

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

COMMITTEE AMENDMENT

\_\_\_\_\_

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 100, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Bergstrom

Bergstrom-NP-FS-Req#2077  
3/12/2019 9:45 AM

(Floor Amendments Only) Date and Time Filed: \_\_\_\_\_

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 100

By: Bergstrom of the Senate

and

Martinez of the House

7  
8  
9 FLOOR SUBSTITUTE

10 [ Massage Therapy Practice Act - codification -  
11 ~~effective date -~~

emergency ]

12  
13  
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY Section 2, Chapter 292, O.S.L.  
16 2016 (59 O.S. Supp. 2018, Section 4200.2), is amended to read as  
17 follows:

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

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

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

23 3. "Massage therapist" means an individual who practices  
24 massage or massage therapy and is licensed ~~under~~ pursuant to the

1 Massage Therapy Practice Act. A massage therapist uses visual,  
2 kinesthetic, and palpatory skills to assess the body and may  
3 evaluate a condition to the extent of determining whether massage is  
4 indicated or contraindicated;

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

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

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

23 5. "Massage therapy establishment" means any fixed business  
24 location, address, building or property, other than a licensed

1 cosmetology or barbering establishment, where a person engages in,  
2 conducts, carries on or permits to be engaged in the practice of  
3 massage therapy. This definition excludes offices or workplaces of  
4 licensed healthcare professionals exempt from the provisions of the  
5 Massage Therapy Practice Act;

6 6. "Massage therapy school" means a facility providing  
7 instruction in massage therapy; and

8 7. "Person" means an individual, partnership, limited liability  
9 company, corporation or association, unless the context otherwise  
10 requires.

11 SECTION 2. AMENDATORY Section 3, Chapter 292, O.S.L.  
12 2016 (59 O.S. Supp. 2018, Section 4200.3), is amended to read as  
13 follows:

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

- 17 1. Practice massage therapy in this state;
- 18 2. Use the title of massage therapist;
- 19 ~~2.~~ 3. Represent himself or herself to be a massage therapist;
- 20 ~~3.~~ 4. Use any other title, words, abbreviations, letters,  
21 figures, signs or devices that indicate the person is a massage  
22 therapist; or

1       4. ~~5.~~ Utilize the terms "massage", "massage therapy" or  
2 "massage therapist" when advertising or printing promotional  
3 material.

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

9       C. Individuals practicing massage therapy ~~under~~ pursuant to the  
10 Massage Therapy Practice Act shall not perform any of the following:

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

17       D. Nothing in the Massage Therapy Practice Act shall be  
18 construed to prevent:

19       1. Qualified members of other recognized professions who are  
20 licensed or regulated ~~under~~ pursuant to Oklahoma law from rendering  
21 services within the scope of the license of the person, provided the  
22 person does not represent himself or herself as a massage therapist.  
23 A physician or other licensed health care provider providing health  
24 care services within the scope of practice of the physician or

1 provider shall not be required to be licensed by or registered with  
2 the State Board of Cosmetology and Barbering;

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

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

11 4. Any nonresident person holding a current license,  
12 registration or certification in massage therapy from another state  
13 or recognized national certification system determined as acceptable  
14 by the Board when temporarily present in this state from providing  
15 massage therapy services as a part of an emergency response team  
16 working in conjunction with disaster relief officials or at special  
17 events such as conventions, sporting events, educational field  
18 trips, conferences, traveling shows or exhibitions;

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

23 6. The practice of any person in this state who uses touch,  
24 words and directed movement to deepen awareness of existing patterns

1 of movement in the body as well as to suggest new possibilities of  
2 movement while engaged within the scope of practice of a profession  
3 with established standards and ethics, provided that the services  
4 are not designated or implied to be massage or massage therapy.  
5 Practices shall include but are not limited to the Feldenkrais  
6 Method of somatic education, Rolf Movement Integration by the Rolf  
7 Institute, the Trager Approach of movement education, and Body-Mind  
8 Centering. Practitioners shall be recognized by or meet the  
9 established standards of either a professional organization or  
10 credentialing agency that represents or certifies the respective  
11 practice based on a minimal level of training, demonstration of  
12 competency, and adherence to ethical standards.

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

17 F. No person shall operate, maintain or manage a massage  
18 therapy establishment without first obtaining an establishment  
19 license from the Board.

