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COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 1741

An Act relating to massage therapy; amending 59 O.S. 2021, Section 4200.2, which relates to definitions; defining terms; amending 59 O.S. 2021, Section 4200.3, which relates to massage therapy licensing; requiring license to operate massage therapy establishment; preventing licensed nonresident from operating if certain services are opened to general public; updating statutory reference; amending 59 O.S. 2021, Section 4200.4, which relates to the authority of the State Board of Cosmetology and Barbering; expanding authority over certain permits and inspections; removing the Advisory Board on Massage Therapy; reducing massage therapy license fee; establishing license fee for establishment license; authorizing the Board to issue original licenses and temporary work permits; providing conditions for licensees to be denied or placed on probation by the Board; requiring disclosure of certain crimes; allowing the Board to require an applicant to submit to a national criminal history record check; amending 59 O.S. 2021, Section 4200.5, which relates to license requirements; removing the requirements needed for licensing during certain time frame; establishing licensing standards for an original license; removing necessity for liability insurance; establishing massage therapy establishment license; providing for requirements necessary for issuances of license by Board; requiring disclosure of certain crimes; establishing standards for renewal; amending 59 O.S. 2021, Section 4200.6, which relates to license posting; requiring license posting at each place of business; amending 59 O.S. 2021, Section 4200.7, which relates to massage therapy schools; expanding authorized massage therapy schools; amending 59 O.S. 2021, Section 4200.9, which

1 relates to out-of-state license; removing conditions
2 for issuance of out-of-state license; allowing the
3 Board to issue temporary work permits; providing
4 conditions for issuance of temporary work permit;
5 requiring expiration of permit without the ability to
6 renew; establishing massage therapist license
7 renewal; providing for conditions for license
8 renewal; requiring disclosure of certain crimes;
9 providing for renewal in certain time frame;
10 establishing fees for renewal; requiring submission
11 of proof of completion of continuing education for
12 renewal; requiring reapplication for a license if not
13 renewed in certain time frame; amending 59 O.S. 2021,
14 Section 4200.10, which relates to preemption;
15 providing preemption for massage therapy
16 establishments; allowing regulations for general
17 health and safety; amending 59 O.S. 2021, Section
18 4200.11, which relates to disciplinary actions and
19 proceedings; authorizing the Board to conduct
20 investigations; requiring records and information in
21 connection to investigations to be confidential;
22 allowing for exception to confidentiality by law
23 enforcement and regulatory agencies; establishing
24 administrative fines for violations of act;
authorizing the Board to issue field citations;
allowing for citations to impose actions and fines;
requiring a hearing following issuance of citation;
allowing for payment of fine without hearing
resulting in acknowledgement of violation;
establishing punishment by fine or imprisonment for
violations made by unlicensed persons, firms, or
corporations; authorizing the Board to levy
administrative fines on unlicensed individuals and
owners of establishments engaged in certain behavior;
exempting certain individuals from provisions of the
act; repealing 59 O.S. 2021, Sections 4200.8 and
4200.13, which relate to examination for licensure
and violations; providing for codification; and
providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2021, Section 4200.2, is
amended to read as follows:

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

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

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

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

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

- 19 a. the use of touch, pressure, friction, stroking,
20 gliding, percussion, kneading, movement, positioning,
21 holding, range of motion and nonspecific stretching
22 within the normal anatomical range of movement, and
23 vibration by manual or mechanical means with or
24

1 without the use of massage devices that mimic or
2 enhance manual measures, and

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

7 5. "Massage therapy establishment" means any fixed business
8 location, address, building, or property where a person engages in,
9 conducts, carries on, or permits the practice of massage therapy.
10 The definition excludes offices or workplaces of licensed health
11 care professionals exempted from the provisions of the Massage
12 Therapy Practice Act;

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

15 7. "Person" means an individual, partnership, limited liability
16 company, corporation, or association, unless the context otherwise
17 requires;

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

22 9. "Substantially relates" means the nature of criminal conduct
23 for which the person was convicted, or to which the person pleaded,
24 has direct bearing on the fitness or ability to perform one or more

1 of the duties or responsibilities necessarily related to the
2 occupation.

3 SECTION 2. AMENDATORY 59 O.S. 2021, Section 4200.3, is
4 amended to read as follows:

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

8 1. Practice massage therapy in this state for remuneration;

9 2. Use the title of massage therapist;

10 ~~2.~~ 3. Represent himself or herself to be a massage therapist;

11 ~~3.~~ 4. Use any other title, words, abbreviations, letters,
12 figures, signs or devices that indicate the person is a massage
13 therapist; or

14 ~~4.~~ 5. Utilize the terms "massage", "massage therapy" or
15 "massage therapist" when advertising or printing promotional
16 material.

