

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4   COMMITTEE SUBSTITUTE  
5   FOR  
6   HOUSE BILL NO. 2514

                                  By: Pittman

7                                   COMMITTEE SUBSTITUTE

8           An Act relating to massage therapy; amending 59 O.S.  
9           2021, Section 4200.2, which relates to definitions;  
10          defining terms; amending 59 O.S. 2021, Section  
11          4200.3, which relates to massage therapy licensing;  
12          requiring license to operate massage therapy  
13          establishment; preventing licensed nonresident to  
14          operate if services are opened to general public;  
15          updating statutory reference; amending 59 O.S. 2021,  
16          Section 4200.4, which relates to the authority of the  
17          State Board of Cosmetology and Barbering; expanding  
18          authority over certain permits and inspections;  
19          modifying terms of appointments to Board; providing  
20          for vacancies; modifying license fees; establishing  
21          license fee for establishment license; authorizing  
22          the Board to issue massage therapy, temporary work  
23          permits, and massage therapy establishment license;  
24          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

1           message therapy schools; expanding authorized schools  
2           necessary to be licensed; removing provision for  
3           instruction as a massage therapist; amending 59 O.S.  
4           2021, Section 4200.9, which relates to out-of-state  
5           license; removing conditions for issuance of out-of-  
6           state license; allowing the Board to issue temporary  
7           work permits; providing conditions for issuance of  
8           temporary work permit; requiring expiration of permit  
9           without the ability to renew; establishing massage  
10          therapy license renewal; providing for conditions for  
11          license renewal; requiring disclosure of certain  
12          crimes; providing for renewal in certain time frame;  
13          establishing fees for renewal; requiring submission  
14          of proof of completion of continuing education for  
15          renewal; requiring reapplication for a license if not  
16          renewed in certain time frame; amending 59 O.S. 2021,  
17          Section 4200.10, which relates to preemption;  
18          providing preemption for massage therapy  
19          establishments; amending 59 O.S. 2021, Section  
20          4200.11, which relates to disciplinary actions and  
21          proceedings; authorizing the Board to conduct  
22          investigations; requiring records and information in  
23          connection to investigations to be confidential;  
24          allowing for exception to confidentiality for use by  
25          law enforcement and regulatory agencies; establishing  
26          administrative fines for violations of act;  
27          authorizing the Board to issue field citations;  
28          allowing for citations to impose actions and fines;  
29          requiring a hearing following issuance of citation;  
30          allowing for payment of fine without hearing  
31          resulting in acknowledgement of violation;  
32          establishing punishment by fine or imprisonment for  
33          violations made by unlicensed persons, firms, or  
34          corporations; authorizing the Board to levy  
35          administrative fees to unlicensed individuals and  
36          owners of establishments; providing exempted  
37          individuals from provisions of the act; amending 59  
38          O.S. 2021, Section 4200.13, which relates to  
39          violations; expanding violations; repealing 59 O.S.  
40          2021, Sections 4200.8, which relates to examination  
41          for licensure; providing for codification; and  
42          providing an effective date.

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

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

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

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

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

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

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

21 a. the use of touch, pressure, friction, stroking,  
22 gliding, percussion, kneading, movement, positioning,  
23 holding, range of motion and nonspecific stretching  
24 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

1 massage 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

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

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.~~

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

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 biennially. 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;

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, general health and safety requirements, or occupational license fees  
5 pertaining to health care professions.  
6

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 fines not to exceed Two Hundred Fifty Dollars (\$250.00) for persons  
7 practicing massage therapy without a license, and for owners of  
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 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND  
18 TECHNOLOGY, dated 02/28/2023 - DO PASS, As Amended.