

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 693

By: Griffin

AS INTRODUCED

An Act relating to the Massage Therapy Practice Act; amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2016, Section 4200.2), which relates to definitions; providing new terms; amending Section 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2016, Section 4200.3), which relates to licensed therapists; prohibiting practice without licensure; amending Section 4, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2016, Section 4200.4), which relates to the authority of the State Board of Cosmetology and Barbering; permitting scheduling of fees; specifying certain fee amounts; amending Section 5, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2016, Section 4200.5), which relates to license requirements; deleting certain requirements; specifying requirements for licensure; providing for revocations; enumerating grounds for denial of licensure; permitting Board to place probationary conditions for certain convictions or pleas; prohibiting ownership of massage therapy establishment without licensure; specifying qualifications for licensure; requiring certain establishments to be inspected by the Board; requiring certain compliance; amending Section 7, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2016, Section 4200.7), which relates to massage therapy schools; exempting technology center schools from certain restrictions; amending Section 9, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2016, Section 4200.9), which relates to out-of-state licensees; deleting certain provisions; requiring disclosure of criminal history by applicants; providing certain fee; requiring annual renewal of certain licenses; providing renewal procedures; allowing grace period for certain licensees under certain conditions; requiring certain licenses to be deemed inactive for certain actions;

1 stating standards for restoration of license;
2 amending Section 10, Chapter 292, O.S.L. 2016 (59
3 O.S. Supp. 2016, Section 4200.10), which relates to
4 preemption of regulations; including massage therapy
5 establishments; amending Section 11, Chapter 292,
6 O.S.L. 2016 (59 O.S. Supp. 2016, Section
7 4200.11), which relates to disciplinary actions and
8 proceedings; permitting assessment of fines;
9 permitting Board to issue field citations; permitting
10 orders of abatement; specifying contents of certain
11 orders; directing promulgation of rules for certain
12 purposes; amending Section 13, Chapter 292, O.S.L.
13 2016 (59 O.S. Supp. 2016, Section 4200.13), which
14 relates to violations; deleting certain provisions;
15 expanding grounds for misdemeanor convictions to
16 include certain actions; permitting Board to impose
17 fines and apply for legal procedures under certain
18 circumstances; stating enforceability of certain
19 fines; providing procedures for appeals; specifying
20 determination of separate offenses; clarifying
21 language; providing for codification; providing an
22 effective date; and declaring an emergency.

23
24 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. 2016, 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 the Massage Therapy

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

1 conducts, carries on or permits to be engaged in the practice of
2 massage therapy;

3 ~~5.~~ 6. "Massage therapy school" means a facility providing
4 instruction in massage therapy; and

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

9 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.
10 2016 (59 O.S. Supp. 2016, Section 4200.3), is amended to read as
11 follows:

12 Section 4200.3. A. Unless a person is a licensed massage
13 therapist, a person shall not:

- 14 1. Use the title of massage therapist;
- 15 2. Represent himself or herself to be a massage therapist;
- 16 3. Use any other title, words, abbreviations, letters, figures,
17 signs or devices that indicate the person is a massage therapist; or
- 18 4. Utilize the terms "massage", "massage therapy" or "massage
19 therapist" when advertising or printing promotional 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 massage therapy
23 school pursuant to ~~Section 7 of this act~~ Section 4200.7 of this
24 title.

1 C. Individuals practicing massage therapy under the Massage
2 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 Oklahoma law from rendering services
13 within the scope of the license of the person, provided the person
14 does not represent himself or herself as a massage therapist. A
15 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. 2016, 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. 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; and

13 3. One who shall be a ~~citizen~~ member of the public.

14 D. 1. The Board shall establish a schedule of reasonable and
15 necessary administrative fees.

16 2. The fee for ~~any~~ an original or renewal therapist or
17 establishment license issued between the effective date of this act
18 and May 1, 2017, including a license by reciprocity, shall be ~~Twenty-~~
19 ~~five Dollars (\$25.00) Fifty Dollars (\$50.00).~~ The fee or renewal
20 fee for any massage therapy license issued after May 1, 2017, shall
21 be ~~Fifty Dollars (\$50.00) per year.~~ A duplicate license fee shall
22 be Ten Dollars (\$10.00).

