

1 ENGROSSED HOUSE
2 BILL NO. 2117

By: Ortega of the House

3 and

4 Bergstrom of the Senate

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7
8 An Act relating to the Massage Therapy Practice Act;
9 amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S.
10 Supp. 2018, Section 4200.2), which relates to
11 definitions; modifying definitions; amending Section
12 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018,
13 Section 4200.3), which relates to licensed massage
14 therapists; modifying prohibited acts; updating
15 statutory reference; prohibiting certain acts without
16 first obtaining a license; amending Section 4,
17 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
18 4200.4), which relates to authority of State Board of
19 Cosmetology and Barbering; providing for Board
20 inspection authority; modifying appointment of Board
21 members; directing Board to establish a fee schedule;
22 authorizing Board to issue licenses and temporary
23 work permits; defining terms; amending Section 5,
24 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
4200.5), which relates to license requirements;
modifying date; clarifying provisions related to
applications; prohibiting certain acts without first
obtaining a massage therapy establishment license;
setting forth requirements for establishment license;
requiring compliance with certain laws and rules;
amending Section 6, Chapter 292, O.S.L. 2016 (59 O.S.
Supp. 2018, Section 4200.6), which relates to license
posting requirement; modifying type of license;
amending Section 7, Chapter 292, O.S.L. 2016 (59 O.S.
Supp. 2018, Section 4200.7), which relates to massage
therapy schools; including technology center schools
in certain provision; modifying types of allowable
education; amending Section 9, Chapter 292, O.S.L.
2016 (59 O.S. Supp. 2018, Section 4200.9), which
relates to out-of-state license holders; deleting

1 language; requiring disclosure of criminal history
2 records; providing for issuance of temporary work
3 permit; requiring therapist license to be renewed
4 annually; setting forth renewal procedures; amending
5 Section 10, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
6 2018, Section 4200.10), which relates to preemption;
7 adding establishments to certain provision; providing
8 exceptions; amending Section 11, Chapter 292, O.S.L.
9 2016 (59 O.S. Supp. 2018, Section 4200.11), which
10 relates to disciplinary actions and proceedings;
11 modifying disciplinary actions and proceedings;
12 providing procedure for investigations; making
13 certain records and information confidential; setting
14 maximum administrative fine; amending Section 13,
15 Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section
16 4200.13), which relates to violations; modifying
17 actions which shall constitute misdemeanors upon
18 conviction; providing that massage therapy services
19 shall not be advertised in combination with certain
20 services; providing certain administrative fine and
21 legal recourse; providing for codification; and
22 declaring an emergency.

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

24 SECTION 1. AMENDATORY Section 2, Chapter 292, O.S.L.
2016 (59 O.S. Supp. 2018, Section 4200.2), is amended to read as
follows:

Section 4200.2 As used in the Massage Therapy Practice Act:

1. "Board" means the State Board of Cosmetology and Barbering;
2. "Direct access" means the ability that the public has to
seek out treatment by a massage therapist without the direct
referral from a medical or health care professional;
3. "Massage therapist" means an individual who practices
massage or massage therapy and is licensed ~~under~~ pursuant to the

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

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

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

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

23 5. "Massage therapy establishment" means any fixed business
24 location, address, building or property where a person engages in,

1 conducts, carries on or permits to be engaged in the practice of
2 massage therapy. This definition excludes offices or workplaces of
3 licensed health care professionals exempted from the provisions of
4 the Massage Therapy Practice Act;

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

7 7. "Person" means an individual, partnership, limited liability
8 company, corporation or association, unless the context otherwise
9 requires.

10 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.
11 2016 (59 O.S. Supp. 2018, Section 4200.3), is amended to read as
12 follows:

13 Section 4200.3 A. Unless a person is ~~a~~ licensed as a massage
14 therapist by the State Board of Cosmetology and Barbering, a person
15 shall not:

- 16 1. Practice massage therapy in this state;
- 17 2. Use the title of massage therapist;
- 18 ~~2.~~ 3. Represent himself or herself to be a massage therapist;
- 19 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
20 figures, signs or devices that indicate the person is a massage
21 therapist; or
- 22 ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or
23 "massage therapist" when advertising or printing promotional
24 material.

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

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

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

14 D. No person shall own or operate a massage therapy
15 establishment without first obtaining an establishment license from
16 the Board.

