

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 750

By: Weaver

AS INTRODUCED

An Act relating to the Massage Therapy Practice Act; transferring from the State Board of Cosmetology and Barbering to the Board of Dentistry the Massage Therapy Practice Act; directing the transfer of records and funds from the State Board of Cosmetology and Barbering to the Board of Dentistry on certain date; transferring agency responsibilities; transferring all powers, duties, records and financial obligations; directing the Office of Management and Enterprise Services to assist in the transfer; amending Section 2, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.2), which relates to definitions; modifying language; adding definition; amending Section 3, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.3), which relates to license; expanding persons not required to be licensed; deleting language; amending Section 4, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.4), which relates to authority of Board; changing authority from State Board of Cosmetology and Barbering to Board of Dentistry; changing board member appointments; increasing number of board members; amending Section 5, Chapter 292, O.S.L. 2016, as amended by Section 73, Chapter 363, O.S.L. 2019 (59 O.S. Supp. 2020, Section 4200.5), which relates to license requirements; expanding date to allow certain licenses; discontinuing certain affidavit after certain date; deleting language; amending Section 6, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.6), which relates to license posting requirements; requiring certain picture identification; amending Section 7, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.7), which relates to massage therapy schools; expanding recognized schools; amending Section 8, Chapter 292,

1 O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.8),
2 which relates to examination for licensure; allowing
3 Board to determine acceptable examinations; amending
4 Section 9, Chapter 292, O.S.L. 2016 (59 O.S. Supp.
5 2020, Section 4200.9), which relates to licenses;
6 providing expiration date for licenses; providing a
7 three-month grace period for renewal; requiring Board
8 approval for licenses to be reinstated; requiring
9 late and reinstatement fees for certain renewals;
10 expanding period for reinstatement; requiring
11 retesting after certain time; providing for entity
12 license on certain date; establishing procedure for
13 application and violations for entity licenses;
14 allowing injunctions; criminalizing failure to have
15 an entity license; setting penalties; providing a fee
16 schedule for licenses; amending Section 10, Chapter
17 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section
18 4200.10), which relates to preemption; clarifying
19 language; amending Section 11, Chapter 292, O.S.L.
20 2016 (59 O.S. Supp. 2020, Section 4200.11), which
21 relates to disciplinary actions; listing crimes
22 prohibited for licensure; allowing denial, suspension
23 and revocation of license; establishing procedure for
24 investigation of complaints and violations; granting
25 authority to Advisory Board on Massage Therapy;
26 setting administrative fine; granting authority for
27 injunction; providing procedure to go before Board of
28 Dentistry; allowing appointment of jury panel;
29 authorizing settlement and surrender of license;
30 construing surrender of license; deleting language;
31 amending Section 12, Chapter 292, O.S.L. 2016 (59
32 O.S. Supp. 2020, Section 4200.12), which relates to
33 immunity; deleting language; granting immunity to
34 Board and Advisory Board; creating a revolving fund
35 for the Massage Therapy Practice Act; naming fund;
36 providing for deposits and expenditures; providing
37 for noncodification; providing for codification;
38 providing an effective date; and declaring an
39 emergency.

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43 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
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1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 The Massage Therapy Practice Act is hereby transferred from the
4 State Board of Cosmetology and Barbering to the Board of Dentistry
5 on the effective date of this act. All powers, duties and
6 responsibilities under the Massage Therapy Practice Act shall be
7 transferred to the Board of Dentistry. All unexpended funds,
8 property, records and outstanding financial obligations and
9 encumbrances are hereby transferred to the Board of Dentistry. Any
10 personnel employed by the State Board of Cosmetology and Barbering
11 to administer the Massage Therapy Practice Act shall remain employed
12 with the State Board of Cosmetology and Barbering. The Office of
13 Management and Enterprise Services is directed to coordinate the
14 transfer of records, property, funds, allotments, purchase orders
15 and outstanding financial obligations or encumbrances provided in
16 this section.

