

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 633

By: Daniels

AS INTRODUCED

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 to operate if 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; modifying terms of appointments to Board; providing for vacancies; modifying license fees; establishing license fee for establishment license; authorizing the Board to issue massage therapy, temporary work permits, and massage therapy establishment license; 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 postage at each place of business; amending 59 O.S. 2021, Section 4200.7, which relates to massage therapy schools; expanding authorized schools necessary to be licensed; removing provision for

1 instruction as a massage therapist; amending 59 O.S.
2 2021, Section 4200.9, which relates to out-of-state
3 license; removing conditions for issuance of out-of-
4 state license; allowing the Board to issue temporary
5 work permits; providing conditions for issuance of
6 temporary work permit; requiring expiration of permit
7 without the ability to renew; establishing massage
8 therapy license renewal; providing for conditions for
9 license renewal; requiring disclosure of certain
10 crimes; providing for renewal in certain time frame;
11 establishing fees for renewal; requiring submission
12 of proof of completion of continuing education for
13 renewal; requiring reapplication for a license if not
14 renewed in certain time frame; amending 59 O.S. 2021,
15 Section 4200.10, which relates to preemption;
16 providing preemption for massage therapy
17 establishments; 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 for use by
23 law enforcement and regulatory agencies; establishing
24 administrative fines for violations of act;
25 authorizing the Board to issue field citations;
26 allowing for citations to impose actions and fines;
27 requiring a hearing following issuance of citation;
28 allowing for payment of fine without hearing
29 resulting in acknowledgement of violation;
30 establishing punishment by fine or imprisonment for
31 violations made by unlicensed persons, firms, or
32 corporations; authorizing the Board to levy
33 administrative fees to unlicensed individuals and
34 owners of establishments; providing exempted
35 individuals from provisions of the act; amending 59
36 O.S. 2021, Section 4200.13, which relates to
37 violations; expanding violations; repealing 59 O.S.
38 2021, Sections 4200.8, which relates to examination
39 for licensure; providing for codification; and
40 providing an effective date.

41
42
43 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
44
45

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

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

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

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

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

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

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

1 vibration by manual or mechanical means with or
2 without the use of massage devices that mimic or
3 enhance manual measures, and

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

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

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

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

19 8. "Poses a reasonable threat" means the nature of criminal
20 conduct for which the person was convicted, charged, or to which the
21 person has pleaded guilty or nolo contendere, involved an act or
22 threat of harm against another and has a bearing on the fitness or
23 ability to serve the public or work with others in massage therapy
24 consistent to the provisions in Section 4000.1 of this title; and

1 9. "Substantially relates" means the nature of the criminal
2 conduct for which the person was convicted, charged, or to which the
3 person pleaded guilty or nolo contendere, has a direct bearing on
4 the fitness or ability to perform one or more of the duties or
5 responsibilities necessarily related to massage therapy consistent
6 to the provisions in Section 4000.1 of this title.

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

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

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

21 B. A person shall not maintain, manage or operate a massage
22 therapy school offering education, instruction or training in
23 massage therapy unless the school is a licensed or accredited
24

1 message therapy school pursuant to Section ~~7 of this act~~ 4200.7 of
2 this title.

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. No person shall own or operate a massage therapy
12 establishment without first obtaining an establishment license from
13 the Board.

14 E. Nothing in the Massage Therapy Practice Act shall be
15 construed to prevent:

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

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

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

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

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

22 6. The practice of any person in this state who uses touch,
23 words and directed movement to deepen awareness of existing patterns
24 of movement in the body as well as to suggest new possibilities of
25

1 movement while engaged within the scope of practice of a profession
2 with established standards and ethics, provided that the services
3 are not designated or implied to be massage or massage therapy.

4 Practices shall include but are not limited to the Feldenkrais
5 Method of somatic education, Rolf Movement Integration by the Rolf
6 Institute, the Trager Approach of movement education, and Body-Mind
7 Centering. Practitioners shall be recognized by or meet the
8 established standards of either a professional organization or
9 credentialing agency that represents or certifies the respective
10 practice based on a minimal level of training, demonstration of
11 competency, and adherence to ethical standards.

