

**ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019**  
**COMMITTEE STATEMENT**  
**LB244**

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**Hearing Date:** Wednesday March 27, 2019  
**Committee On:** Health and Human Services  
**Introducer:** Erdman  
**One Liner:** Provide for mobile massage therapy establishments

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 7 Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams

**Nay:**

**Absent:**

**Present Not Voting:**

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**Oral Testimony:**

**Proponents:**

Senator Steve Erdman  
Jean Thunker  
Steve Carper  
Vyanne Zink  
Nicole Fox

**Representing:**

Introducer  
Self  
Nebraska Massage Therapy Board  
American Massage Therapy Association  
Platte Institute

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

LB 244 amends the Massage Therapy Practice Act to include mobile massage therapy establishments.

Section 3 amends the definition of massage therapy establishment in Neb. Rev. Stat. 38-1707 to include a mobile massage therapy establishment. (Page 2, lines 15-16.) Section 4 inserts a new definition of mobile massage therapy establishment. (Page 2, lines 17-20.) Section 5 prohibits the operation of a massage therapy establishment unless the establishment is licensed by the Department of Health and Human Services (DHHS). (Page 2, lines 21-28.)

LB 244 creates licensing requirements for mobile massage therapy establishments which are as follows:

- The mobile establishment must be a "self-contained, self-supporting, enclosed unit;"
- It must have an auto insurance liability policy;
- It must be clearly identified to the public by a sign;
- It must comply with sanitary requirements of the Massage Therapy Practice Act and rules and regulations adopted by DHHS;

- Its entrance must provide safe access to the public;
- It must have at least 44 square feet of floor space for one practitioner and an additional 50 square feet for each additional practitioner employed at the same time; and
- It must include a functional sink and toilet and maintain an adequate supply of clean water and wastewater storage capacity.

(Section 6, page 2, lines 29-31 and page 3, lines 1-19.)

Persons seeking to operate a mobile unit must submit an application to DHHS that includes a detailed floor plan or blueprint. (Sec. 7, page 3, lines 20-24.)

Section 8 details the application process. If an application is approved, DHHS will issue a "certificate of consideration to operate" a mobile unit. (Page 4, lines 1-2.) Then DHHS will conduct an operation inspection within six months of issuing the certificate. If an establishment passes the inspection, DHHS will issue a permanent license. If the mobile establishment fails the inspection, it has 15 days to submit evidence of corrective action. If they do not submit that evidence or the mobile establishment fails the second inspection, the mobile establishment must immediately relinquish its certificate of consideration to operate and cease operation. (Page 4, lines 2-11.)

To maintain a license, mobile massage establishments must:

- comply with the Massage Therapy Practice Act and all relevant rules and regulations under the Act;
- notify DHHS of any change in ownership, contact information, or if the establishment closes;
- not permit unlicensed persons to perform massage therapy in the mobile establishment;
- display the name distinguishing it as a mobile establishment;
- permit duly authorized agents of DHHS to conduct inspections without notice during normal operation hours;
- display certain records listed in section 9(6);
- not employ more employees than allowed by the square footage;
- not perform massage therapy while the mobile unit is moving but rather the unit must be parked safely and legally while clients are present;
- not park within 300 feet of a brick and mortar massage therapy establishment;
- maintain a permanent address;
- not knowingly allow its employees or clients to use, consume, or serve alcohol or drugs.

(Sec. 9, page 4, lines 12-31 and page 5, lines 1-28.) DHHS will not enforce the parking requirements but may discipline a license for a reported violation.

Section 10 creates requirements for license renewal. (Page 5, lines 29-31, and page 6, lines 1-4.)

If the license of a mobile massage therapy establishment has been revoked or expired it shall not be reinstated. An original application must be submitted and approved again before the business can reopen. (Sec. 11, page 6, lines 5-8.)

Any licenses issued are for the owner or owners and will expire automatically upon the change of ownership. (Sec. 12, page 6, lines 9-13.)

The owner of any mobile establishment is responsible for ensuring compliance with the law, rules, and regulations, and is liable for any and all violations. (Sec. 13, page 6, lines 14-18.)

The existing requirement in law that DHHS adopt and promulgate rules and regulations is change from "shall" to "may." (Sec. 14, page 6, line 21.)

**Explanation of amendments:**

AM 1214 adds a new section to add an emergency clause. It also amends Section 6(3) of the original bill to require that the sign identifying the mobile massage therapy establishment is placed on the outside of the establishment and that the sign includes that establishment's license number. Finally, AM 1214 clarifies section 14 in the original bill so that the provisions regarding rules and regulations for the Massage Practice Act are not changed, but the new language would leave it to DHHS's discretion to adopt rules and regulations on mobile massage therapy establishments.

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Sara Howard, Chairperson