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

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

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

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

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

11 4. Any nonresident person holding a current license,
12 registration or certification in massage therapy from another state
13 or recognized national certification system determined as acceptable
14 by the Board when temporarily present in this state from providing
15 massage therapy services as a part of an emergency response team
16 working in conjunction with disaster relief officials or at special
17 events such as conventions, sporting events, educational field
18 trips, conferences, traveling shows or exhibitions, provided the
19 services are not open to the general public;

20 5. Physicians or other health care professionals from
21 appropriately referring to duly licensed massage therapists or limit
22 in any way the right of direct access of the public to licensed
23 massage therapists; or
24

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

15 ~~E.~~ F. A physician or other licensed health care provider
16 providing health care services within ~~their~~ his or her scope of
17 practice shall not be required to be licensed or registered with the
18 State Board of Cosmetology and Barbering.

19 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.
20 2016 (59 O.S. Supp. 2018, Section 4200.4), is amended to read as
21 follows:

22 Section 4200.4 A. The State Board of Cosmetology and Barbering
23 is hereby authorized to adopt and promulgate rules pursuant to the
24 Administrative Procedures Act that are necessary for the

1 implementation and enforcement of the Massage Therapy Practice Act,
2 including, but not limited to, qualifications for licensure,
3 renewals, reinstatements, ~~and~~ temporary work permits, continuing
4 education requirements, sanitation, professional conduct and
5 inspection of establishments.

6 B. The State Board of Cosmetology and Barbering is hereby
7 empowered to perform investigations, to require the production of
8 records and other documents relating to practices regulated by the
9 Massage Therapy Practice Act, and to seek injunctive relief in a
10 court of competent jurisdiction without bond.

11 C. 1. There is hereby created an Advisory Board on Massage
12 Therapy. The Advisory Board on Massage Therapy shall assist the
13 State Board of Cosmetology and Barbering in carrying out the
14 provisions of this section regarding the qualifications,
15 examination, registration, regulation, and standards of professional
16 conduct of massage therapists. The Advisory Board on Massage
17 Therapy shall consist of ~~five (5)~~ seven (7) members to be appointed
18 by the Governor ~~for four-year terms~~ as follows:

19 ~~1. Three~~

20 a. four members who shall be licensed massage therapists
21 and have practiced in Oklahoma for not less than three
22 (3) years prior to their appointment~~;~~. One member
23 shall be appointed to an initial term that shall
24 expire on June 30, 2021. One member shall be

1 appointed to an initial term that shall expire on June
2 30, 2022. Two members shall be appointed to an
3 initial term that shall expire on June 30, 2023. All
4 successive terms for the positions under this
5 subsection shall be for four (4) years each,

6 ~~2. One~~

7 b. one member who shall be an administrator or faculty
8 member of a nationally accredited school of massage
9 therapy; and school duly licensed or accredited
10 pursuant to Section 4200.7 of this title. The member
11 shall be appointed to an initial term that shall
12 expire on June 30, 2021. All successive terms for
13 this position shall be for four (4) years each,

14 ~~3. One~~

15 c. one member who shall be a citizen public member. The
16 member shall be appointed to an initial term that
17 shall expire on June 30, 2022. All successive terms
18 for this position shall be for four (4) years each,
19 and

20 d. one member who shall hold an establishment license.
21 The member shall be appointed to an initial term that
22 expires on June 30, 2023. All successive terms for
23 this position shall be for four (4) years each.

1 2. A person appointed to fill a position that has become vacant
2 shall serve the remainder of the term of the vacated position. The
3 person shall be eligible for reappointment to successive four-year
4 terms thereafter.

5 D. 1. The Board shall establish a schedule of reasonable and
6 necessary administrative fees.

7 2. The initial or renewal fee for any a therapist license
8 ~~issued between the effective date of this act and May 1, 2017, shall~~
9 ~~be Twenty-five Dollars (\$25.00). The fee or renewal fee for any~~
10 ~~massage therapy license issued after May 1, 2017, shall be Fifty~~
11 ~~Dollars (\$50.00) per year. The initial or renewal fee for an~~
12 ~~establishment license shall be Thirty Dollars (\$30.00) per year. A~~
13 ~~duplicate license fee shall be Ten Dollars (\$10.00) Five Dollars~~
14 ~~(\$5.00).~~

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4200.4.1 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

18 A. The State Board of Cosmetology and Barbering shall have
19 authority to issue original licenses and temporary work permits as
20 provided for in the Massage Therapy Practice Act.