12 ~~E.~~ F. A physician or other licensed health care provider
13 providing health care services within their scope of practice shall
14 not be required to be licensed or registered with the State Board of
15 Cosmetology.

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

18 Section 4200.4. A. The State Board of Cosmetology and
19 Barbering is hereby authorized to adopt and promulgate rules
20 pursuant to the Administrative Procedures Act that are necessary for
21 the implementation and enforcement of the Massage Therapy Practice
22 Act, including, but not limited to, requirements related to
23 qualifications for licensure, renewals, reinstatements, temporary
24

1 work permits, sanitation, inspection of establishments, and
2 continuing education requirements.

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

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

16 1. Three members who shall be licensed massage therapists and
17 have practiced in Oklahoma for not less than three (3) years prior
18 to their appointment. One member shall be appointed to an initial
19 term that shall expire on June 30, 2025. One member shall be
20 appointed to an initial term that shall expire on June 30, 2026.
21 One member shall be appointed to an initial term that shall expire
22 on June 30, 2027. All successive terms for the positions provided
23 in this subsection shall be for four (4) years each;
24

1 2. One member who shall be an administrator or faculty member
2 of a ~~nationally accredited school of~~ massage therapy school duly
3 licensed or accredited pursuant to Section 4200.7 of this title.
4 The member shall be appointed to an initial term that shall expire
5 on June 30, 2025. All successive terms for this position shall be
6 for four (4) years each; and

7 3. One member who shall be a ~~citizen~~ public member. The member
8 shall be appointed to an initial term that shall expire on June 30,
9 2026. All successive terms for this position shall be for four (4)
10 years each.

11 D. A person appointed to fill a position that has become vacant
12 shall serve the remainder of the term of the vacated position. The
13 person shall be eligible for appointment to successive four-year
14 terms thereafter.

15 E. The initial and renewal fee for any a massage therapy
16 license issued between the effective date of this act and May 1,
17 2017, shall be Twenty-five Dollars (\$25.00). The fee or renewal fee
18 for any massage therapy license issued after May 1, 2017, shall be
19 Fifty Dollars (\$50.00) per year. The initial and renewal fee for an
20 establishment license shall be Fifty Dollars (\$50.00). A duplicate
21 license fee shall be ~~Ten Dollars (\$10.00)~~ Five Dollars (\$5.00).

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

1 A. The State Board of Cosmetology and Barbering shall have
2 authority to issue massage therapy licenses, temporary work permits,
3 and massage establishment licenses as provided in the Massage
4 Therapy Practice Act.

5 B. The Board may deny or place probationary conditions on a
6 massage therapy license or temporary work permit if:

7 1. The applicant has pleaded guilty, nolo contendere or been
8 convicted of a crime, or has a criminal charge currently pending,
9 that substantially relates to the practice of massage therapy and
10 that poses a reasonable threat to public health or safety;

11 2. The applicant has had a license or permit denied or has been
12 the subject of disciplinary action in another jurisdiction, if the
13 grounds for the denial or disciplinary action would constitute cause
14 for denial or disciplinary action pursuant to the Massage Therapy
15 Practice Act or the Board's rules;

16 3. The applicant has previously held a license or permit by the
17 Board and the license or permit has been revoked or the applicant
18 has been the subject of disciplinary action by the Board; or

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

22 C. The Board may deny or place probationary conditions on a
23 massage establishment license if:
24
25

1 1. The applicant has pleaded guilty, nolo contendere, or been
2 convicted of a crime, or has a criminal charge currently pending,
3 that substantially relates to the ownership, operation, or
4 management of a massage therapy establishment and that poses a
5 reasonable threat to public health and safety;

6 2. The applicant has had a license or permit denied or has been
7 the subject of disciplinary action in another jurisdiction, if the
8 grounds for the denial or disciplinary action would constitute cause
9 for denial or disciplinary action pursuant to the Massage Therapy
10 Practice Act or the Board's rule;

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

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

17 D. The Board may require an applicant for an initial massage
18 therapy license, temporary work permit, or an initial establishment
19 license to submit to a national criminal history record check as
20 defined at Section 150.9 of Title 74 of the Oklahoma Statutes. The
21 costs associated with the national criminal history record check
22 shall be paid by the applicant.

