

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1346

By: Bergstrom

AS INTRODUCED

An Act relating to the practice of massage therapy; amending 59 O.S. 2021, Sections 4200.2, 4200.3, 4200.4, 4200.5, 4200.6, 4200.8, 4200.9, 4200.11, 4200.12, and 4200.13, which relate to the Massage Therapy Practice Act; transferring certain powers, duties, and other provisions from the State Board of Cosmetology and Barbering to the State Department of Health and the State Commissioner of Health; requiring massage therapists to provide certain notice and information to the Department; requiring certain designation of massage therapist for specified purpose; authorizing certain inspections; updating statutory references; 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:

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

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

"Department" means the State Department of Health;

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;

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

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

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

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

1           5. "Massage therapy establishment" means a place of business  
2 where a licensed massage therapist provides massage therapy services  
3 to clients in exchange for payment. Massage therapy establishment  
4 does not include the home of a client; and

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

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 massage  
10 therapist, a person shall not:

- 11           1. Use the title of massage therapist;
- 12           2. Represent himself or herself to be a massage therapist;
- 13           3. Use any other title, words, abbreviations, letters, figures,  
14 signs or devices that indicate the person is a massage therapist; or
- 15           4. Utilize the terms "massage", "massage therapy" or "massage  
16 therapist" when advertising or printing promotional 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~~ Section 4200.7 of this  
21 title.

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

- 24           1. Diagnosis of illness or disease;

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

6        D. Nothing in the Massage Therapy Practice Act shall be  
7 construed to prevent:

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

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

19            3. Visiting massage therapy instructors from another state or  
20 territory of the United States, the District of Columbia or any  
21 foreign nation from teaching massage therapy, provided the  
22 instructor is duly licensed or registered, if required, and is  
23 qualified in the instructor's place of residence for the practice of  
24 massage therapy;

1           4. Any nonresident person holding a current license,  
2 registration or certification in massage therapy from another state  
3 or recognized national certification system determined as acceptable  
4 by the ~~Board~~ Department when temporarily present in this state from  
5 providing massage therapy services as a part of an emergency  
6 response team working in conjunction with disaster relief officials  
7 or at special events such as conventions, sporting events,  
8 educational field trips, conferences, traveling shows or  
9 exhibitions;

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

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

1 credentialing agency that represents or certifies the respective  
2 practice based on a minimal level of training, demonstration of  
3 competency, and adherence to ethical standards.

4 E. A physician or other licensed health care provider providing  
5 health care services within their scope of practice shall not be  
6 required to be licensed or registered with the ~~State Board of~~  
7 ~~Cosmetology~~ Department for the purposes of the Massage Therapy  
8 Practice Act.

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

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

18 B. The ~~State Board of Cosmetology and Barbering~~ State  
19 Department of Health is hereby empowered to perform investigations,  
20 to require the production of records and other documents relating to  
21 practices regulated by the Massage Therapy Practice Act, and to seek  
22 injunctive relief.

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

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

7 1. Three members who shall be licensed massage therapists and  
8 have practiced in Oklahoma for not less than three (3) years prior  
9 to their appointment;

10 2. One member who shall be an administrator or faculty member  
11 of a nationally accredited school of massage therapy; and

12 3. One who shall be a citizen member.

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

15 The fee or renewal fee for any a massage therapy license issued  
16 ~~after May 1, 2017,~~ shall be Fifty Dollars (\$50.00) per year. A  
17 duplicate license fee shall be Ten Dollars (\$10.00).

18 SECTION 4. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 4200.4a of Title 59, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. If a massage therapist provides massage therapy services at  
22 a massage therapy establishment, the massage therapist shall so  
23 notify the State Department of Health and shall provide the physical  
24 address of the massage therapy establishment and any other

1 information requested by the Department on a form prescribed by the  
2 State Commissioner of Health. It shall be the duty of the massage  
3 therapist to notify the Department of any changes to the physical  
4 address or other required information.

5 B. If there are multiple massage therapists working at a single  
6 massage therapy establishment, the establishment shall designate one  
7 massage therapist to be responsible for ensuring the establishment  
8 complies with the requirements of the Massage Therapy Practice Act  
9 and any rules promulgated by the State Commissioner of Health  
10 applicable to massage therapy establishments.

11 C. The Department or designee may enter any massage therapy  
12 establishment for the purpose of inspection when a complaint has  
13 been filed with the Department regarding the practice of massage  
14 therapy at that establishment. A fee shall not be charged for any  
15 inspection under this subsection.

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

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

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

1           2. Has one or more of the following:

- 2           a. documentation that the applicant has completed and  
3           passed a nationally recognized competency examination  
4           in the practice of massage therapy,  
5           b. an affidavit of at least five (5) years of work  
6           experience in the state, or  
7           c. a certificate and transcript of completion from a  
8           massage school with at least five hundred (500) hours  
9           of education;

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

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

19           B. To assist in determining the entry-level competence of an  
20 applicant who makes application for a license after May 1, 2017, the  
21 ~~Board~~ State Commissioner of Health may adopt rules establishing  
22 additional standards or criteria for examination acceptance and may  
23 adopt only those examinations that meet the standards outlined in  
24 Section 4200.8 of this title.

