

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2514

By: Pittman

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2021, Sections 4200.2, 4200.3, 4200.4, which relates to the Massage Therapy Practice Act; adding definitions; modifying licensure requirement; modifying membership and qualifications of Advisory Board on Massage Therapy; authorizing Board to issue original licenses and temporary work permits; providing for denial of license or probationary conditions; defining terms; amending 59 O.S. 2021, Section 4200.5, which relates to license requirements; removing certain requirements; modifying issuance of license; providing for establishment licenses; amending 59 O.S. 2021, Section 4200.6 and 4200.7 which relates to licenses; providing for posting of establishment license; adding massage therapy schools; repealing 59 O.S. 2021, Section 4200.8, which relates to examination for license; amending 59 O.S. 2021, Section 4200.9, which relates to out of state license holders; removing requirements for certain licenses; authorizing Board to issue temporary work permit; providing for renewal of license; 59 O.S. 2021, Section 4200.10 and 4200.11, which relates to preemption; providing exceptions; authorizing Board to conduct investigations; providing for administrative fines and field citations; repealing 59 O.S. 2021, Section 4200.13, which relates to misdemeanor violations; providing for penalties; providing for codification; and providing an effective date.

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

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

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

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

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

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

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

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

1 within the normal anatomical range of movement, and
2 vibration by manual or mechanical means with or
3 without the use of massage devices that mimic or
4 enhance manual measures, and

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

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

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

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

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

22 Section 4200.3 A. Unless a person is a licensed as a massage
23 therapist by the State Board of Cosmetology and Barbering, a person
24 shall not:

- 1 1. Use the title of massage therapist;
- 2 2. Represent himself or herself to be a massage therapist;
- 3 3. Use any other title, words, abbreviations, letters, figures,
- 4 signs or devices that indicate the person is a massage therapist; or
- 5 4. Utilize the terms "massage", "massage therapy" or "massage
- 6 therapist" when advertising or printing promotional material; or
- 7 5. Practice massage therapy in this state.

8 B. A person shall not maintain, manage or operate a massage
9 therapy school offering education, instruction or training in
10 massage therapy unless the school is a licensed or accredited
11 massage therapy school pursuant to Section 7 4200.7 of this ~~act~~
12 title.

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

- 15 1. Diagnosis of illness or disease;
- 16 2. High-velocity, low-amplitude thrust;
- 17 3. Electrical stimulation;
- 18 4. Application of ultrasound;
- 19 5. Use of any technique that interrupts or breaks the skin; or
- 20 6. Prescribing of medicines.

21 D. No person shall own or operate a massage therapy
22 establishment without first obtaining an establishment license from
23 the Board.

24

1 E. Nothing in the Massage Therapy Practice Act shall be
2 construed to prevent:

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

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

13 3. Visiting massage therapy instructors from another state or
14 territory of the United States, the District of Columbia or any
15 foreign nation from teaching massage therapy, provided the
16 instructor is duly licensed or registered, if required, and is
17 qualified in the instructor's place of residence for the practice of
18 massage therapy;

19 4. Any nonresident person holding a current license,
20 registration or certification in massage therapy from another state
21 or recognized national certification system determined as acceptable
22 by the Board when temporarily present in this state from providing
23 massage therapy services as a part of an emergency response team
24 working in conjunction with disaster relief officials or at special

1 events such as conventions, sporting events, educational field
2 trips, conferences, traveling shows or exhibitions, as long as the
3 services are not open to the general public;

4 5. Physicians or other health care professionals from
5 appropriately referring to duly licensed massage therapists or limit
6 in any way the right of direct access of the public to licensed
7 massage therapists; or

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

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

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

5 Section 4200.4 A. The State Board of Cosmetology and Barbering
6 is hereby authorized to adopt and promulgate rules pursuant to the
7 Administrative Procedures Act that are necessary for the
8 implementation and enforcement of the Massage Therapy Practice Act,
9 including, but not limited to, qualifications for licensure,
10 renewals, reinstatements, temporary work permits, sanitation,
11 inspection of establishments and continuing education requirements.