17 SECTION 2. AMENDATORY Section 2, Chapter 292, O.S.L.
18 2016 (59 O.S. Supp. 2020, Section 4200.2), is amended to read as
19 follows:

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

21 1. "Board" means the ~~State Board of Cosmetology and Barbering~~
22 Board of Dentistry who shall serve as the administrative oversight
23 agency;

1 2. "Advisory Board" means the Advisory Board on Massage
2 Therapy;

3 3. "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.~~ 4. "Massage therapist" means an individual who practices
7 massage or massage therapy and is licensed under the Massage Therapy
8 Practice Act. A massage therapist uses visual, kinesthetic, and
9 palpatory skills to assess the body and may evaluate a condition to
10 the extent of determining whether massage is indicated or
11 contraindicated;

12 ~~4.~~ 5. "Massage therapy" means the skillful treatment of the
13 soft tissues of the human body. Massage is designed to promote
14 general relaxation, improve movement, relieve somatic and muscular
15 pain or dysfunction, stress and muscle tension, provide for general
16 health 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.~~ 6. "Massage therapy school" means a facility providing
8 instruction in massage therapy that is accredited by the Oklahoma
9 Board of Private Vocational Schools, an Oklahoma Vocational
10 Technology School or a school recognized by the United States
11 Department of Education.

12 SECTION 3. AMENDATORY Section 3, Chapter 292, O.S.L.
13 2016 (59 O.S. Supp. 2020, Section 4200.3), is amended to read as
14 follows:

15 Section 4200.3. A. Unless a person is a licensed massage
16 therapist, a person shall not:

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

23 B. A person shall not maintain, manage or operate a massage
24 therapy school offering education, instruction or training in
25

1 massage therapy unless the school is a licensed massage therapy
2 school pursuant to Section 7 of this act.

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

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

11 D. ~~Nothing in the Massage Therapy Practice Act shall be~~
12 ~~construed to prevent:~~ Persons not required to have a license under
13 the Massage Therapy Practice act shall include:

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

1 are otherwise licensed or regulated under Oklahoma law; provided,
2 such person is acting under the scope of their professional license
3 or permit;

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

6 ~~3.~~ Visiting massage therapy instructors from another state or
7 territory of the United States, the District of Columbia or any
8 foreign nation from teaching massage therapy, provided the
9 instructor is duly licensed or registered, if required, and is
10 qualified in the instructor's place of residence for the practice of
11 massage therapy, and the instructor is not receiving compensation
12 other than directly from the school for instruction services;

13 ~~4.~~ 3. Any nonresident person holding a current license,
14 registration or certification in massage therapy from another state
15 or recognized national certification system determined as acceptable
16 by the Board when temporarily present in this state ~~from providing~~
17 to provide massage therapy services as a part of an emergency
18 response team working in conjunction with disaster relief officials
19 ~~or at special events such as conventions, sporting events,~~
20 ~~educational field trips, conferences, traveling shows or exhibitions~~
21 provided the individual is not receiving any compensation. Such
22 person may apply for a temporary specialty license at no charge;

23 ~~5.~~ 4. Physicians or other health care professionals from
24 ~~appropriately referring to duly licensed massage therapists or limit~~

1 ~~in any way the right of direct access of the public to licensed~~
2 ~~massage therapists~~ providers who refer persons to duly licensed
3 massage therapists and such therapists are not working under the
4 scope of authority of the licensed physician or health care provider
5 for the purposes of liability; or

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

21 6. Individuals who are full-time employees of a professional
22 sports organization or an athletic department of a college or
23 university while acting in that capacity.
24

1 ~~E. A physician or other licensed health care provider providing~~
2 ~~health care services within their scope of practice shall not be~~
3 ~~required to be licensed or registered with the State Board of~~
4 ~~Cosmetology.~~

5 SECTION 4. AMENDATORY Section 4, Chapter 292, O.S.L.
6 2016 (59 O.S. Supp. 2020, Section 4200.4), is amended to read as
7 follows:

8 Section 4200.4. A. The ~~State Board of Cosmetology and~~
9 ~~Barbering Dentistry~~, pursuant to recommendations from the Advisory
10 Board, is hereby authorized to adopt and promulgate rules pursuant
11 to the Administrative Procedures Act that are necessary for the
12 implementation and enforcement of the Massage Therapy Practice Act,
13 including, but not limited to, qualifications for licensure,
14 renewals, reinstatements, and continuing education requirements.

