the postmark on the  
10 notice sent by the Board notifying the applicant of the applicant's  
11 ineligibility pursuant to this section;

12 5. The Board may consider the following factors among others in  
13 determining whether, in its discretion, to grant a waiver:

14 a. the age of the applicant at the time the offense was  
15 committed,

16 b. the nature and severity of the crime,

17 c. the circumstances surrounding the crime,

18 d. the length of time since the crime occurred,

19 e. any convictions, deferred sentences or pleas of guilt  
20 or nolo contendere to any subsequent criminal charges,

21 f. the number and frequency of crimes in the applicant's  
22 criminal history,

23 g. the person's subsequent work or educational history,  
24 and

1        h. any other information relevant to the applicant's  
2        rehabilitation and fitness or ability to perform the  
3        duties of a massage therapist without posing a  
4        reasonable threat to public health and safety;

5        6. The Board may place probationary conditions on a license  
6        granted to an applicant whose ineligibility is waived pursuant to  
7        this subsection.

8        D. The Board may deny a license or place probationary  
9        conditions on a license if the applicant has been convicted of a  
10       crime not listed in subsection C of this section that substantially  
11       relates to the practice of massage therapy or poses a reasonable  
12       threat to public safety.

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

19       F. The consideration by the Board of an applicant's request for  
20       a waiver pursuant to this section shall not constitute an individual  
21       proceeding pursuant to the Administrative Procedures Act.

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

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

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

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

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

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

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

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

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



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

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

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

12 2. A licensee may renew a license by:

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

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

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

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

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

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

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

14 SECTION 7. AMENDATORY Section 7, Chapter 292, O.S.L.  
15 2016 (59 O.S. Supp. 2017, Section 4200.7), is amended to read as  
16 follows:

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

22 B. A person shall not instruct as a massage therapist unless  
23 the instruction is within the scope of curriculum at a ~~licensed~~  
24 massage therapy school licensed or accredited in compliance with

1 this section or is within the scope of an approved continuing  
2 education seminar.

3 SECTION 8. AMENDATORY Section 9, Chapter 292, O.S.L.  
4 2016 (59 O.S. Supp. 2017, Section 4200.9), is amended to read as  
5 follows:

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

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

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

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

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

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

12       ~~D. The Board shall establish a schedule of reasonable and~~  
13 ~~necessary administrative fees.~~

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

1        C. 1. An applicant is not eligible for licensure pursuant to  
2 this section if the person has been convicted of, or received a  
3 deferred sentence for or has pled guilty or nolo contendere to any  
4 of the following offenses, whether a misdemeanor or a felony unless  
5 otherwise indicated:

- 6            a. prostitution,
- 7            b. pandering,
- 8            c. operating a house of prostitution,
- 9            d. human trafficking,
- 10           e. sexual assault,
- 11           f. crimes of violence against a person,
- 12           g. grand larceny, or
- 13           h. robbery.

14        2. An applicant may request in writing that the Board consider  
15 waiving ineligibility pursuant to this subsection if the plea,  
16 conviction or deferred sentence was for a misdemeanor and the plea,  
17 conviction or deferred sentence was at least three (3) years prior  
18 to the date of the application.

19        3. An applicant may request in writing that the Board consider  
20 waiving ineligibility pursuant to this subsection if the plea,  
21 conviction or deferred sentence was for a felony and the plea,  
22 conviction or deferred sentence was at least five (5) years prior to  
23 the date of the application.

1       4. An applicant's written request for waiver must be submitted  
2 to the Board within twenty (20) business days of the postmark on the  
3 notice sent by the Board notifying the applicant of the applicant's  
4 ineligibility pursuant to this section.

5       5. The Board may consider the following factors among others in  
6 determining whether, in its discretion, to grant a waiver:

- 7           a. the age of the applicant at the time the offense was  
8           committed,
- 9           b. the nature and severity of the crime,
- 10          c. the circumstances surrounding the crime,
- 11          d. the length of time since the crime occurred,
- 12          e. any convictions, deferred sentences or pleas of guilt  
13          or nolo contendere to any subsequent criminal charges,
- 14          f. the number and frequency of crimes in the applicant's  
15          criminal history,
- 16          g. the person's subsequent work or educational history,  
17          and
- 18          h. any other information relevant to the applicant's  
19          rehabilitation and fitness or ability to perform the  
20          duties of a massage therapist without posing a  
21          reasonable threat to public health and safety.

22       6. The Board may place probationary conditions on a license  
23 granted to an applicant whose ineligibility is waived pursuant to  
24 this subsection.

1       D. The Board may deny a license or place probationary  
2 conditions on a license if the applicant has been convicted of a  
3 crime not listed in subsection C of this section that substantially  
4 relates to the practice of massage therapy or poses a reasonable  
5 threat to public safety.

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

12       G. The consideration by the Board of an applicant's request for  
13 a waiver pursuant to this section shall not constitute an individual  
14 proceeding pursuant to the Administrative Procedures Act.

15       H. In addition to all other required fess, an applicant for  
16 licensure by reciprocity shall pay a non-refundable processing fee  
17 of Thirty Dollars (\$30.00).

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

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

24       B. A licensee may renew a license by:

- 1        1. Submitting a completed renewal application on a form  
2 prepared by the Board;
- 3        2. Tendering the required renewal fee;
- 4        3. Submitting proof of completion of all continuing education  
5 requirements;
- 6        4. Providing proof of liability insurance;
- 7        5. Disclosing any plea of guilty, nolo contendere or conviction  
8 of any crime other than minor traffic violations; and
- 9        6. Disclosing any administrative or legal action taken against  
10 the licensee in any other jurisdiction governing massage therapy.
- 11       C. 1. A sixty (60) calendar day grace period shall be allowed  
12 each license holder after the end of the renewal period, during  
13 which time a license may be renewed upon payment of the renewal fee  
14 and a late fee as prescribed by the Board.
- 15       2. If a license is not renewed by the end of the sixty (60)  
16 calendar day grace period, the license shall be placed on inactive  
17 status during which time the person shall not practice massage  
18 therapy.
- 19       3. A person may renew a license on inactive status by:  
20           a. submitting a completed renewal application on a form  
21           prepared by the Board,  
22           b. tendering the required renewal fee for the year in  
23           which the license is reactivated,  
24           c. tendering a late fee as prescribed by the Board,



- d. submitting proof of completion of all continuing education requirements cumulative for the years the license was inactive,
- e. submitting proof of completion of forty (40) review hours and twelve (12) hours of sanitation and body care in addition to the cumulative continuing education requirements,
- f. providing proof of liability insurance, and
- g. disclosing any plea of guilty, nolo contendere or conviction of any crime other than minor traffic violations.

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

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

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

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

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

23 B. The Board ~~shall~~ may take disciplinary action upon a finding  
24 that ~~the~~ a licensee ~~or person~~ has violated a provision of the

1 Massage Therapy Practice Act, violated a rule of the Board, violated  
2 other applicable law or has committed an act of unprofessional  
3 conduct or committed a violation of rule or law.

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

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

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

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

1        F. The Board may issue field citations in enforcing the Massage  
2        Therapy Practice Act and imposing fines in the amount allowed  
3        pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 3. Take both actions.

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

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

1 D. The Board may issue field citations in enforcing the Massage  
2 Therapy Practice Act and imposing fines in the amounts allowed  
3 pursuant to this section.

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

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