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

21 C. Individuals practicing massage therapy under the Massage
22 Therapy Practice Act shall not perform any of the following:

23 1. Diagnosis of illness or disease;

24 2. High-velocity, low-amplitude thrust;

1 3. Electrical stimulation;

2 4. Application of ultrasound;

3 5. Use of any technique that interrupts or breaks the skin; or

4 6. Prescribing of medicines.

5 D. No person shall own or operate a massage therapy

6 establishment without first obtaining an establishment license from
7 the Board.

8 E. Nothing in the Massage Therapy Practice Act shall be
9 construed to prevent:

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

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

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

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, as long as the
11 services are not open to the general public;

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

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

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

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

10 SECTION 3. AMENDATORY 59 O.S. 2021, Section 4200.4, is
11 amended to read as follows:

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

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

24

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.~~

14 D. ~~The fee for any license issued between the effective date of~~
15 ~~this act and May 1, 2017, shall be Twenty-five Dollars (\$25.00).~~

16 1. The Board shall establish a schedule of reasonable and
17 necessary administrative fees.

18 2. The initial fee or renewal fee for ~~any~~ a massage therapy
19 license ~~issued after May 1, 2017, shall be Fifty Dollars (\$50.00)~~
20 Twenty-five Dollars (\$25.00) per year. The initial fee or renewal
21 fee for a massage therapy establishment license shall be Thirty
22 Dollars (\$30.00) per year. A duplicate license fee shall be ~~Ten~~
23 Dollars (\$10.00) Five Dollars (\$5.00).

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

4 A. The State Board of Cosmetology and Barbering shall have
5 authority to issue original licenses and temporary work permits as
6 provided in the Massage Therapy Practice Act.

7 B. The Board may deny or place probationary conditions on an
8 original massage therapist license or temporary work permit if the
9 applicant:

10 1. Has pleaded guilty, nolo contendere, or been convicted of a
11 crime that substantially relates to the practice of massage therapy
12 and that poses a reasonable threat to public health or safety;

13 2. Has had a license or permit denied or has been the subject
14 of disciplinary action in another jurisdiction and if the grounds
15 for the denial or disciplinary action would constitute cause for
16 denial or disciplinary action under the Massage Therapy Practice Act
17 or the Board's rules;

18 3. Has previously held a license or permit revoked by the Board
19 or has been the subject of disciplinary action by the Board; or

20 4. Attempts to obtain the license or permit by means of fraud,
21 misrepresentation, deceit, or concealment of material facts.

22 C. The Board may deny or place probationary conditions on an
23 original massage therapy establishment license if the applicant:
24

1 1. Has pleaded guilty, nolo contendere, or been convicted of a
2 crime that substantially relates to the ownership, operation, or
3 management of a massage therapy establishment and that poses a
4 reasonable threat to public health or safety;

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

10 3. Has previously held a license or permit revoked by the Board
11 or has been the subject of disciplinary action by the Board; or

12 4. Attempts to obtain the license or permit by means of fraud,
13 misrepresentation, deceit, or concealment of material facts.

14 D. The Board may require an applicant for an original massage
15 therapist license, a temporary permit, or an original establishment
16 license to submit to a national criminal history record check as
17 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The
18 costs associated with the national criminal history record check
19 shall be paid by the applicant.

20 SECTION 5. AMENDATORY 59 O.S. 2021, Section 4200.5, is
21 amended to read as follows:

22 Section 4200.5. A. ~~Between the effective date of this act and~~
23 ~~May 1, 2017, the State Board of Cosmetology and Barbering shall~~
24 ~~issue a license to practice massage therapy to any person who files~~

1 ~~a completed application, accompanied by the required fees, and who~~
2 ~~submits satisfactory evidence that the applicant:~~

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

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

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

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

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

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

16 ~~4. Provides full disclosure to the Board of any criminal~~
17 ~~proceeding taken against the applicant including but not limited to~~
18 ~~pleading guilty or nolo contendere to, or receiving a conviction~~
19 ~~for, a felony crime that substantially relates to the practice of~~
20 ~~massage therapy and poses a reasonable threat to public safety.~~

21 ~~B. To assist in determining the entry-level competence of an~~
22 ~~applicant who makes application for a license after May 1, 2017, the~~
23 ~~Board may adopt rules establishing additional standards or criteria~~
24