20 SECTION 3. AMENDATORY Section 4, Chapter 292, O.S.L.  
21 2016 (59 O.S. Supp. 2018, Section 4200.4), is amended to read as  
22 follows:

23 Section 4200.4. A. The State Board of Cosmetology and  
24 Barbering is hereby authorized to adopt and promulgate rules

1 pursuant to the Administrative Procedures Act that are necessary for  
2 the implementation and enforcement of the Massage Therapy Practice  
3 Act, including, but not limited to, qualifications for licensure,  
4 renewals, reinstatements, provisional licenses, sanitation,  
5 professional conduct, inspection of establishments, and continuing  
6 education requirements.

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

12 C. If the Board becomes aware that an applicant for licensure  
13 has committed a criminal offense within a ten-year period prior to  
14 application for licensure, or the Board becomes aware that a  
15 licensee has committed a criminal offense during the license term or  
16 during any period prior to a renewal or reinstatement of a license,  
17 the Board may deny the application or renewal, or suspend or revoke  
18 the license, upon a determination that the person has been convicted  
19 of, adjudicated on, pled nolo contendere to or received a deferred  
20 judgment sentence on a criminal offense in a court of competent  
21 jurisdiction, and that such offense, in the discretion of the Board,  
22 poses a reasonable threat to, or substantially relates to, the  
23 safety of the public or the fitness or ability of the person to  
24 serve the public or work with others in the occupation. In such



1 cases, the Board may conduct an investigation or hold a hearing  
2 inquiring into the facts of the offense, the criminal history record  
3 of the person, the rehabilitation of the person and the length of  
4 time since the offense. The order and decision of the Board shall  
5 be a final ruling and may be appealed to the District Court of  
6 Oklahoma County as authorized for administrative rulings in the  
7 Administrative Procedures Act. Nothing in this subsection shall be  
8 construed to prohibit licensure for the sole reason the person has  
9 committed a criminal offense. Nothing in this subsection shall be  
10 construed to prohibit the Board from placing probation conditions on  
11 a licensee due to a criminal history record.

12 For purposes of this subsection:

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

17 2. "Substantially relates" means the nature of criminal conduct  
18 for which the person was convicted has a direct bearing on the  
19 fitness or ability to perform one or more of the duties or  
20 responsibilities necessarily related to the occupation.

21 D. There is hereby created an Advisory Board on Massage  
22 Therapy. The Advisory Board on Massage Therapy shall assist the  
23 ~~Board~~ State Board of Cosmetology and Barbering in carrying out the  
24 provisions of this section regarding the qualifications,

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

5 1. ~~Three~~ Four members ~~who~~ shall be licensed massage therapists  
6 and have practiced in Oklahoma for not less than three (3) years  
7 prior to their appointment. One member shall be appointed to an  
8 initial term that shall expire on June 30, 2021. One member shall  
9 be appointed to an initial term that shall expire June 30, 2022.  
10 Two members shall be appointed to initial terms that shall expire on  
11 June 30, 2023. All successive terms for the positions appointed  
12 under this subsection shall be for a term of four (4) years each;

13 2. One member ~~who~~ shall be an administrator or faculty member  
14 of a ~~nationally accredited school of~~ massage therapy school duly  
15 licensed or accredited pursuant to Section 4200.7 of this title.  
16 The member shall be appointed to an initial term that shall expire  
17 on June 30, 2021, thereafter the term shall be four (4) years; and

18 3. One ~~who~~ member shall be a ~~citizen member~~ person who is not  
19 licensed as a massage therapist and does not own an interest in a  
20 massage therapy establishment. The member shall be appointed to an  
21 initial term that shall expire on June 30, 2022, thereafter the term  
22 shall be four (4) years; and

23 4. One member shall hold a massage therapy establishment  
24 license. The member shall be appointed to an initial term that

1 shall expire on June 30, 2023, thereafter the term shall be four (4)  
2 years.

3 A person appointed to fill a vacancy shall serve the remainder  
4 of the term. The person shall be eligible for reappointment to a  
5 successive four-year term.

6 ~~D.~~ E. 1. The State Board of Cosmetology and Barbering shall  
7 establish a schedule of reasonable and necessary administrative  
8 fees.