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

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

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

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

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

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

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

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

19 4. ~~Provides full disclosure to the Board of any criminal~~
20 ~~proceeding taken against the applicant including but not limited to~~
21 ~~pleading guilty or nolo contendere to, or receiving a conviction~~
22 ~~for, a felony crime that substantially relates to the practice of~~
23 ~~massage therapy and poses a reasonable threat to public safety.~~
24

1 ~~B. To assist in determining the entry level competence of an~~
2 ~~applicant who makes application for a license after May 1, 2017, the~~
3 ~~Board may adopt rules establishing additional standards or criteria~~
4 ~~for examination acceptance and may adopt only those examinations~~
5 ~~that meet the standards outlined in Section 4200.8 of this title.~~

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

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

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

14 ~~b. provides~~ 2. Provides documentation that the applicant has
15 ~~completed the equivalent of five hundred (500) hours of formal~~
16 ~~education in massage therapy from a state-licensed school,~~

17 ~~c. provides~~ graduated from a state licensed or accredited
18 massage therapy school with at least five hundred (500) clock hours
19 of formal education;

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

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

24 ~~e. provides;~~ and

1 4. Provides full disclosure to the Board of any criminal
2 proceeding taken against the applicant including pending criminal
3 charges, pleading guilty or nolo contendere to, or receiving a
4 conviction for, a ~~felony~~ crime that substantially relates to the
5 practice of massage therapy and poses a reasonable threat to public
6 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 an establishment license from the
21 State Board of Cosmetology and Barbering.

22 B. The Board may issue an initial establishment license to an
23 applicant who:

24 1. Is at least eight (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 been convicted of a crime, or has a criminal charge
10 currently pending, that substantially relates to the practice of
11 massage therapy and that poses a reasonable threat to public health
12 and safety.

13 C. All massage therapy establishments shall be subject to
14 inspection by the Board and shall comply with all provisions of the
15 Massage Therapy Practice Act and rules of the Board. Inspection of
16 a private residence licensed as a massage therapy establishment
17 shall be limited to areas where massage therapy is practiced,
18 including any restroom made available to massage therapy clients.

19 D. A massage therapy establishment license shall be renewed
20 annually. The renewal date shall be established by the Board
21 through adoption of a rule.

22 E. A licensee may renew a massage therapy establishment license
23 by:

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

3 2. Tendering the required renewal fee;

4 3. Disclosing any plea of guilty, nolo contendere or conviction
5 of a crime, or pending criminal charge, other than a minor traffic
6 violation in any jurisdiction within the preceding licensure year;
7 and

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

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

12 Section 4200.6. A. A massage therapy license or massage
13 therapy establishment license issued by the State Board of
14 Cosmetology and Barbering shall at all times be posted in a
15 conspicuous place in ~~the principal~~ each place of business of the
16 holder in which massage therapy is performed.

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

19 SECTION 8. AMENDATORY 59 O.S. 2021, Section 4200.7, is
20 amended to read as follows:

21 Section 4200.7. ~~A.~~ A person shall not advertise, maintain,
22 manage or operate a massage therapy school unless the school is
23 licensed by the Oklahoma Board of Private Vocational Schools or is a
24
25

1 technology center school accredited by the Oklahoma State Board of
2 Career and Technology Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 2. Provides documentation that the applicant has graduated from
2 a state licensed or accredited massage therapy school with at least
3 five hundred (500) clock hours of formal education; and

4 3. Discloses whether the applicant has pleaded guilty, nolo
5 contendere or been convicted of a crime, or has a criminal charge
6 currently pending, that substantially relates to the practice of
7 massage therapy and that poses a reasonable threat to public health
8 or safety.

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

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

17 A. A massage therapy license shall be renewed biannually. The
18 renewal date shall be established by the State Board of Cosmetology
19 and Barbering through adoption of a rule.

20 B. A licensee may renew a license by:

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

23 2. Tendering the required renewal fee;

24
25

1 3. Submitting proof of completion of all continuing education
2 requirements;

3 4. Disclosing any plea of guilty, nolo contendere or conviction
4 of a crime, or pending criminal charge, other than a minor traffic
5 violation in any jurisdiction within the preceding licensure year;
6 and

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

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

12 1. Paying the regular renewal license fee and a late fee of Ten
13 Dollars (\$10.00) for each expired year, which becomes due sixty (60)
14 days after the expiration date; and

15 2. Submitting proof of completion of all continuing education
16 requirement cumulative for the years since the licensed expired.