~~for examination acceptance and may adopt only those examinations that meet the standards outlined in Section 4200.8 of this title.~~

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

~~2. After May 1, 2017, the B.~~ The Board may issue ~~a~~ an original massage therapist license to ~~an applicant~~ a person who files a completed application, accompanied by the required fees, and who:

~~a. is~~

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

~~b. provides~~

2. Provides documentation that the applicant has ~~completed the~~ equivalent of five hundred (500) hours of formal education in ~~massage therapy from a state-licensed school,~~ graduated from a state licensed or accredited massage therapy school with at least five hundred (500) clock hours of formal education; or

~~c. provides~~

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

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

1 ~~e. provides~~

2 C. An applicant shall provide full disclosure to the Board of
3 any criminal proceeding taken against the applicant including
4 pleading guilty or nolo contendere to, or receiving a conviction
5 for, a felony crime that substantially relates to the practice of
6 massage therapy and poses a reasonable threat to public safety.

7 ~~D. As used in this section:~~

8 ~~1. "Substantially relates" means the nature of criminal conduct~~
9 ~~for which the person was convicted has a direct bearing on the~~
10 ~~fitness or ability to perform one or more of the duties or~~
11 ~~responsibilities necessarily related to the occupation; and~~

12 ~~2. "Poses a reasonable threat" means the nature of criminal~~
13 ~~conduct for which the person was convicted involved an act or threat~~
14 ~~of harm against another and has a bearing on the fitness or ability~~
15 ~~to serve the public or work with others in the occupation.~~

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

19 A. No person shall own or operate a massage therapy
20 establishment without obtaining a massage therapy establishment
21 license from the State Board of Cosmetology and Barbering.

22 B. The Board may issue an original massage therapy
23 establishment license to an applicant who:

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

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

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

8 4. Discloses whether the applicant has pleaded guilty, nolo
9 contendere, or has been convicted of a crime that substantially
10 relates to the practice of massage therapy and that poses a
11 reasonable threat to public health or safety.

12 C. All massage therapy establishments shall be subject to
13 inspection by the Board and shall comply with all provisions of the
14 Massage Therapy Practice Act and rules of the Board. An inspection
15 by the Board of a massage therapy establishment licensed to practice
16 in a massage therapist's private residence shall be limited to the
17 spaces where massage therapy is practiced.

18 D. Massage therapy establishment licenses shall be renewed
19 biannually. The renewal date shall be established by the Board
20 through adoption of a rule.

21 E. A licensee may renew a massage therapy license by:

22 1. Submitting a completed renewal application on a form
23 prepared by the Board;

24 2. Tendering the required renewal fee;

1 3. Disclosing any plea of guilty, nolo contendere, or
2 conviction of a crime other than a minor traffic violation in any
3 jurisdiction within the preceding licensure year; and

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

6 SECTION 7. AMENDATORY 59 O.S. 2021, Section 4200.6, is
7 amended to read as follows:

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

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

15 SECTION 8. AMENDATORY 59 O.S. 2021, Section 4200.7, is
16 amended to read as 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 State Board of Career and
21 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.~~

1 SECTION 9. AMENDATORY 59 O.S. 2021, Section 4200.9, is
2 amended to read as follows:

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

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

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

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

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

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

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

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

11 ~~E. The Board shall fix the amount of fees so that the total~~
12 ~~fees collected shall be sufficient to meet the expenses of~~
13 ~~administering the provisions of the Massage Therapy Practice Act~~
14 ~~without unnecessary surpluses.~~

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

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

- 21 1. Is at least eighteen (18) years of age;
- 22 2. Provides documentation that the applicant has graduated from
- 23 a state licensed or accredited massage school with a least five
- 24 hundred (500) clock hours of formal education; and

1 3. Discloses whether the applicant has pleaded guilty, nolo
2 contendere, or been convicted of a crime that substantially relates
3 to the practice of massage therapy and that poses a reasonable
4 threat to public health and safety.

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

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4200.9.2 of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

13 A. A massage therapist license shall be renewed biannually.
14 The renewal date shall be established by the State Board of
15 Cosmetology and Barbering through adoption of a rule.

16 B. A licensee may renew a license by:

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

19 2. Tendering the required renewal fee;

20 3. Submitting proof of completion of all continuing education
21 requirements;

22 4. Disclosing any plea of guilty, nolo contendere, or
23 conviction of any crime other than minor traffic violations; and
24

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

3 C. Any person who fails to renew the license within the
4 required time may make application for renewal at any time by:

5 1. Paying the regular renewal license fee and a late fee of Ten
6 Dollars (\$10.00) for each expired year, which becomes due six (6)
7 months after the expiration date; and

8 2. Submitting proof of completion of all continuing education
9 requirements cumulative for the year or years since the license
10 expired.