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

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

- 7 a. is at least eighteen (18) years of age,
- 8 b. provides documentation that the applicant has  
9 completed the equivalent of five hundred (500) hours  
10 of formal education in massage therapy from a state-  
11 licensed school,
- 12 c. provides documentation that the applicant has passed a  
13 nationally recognized competency examination approved  
14 by the ~~Board~~ Commissioner,
- 15 d. provides proof that the applicant currently maintains  
16 liability insurance for practice as a massage  
17 therapist, and
- 18 e. provides full disclosure to the ~~Board~~ Department of  
19 any criminal proceeding taken against the applicant  
20 including pleading guilty or nolo contendere to, or  
21 receiving a conviction for, a felony crime that  
22 substantially relates to the practice of massage  
23 therapy and poses a reasonable threat to public  
24 safety.

1 D. As used in this section:

2 1. "Substantially relates" means the nature of criminal conduct  
3 for which the person was convicted has a direct bearing on the  
4 fitness or ability to perform one or more of the duties or  
5 responsibilities necessarily related to the occupation; and

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

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

12 Section 4200.6. A. A massage therapy license issued by the  
13 ~~State Board of Cosmetology and Barbering~~ State Department of Health  
14 shall at all times be posted in a conspicuous place in the principal  
15 place of business of the holder.

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

18 SECTION 7. AMENDATORY 59 O.S. 2021, Section 4200.8, is  
19 amended to read as follows:

20 Section 4200.8. The required examination approved by the ~~State~~  
21 ~~Board of Cosmetology and Barbering~~ State Commissioner of Health for  
22 licensure under the Massage Therapy Practice Act shall be a  
23 standardized national massage therapy examination that meets the  
24 following criteria:

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

8 SECTION 8. AMENDATORY 59 O.S. 2021, Section 4200.9, is  
9 amended to read as follows:

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

19 B. 1. Massage therapy licenses shall expire biennially.  
20 Expiration dates shall be established by the ~~Board~~ State  
21 Commissioner of Health through adoption of a rule.

22 2. A license shall be renewed by submitting a renewal  
23 application on a form provided by the ~~Board~~ Department.

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

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

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

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

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

23 SECTION 9. AMENDATORY 59 O.S. 2021, Section 4200.11, is  
24 amended to read as follows:

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

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

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

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

18 D. The ~~Board~~ State Commissioner of Health shall establish the  
19 guidelines for the disposition of disciplinary cases. Guidelines  
20 may include, but shall not be limited to, periods of probation,  
21 conditions of probation, suspension, revocation or reissuance of a  
22 license.

23 E. A license holder who has been found culpable and sanctioned  
24 by the ~~Board~~ Department shall be responsible for the payment of all

1 costs of the disciplinary proceedings and any administrative fees  
2 imposed.

3 F. The surrender of a license shall not deprive the ~~Board~~  
4 Department of jurisdiction to proceed with disciplinary action.

5 SECTION 10. AMENDATORY 59 O.S. 2021, Section 4200.12, is  
6 amended to read as follows:

7 Section 4200.12. A. No ~~member~~ employee of the ~~State Board of~~  
8 ~~Cosmetology and Barbering~~ State Department of Health shall bear  
9 liability or be subject to civil damages or criminal prosecution for  
10 any action undertaken or performed within the scope of duty imposed  
11 pursuant to the Massage Therapy Practice Act.

12 B. No person or legal entity providing truthful and accurate  
13 information to the ~~Board~~ Department, whether as a report, a  
14 complaint or testimony, shall be subject to civil damages or  
15 criminal prosecutions.

16 SECTION 11. AMENDATORY 59 O.S. 2021, Section 4200.13, is  
17 amended to read as follows:

18 Section 4200.13. A. A person who does any of the following  
19 shall be guilty of a misdemeanor upon conviction:

- 20 1. Violates a provision of the Massage Therapy Practice Act or  
21 rules adopted pursuant to the Massage Therapy Practice Act;
- 22 2. Renders or attempts to render massage therapy services or  
23 massage therapy instruction without the required current valid  
24

1 license issued by the ~~State Board of Cosmetology and Barbering~~ State  
2 Department of Health;

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

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

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

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

21 3. Any person who knowingly aids and abets one or more persons  
22 not authorized to use a professional title regulated by the Massage  
23 Therapy Practice Act or knowingly employs or contracts with a person  
24 or persons not authorized to use a regulated professional title in

1 the course of the employment, shall also be subject to disciplinary  
2 action by the ~~Board~~ Department. It shall be a violation of the  
3 Massage Therapy Practice Act for any person to advertise massage  
4 therapy services in any combination with any escort or dating  
5 service.

6 SECTION 12. This act shall become effective November 1, 2024.

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