

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

[LB211 LB235 LB287]

The Committee on Health and Human Services met at 1:30 p.m. on Friday, March 6, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB287, LB211, and LB235. Senators present: Kathy Campbell, Chairperson; Sara Howard, Vice Chairperson; Roy Baker; Tanya Cook; Sue Crawford; Mark Kolterman; and Merv Riepe. Senators absent: None.

SENATOR CAMPBELL: Okay. I think we will go ahead and start our afternoon hearings for the Health and Human Services Committee. I'm Kathy Campbell and I'm a senator from District 25 in Lincoln and serve as the Chair for the Health and Human Services Committee. We do self-introductions here so, Senator, please start.

SENATOR KOLTERMAN: I'm Senator Mark Kolterman from Seward, York, and Polk Counties, District 24.

SENATOR BAKER: Roy Baker, District 30.

SENATOR CRAWFORD: Good afternoon. Sue Crawford, and I'm District 45 which is eastern Sarpy County, Bellevue, and Offutt.

SENATOR HOWARD: I'm Senator Sara Howard. I represent District 9 in midtown Omaha.

JOSELYN LUEDTKE: Joselyn Luedtke, committee counsel.

TANYA COOK: I'm Senator Tanya Cook from District 13 in Omaha and northeast Douglas County.

BRENNEN MILLER: I'm Brennen Miller. I'm committee clerk.

SENATOR CAMPBELL: Okay. And we have two pages with us, Brook, who is from Omaha-- Brook is an advertising, marketing, and political science major at UNL--and then we have a new page this afternoon who is filling in for our regular page who is ill, and Ryan, would you like to tell us where you're from and your major?

RYAN MacDONALD: I'm from Orange County, California, and history and political science.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: So thank you, Ryan, for filling in today. I'm going to go through some of the procedures that we use in the committee. Most of you probably have heard them a lot. But in any case, if you have a cell phone or an iPad that makes noise, please make sure that it is turned to silent or off. If you're planning to testify today, you need to complete one of the orange sheets on either side of the room as legibly as you can. If you brought copies to give to the senators, we need 15 copies. And if you need some help with those, the pages or Brennen Miller can help you. As you come forward, you can give the orange sheet and your copies that you'd like to give to us to the clerk, and the pages will distribute it for you. As you sit down, you will notice we have a little box. And we have a five-minute testifying limit. As nice as it is out today, I thought about two minutes but that was probably a little hasty on my part. So you have five minutes. It's green for four minutes. It will go to yellow, you have one minute, and then red and we'll be getting your attention. As you sit down and get ready to testify, please open stating your name and spelling it so that the transcribers can know exactly the spelling particularly. Senator Haar, great to see you this afternoon.

SENATOR HAAR: Thank you very much. [LB287]

SENATOR CAMPBELL: You are here on LB287 so we'll open the hearing to change provisions relating to licensure of interpreters for the deaf and hard of hearing. So go right ahead. [LB287]

SENATOR HAAR: And one thing you forgot to say is, the senator who opens gets as much time as they want. Isn't that correct? (Laughter) [LB287]

SENATOR CAMPBELL: Absolutely. However... [LB287]

SENATOR COOK: Dot, dot, dot. [LB287]

SENATOR CAMPBELL: "Dot, dot, dot" is right. Okay. Go right ahead, Senator. [LB287]

SENATOR HAAR: Good. Okay. Well, good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. In my next time around in the Legislature, I do want to be on this committee. I've always thought you do such interesting and good things. My name is Senator Ken Haar, K-e-n H-a-a-r, and I'm here today to present LB287 on behalf of the Nebraska Commission for the Deaf and Hard of Hearing. And I'm so pleased to be doing this for my friend, John Wyvill. Just to begin with, 1 percent of the population in Nebraska is deaf, 9 percent of the population in Nebraska is hard of hearing. The bill is to expand licensure requirements for community sign language interpreters. Currently, not all community interpreters are licensed. For unlicensed interpreters, there is no regulatory control to monitor

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

and address proficiency and competency issues. In addition, the commission is asking to license video remote interpreting, VRI, providers for the state of Nebraska. The passage of LB287 guarantees that all Nebraskans receiving sign language interpreting services will obtain a high standard of communication access. I've received several letters of support for this bill. And here to explain in more detail is the commission's executive director, John Wyvill. I want to thank you for your time and consideration and I would appreciate a favorable vote to bring this bill out of committee. Thank you very much. [LB287]

SENATOR CAMPBELL: Any questions from the senators? Senator Baker. [LB287]

SENATOR BAKER: Thank you, Senator Campbell. Senator Haar, do you think there's a shortage of signers and interpreters? [LB287]

SENATOR HAAR: I think that's a good question to ask the director when he comes. [LB287]