17 D. Any person who fails to renew a license within five (5)
18 years of the expiration date shall apply for a new license and meet
19 all the requirements for initial licensure.

20 SECTION 12. AMENDATORY 59 O.S. 2021, Section 4200.10, is
21 amended to read as follows:

22 Section 4200.10. A. The Massage Therapy Practice Act shall
23 ~~supersede preempt~~ all ordinances or regulations regulating massage
24 therapists and massage therapy establishments in any city, county,

1 or political subdivision, except as listed in subsection B of this
2 section.

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

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

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

- 12 1. Deny or refuse to renew a license;
- 13 2. Suspend or revoke a license;
- 14 3. Issue an administrative reprimand; or
- 15 4. Impose probationary conditions when the licensee or
16 applicant has engaged in unprofessional conduct that has endangered
17 or is likely to endanger the health, welfare or safety of the
18 public.

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

22 C. Disciplinary proceedings may be instituted by ~~sworn~~ the
23 filing of a complaint of any person, including members of the Board,
24 and shall conform to the provisions of the Administrative Procedures

1 Act. The Board shall conduct investigations in the same manner and
2 according to the same terms as provided for in the Oklahoma
3 Cosmetology and Barbering Act. Records and information obtained in
4 connection with an investigation of alleged violations shall be
5 confidential in the same manner as provide for in the Oklahoma
6 Cosmetology and Barbering Act and rules of the Board; provided, the
7 information obtained in the course of any investigation shall be
8 made available to the appropriate law enforcement or regulatory
9 agency.

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

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

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

21 G. The Board may assess an administrative fine of not more than
22 Two Hundred and Fifty Dollars (\$250.00) for each violation of the
23 Massage Therapy Practice Act or rule of the Board, except as
24 provided in subsection H of this section. Each day a violation

1 continues shall constitute a continued or flagrant violation of
2 these rules, such that the Board may refuse to renew the related
3 license or issue an initial license where the individual cited is
4 unlicensed, unless and until the citation is paid.

5 H. The Board shall have the authority to levy administrative
6 finest not to exceed Two Hundred Fifty Dollars (\$250.00) for persons
7 practicing massage therapy without a license, and for owners of a
8 massage therapy establishments who allow unlicensed individuals to
9 practice massage therapy without a license in their establishment.
10 Each day a violation continues shall be a separate offense;
11 provided, the administrative fine for violations of this subsection
12 shall not exceed a total of Two Hundred Fifty Dollars (\$250.00) per
13 month.

14 I. The Board may issue field citations in enforcing the Massage
15 Therapy Practice Act. Field citations may require the performance
16 of an action and impose fines. Such citations shall provide notice
17 of a hearing as provided under this section; provided, a person who
18 receives a citation may waive the hearing and pay the fine. Payment
19 of the fine shall constitute acknowledgement of the violation and
20 may be considered in any further disciplinary action by the Board.

21 SECTION 14. AMENDATORY 59 O.S. 2021, Section 4200.13, is
22 amended to read as follows:

23 Section 4200.13. A. A person who does any of the following
24 shall be guilty of a misdemeanor ~~upon conviction:~~

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

3 2. Renders or attempts to render massage therapy services or
4 massage therapy instruction without the required current valid
5 massage therapy or massage therapy establishment license or
6 temporary work permit issued by the State Board of Cosmetology and
7 Barbering;

8 3. Permits any person in one's employ, supervision, or control
9 to practice massage therapy unless that person has obtained an
10 appropriate license from the Board;

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

17 ~~4.~~ 5. Advertises or uses a designation, diploma, or certificate
18 implying that the person is a massage therapist unless the person
19 holds a current valid license issued by the State Board of
20 Cosmetology and Barbering.

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

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

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

13 SECTION 15. REPEALER 59 O.S. 2021, Section 4200.8, is
14 hereby repealed.

15 SECTION 16. This act shall become effective November 1, 2023.

16
17 59-1-876 MR 1/18/2023 9:00:08 AM
18
19
20
21
22
23
24
25