SECTION 4. AMENDATORY Section 5, Chapter 292, O.S.L.

2016 (59 O.S. Supp. 2016, Section 4200.5), is amended to read as follows:

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

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

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

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

b. ~~an affidavit of at least five (5) years of work experience in the state, or~~

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

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

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

- ~~a. pleading guilty, pleading nolo contendere or receiving a conviction of a felony,~~
- ~~b. pleading guilty, pleading nolo contendere or receiving a conviction of a misdemeanor involving moral turpitude, or~~
- ~~c. pleading guilty, pleading nolo contendere or receiving a conviction for violation of federal or state controlled dangerous substance laws.~~

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

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

~~2. After May 1, 2017, the~~

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

~~a. is at least eighteen (18) years of age,~~

1. Is of good moral character;

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

~~b.~~

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

4 ~~e. provides~~

5 4. Provides documentation that the applicant has passed a
6 nationally recognized competency examination approved by the Board ~~7;~~
7 and

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

12 ~~d. provides proof that the applicant currently maintains~~
13 ~~liability insurance for practice as a massage~~
14 ~~therapist, and~~

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

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

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

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

4 C. The Board shall deny a license to an applicant who has been
5 convicted of any of the following crimes or who has been convicted
6 of the equivalent of such crimes in any other jurisdiction:

7 1. First degree murder as defined by Section 701.7 of Title 21
8 of the Oklahoma Statutes;

9 2. Second degree murder as defined by Section 701.8 of Title 21
10 of the Oklahoma Statutes;

11 3. Poisoning with intent to kill as defined by Section 651 of
12 Title 21 of the Oklahoma Statutes;

13 4. Attempts to kill another person as described and provided
14 for by Sections 652 and 653 of Title 21 of the Oklahoma Statutes;

15 5. First degree rape as provided by Section 1111, 1114 or 1115
16 of Title 21 of the Oklahoma Statutes;

17 6. Child abuse, child sexual abuse or child sexual exploitation
18 as provided for in Section 843.5 of Title 21 of the Oklahoma
19 Statutes;

20 7. Lewd molestation of a child as defined in Section 1123 of
21 Title 21 of the Oklahoma Statutes;

22 8. Abuse of a vulnerable adult as defined in Section 10-103 of
23 Title 43A of the Oklahoma Statutes who is a resident of a nursing
24 facility; or

1 9. Human trafficking as provided for in Section 748 of Title 21
2 of the Oklahoma Statutes.

3 D. The Board may deny or place probationary conditions on a
4 license if an applicant has been convicted of a crime of moral
5 turpitude not otherwise listed in this section.

6 E. The Board may deny or place probationary conditions on a
7 license if an applicant has pleaded guilty, nolo contendere or been
8 convicted of a felony not otherwise listed in this section which
9 involved conduct that endangered or was likely to endanger the
10 health, welfare or safety of the public.

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

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

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

18 1. Is of good moral character;

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

20 3. Provides proof that the establishment maintains general
21 liability insurance; and

22 4. Submits to a national criminal history record check as
23 defined at Section 150.9 of Title 74 of the Oklahoma Statutes. The
24

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

3 C. The Board shall deny a license to an applicant who has been
4 convicted of any of the following crimes or who has been convicted
5 of the equivalent of such crimes in any other jurisdiction:

6 1. First degree murder as defined in Section 701.7 of Title 21
7 of the Oklahoma Statutes;

8 2. Second degree murder as defined by Section 701.8 of Title 21
9 of the Oklahoma Statutes;

10 3. Poisoning with intent to kill as defined by Section 651 of
11 Title 21 of the Oklahoma Statutes;

12 4. Attempts to kill another person as described and provided
13 for in Sections 652 and 653 of Title 21 of the Oklahoma Statutes;

14 5. First degree rape as provided for in Section 1111, 1114 or
15 1115 of Title 21 of the Oklahoma Statutes;

16 6. Child abuse as provided for in Section 843.5 of Title 21 of
17 the Oklahoma Statutes;

18 7. Lewd molestation of a child as defined in Section 1123 of
19 Title 21 of the Oklahoma Statutes;

20 8. Abuse of a vulnerable adult as defined in Section 10-103 of
21 Title 43A of the Oklahoma Statutes who is a resident of a nursing
22 facility; or

23 9. Human trafficking as provided for in Section 748 of Title 21
24 of the Oklahoma Statutes.