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

16 SECTION 4. AMENDATORY Section 5, Chapter 292, O.S.L.  
17 2016 (59 O.S. Supp. 2018, Section 4200.5), is amended to read as  
18 follows:

19 Section 4200.5. A. ~~Between the effective date of this act~~  
20 August 26, 2016, and May 1, 2017 August 1, 2020, the State Board of  
21 Cosmetology and Barbering ~~shall~~ may issue a license to practice  
22 massage therapy to any person who files a completed application,  
23 accompanied by the required fees, and who ~~submits satisfactory~~  
24 ~~evidence that the applicant:~~

- 1 1. Is at least eighteen (18) years of age;
- 2 2. ~~Has~~ Submits one or more of the following:
  - 3 a. documentation that the applicant has completed and
  - 4 passed a nationally recognized competency examination
  - 5 in the practice of massage therapy,
  - 6 b. an affidavit of at least five (5) years of work
  - 7 experience ~~in the state~~ as a massage therapist, or
  - 8 c. a certificate and transcript of completion from a
  - 9 massage school with at least five hundred (500) hours
  - 10 of education;
- 11 3. Provides proof of documentation that the applicant currently
- 12 maintains liability insurance for practice as a massage therapist;
- 13 ~~and~~
- 14 4. Provides full disclosure to the Board of any criminal
- 15 proceeding taken against the applicant including, but not limited
- 16 to:
  - 17 a. pleading guilty, pleading nolo contendere or receiving
  - 18 a conviction of a felony, or
  - 19 b. pleading guilty, pleading nolo contendere or receiving
  - 20 a conviction of a misdemeanor ~~involving moral~~
  - 21 ~~turpitude, or~~
  - 22 ~~c. pleading guilty, pleading nolo contendere or receiving~~
  - 23 ~~a conviction for violation of federal or state~~
  - 24 ~~controlled dangerous substance laws.~~

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 8 of this act.~~

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

10 5. Submits to a national criminal history record check as  
11 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The  
12 costs associated with the national criminal history record check  
13 shall be paid by the applicant.

14 ~~2. B. After May 1, 2017~~ August 1, 2020, the Board may issue a  
15 license to ~~an applicant~~ any person who files a completed  
16 application, accompanied by the required fees, and who:

17 ~~a. is~~

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

19 ~~b. provides~~

20 2. Provides documentation that the applicant has completed the  
21 equivalent of five hundred (500) hours of formal education in  
22 massage therapy from a state-licensed school~~;~~

23 ~~c. provides~~

1        3. Provides documentation that the applicant has passed a  
2 nationally recognized competency examination approved by the Board~~7;~~  
3 and

4            ~~d. provides~~

5        4. Provides proof that the applicant currently maintains  
6 liability insurance for practice as a massage therapist~~7;~~ and

7            ~~e. provides full disclosure to the Board of any criminal~~  
8            ~~proceeding taken against the applicant including, but~~  
9            ~~not limited to:~~

10           ~~(1) pleading guilty, pleading nolo contendere or~~  
11            ~~receiving a conviction of a felony,~~

12           ~~(2) pleading guilty, pleading nolo contendere or~~  
13            ~~receiving a conviction of a misdemeanor involving~~  
14            ~~moral turpitude, or~~

15           ~~(3) pleading guilty, pleading nolo contendere or~~  
16            ~~receiving a conviction for violation of federal~~  
17            ~~or state controlled dangerous substance laws.~~

18        5. Submits to a national criminal history record check as  
19 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The  
20 costs associated with the national criminal history record check  
21 shall be paid by the applicant.

22        SECTION 5.        NEW LAW        A new section of law to be codified  
23 in the Oklahoma Statutes as Section 4200.5.1 of Title 59, unless  
24 there is created a duplication in numbering, reads as follows:

1       A. No person shall own, operate or manage a massage therapy  
2 establishment without obtaining an establishment license from the  
3 State Board of Cosmetology and Barbering.

4       B. The Board may issue a massage therapy establishment license  
5 to an applicant who:

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

7       2. Provides proof that the establishment maintains general  
8 liability insurance;

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

11       4. Discloses whether the applicant holds or has held a massage  
12 establishment license in another jurisdiction and whether  
13 disciplinary action has ever been taken against the applicant  
14 including but not limited to suspension or revocation of the  
15 license; and

16       5. Submits to a national criminal history record check as  
17 defined in Section 150.9 of Title 74 of the Oklahoma Statutes. The  
18 costs associated with the national criminal history record check  
19 shall be paid by the applicant.

20       C. The Board may deny a massage therapy establishment license  
21 or place probationary conditions on a license if the applicant has  
22 had a license denied or has been the subject of disciplinary action  
23 in another jurisdiction and if the grounds for the denial or  
24 disciplinary action would constitute cause for denial or

1 disciplinary action pursuant to the Massage Therapy Practice Act or  
2 the Board's rules.