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

17 C. 1. There is hereby created an Advisory Board on Massage
18 Therapy. The Advisory Board on Massage Therapy shall assist the
19 State Board of Cosmetology and Barbering in carrying out the
20 provisions of this section regarding the qualifications,
21 examination, registration, regulation, and standards of professional
22 conduct of massage therapists. The Advisory Board on Massage
23 Therapy shall consist of ~~five (5)~~ seven (7) members to be appointed
24 by the Governor ~~for four-year terms~~ as follows:

1 1. a. ~~Three~~ four members ~~who~~ shall be licensed massage
2 therapists and have practiced in Oklahoma for not less
3 than three (3) years prior to their appointment. One
4 member shall be appointed to an initial term that
5 shall expire on June 30, 2024. One member shall be
6 appointed to an initial term that shall expire on June
7 30, 2025. Two members shall be appointed to an
8 initial term that shall expire on June 30, 2026. All
9 successive terms for the positions under this
10 subsection shall be for four years each;

11 2. b. ~~One~~ one member who shall be an administrator or
12 faculty member of a ~~nationally accredited school of~~
13 massage therapy school duly licensed or accredited
14 pursuant to section 4200.7 of this title. The member
15 shall be appointed to an initial term that shall
16 expire on June 30, 2024. All successive terms for
17 this position shall be for four years each; and

18 3. c. ~~One~~ one member who shall be a ~~citizen~~ public
19 member. The member shall be appointed to an initial
20 term that shall expire on June 30, 2025. All
21 successive terms for this position shall be for four
22 years each-; and

23 d. one member who shall hold an establishment license.
24 The member shall be appointed to an initial term that

1 expires on June 30, 2025. All successive terms for
2 this position shall be for four years each.

3 2. A person appointed to fill a position that has become vacant
4 shall serve the remainder of the term of the vacated position. The
5 person shall be eligible for reappointment to successive four-year
6 terms thereafter.

7 D. 1. The Board shall establish a schedule of reasonable and
8 necessary administrative fees.

9 2. The initial or renewal fee for any a therapist license
10 issued between the effective date of this act and May 1, 2017, shall
11 be Twenty-five Dollars (\$25.00). The fee or renewal fee for any
12 massage therapy license issued after May 1, 2017, shall be Fifty
13 Dollars (\$50.00) per year. The initial fee for an establishment
14 license shall be Fifty Dollars (\$50.00) per year. A duplicate
15 license fee shall be ~~Ten Dollars (\$10.00)~~ Five Dollars (\$5.00).

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

19 A. The Board shall have authority to issue original licenses
20 and temporary work permits as provided for in the Massage Therapy
21 Practice Act.

22 B. The Board may deny or place probationary conditions on an
23 original massage therapist license or temporary work permit if:
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1 1. The applicant has pleaded guilty, nolo contendere or been
2 convicted of a crime that substantially relates to the practice of
3 massage therapy as designated in Section 4000.1 of title 59 of the
4 Oklahoma Statutes and that poses a reasonable threat to public health
5 or safety;

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

11 3. The applicant has previously held a license or permit by the
12 Board and the license or permit has been revoked or if 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 material
16 facts.

17 C. The Board may deny or place probationary conditions on an
18 original massage establishment license if:

19 1. The applicant has pleaded guilty, nolo contendere or been
20 convicted of a crime that substantially relates to the ownership,
21 operation or management of a massage establishment and that poses a
22 reasonable threat to public health or safety;

23 2. The applicant has had a license or permit denied or has been
24 the subject of disciplinary action in another jurisdiction and if

1 the grounds for the denial or disciplinary action would constitute
2 cause for denial or disciplinary action under the Massage Therapy
3 Practice Act or the Board's rules;

4 3. The applicant has previously held a license or permit by the
5 Board and the license or permit has been revoked or if the applicant
6 has been the subject of disciplinary action by the Board; or

7 4. The applicant attempts to obtain the license or permit by
8 means of fraud, misrepresentation, deceit or concealment of material
9 facts.