11 SECTION 12. AMENDATORY 59 O.S. 2021, Section 4200.10, is
12 amended to read as 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.

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

21 SECTION 13. AMENDATORY 59 O.S. 2021, Section 4200.11, is
22 amended to read as follows:

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

- 4 1. Deny or refuse to renew a license;
- 5 2. Suspend or revoke a license;
- 6 3. Issue an administrative reprimand; or
- 7 4. Impose probationary conditions when the licensee or
8 applicant has engaged in unprofessional conduct that has endangered
9 or is likely to endanger the health, welfare or safety of the
10 public.

11 B. The Board shall take disciplinary action upon a finding that
12 the licensee or person has committed an act of unprofessional
13 conduct or committed a violation of rule or law.

14 C. Disciplinary proceedings may be instituted by ~~sworn~~ the
15 filing of a complaint of any person, including members of the Board,
16 and shall conform to the provisions of the Administrative Procedures
17 Act. The Board shall conduct investigations in the same manner and
18 according to the same terms as provided in the Oklahoma Cosmetology
19 and Barbering Act. Records and information obtained in connection
20 with an investigation of alleged violations shall be confidential in
21 the same manner as provided in the Oklahoma Cosmetology and
22 Barbering Act and rules of the Board. However, information obtained
23 in the course of an investigation shall be made available to the
24 appropriate law enforcement or regulatory agency.

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

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

10 F. The surrender or expiration of a license shall not deprive
11 the Board of jurisdiction to proceed with disciplinary action.

12 G. The Board may assess an administrative fine not to exceed
13 Two Hundred Fifty Dollars (\$250.00) for each violation of the
14 Massage Therapy Practice Act or rules of the Board. Each day a
15 violation continues shall constitute a separate offense. Failure to
16 pay a citation that has been upheld by the Board shall constitute a
17 continued or flagrant violation of the Board's rules, such that the
18 Board may refuse to renew the related license or issue an original
19 license where the individual cited is unlicensed unless and until
20 the citation is paid.

21 H. The Board may issue field citations in enforcement of the
22 Massage Therapy Practice Act. Field citations may require the
23 performance of an action and impose fines. Such citations shall
24 provide notice of a hearing as provided for in this section.

1 However, a person who receives a citation may waive the hearing and
2 pay the fine. Payment of the fine shall constitute acknowledgement
3 of the violation and may be considered in any future disciplinary
4 actions by the Board.

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

8 A. It shall be unlawful and constitute a misdemeanor,
9 punishable upon conviction by a fine not less than Fifty Dollars
10 (\$50.00) nor more than One Hundred Fifty Dollars (\$150.00), or by
11 imprisonment in the county jail for not more than thirty (30) days,
12 or both such fine and imprisonment, for any person, firm, or
13 corporation in this state to:

14 1. Operate or attempt to operate a massage therapy
15 establishment without having obtained a massage therapy
16 establishment license from the State Board of Cosmetology and
17 Barbering;

18 2. Practice massage therapy without having obtained a massage
19 therapist license from the Board;

20 3. Permit any person in one's employ, supervision, or control
21 to practice massage therapy unless that person has obtained an
22 appropriate license from the Board;

23 4. Willfully violate any rule promulgated by the Board for the
24 operation of a massage therapy establishment; or

1 5. Violate any of the provisions of the Massage Therapy
2 Practice Act.

3 B. The Board shall have the authority to levy administrative
4 fines not to exceed Two Hundred Fifty Dollars (\$250.00) for persons
5 practicing massage therapy without a license and for owners of a
6 massage therapy establishment who allow unlicensed individuals to
7 practice massage therapy in their establishment. Each day a
8 violation continues shall be a separate offense.

9 C. The provisions of the Massage Therapy Practice Act shall not
10 apply to the persons listed in subsections E and F of Section 4200.3
11 of Title 59 of the Oklahoma Statutes while such persons are engaged
12 in the proper discharge of their professional duties.

13 SECTION 15. REPEALER 59 O.S. 2021, Sections 4200.8 and
14 4200.13, are hereby repealed.

15 SECTION 16. This act shall become effective November 1, 2022.

16 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
17 March 3, 2022 - DO PASS AS AMENDED
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