3 D. The Board may deny a massage therapy establishment license  
4 or place probationary conditions on a license if the applicant has  
5 pleaded guilty, nolo contendere or been convicted of a crime that  
6 substantially relates to the ownership, operation or management of a  
7 massage establishment or poses a reasonable threat to public health  
8 or safety.

9 For purposes of this subsection:

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

14 2. "Substantially relates" means the nature of criminal conduct  
15 for which the person was convicted has a direct bearing on the  
16 fitness or ability to perform one or more of the duties or  
17 responsibilities necessarily related to the occupation.

18 E. All massage establishments shall be subject to inspection by  
19 the Board and shall comply with all provisions of the Massage  
20 Therapy Practice Act and rules of the Board.

21 F. 1. An establishment license shall be renewed annually. The  
22 renewal date shall be established by the Board through adoption of a  
23 rule.

24 2. A licensee may renew a license by:



- a. submitting a completed renewal application on a form prepared by the Board,
- b. tendering the required renewal fee,
- c. providing proof of liability insurance,
- d. disclosing any plea of guilty or nolo contendere or conviction of any crime other than minor traffic violations, and
- e. disclosing any administrative or legal action taken against the licensee in any other jurisdiction governing massage therapy.

3. A sixty (60) calendar day grace period shall be allowed each license holder after the end of the renewal period, during which time a license may be renewed upon payment of the renewal fee and a late fee as prescribed by the Board.

4. If a license is not renewed by the end of the sixty (60) calendar day grace period, the license shall expire.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4200.5.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Cosmetology and Barbering may issue a provisional license to a person who submits a completed application accompanied by the required fees, and who:

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

1           2. Provides documentation that the applicant has completed the  
2 equivalent of five hundred (500) hours of formal education in  
3 massage therapy from a state-licensed school; and

4           3. Discloses whether the applicant has pleaded guilty, nolo  
5 contendere, or been convicted of a crime other than a minor traffic  
6 violation.

7           B. A provisional license issued pursuant to this section shall  
8 authorize the recipient to practice massage therapy under the direct  
9 supervision of a licensed massage therapist in accordance with rules  
10 promulgated by the Board.

11           C. A provisional license shall expire ninety (90) days after  
12 the date it is issued and is not renewable.

13           D. A provisional license shall be for students, persons pending  
14 their examination requirements or results, persons pending  
15 reciprocal license requirements, and any person pending completion  
16 of their criminal history records search.

17           SECTION 7.           AMENDATORY           Section 6, Chapter 292, O.S.L.  
18 2016 (59 O.S. Supp. 2018, Section 4200.6), is amended to read as  
19 follows:

20           Section 4200.6. A. A massage ~~therapy~~ therapist or massage  
21 therapy establishment license or provisional license issued by the  
22 State Board of Cosmetology and Barbering shall at all times be  
23 posted in a conspicuous place in the principal place of business of  
24 the holder.

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

3 SECTION 8. AMENDATORY Section 7, Chapter 292, O.S.L.  
4 2016 (59 O.S. Supp. 2018, Section 4200.7), is amended to read as  
5 follows:

6 Section 4200.7. A. A person shall not advertise, maintain,  
7 manage or operate a massage therapy school unless the school is  
8 licensed by the Oklahoma Board of Private Vocational Schools or is a  
9 technology center school accredited by the Oklahoma State Board of  
10 Career and Technology Education.

11 B. A person shall not instruct as a massage therapist unless  
12 the instruction is within the scope of curriculum at a ~~licensed~~  
13 massage therapy school licensed or accredited in compliance with  
14 this section or is within the scope of an approved continuing  
15 education seminar.

16 SECTION 9. AMENDATORY Section 9, Chapter 292, O.S.L.  
17 2016 (59 O.S. Supp. 2018, Section 4200.9), is amended to read as  
18 follows:

19 Section 4200.9. A. The State Board of Cosmetology and  
20 Barbering may issue a license by reciprocity to an applicant,  
21 ~~provided that the applicant~~ who possesses a valid license or  
22 registration to practice massage therapy issued by the appropriate  
23 examining board ~~under~~ pursuant to the laws of any other state or  
24 territory of the United States, the District of Columbia or any

1 foreign nation and has met educational and examination requirements  
2 equal to or exceeding those established pursuant to the Massage  
3 Therapy Practice Act.