21 B. The Board may deny or place probationary conditions on an
22 original massage therapist license or temporary work permit if:
23
24

1 1. The applicant has pleaded guilty or nolo contendere to, or
2 been convicted of, a crime that substantially relates to the
3 practice of massage therapy;

4 2. The applicant has pleaded guilty or nolo contendere to, or
5 been convicted of, a crime that poses a reasonable threat to public
6 health or safety;

7 3. The applicant has had a license or permit denied or has been
8 the subject of disciplinary action in another jurisdiction and the
9 grounds for the denial or disciplinary action would constitute cause
10 for denial or disciplinary action under the Massage Therapy Practice
11 Act or the Board's rules;

12 4. The applicant has previously held a license or permit by the
13 Board and the license or permit has been revoked or the applicant
14 has been the subject of disciplinary action by the Board; or

15 5. The applicant attempts to obtain the license or permit by
16 means of fraud, misrepresentation, deceit or concealment of material
17 facts.

18 C. The Board may deny or place probationary conditions on an
19 original massage establishment license if:

20 1. The applicant has pleaded guilty or nolo contendere to, or
21 been convicted of, a crime that substantially relates to the
22 ownership, operation or management of a massage establishment;

1 2. The applicant has pleaded guilty or nolo contendere to, or
2 been convicted of, a crime that poses a reasonable threat to public
3 health or safety;

4 3. The applicant has had a license or permit denied or has been
5 the subject of disciplinary action in another jurisdiction and the
6 grounds for the denial or disciplinary action would constitute cause
7 for denial or disciplinary action under the Massage Therapy Practice
8 Act or the Board's rules;

9 4. The applicant has previously held a license or permit by the
10 Board and the license or permit has been revoked or the applicant
11 has been the subject of disciplinary action by the Board; or

12 5. The applicant attempts to obtain the license or permit by
13 means of fraud, misrepresentation, deceit or concealment of material
14 facts.

15 D. As used in this section:

16 1. "Substantially relates" means the nature of criminal conduct
17 for which the person was convicted, or to which the person has
18 pleaded guilty or nolo contendere, has a direct bearing on the
19 fitness or ability to perform one or more of the duties or
20 responsibilities necessarily related to the occupation; and

21 2. "Poses a reasonable threat" means the nature of criminal
22 conduct for which the person was convicted, or to which the person
23 pleaded guilty or nolo contendere, involved an act or threat of harm
24

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

3 E. The Board may require an applicant for an original therapist
4 license or an original establishment license to submit to a national
5 criminal history record check as defined at Section 150.9 of Title
6 74 of the Oklahoma Statutes. The costs associated with the national
7 criminal history record check shall be paid by the applicant.

8 SECTION 5. AMENDATORY Section 5, Chapter 292, O.S.L.
9 2016 (59 O.S. Supp. 2018, Section 4200.5), is amended to read as
10 follows:

11 Section 4200.5 A. ~~Between the effective date of this act~~
12 August 26, 2016, and ~~May 1, 2017~~ August 1, 2020, the State Board of
13 Cosmetology and Barbering ~~shall~~ may issue a an original license to
14 practice massage therapy to any person who files a completed
15 application, accompanied by the required fees, and who ~~submits~~
16 ~~satisfactory evidence that the applicant:~~

- 17 1. Is at least eighteen (18) years of age;
- 18 2. ~~Has~~ Submits one or more of the following:
 - 19 a. documentation that the applicant has completed and
20 passed a nationally recognized competency examination
21 in the practice of massage therapy,
 - 22 b. an affidavit of at least five (5) years of work
23 experience ~~in the state~~ as a massage therapist, or
24

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

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

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

10 a. ~~pleading guilty, pleading nolo contendere or receiving~~
11 ~~a conviction of a felony,~~

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

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

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

23 ~~C. 1. After May 1, 2017, except as otherwise provided in the~~
24 ~~Massage Therapy Practice Act, every person desiring to practice~~

1 ~~message therapy in this state shall be required to first obtain a~~
2 ~~license from the Board~~

3 Discloses whether the applicant has pleaded guilty or nolo
4 contendere to, or been convicted of, a crime other than a minor
5 traffic violation.