1 D. Any applicant convicted of a felony involving forgery,
2 embezzlement, obtaining money under false pretense, extortion,
3 conspiracy to defraud, fraud, or any other similar offense or
4 offenses shall not be eligible to obtain an establishment license
5 within five (5) years of the completion of any criminal sentence,
6 including parole and probation.

7 E. The Board may deny or place probationary conditions on a
8 license if an applicant been convicted of a crime of moral turpitude
9 not otherwise listed in this section.

10 F. The Board may deny or place probationary conditions on a
11 license if an applicant has been convicted of a felony not otherwise
12 listed in this section which involved conduct that endangered or was
13 likely to endanger the health, welfare or safety of the public.

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

17 SECTION 6. AMENDATORY Section 7, Chapter 292, O.S.L.
18 2016 (59 O.S. Supp. 2016, Section 4200.7), is amended to read as
19 follows:

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

4 SECTION 7. AMENDATORY Section 9, Chapter 292, O.S.L.
5 2016 (59 O.S. Supp. 2016, Section 4200.9), is amended to read as
6 follows:

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

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

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

21 ~~3. A thirty-day grace period shall be allowed each license~~
22 ~~holder after the end of the renewal period, during which time a~~
23 ~~license may be renewed upon payment of the renewal fee and a late~~
24 ~~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.~~

18 B. An applicant for licensure by reciprocity shall disclose any
19 criminal history from the jurisdiction where the applicant is
20 licensed and shall submit to a national criminal history record
21 check as defined at Section 150.9 of Title 74 of the Oklahoma
22 Statutes. The costs associated with the national criminal history
23 record check shall be paid by the applicant.
24

1 C. The Board shall deny a license to an applicant who has been
2 convicted of any of the following crimes or who has been convicted
3 of the equivalent of such crimes in any other jurisdiction:

4 1. First degree murder as defined in Section 701.7 of Title 21
5 of the Oklahoma Statutes;

6 2. Second degree murder as defined by Section 701.8 of Title 21
7 of the Oklahoma Statutes;

8 3. Poisoning with intent to kill as defined by Section 651 of
9 Title 21 of the Oklahoma Statutes;

10 4. Attempts to kill another person as described and provided
11 for in Sections 652 and 653 of Title 21 of the Oklahoma Statutes;

12 5. First degree rape as provided for in Section 1111, 1114 or
13 1115 of Title 21 of the Oklahoma Statutes;

14 6. Child abuse as provided for in Section 843.5 of Title 21 of
15 the Oklahoma Statutes;

16 7. Lewd molestation of a child as defined in Section 1123 of
17 Title 21 of the Oklahoma Statutes;

18 8. Abuse of a vulnerable adult as defined in Section 10-103 of
19 Title 43A of the Oklahoma Statutes who is a resident of a nursing
20 facility; or

21 9. Human trafficking as provided for in Section 748 of Title 21
22 of the Oklahoma Statutes.

1 D. The Board may deny a license to an applicant who has pleaded
2 guilty or been convicted of a crime of moral turpitude not otherwise
3 listed in this section.

4 E. The Board may deny or place probationary conditions on a
5 license if an applicant has been convicted of a felony not otherwise
6 listed in this section which involved conduct that endangered or was
7 likely to endanger the health, welfare or safety of the public.

8 F. An applicant for licensure by reciprocity shall also pay a
9 non-refundable processing fee of Thirty Dollars (\$30.00).

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

13 A. Massage therapist and establishment licenses shall be
14 renewed annually. The renewal date shall be established by the
15 Board through adoption of a rule.

16 B. A licensee shall renew a license by:

17 1. Submitting a renewal application form as prepared by the
18 Board;

19 2. Providing all information required on the renewal
20 application form;

21 3. Tendering the required renewal fee;

22 4. Submitting proof of completion of all continuing education
23 requirements;

24 5. Providing proof of liability insurance; and

1 6. Disclosing any plea of guilty, nolo contendere or conviction
2 of any crime of moral turpitude or any felony.