SENATOR BAKER: Okay. And if so, if that's why maybe some people are doing it who are not fully qualified, do you think your provision here would encourage those people to go out and become certified? [LB287]

SENATOR HAAR: Yes. Yeah, that's our hope. And as I stated a little earlier, that people who need these services should get quality service because, I mean, you're thinking about everything from doctors visits to whatever. And so, really, they...people getting this service deserve to have accuracy and competency. And that's what this bill is about. Now, I know that Director Wyvill has worked closely with some groups where this may involve a hardship including educational and religious interpreters. And hopefully he'll talk about that a little bit. So he's certainly done his homework with all these groups and I would ask for your support. Thank you. [LB287]

SENATOR CAMPBELL: Okay. Brennen, do we have any letters for the record? [LB287]

BRENNEN MILLER: (Exhibits 1, 2, 3, 4, 5, 6) Yes, Senator. I have support letters from the Nebraska State Board of Education; UNL Services for Students with Disabilities; Lincoln Association of the Deaf; Hearing Loss Association of Nebraska; Nebraska Registry of Interpreters for the Deaf; and Disability Rights Nebraska. Thank you. [LB287]

SENATOR CAMPBELL: Okay. [LB287]

SENATOR HAAR: Thank you. [LB287]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Senator Haar, are you staying? [LB287]

SENATOR HAAR: Yes, yes, I am. [LB287]

SENATOR CAMPBELL: Okay. Excellent. All right. Our first proponent? Good afternoon. [LB287]

JOHN WYVILL: (Exhibit 7) Good afternoon, Senator. My name is John Wyvill, W-y-v-i-l-l. I'm the executive director for the Nebraska Commission for the Deaf and Hard of Hearing. I want to extend a "good afternoon" to all of you and members of the committee. I'm here today to explain that this bill is significant for Nebraskans who rely on interpreting services. Currently, the only Nebraska state agencies and entities that are required by law to use licensed interpreters are the court and law enforcement. With the exception of K-12 educational and religious interpreters, the passage of this bill would provide that any interpreter that received compensation for services is required to be licensed. In addition, this bill would require video remote interpreter providers to obtain a business license to provide services in this state. By obtaining a business license, this will enable the commission to directly address any complaints about proficiency and competency with the provider. We have...this bill is the product of working with educational officials and we believe that it addresses most of the concerns. But as you all well know, there might be some people that come forward that we did not anticipate. But in closing, we have received several letters of support on behalf of this bill which we have shared today. We appreciate your support in our efforts to improve the lives of Nebraskans who are deaf, deaf-blind, and hard of hearing. Thank you for your time and consideration and I would welcome any questions you have about this bill or interpreters in general. [LB287]

SENATOR CAMPBELL: Thank you, Mr. Wyvill. Questions? Senator Howard. [LB287]

SENATOR HOWARD: Thank you, Senator Campbell. So prior to this bill being presented, if an interpreter gets paid they wouldn't necessarily have to be licensed? [LB287]

JOHN WYVILL: That's correct. In certain instances with the courts, with law enforcement, and with state agencies, they have to have a license. In other settings, they may not which means that if there's a complaint similar to the Nelson Mandela interpreter thing that got international coverage, there would be no way for the state to remedy that situation or ensure quality or proficiency of the interpreter. [LB287]

SENATOR HOWARD: Thank you. [LB287]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Questions? Any other questions? Senator Riepe. [LB287]

SENATOR RIEPE: Thank you, Senator Campbell. Thank you for being here. The question I have is, how much additional time and training is involved in...to meet the requirements and then is there a written test on the licensure piece or how does that... [LB287]

JOHN WYVILL: Well, in terms of licensure, it requires you have a cross-level certification. A certain certification that you have with our board determines that. And then basically they just have to fill out an application. The primary purpose for this is just to make sure that if there's a complaint against the provider of services, we have a mechanism. So in short, Senator, it is that if they're practicing for compensation already, there is a good chance that they're already qualified. [LB287]

SENATOR RIEPE: Okay. Okay, thank you. [LB287]

SENATOR CAMPBELL: Any other questions for Mr. Wyvill? Thank you very much for your testimony today. [LB287]

JOHN WYVILL: Okay. Thank you for your time, Senator. [LB287]

SENATOR CAMPBELL: Our next proponent? Anyone else in the hearing room to testify in favor of the bill? Okay, those who may be opposed to the bill? Okay. Those in a neutral position? Senator Haar, this is spectacular on your part. (Laughter) [LB287]

SENATOR HAAR: So now I'll take my 20 minutes. (Laughter) No, I think... [LB287]

SENATOR CAMPBELL: You have as much time... [LB287]