6 ~~2. B. After May 1, 2017~~ August 1, 2020, the Board may issue a
7 an original license to an applicant a person who files a completed
8 application, accompanied by the required fees, and who:

9 ~~a. is~~

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

11 ~~b. provides~~

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

15 ~~c. provides~~

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

19 ~~d. provides proof that the applicant currently maintains~~
20 ~~liability insurance for practice as a massage~~
21 ~~therapist, and~~

22 ~~e. provides full disclosure to the Board of any criminal~~
23 ~~proceeding taken against the applicant including, but~~
24 ~~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 4. Discloses whether the applicant has pleaded guilty or nolo
10 contendere to, or been convicted of, a crime other than a minor
11 traffic violation.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4200.5.1 of Title 59, unless
14 there is created a duplication in numbering, reads as follows:

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

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

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

20 2. Discloses whether the applicant has been denied a massage
21 establishment license in another jurisdiction;

22 3. Discloses whether the applicant holds or has held a massage
23 establishment license in another jurisdiction and whether
24 disciplinary action has ever been taken against the applicant

1 including, but not limited to, suspension or revocation of the
2 license; and

3 4. Discloses whether the applicant has pleaded guilty or nolo
4 contendere to, or been convicted of, a crime other than a minor
5 traffic violation.

6 C. 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 D. Establishment licenses shall be renewed annually. The
10 renewal date shall be established by the Board through
11 administrative rules.

12 E. 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. Disclosing any plea of guilty or nolo contendere to, or
17 conviction of, a crime other than minor traffic violations; and

18 4. Disclosing any administrative or legal action taken against
19 the licensee in any other jurisdiction governing massage therapy.

20 SECTION 7. AMENDATORY Section 6, Chapter 292, O.S.L.
21 2016 (59 O.S. Supp. 2018, Section 4200.6), is amended to read as
22 follows:

23 Section 4200.6 A. A massage ~~therapy~~ therapist or establishment
24 license issued by the State Board of Cosmetology and Barbering shall

1 at all times be posted in a conspicuous place in the principal place
2 of business of the holder.

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

5 SECTION 8. AMENDATORY Section 7, Chapter 292, O.S.L.
6 2016 (59 O.S. Supp. 2018, Section 4200.7), is amended to read as
7 follows:

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

13 B. A person shall not instruct as a massage therapist unless
14 the instruction is within:

15 1. Within the scope of curriculum at a ~~licensed~~ massage therapy
16 school licensed or accredited in compliance with this section; or

17 2. Within the scope of an approved continuing education
18 seminar.

19 SECTION 9. AMENDATORY Section 9, Chapter 292, O.S.L.
20 2016 (59 O.S. Supp. 2018, Section 4200.9), is amended to read as
21 follows:

22 Section 4200.9 A. The State Board of Cosmetology and Barbering
23 may issue an original license to an applicant, ~~provided that the~~
24 ~~applicant~~ who possesses a valid license or registration to practice

1 message therapy issued by the appropriate examining board ~~under~~
2 pursuant to the laws of any other state or territory of the United
3 States, the District of Columbia or any foreign nation and has met
4 educational and examination requirements equal to or exceeding those
5 established pursuant to the Massage Therapy Practice Act.

6 B. 1. ~~Massage therapy licenses shall expire biennially.~~
7 ~~Expiration dates shall be established by the Board through adoption~~
8 ~~of a rule.~~

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

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

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

20 2. ~~If within a period of one (1) year from the date the license~~
21 ~~was placed on inactive status the massage therapist wishes to resume~~
22 ~~practice, the massage therapist shall notify the Board in writing~~
23 ~~and, upon receipt of proof of completion of all continuing education~~
24

1 ~~requirements and payment of an amount set by the Board in lieu of~~
2 ~~all lapsed renewal fees, the license shall be restored in full.~~

3 ~~D. The Board shall establish a schedule of reasonable and~~
4 ~~necessary administrative fees.~~

5 ~~E. The Board shall fix the amount of fees so that the total~~
6 ~~fees collected shall be sufficient to meet the expenses of~~
7 ~~administering the provisions of the Massage Therapy Practice Act~~
8 ~~without unnecessary surpluses~~ An applicant for licensure pursuant to
9 this section shall disclose whether the applicant has pleaded guilty
10 or nolo contendere to, or been convicted of, a crime other than a
11 minor traffic violation.

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

15 A. The State Board of Cosmetology and Barbering may issue a
16 temporary work permit to a person who submits a completed
17 application accompanied by the required fees, and who:

- 18 1. Is at least eighteen (18) years of age;
- 19 2. Provides documentation that the applicant has completed the
20 equivalent of five hundred (500) hours of formal education in
21 massage therapy from a state-licensed school; and
- 22 3. Discloses whether the applicant has pleaded guilty or nolo
23 contendere to, or been convicted of, a crime other than a minor
24 traffic violation.