10 D. As used in this section:

11 1. "Substantially relates" means the nature of criminal conduct
12 for which the person was convicted, or to which the person pleaded,
13 has a direct bearing on the fitness or ability to perform one or
14 more of the duties or responsibilities necessarily related to the
15 occupation; and

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

20 E. The Board may require an applicant for an original therapist
21 license, a temporary permit or an original establishment license to
22 submit to a national criminal history record check as defined at
23 Section 150.9 of title 74 of the Oklahoma Statutes. The costs

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1 associated with the national criminal history record check shall be
2 paid by the applicant.

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

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

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

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

12 a. ~~documentation that the applicant has completed and~~
13 ~~passed a nationally recognized competency examination~~
14 ~~in the practice of massage therapy,~~

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

17 c. ~~a certificate and transcript of completion from a~~
18 ~~massage school with at least five hundred (500) hours~~
19 ~~of education;~~

20 3. ~~Provides proof of documentation that the applicant currently~~
21 ~~maintains liability insurance for practice as a massage therapist;~~
22 ~~and~~

23 4. ~~Provides full disclosure to the Board of any criminal~~
24 ~~proceeding taken against the applicant including but not limited to~~

1 ~~pleading guilty or nolo contendere to, or receiving a conviction~~
2 ~~for, a felony crime that substantially relates to the practice of~~
3 ~~massage therapy and poses a reasonable threat to public safety.~~

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

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

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

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

17 ~~b. 2. provides Provides documentation that the applicant has~~
18 ~~completed the equivalent of five hundred (500) hours of formal~~
19 ~~education in massage therapy from a state-licensed school~~
20 ~~graduated;i~~

21 ~~e. 3. provides Provides documentation that the applicant has~~
22 ~~passed a nationally recognized competency examination approved by~~
23 ~~the Board;i~~

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

4 ~~e. 4. provides~~ Provides full disclosure to the Board of any
5 criminal proceeding taken against the applicant including pleading
6 guilty or nolo contendere to, or receiving a conviction for, a
7 felony crime that substantially relates to the practice of massage
8 therapy and poses a reasonable threat to public safety.

9 D. As used in this section:

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

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

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

21 A. No person shall own or operate a massage therapy
22 establishment without obtaining an establishment license from the
23 Board.

24 B. The Board may issue an original license to an applicant who:

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

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

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

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

13 C. All massage establishments shall be subject to inspection by
14 the Board and shall comply with all provisions of the Massage
15 Therapy Practice Act and rules of the Board.

16 D. Establishment licenses shall be renewed annually. The
17 renewal date shall be established by the Board through adoption of a
18 rule.

19 E. A licensee may renew a license by:

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

22 2. Tendering the required renewal fee;

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

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

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

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

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

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

16 Section 4200.7. ~~A.~~ A person shall not advertise, maintain,
17 manage or operate a massage therapy school unless the school is
18 licensed by the Oklahoma Board of Private Vocational Schools or is a
19 technology center school accredited by the Oklahoma State Board of
20 Career and Technology Education.

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

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1 SECTION 9. REPEALER 59 O.S. 2021, Section 4200.8, is
2 hereby repealed.

3 SECTION 10. AMENDATORY 59 O.S. 2021, Section 4200.9, is
4 amended to read as follows:

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

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

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

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

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

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

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

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

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

15 SECTION 11. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4200.9.1 of Title 59, unless
17 there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

13 A. A Massage Therapist license shall be renewed annually. The
14 renewal date shall be established by the Board through adoption of a
15 rule.

16 B. A licensee may renew a license by:

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

19 2. Tendering the required renewal fee;

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

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

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

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

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

9 2. Submitting proof of completion of all continuing education
10 requirements cumulative for the year(s) since the licensed expired.