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

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

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

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

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

24

1 ~~D. The Board shall establish a schedule of reasonable and~~  
2 ~~necessary administrative fees.~~

3 ~~E. The Board shall fix the amount of fees so that the total~~  
4 ~~fees collected shall be sufficient to meet the expenses of~~  
5 ~~administering the provisions of the Massage Therapy Practice Act~~  
6 ~~without unnecessary surpluses~~ An applicant for licensure by

7 reciprocity shall disclose any criminal history from the  
8 jurisdiction where the applicant is licensed and shall submit to a  
9 national criminal history record check as defined at Section 150.9

10 of Title 74 of the Oklahoma Statutes. The costs associated with the  
11 national criminal history record check shall be paid by the  
12 applicant.

13 C. In addition to all other required fees, an applicant for  
14 licensure by reciprocity shall pay a non-refundable processing fee  
15 of Thirty Dollars (\$30.00).

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

19 A. A Massage Therapist license shall be renewed annually. The  
20 renewal date shall be established by the State Board of Cosmetology  
21 and Barbering through adoption of a rule.

22 B. A licensee may renew a license by:

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

- 1        2. Tendering the required renewal fee;
- 2        3. Submitting proof of completion of all continuing education
- 3 requirements;
- 4        4. Providing proof of liability insurance;
- 5        5. Disclosing any plea of guilty, nolo contendere or conviction
- 6 of any crime other than minor traffic violations; and
- 7        6. Disclosing any administrative or legal action taken against
- 8 the licensee in any other jurisdiction governing massage therapy.

9        C. 1. A sixty (60) calendar day grace period shall be allowed  
10 each license holder after the end of the renewal period, during  
11 which time a license may be renewed upon payment of the renewal fee  
12 and a late fee as prescribed by the Board.

13        2. If a license is not renewed by the end of the sixty (60)  
14 calendar day grace period, the license shall be placed on inactive  
15 status during which time the person shall not practice massage  
16 therapy.

- 17        3. A person may renew a license on inactive status by:
- 18            a. submitting a completed renewal application on a form
  - 19            prepared by the Board,
  - 20            b. tendering the required renewal fee for the year in
  - 21            which the license is reactivated,
  - 22            c. tendering a late fee as prescribed by the Board,

23  
24

- d. submitting proof of completion of all continuing education requirements cumulative for the years the license was inactive,
- e. providing proof of liability insurance, and
- f. disclosing any plea of guilty, nolo contendere or conviction of any crime other than minor traffic violations.

4. If a license on inactive status is not renewed within five (5) years from the original renewal date, it shall expire. If the person who held the license wishes to practice massage therapy, the person must apply for original licensure and complete all licensure requirements.

SECTION 11. AMENDATORY Section 10, Chapter 292, O.S.L. 2016 (59 O.S. Supp. 2018, Section 4200.10), is amended to read as follows:

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

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

1        C. Municipalities, counties and political subdivisions may  
2 enact ordinances or resolutions regulating the operation times of a  
3 massage establishment. No municipal ordinance, resolution or other  
4 political subdivision requirement shall prohibit the operation of a  
5 massage establishment between the hours of 7:00 a.m. and 9:00 p.m.  
6 daily.

7        SECTION 12.        AMENDATORY        Section 11, Chapter 292, O.S.L.  
8        2016 (59 O.S. Supp. 2018, Section 4200.11), is amended to read as  
9        follows:

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

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

21        4. Assess an administrative fine of not more than Two Hundred  
22        Fifty Dollars (\$250.00) for each violation of the Massage Therapy  
23        Practice Act or rule of the Board; or

24        5. By taking a combination of the above-stated actions.



1 B. The Board ~~shall~~ may take disciplinary action upon a finding  
2 that ~~the~~ a licensee or person has violated a provision of the  
3 Massage Therapy Practice Act, or rules promulgated by the Board  
4 ~~committed an act of unprofessional conduct or committed a violation~~  
5 ~~of rule or law.~~

6 C. Disciplinary proceedings may be instituted by ~~sworn~~ the  
7 filing of a complaint of any person, including members of the Board,  
8 and shall conform to the provisions of the Administrative Procedures  
9 Act. The Board shall conduct investigations in the same manner and  
10 according to the same terms as provided for in the Oklahoma  
11 Cosmetology and Barber Act. Records and information obtained in  
12 connection with an investigation of alleged violations shall be  
13 confidential in the same manner as provided for in the Oklahoma  
14 Cosmetology and Barber Act and rules of the Board.