15 B. The ~~State Board of Cosmetology and Barbering Dentistry~~ is
16 hereby empowered to oversee all aspects of licensing of massage
17 therapists, perform investigations, perform inspections, to require
18 the production of records and other documents relating to practices
19 regulated by the Massage Therapy Practice Act, ~~and to seek~~
20 ~~injunctive relief~~ hire attorneys or administrative judges, seek
21 injunctions and any other actions needed to enforce the provisions
22 of this act.

23 C. There is hereby created an Advisory Board on Massage
24 Therapy. The Advisory Board on Massage Therapy shall assist the

1 Board in carrying out the provisions of this section regarding the
2 qualifications, examination, registration, regulation, and standards
3 of professional conduct of massage therapists. The Advisory Board
4 on Massage Therapy shall consist of ~~five (5) members to be appointed~~
5 ~~by the Governor for four-year terms~~ seven (7) members as follows:

6 1. The President of the Board of Dentistry or his/her designee;

7 2. The Director of the Oklahoma State Bureau of Narcotics and
8 Dangerous Drugs Control or his/her designee;

9 3. Five members appointed by the Governor for four-year terms
10 as follows:

11 a. ~~Three~~ three members who shall be licensed massage
12 therapists and have practiced in Oklahoma for not less
13 than three (3) years prior to their appointment~~7,~~

14 ~~2.~~

15 b. ~~One~~ one member who shall be an administrator or
16 faculty member of a nationally accredited school of
17 massage therapy~~7,~~ and

18 ~~3.~~

19 c. ~~One~~ one who shall be a citizen member.

20 The appointed members may not serve more than two (2) consecutive
21 terms.

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

24 ~~The fee or renewal fee for any massage therapy license issued after~~
25

1 ~~May 1, 2017, shall be Fifty Dollars (\$50.00) per year. A duplicate~~
2 ~~license fee shall be Ten Dollars (\$10.00).~~

3 SECTION 5. AMENDATORY Section 5, Chapter 292, O.S.L.
4 2016, as amended by Section 73, Chapter 363, O.S.L. 2019 (59 O.S.
5 Supp. 2020, Section 4200.5), is amended to read as follows:

6 Section 4200.5. A. Between ~~the effective date of this act~~
7 August 26, 2016, and May 1, 2017 September 30, 2021, the State Board
8 of ~~Cosmetology and Barbering~~ Dentistry shall issue a license to
9 practice massage therapy or an entity license to any person not
10 otherwise disqualified pursuant to this act or other state and
11 federal laws who files a completed application, accompanied by the
12 required fees, and who submits satisfactory evidence that the
13 applicant:

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

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

4 4. ~~Provides full disclosure to the Board of any criminal~~
5 ~~proceeding taken against the applicant including but not limited to~~
6 ~~pleading guilty or nolo contendere to, or receiving a conviction~~
7 ~~for, a felony crime that substantially relates to the practice of~~
8 ~~massage therapy and poses a reasonable threat to public safety~~ Fully
9 completes the application as provided by the Board and after the
10 completion of a background investigation conducted by the Board does
11 not have a disqualification.

12 B. ~~To assist in determining the entry-level competence of an~~
13 ~~applicant who makes application for a license after May 1, 2017, the~~
14 ~~Board may adopt rules establishing additional standards or criteria~~
15 ~~for examination acceptance and may adopt only those examinations~~
16 ~~that meet the standards outlined in Section 4200.8 of this title~~
17 After October 1, 2021, an affidavit of work experience in this state
18 will no longer be allowed as a consideration or basis for licensure
19 under this act.

20 C. 1. ~~After May 1, 2017, except as otherwise provided in the~~
21 ~~Massage Therapy Practice Act, every person desiring to practice~~
22 ~~massage therapy in this state shall be required to first obtain a~~
23 ~~license from the Board.~~

1 ~~2. After May 1, 2017, the Board may issue a license to an~~
2 ~~applicant who:~~

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

4 ~~b. provides documentation that the applicant has~~
5 ~~completed the equivalent of five hundred (500) hours~~
6 ~~of formal education in massage therapy from a state-~~
7 ~~licensed school,~~

8 ~~c. provides documentation that the applicant has passed a~~
9 ~~nationally recognized competency examination approved~~
10 ~~by the Board,~~