1 B. A temporary work permit issued pursuant to this section
2 shall authorize the recipient to practice massage therapy under the
3 direct supervision of a licensed massage therapist in accordance
4 with rules promulgated by the Board. The permit shall expire ninety
5 (90) days after the date it is issued and is not renewable.

6 SECTION 11. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 4200.9.2 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. Disclosing any plea of guilty or nolo contendere to, or
19 conviction of, any crime other than minor traffic violations; and

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

22 C. Any person who fails to renew the license within the
23 required time may make application for renewal at any time within
24 five (5) years from the expiration date of the license by:

1 1. Paying the regular renewal license fee and a late fee of Ten
2 Dollars (\$10.00), which becomes due two (2) months after the
3 expiration date; or

4 2. Submitting proof of completion of all continuing education
5 requirements cumulative for the year or years since the license
6 expired.

7 D. Any person who fails to renew a license within five (5)
8 years of the expiration date must apply for a new license and meet
9 all the requirements for original licensure.

10 SECTION 12. AMENDATORY Section 10, Chapter 292, O.S.L.
11 2016 (59 O.S. Supp. 2018, Section 4200.10), is amended to read as
12 follows:

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

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

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

1 operation of a massage therapy establishment between the hours of
2 9:00 a.m. and 9:00 p.m.

3 SECTION 13. AMENDATORY Section 11, Chapter 292, O.S.L.
4 2016 (59 O.S. Supp. 2018, Section 4200.11), is amended to read as
5 follows:

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

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

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

12 ~~3.~~ 2. Issue an administrative reprimand; ~~or~~

13 ~~4.~~ 3. Impose probationary conditions ~~when the licensee or~~
14 ~~applicant has engaged in unprofessional conduct that has endangered~~
15 ~~or is likely to endanger the health, welfare or safety of the~~
16 ~~public; or~~

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

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

1 the Board, violated other applicable law or has engaged in
2 unprofessional conduct as defined by the Board.

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

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

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

23
24

1 ~~F.~~ E. The surrender or expiration of a license shall not
2 deprive the Board of jurisdiction to proceed with disciplinary
3 action.

4 F. The Board may issue field citations in enforcing the Massage
5 Therapy Practice Act. Field citations may require the performance
6 of an action, fines, or both. Such citations shall provide notice
7 of a hearing as provided for under this section. However, a person
8 who receives a citation may waive the hearing and pay the fine.
9 Payment of the fine shall constitute acknowledgment of the violation
10 and may be considered in any future disciplinary actions by the
11 Board.

12 SECTION 14. AMENDATORY Section 13, Chapter 292, O.S.L.
13 2016 (59 O.S. Supp. 2018, Section 4200.13), is amended to read as
14 follows:

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

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

19 2. ~~Renders~~ Advertises, offers, renders or attempts to render
20 massage therapy services ~~or massage therapy instruction~~ without the
21 required current valid therapist or establishment license or
22 temporary work permit issued by the State Board of Cosmetology and
23 Barbering;

24

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

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

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

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

19 3. ~~Any person who knowingly aids and abets one or more persons~~
20 ~~not authorized to use a professional title regulated by the Massage~~
21 ~~Therapy Practice Act or knowingly employs or contracts with a person~~
22 ~~or persons not authorized to use a regulated professional title in~~
23 ~~the course of the employment, shall also be subject to disciplinary~~
24 ~~action by the Board. It shall be a violation of the Massage Therapy~~

1 ~~Practice Act for any person to advertise massage therapy services in~~
2 ~~any combination with any escort or dating service~~ as provided by
3 Section 15 of this act.

4 2. It shall be a violation of the Massage Therapy Practice Act
5 for any person to advertise massage therapy services in any
6 combination with any escort or dating service.

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

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

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

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

24

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

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

11 D. The Board may issue field citations in enforcing this
12 section. Such citations may impose fines. Such citations shall
13 provide notice of a hearing as provided for under this section.
14 However, a person who receives a citation may waive the hearing and
15 pay the fine. Payment of the fine shall constitute acknowledgment
16 of the violation and may be considered in any future actions by the
17 Board.

18 SECTION 16. 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.
22
23
24

1 Passed the House of Representatives the 11th day of March, 2019.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2019.

6
7
8 _____
9 Presiding Officer of the Senate