15 D. ~~The Board shall establish the guidelines for the disposition~~  
16 ~~of disciplinary cases. Guidelines may include, but shall not be~~  
17 ~~limited to, periods of probation, conditions of probation,~~  
18 ~~suspension, revocation or reissuance of a license.~~

19 ~~E.~~ A license holder who has been found ~~culpable~~ in violation of  
20 the Massage Therapy Practice Act or rules promulgated by the Board  
21 and has been sanctioned by the Board shall be responsible for the  
22 payment of all costs of the disciplinary proceedings and any  
23 administrative ~~fees~~ fines imposed.  
24

1        ~~F.~~ E. The surrender or expiration of a license shall not  
2 deprive the Board of jurisdiction to proceed with disciplinary  
3 action.

4        SECTION 13.        AMENDATORY        Section 13, Chapter 292, O.S.L.  
5 2016 (59 O.S. Supp. 2018, Section 4200.13), is amended to read as  
6 follows:

7        Section 4200.13. A. A person who ~~does~~ commits any of the  
8 following acts shall be guilty of a misdemeanor upon conviction:

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

11        2. ~~Renders~~ Advertises, offers, renders or attempts to render  
12 massage therapy services ~~or massage therapy instruction~~ without the  
13 required current valid therapist or establishment license issued by  
14 the State Board of Cosmetology and Barbering;

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

21        4. Advertises or uses a designation, diploma, or certificate  
22 implying that the person is a massage therapist unless the person  
23 holds a current valid license issued by the State Board of  
24 Cosmetology and Barbering.

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

5 2. ~~Any~~ No person who uses shall use a professional title  
6 regulated by the Massage Therapy Practice Act who is not authorized  
7 to use the professional title ~~shall be subject to disciplinary~~  
8 ~~action by the Board.~~

9 3. ~~Any~~ No person who shall knowingly ~~aids and abets~~ aid or abet  
10 one or more persons not authorized to use a professional title  
11 regulated by the Massage Therapy Practice Act or knowingly ~~employs~~  
12 ~~or contracts~~ employ or contract with a person or persons not  
13 authorized to use a regulated professional title in the course of  
14 the employment, ~~shall also be subject to disciplinary action by the~~  
15 ~~Board. It shall be a violation of the Massage Therapy Practice Act~~  
16 ~~for any person to advertise massage therapy services in any~~  
17 ~~combination with any escort or dating service.~~

18 4. No person shall advertise massage therapy services in any  
19 combination with any escort or dating service.

20 SECTION 14. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 4200.14 of Title 59, unless  
22 there is created a duplication in numbering, reads as follows:

23 A. In addition to any civil or criminal actions authorized by  
24 law, whenever, in the judgment of the Oklahoma Board of Cosmetology

1 and Barbering, any unlicensed person has engaged in any acts or  
2 practices which constitute a violation of the Massage Therapy  
3 Practice Act or rules of the Board, the Board may:

4 1. After notice and hearing in accordance with the  
5 Administrative Procedures Act, and upon finding a violation, impose  
6 a fine of not more than Two Hundred Fifty Dollars (\$250.00) for each  
7 violation of the act or rule;

8 2. Make application to the appropriate court for an order  
9 enjoining such acts or practices, and upon a showing by the Board  
10 that such person has engaged in any such acts or practices, an  
11 injunction, restraining order or such other order as may be  
12 appropriate shall be granted by the court, without bond; or

13 3. Take both of the above-stated actions.

14 B. Any administrative fines imposed pursuant to this section  
15 shall be enforceable in the district courts of this state. The  
16 order of the Board shall become final and binding on all parties  
17 unless appealed to the district court as provided in the  
18 Administrative Procedures Act. If an appeal is not made, such order  
19 may be entered on the judgment docket of the district court in a  
20 county in which the debtor has property and thereafter enforced in  
21 the same manner as an order of the district court for collection  
22 actions.

23 ~~SECTION 15. This act shall become effective July 1, 2019.~~

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~~SECTION 16. It being immediately necessary for the preservation  
of the public peace, health or safety, an emergency is hereby  
declared to exist, by reason whereof this act shall take effect and  
be in full force from and after its passage and approval.~~

57-1-2077            NP            3/12/2019 9:45:50 AM