

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 244

Introduced by Erdman, 47; Clements, 2.

Read first time January 14, 2019

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Massage Therapy Practice Act; to amend
2 sections 38-1701, 38-1702, 38-1707, and 38-1715, Reissue Revised
3 Statutes of Nebraska; to provide for mobile massage therapy
4 establishments; to define and redefine terms; to provide for
5 licensure; to change powers and duties; to harmonize provisions; and
6 to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-1701, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-1701 Sections 38-1701 to ~~38-1715~~ and sections 4 to 14 of this act
4 shall be known and may be cited as the Massage Therapy Practice Act.

5 Sec. 2. Section 38-1702, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-1702 For purposes of the Massage Therapy Practice Act and
8 elsewhere in the Uniform Credentialing Act, unless the context otherwise
9 requires, the definitions found in sections 38-1703 to 38-1707 and
10 section 4 of this act apply.

11 Sec. 3. Section 38-1707, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 38-1707 Massage therapy establishment means any duly licensed place
14 in which a massage therapist practices his or her profession of massage
15 therapy. Massage therapy establishment includes a mobile massage therapy
16 establishment.

17 Sec. 4. Mobile massage therapy establishment means a self-
18 contained, self-supporting, enclosed mobile unit licensed under the
19 Massage Therapy Practice Act as a mobile site for the performance of the
20 practices of massage therapy by persons licensed under the act.

21 Sec. 5. No person shall operate or profess or attempt to operate a
22 massage therapy establishment unless such establishment is licensed by
23 the department under the Massage Therapy Practice Act. The department
24 shall not issue or renew a license for a massage therapy establishment
25 until all requirements of the act have been complied with. No person
26 shall engage in any of the practices of massage therapy in any location
27 or premises other than a licensed massage therapy establishment except as
28 specifically permitted in the act.

29 Sec. 6. In order to be licensed as a mobile massage therapy
30 establishment by the department, an applicant shall meet the following
31 requirements:

1 (1) The proposed establishment is a self-contained, self-supporting,
2 enclosed mobile unit;

3 (2) The establishment has an automobile insurance liability policy
4 which meets the requirements of the department for the mobile unit;

5 (3) The establishment is clearly identified as such to the public by
6 a sign;

7 (4) The establishment complies with the sanitary requirements of the
8 Massage Therapy Practice Act and the rules and regulations adopted and
9 promulgated by the department under the act;

10 (5) The entrance into the proposed establishment used by the general
11 public provides safe access by the public;

12 (6) The proposed establishment has at least forty-four square feet
13 of floor space. If more than one practitioner is to be employed in the
14 establishment at the same time, the establishment shall contain an
15 additional space of at least fifty square feet for each additional
16 practitioner; and

17 (7) The proposed establishment includes a functional sink and toilet
18 facilities and maintains an adequate supply of clean water and wastewater
19 storage capacity.

20 Sec. 7. Any person seeking a license to operate a mobile massage
21 therapy establishment shall submit a completed application to the
22 department, and along with the application, the applicant shall submit a
23 detailed floor plan or blueprint of the proposed establishment sufficient
24 to demonstrate compliance with the requirements of section 6 of this act.

25 Sec. 8. Each application for a license to operate a mobile massage
26 therapy establishment shall be reviewed by the department for compliance
27 with the requirements of the Massage Therapy Practice Act and the rules
28 and regulations adopted and promulgated by the department under the act.
29 If an application is denied, the applicant shall be informed in writing
30 of the grounds for denial, and such denial shall not prejudice future
31 applications by the applicant. If an application is approved, the

1 department shall issue the applicant a certificate of consideration to
2 operate a mobile massage therapy establishment. The department shall
3 conduct an operation inspection of each establishment issued a
4 certificate of consideration within six months after the issuance of such
5 certificate. An establishment which passes the inspection shall be issued
6 a permanent license. An establishment which fails the inspection shall
7 submit within fifteen days evidence of corrective action taken to improve
8 those aspects of operation found deficient. If evidence is not submitted
9 within fifteen days or if after a second inspection the establishment
10 does not receive a satisfactory rating, it shall immediately relinquish
11 its certificate of consideration and cease operation.