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

14 ~~e. provides full disclosure to the Board of any criminal~~
15 ~~proceeding taken against the applicant including~~
16 ~~pleading guilty or nolo contendere to, or receiving a~~
17 ~~conviction for, a felony crime that substantially~~
18 ~~relates to the practice of massage therapy and poses a~~
19 ~~reasonable threat to public safety.~~

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

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

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

5 SECTION 6. AMENDATORY Section 6, Chapter 292, O.S.L.
6 2016 (59 O.S. Supp. 2020, Section 4200.6), is amended to read as
7 follows:

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

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

14 C. All licensed Massage Therapists must have a valid picture
15 identification issued by this state or the federal government
16 available for inspection upon request during working hours of the
17 practice.

18 D. All massage therapy establishments must have a license
19 publicly displayed.

20 SECTION 7. AMENDATORY Section 7, Chapter 292, O.S.L.
21 2016 (59 O.S. Supp. 2020, Section 4200.7), is amended to read as
22 follows:

23 Section 4200.7. A. A person shall not advertise, maintain,
24 manage or operate a massage therapy school unless the school is

1 licensed by the Oklahoma Board of Private Vocational Schools, the
2 Oklahoma Department of Career and Technology Education or a school
3 recognized by the United States Department of Education.

4 B. A person shall not instruct as a massage therapist unless
5 the instruction is within the scope of curriculum at a licensed
6 massage therapy school.

7 SECTION 8. AMENDATORY Section 8, Chapter 292, O.S.L.
8 2016 (59 O.S. Supp. 2020, Section 4200.8), is amended to read as
9 follows:

10 Section 4200.8. A. The required examination approved by the
11 ~~State Board of Cosmetology and Barbering~~ Dentistry as recommended by
12 the Advisory Board for licensure under the Massage Therapy Practice
13 Act shall be a standardized national massage therapy examination
14 that meets the following criteria:

- 15 1. Is statistically validated through a job analysis under
16 current standards for educational and professional testing;
- 17 2. Complies with pertinent state and federal equal employment
18 opportunity guidelines;
- 19 3. Is available to all potential licensing candidates; and
- 20 4. Is delivered through a professional testing company with
21 high-security test centers located nationwide.

22 B. The Board may authorize and determine accepted exams that
23 shall be posted and available to the public.

SECTION 9. AMENDATORY Section 9, Chapter 292, O.S.L.

2016 (59 O.S. Supp. 2020, Section 4200.9), is amended to read as follows:

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

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

2. A license shall be renewed by submitting a renewal application on a form or in a format provided by the Board.

3. ~~A thirty day grace period shall be allowed each license holder after the end of the renewal period, during which time a license may be renewed upon payment of the renewal fee and a late fee as prescribed by the Board~~ All licenses shall expire one (1) year from date of issuance. Licenses may be automatically renewed for up to three (3) months after expiration upon paying a late fee in the same amount of the license which shall be in addition to the annual license fee. Licenses not renewed during the three-month

1 period may only be renewed upon Board approval and payment of a
2 reinstatement fee.

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

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

15 5. After a period of five (5) years, the massage therapist must
16 reapply and retest as a new applicant unless they have held a valid
17 license during this time in another state.

18 C. 1. Massage Therapy Entity/Owner License. Beginning January
19 1, 2022, each massage therapy practice shall be required to
20 designate an entity/owner who shall be licensed by the Board. A
21 designated individual or individuals listed as owner or operating
22 manager or listed on corporate documents filed with the Secretary of
23 State as Corporation or LLC filings shall apply and hold a valid
24 entity/owner license. Upon a finding of violations, the Board may

1 fine, revoke or suspend the license of the entity/owner at which
2 time the facility shall not be open to the public. The Board may
3 give a limited time period not to exceed thirty (30) days, for the
4 practice to designate a new managing entity/owner.

5 2. The Board may seek an injunction in district court in
6 addition to any fines or penalties and in addition to any actions
7 taken by other lawful entities.