11 D. Any person who fails to renew a license within five (5)
12 years of the expiration date must apply for a new license and meet
13 all the requirements for original licensure.

14 SECTION 13. AMENDATORY 59 O.S. 2021, Section 4200.10, is
15 amended to read as follows:

16 Section 4200.10 A. The Massage Therapy Practice Act shall
17 ~~supersede preempt~~ all ordinances or regulations regulating massage
18 therapists and massage therapy establishments in any city, county,
19 or political subdivision, except as listed in subsection B of this
20 section.

21 B. This section shall not affect the regulations of a city,
22 county or a political subdivision relating to zoning requirements or
23 occupational license fees pertaining to health care professions.

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1 SECTION 14. AMENDATORY 59 O.S. 2021, Section 4200.11, is
2 amended to read as follows:

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

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

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

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

20 The Board shall conduct investigations in the same manner and
21 according to the same terms as provided for in the Oklahoma
22 Cosmetology and Barber Act. Records and information obtained in
23 connection with an investigation of alleged violations shall be
24 confidential in the same manner as provided for in the Oklahoma

1 Cosmetology and Barber Act and rules of the Board. However,
2 information obtained in the course of an investigation may be made
3 available to the appropriate law enforcement or regulatory agency.

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

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

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

15 G. The Board may assess an administrative fine of not more than
16 Five Hundred Dollars (\$500.00) for each violation of the Massage
17 Therapy Practice Act or rule of the Board. Each day a violation
18 continues shall constitute a separate offense. Failure to pay a
19 citation that has been upheld by the Board shall constitute a
20 continued or flagrant violation of these rules, such that the Board
21 may refuse to renew the related license or issue an original license
22 where the individual cited is unlicensed unless and until the
23 citation is paid.

24

1 H. The Board may issue field citations in enforcing the Massage
2 Therapy Practice Act. Field citations may require the performance
3 of an action or impose fines. Such citations shall provide notice
4 of a hearing as provided for under this section. However, a person
5 who receives a citation may waive the hearing and pay the fine.
6 Payment of the fine shall constitute acknowledgement of the
7 violation and may be considered in any future disciplinary actions
8 by the Board.

9 SECTION 15. REPEALER 59 O.S. 2021, Section 4200.13, is
10 hereby repealed.

11 SECTION 16. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4200.14 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

14 A. It shall be unlawful and constitute a misdemeanor,
15 punishable upon conviction by a fine of not less than Fifty Dollars
16 (\$50.00), nor more than One Hundred Fifty Dollars (\$150.00), or by
17 imprisonment in the county jail for not more than thirty (30) days,
18 or both such fine and imprisonment, for any person, firm, or
19 corporation in this state to:

20 1. Operate or attempt to operate a massage therapy
21 establishment, without having obtained a license therefor from the
22 State Board of Cosmetology and Barbering;

23 2. Practice or offer to practice massage therapy without having
24 obtained a license therefore from the Board;

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

4 4. Willfully violate any rule promulgated by the Board for the
5 sanitary management and operation of a massage therapy
6 establishment; or

7 5. Violate any of the provisions of the Oklahoma Massage
8 Therapy Act.

9 B. The State Board of Cosmetology and Barbering shall have the
10 authority to levy administrative fines not to exceed Five Hundred
11 Dollars (\$500.00) for persons practicing massage therapy without a
12 license, and for owners of massage therapy establishments who allow
13 unlicensed individuals to practice massage therapy without a license
14 in their establishment. Each day a violation continues shall be a
15 separate offense. The administrative fine shall not exceed a total
16 of Five Hundred Dollars (\$500.00).

17 C. The provisions of the Oklahoma Massage Therapy Act shall not
18 apply to the following persons while such persons are engaged in the
19 proper discharge of their professional duties as listed in
20 subsections D and E of Section 4200.3 of title 59 of the Oklahoma
21 Statutes.

22 SECTION 17. This act shall become effective November 1, 2023.

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24 59-1-7040 LRB 12/28/22