12 Sec. 9. In order to maintain its license in good standing, each
13 mobile massage therapy establishment shall operate in accordance with the
14 following requirements:

15 (1) The establishment shall at all times comply with all applicable
16 provisions of the Massage Therapy Practice Act and all rules and
17 regulations adopted and promulgated under the act;

18 (2) The establishment owner or his or her agent shall notify the
19 department of any change of ownership, name, or office address and if an
20 establishment is permanently closed;

21 (3) No establishment shall permit any unlicensed person to perform
22 any of the practices of massage therapy within its confines or
23 employment;

24 (4) The establishment shall display a name upon, over, or near the
25 entrance door distinguishing it as a mobile massage therapy
26 establishment;

27 (5) The establishment shall permit any duly authorized agent of the
28 department to conduct an operation inspection or investigation at any
29 time during the normal operating hours of the establishment, without
30 prior notice, and the owner and manager shall assist the inspector by
31 providing access to all areas of the establishment, all personnel, and

1 all records requested by the inspector;

2 (6) The establishment shall display in a conspicuous place the
3 following records:

4 (a) The current license or certificate of consideration to operate
5 an establishment;

6 (b) The current licenses of all persons licensed under the act who
7 are employed by or working in the establishment; and

8 (c) The rating sheet from the most recent operation inspection;

9 (7) At no time shall an establishment employ more employees than
10 permitted by the square footage requirements of the Massage Therapy
11 Practice Act;

12 (8) No massage therapy services may be performed in an establishment
13 while the establishment is moving. The establishment must be safely and
14 legally parked in a legal parking space at all times while clients are
15 present inside the establishment. An establishment shall not park or
16 conduct business within three hundred feet of another brick and mortar
17 licensed massage therapy establishment. The department is not responsible
18 for monitoring for enforcement of this subdivision but may discipline a
19 license for a reported and verified violation;

20 (9) The owner of the establishment shall maintain a permanent
21 business address at which correspondence from the department may be
22 received and records of appointments, license numbers, and vehicle
23 identification numbers shall be kept for each establishment being
24 operated by the owner. The owner shall make such records available for
25 verification and inspection by the department; and

26 (10) The establishment shall not knowingly permit its employees or
27 clients to use, consume, serve, or in any manner possess or distribute
28 intoxicating beverages or controlled substances upon its premises.

29 Sec. 10. The procedure for renewing a mobile massage therapy
30 establishment license shall be in accordance with section 38-143, except
31 that in addition to all other requirements, the establishment shall

1 submit evidence of minimal property damage, bodily injury, and liability
2 insurance coverage for the establishment and evidence of coverage which
3 meets the requirements of the Motor Vehicle Registration Act for the
4 establishment.

5 Sec. 11. The license of a mobile massage therapy establishment that
6 has been revoked or expired for any reason shall not be reinstated. An
7 original application for licensure shall be submitted and approved before
8 such establishment may reopen for business.

9 Sec. 12. Each mobile massage therapy establishment license issued
10 shall be in effect solely for the owner or owners and the mobile unit
11 named thereon and shall expire automatically upon any change of ownership
12 or mobile unit. An original application for licensure shall be submitted
13 and approved before such establishment may reopen for business.

14 Sec. 13. The owner of each mobile massage therapy establishment
15 shall have full responsibility for ensuring that the establishment is
16 operated in compliance with all applicable laws, rules, and regulations
17 and shall be liable for any and all violations occurring in the
18 establishment.

19 Sec. 14. Section 38-1715, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 ~~38-1715~~ The department may shall adopt and promulgate rules and
22 regulations as it may deem necessary with reference to the conditions
23 under which the practice of massage therapy shall be carried on and the
24 precautions necessary to be employed to prevent the spread of infectious
25 and contagious diseases. The department shall have the power to enforce
26 the Massage Therapy Practice Act and all necessary inspections in
27 connection therewith.

28 Sec. 15. Original sections 38-1701, 38-1702, 38-1707, and 38-1715,
29 Reissue Revised Statutes of Nebraska, are repealed.