8 3. Any individual practicing or maintaining a massage therapy
9 practice or a location that has activities subject to this act shall
10 have a valid license issued by the Board or they shall be guilty of
11 a felony, upon conviction, punishable by a term of imprisonment up
12 to five (5) years in the custody of the State Department of
13 Corrections and a fine not exceeding Five Thousand Dollars
14 (\$5,000.00).

15 4. Each additional day a violation exists shall be considered a
16 separate violation.

17 ~~D. The Board shall establish a schedule of reasonable and~~
18 ~~necessary administrative fees.~~

19 Fee Schedule:

20 New Application for Massage Therapy or Reciprocity including

21 background check \$200

22 Massage Therapy license yearly renewal \$100

23 Entity/Owner License Application and renewal \$200

24 Facility Inspection \$100

Replacement or additional Certificates	\$30
Duplicate license fees	\$10
Returned check fee	\$25

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

SECTION 10. AMENDATORY Section 10, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.10), is amended to read as follows:

Section 4200.10. A. ~~The Massage Therapy Practice Act shall supersede~~ Legislature declares the practice of massage therapy as a public safety issue and hereby preempts all ordinances or regulations regulating massage therapists in any city, county, or political subdivision.

B. This section shall not affect the regulations of a city, county or a political subdivision relating to zoning requirements or occupational license fees pertaining to health care professions issued consistent with state law.

SECTION 11. AMENDATORY Section 11, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2020, Section 4200.11), is 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 public~~

10 A license for a massage therapist or massage therapy
11 entity/owner may be denied, revoked or suspended by the Board upon a
12 finding that:

13 1. An applicant has lied on or falsified an application for
14 licensure;

15 2. An applicant has received a conviction for, or has entered a
16 plea of guilty or no contest to, a charge of the following under
17 Oklahoma law or an equivalent charge under the laws of another state
18 or federal law for:

- 19 a. indecent exposure, prostitution, obscenity or related
20 crimes under Section 1021, 1040.52, 1081, 1085, 1086,
21 1087 or 1088 of Title 21 of the Oklahoma Statutes,
22 b. human trafficking under Section 748, 866 or 867 of
23 Title 21 of the Oklahoma Statutes,

- c. pandering under Section 1081 of Title 21 of the Oklahoma Statutes,
- d. prostitution or operating a house of ill-repute under Sections 1025 thru 1029 of Title 21 of the Oklahoma Statutes,
- e. kidnapping related statutes under Sections 741, 745, 891 or 1119 of Title 21 of the Oklahoma Statutes,
- f. a crime subject to registration under the Mary Rippey Violent Crime Offenders Registration Act, Section 591 et seq. of Title 57 of the Oklahoma Statutes,
- g. a crime subject to the Sex Offender Registration Act, Section 581 et seq. of Title 57 of the Oklahoma Statutes, or
- h. any other felony violation that the Board determines is directly related to the practice of Massage Therapy and/or is likely to endanger the health, welfare or safety of the public; and

3. An applicant has had a license revoked or suspended by another state.

~~B. The Board shall take disciplinary action upon a finding that the licensee or person has committed an act of unprofessional conduct or committed a violation of rule or law~~ 1. Upon the receipt of a complaint to the Board alleging a violation of the Massage Therapy Practice Act or other state or federal law by a licensee,

1 the Board President shall assign the Advisory Board on Massage
2 Therapy as the review and investigative panel. The Advisory Board
3 shall review the case and make a final recommendation to the Board
4 of Dentistry.

5 2. The Advisory Board on Massage Therapy, in its discretion,
6 may notify the respondent of the complaint at any time prior to its
7 dismissal of the complaint or making a recommendation to the Board
8 or Dentistry.

9 3. The Advisory Board on Massage Therapy shall confer and shall
10 conduct or cause to be conducted any investigation of the
11 allegations in the complaint as it reasonably determines may be
12 needed to establish, based on the evidence available to the panel,
13 whether it is more likely than not that:

- 14 a. a violation of the provisions of the Massage Therapy
15 Practice Act has occurred, and
16 b. the person named in the complaint has committed the
17 violation.