3 C. 1. A thirty (30) day grace period shall be allowed each
4 license holder after the end of the renewal period, during which
5 time a license may be renewed upon payment of the renewal fee and a
6 late fee as prescribed by the Board.

7 2. If a license is not renewed by the end of the thirty (30)
8 day grace period, the license shall be placed on inactive status for
9 a period not to exceed one (1) year. At the end of one (1) year, if
10 the license has not been reactivated, it shall automatically expire.
11 A person whose license has expired cannot renew the license but must
12 apply for original licensure and meet all necessary requirements.

13 3. If within a period of one (1) year from the date the license
14 was placed on inactive status the massage therapist wishes to resume
15 practice, the massage therapist shall submit a renewal form and,
16 upon receipt of proof of completion of all continuing education
17 requirements as prescribed by the Board and payment of an amount set
18 by the Board in lieu of all lapsed renewal fees, the license shall
19 be restored in full.

20 SECTION 9. AMENDATORY Section 10, Chapter 292, O.S.L.
21 2016 (59 O.S. Supp. 2016, Section 4200.10), is amended to read as
22 follows:

23 Section 4200.10. A. The Massage Therapy Practice Act shall
24 supersede all ordinances or regulations regulating massage

1 therapists and massage therapy establishments in any city, county,
2 or political subdivision.

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

6 SECTION 10. AMENDATORY Section 11, Chapter 292, O.S.L.
7 2016 (59 O.S. Supp. 2016, Section 4200.11), is amended to read as
8 follows:

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

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

13 2. Suspend or revoke a license;

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

15 4. Impose probationary conditions ~~when the licensee or~~
16 ~~applicant has engaged in unprofessional conduct that has endangered~~
17 ~~or is likely to endanger the health, welfare or safety of the~~
18 ~~public; or~~

19 5. Assess an administrative fine of not more than Fifty Dollars
20 (\$50.00) for each violation. Each day a violation continues shall
21 constitute a separate offense.

22 B. The Board shall take disciplinary action upon a finding that
23 ~~the~~ a licensee ~~or person~~ has committed an act of unprofessional
24 conduct or committed a violation of rule or law.

1 C. Disciplinary proceedings may be instituted by sworn
2 complaint of any person, including members of the Board, and shall
3 conform to the provisions of the Administrative Procedures Act.

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

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

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

15 G. The Board shall have the authority to issue field citations.
16 The field citation may contain an order of abatement fixing a
17 reasonable time for abatement of the violation, and may contain an
18 assessment of an administrative fine consistent with the provisions
19 of this section. The Board shall promulgate rules for the issuance
20 of field citations and shall include an opportunity for the licensee
21 to contest the citation.

22 SECTION 11. AMENDATORY Section 13, Chapter 292, O.S.L.
23 2016 (59 O.S. Supp. 2016, Section 4200.13), is amended to read as
24 follows:

1 Section 4200.13. A. A person who does any of the following
2 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~~ Advertises or offers massage therapy
19 services in any combination with any escort or dating services.

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

1 ~~2. Any person who uses a professional title regulated by the~~
2 ~~Massage Therapy Practice Act who is not authorized to use the~~
3 ~~professional title shall be subject to disciplinary action by the~~
4 ~~Board.~~

5 ~~3. Any person who knowingly aids and abets one or more persons~~
6 ~~not authorized to use a professional title regulated by the Massage~~
7 ~~Therapy Practice Act or knowingly employs or contracts with a person~~
8 ~~or persons not authorized to use a regulated professional title in~~
9 ~~the course of the employment, shall also be subject to disciplinary~~
10 ~~action by the Board. It shall be a violation of the Massage Therapy~~
11 ~~Practice Act for any person to advertise massage therapy services in~~
12 ~~any combination with any escort or dating service.~~

13 SECTION 12. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4200.13 of Title 59, unless
15 there is created a duplication in numbering, reads as follows:

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

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

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

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

15 C. Each day a violation continues shall be construed as a
16 separate offense.

17 SECTION 13. This act shall become effective July 1, 2017.

18 SECTION 14. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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