18 4. In conducting its investigation, the Advisory Board on
19 Massage Therapy may seek evidence, take statements, take and hear
20 evidence, and administer oaths and affirmations and shall have any
21 other powers as defined by the Administrative Procedures Act. The
22 Advisory Board on Massage Therapy may also request additional
23 information be sought by attorneys and investigators, if needed.
24

1 5. All records, documents and other materials received during
2 the Advisory Board on Massage Therapy review and investigative panel
3 portion shall be considered investigative files and shall not be
4 subject to the Oklahoma Open Records Act.

5 6. The Board President or other member of the Board, or an
6 administrative judge as appointed by the Board, shall act as the
7 presiding administrative judge during any proceeding. The
8 presiding administrative judge shall be allowed to seek advice from
9 judicial counsel or other legal counsel appointed by the Board.

10 7. The Advisory Board on Massage Therapy may recommend the
11 Board of Dentistry:

- 12 a. dismiss the complaint as unfounded,
13 b. issue a private settlement agreement that shall not
14 include any restriction upon the licensee's or permit
15 holder's license or permit, or
16 c. assess an administrative fine not to exceed One
17 Thousand Five Hundred Dollars (\$1,500.00) per
18 violation pursuant to a private settlement agreement.

- 19 8. a. The Board President shall have the authority to
20 authorize the Executive Director or the Board's
21 attorney to file an injunction in district court for
22 illegal activity pursuant to the Massage Therapy
23 Practice Act when needed, and

1 b. Issue a formal complaint for a final hearing of the
2 Dental Board pursuant to Article II of the
3 Administrative Procedures Act against the licensee or
4 permit holder. During this hearing, the Advisory
5 Board on Massage Therapy may sit in an ex-officio
6 capacity on the final review of any licensee and act
7 in a similar capacity as the investigative review
8 panel, presenting findings of the investigative and
9 review panel to the Board.

10 c. In the event of a majority of members of the Board
11 being recused from the Board member jury panel, the
12 Board President or presiding administrative judge
13 shall appoint one or more previous Board members with
14 a current active State Dental Act license in good
15 standing to serve as a jury panel member.

16 9. Any action as set forth in paragraphs a through c of
17 subsection 7 of this section shall remain part of the investigation
18 file, and may be disclosed or used against the respondent only if
19 the respondent violates the settlement agreement or if ordered by a
20 court of competent jurisdiction; and

21 10. A surrender of a licensee while under investigation must be
22 accepted by the Board and shall not exonerate the person from
23 administrative penalties.

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 and sanctioned~~
9 ~~by the Board shall be responsible for the payment of all costs of~~
10 ~~the disciplinary proceedings and any administrative fees imposed.~~

11 ~~F. The surrender of a license shall not deprive the Board of~~
12 ~~jurisdiction to proceed with disciplinary action.~~

13 SECTION 12. AMENDATORY Section 12, Chapter 292, O.S.L.
14 2016 (59 O.S. Supp. 2020, Section 4200.12), is amended to read as
15 follows:

16 Section 4200.12. ~~A. No member of the State Board of~~
17 ~~Cosmetology and Barbering~~ Board of Dentistry or the Advisory Board
18 on Massage Therapy shall bear liability or be subject to civil
19 damages or criminal prosecution for any action undertaken or
20 performed within the scope of duty imposed pursuant to the Massage
21 Therapy Practice Act.

22 ~~B. No person or legal entity providing truthful and accurate~~
23 ~~information to the Board, whether as a report, a complaint or~~
24

1 ~~testimony, shall be subject to civil damages or criminal~~
2 ~~prosecutions.~~

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

6 There is hereby created in the State Treasury a revolving fund
7 for the Board of Dentistry to be designated the "Massage Therapy
8 Practice Act Revolving Fund". The fund shall be a continuing fund,
9 not subject to fiscal year limitations, and shall consist of all
10 monies received pursuant to the Massage Therapy Practice Act from
11 all license fees, renewal and late fees, reinstatement fees and
12 administrative penalties. All monies accruing to the credit of the
13 fund are hereby appropriated and may be budgeted and expended by the
14 Board of Dentistry for the purpose of administering the act.
15 Expenditures from the fund shall be made upon warrants issued by the
16 State Treasurer against claims filed as prescribed by law with the
17 Director of the Office of Management and Enterprise Services for
18 approval and payment.

19 SECTION 14. This act shall become effective July 1, 2021.

20 SECTION 15. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval.

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