SENATOR HAAR: ...in the past when this sort of bill has come, you know, there have been people with objections and so on. But I think it speaks to the really good work that John Wyvill has done in talking to people. And through the years, as I've heard the discussion on this kind of issue, not only with interpreters for the hard of hearing and deaf but also for language interpreters, you know, if you think of all the situations where not only accuracy is required but also privacy, in a doctor's office, for example, having someone to be there and so on, so this is really important. I appreciate your consideration in moving it to the floor and thank you so much. [LB287]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Senator Howard. [LB287]

SENATOR HOWARD: Can you tell me, sort of, the cost of the licensure or the credentialing? [LB287]

SENATOR HAAR: Could you tell me that? [LB287]

CRYSTAL PIERCE: It's \$150 every two years for a qualified license. [LB287]

SENATOR HAAR: \$150? [LB287]

CRYSTAL PIERCE: Every two years. [LB287]

SENATOR HAAR: One hundred fifty dollars every two years for licensure. [LB287]

SENATOR HOWARD: And then is there a test? [LB287]

SENATOR CAMPBELL: Why don't we just...we can have you come forward, maybe, and introduce yourself. [LB287]

SENATOR HAAR: Yeah, why don't... [LB287]

SENATOR CAMPBELL: Well, you all need to understand that the transcribers can't pick her up from where she's sitting. So that's why we need...and we need to have you state your name for the record. [LB287]

CRYSTAL PIERCE: That's all right. I'm Crystal Pierce, C-r-y-s-t-a-l, Pierce, P-i-e-r-c-e. To answer your question, Senator Howard, there is not a specific test to get your license. There are stipulations to show your qualification test. We call it certification. That can be a national level or we do have a state level test. Once you reach a certain level of the state level or national test, you show that proof, you show your proof of a certain age, and you have to show you at least have a high school diploma, and once you have all these qualifications, once we approve that, then the state of Nebraska says, we guarantee you are qualified to be licensed. [LB287]

SENATOR HOWARD: Okay. Perfect. I was just wondering about the process and the cost. [LB287]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

CRYSTAL PIERCE: Yeah. [LB287]

SENATOR CAMPBELL: It's a good thought, a good question. Any other questions for Ms. Pierce? Okay, thank you for stepping up and answering our question for us. [LB287]

CRYSTAL PIERCE: Sure. Sure, no problem. [LB287]

SENATOR CAMPBELL: Senator Haar, did you want to complete your remarks? [LB287]

SENATOR HAAR: I'm fine then. (Laughter) [LB287]

SENATOR CAMPBELL: Senator Haar waives the final words for this bill and we will close the hearing. And Senator Kolowski is next, right? [LB287]

SENATOR COOK: Yes. [LB287]

SENATOR CAMPBELL: Okay. Senator Kolowski...I saw him. There he is. As Senator Kolowski is coming forward, we'll open the hearing on LB211 which is to authorize chiropractors to provide school entrance physical examinations and visual evaluations. Brennen, do we have letters for the record? [LB287]

BRENNEN MILLER: (Exhibits 8, 9, 10) Yes, Senator. I have opposition letters from Children's Hospital and Medical Center; Nebraska Academy of Physician Assistants, Nebraska Optometric Association--I can't say that word today--and Nebraska Medical Association. Thank you. [LB211]

SENATOR CAMPBELL: Okay. Senator Kolowski, go right ahead and start whenever you're ready. [LB211]

SENATOR KOLOWSKI: Thank you, and good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. My name is Senator Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, and I represent District 31 in southwest Omaha. As noted in the statement of intent for this bill, the purpose of LB211 is to reinstate doctors of chiropractic as one of the healthcare providers able to provide school physicals. This bill takes a long-overdue...makes a long-overdue correction in our statutes. As this is the 100th anniversary of the licensing of the chiropractic profession in Nebraska, it is the most appropriate avenue to address the situation in this session. School districts in Nebraska may not enroll students in kindergarten or 7th grade until they have

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

had a physical examination. These school physicals or preadmission physicals are required by Nebraska Revised Statute 79-214(2). This statute provides: The board of a school district shall require evidence of: (a) a physical examination by a physician, a physician's assistant, or an advanced practice registered nurse within six months prior to the entrance of a child into the beginning...beginner grade and the 7th grade. For years, medical doctors, doctors of chiropractic, nurse practitioners, and physician's assistants had been performing these school physicals. However, in 1994, an Attorney General's Opinion was issued which concluded the statute as worded only permitted medical doctors to do the school physicals. The reason for this conclusion was not that the scope of practice of the other professions did not encompass the performance of physical examinations but rather because he concluded this specific statute allowed only individuals licensed under the Medicine and Surgery Practice Act to do these particular exams. Since other qualified healthcare providers had been performing these school physicals, a bill was promptly drafted in 1995 by Senator Don Wesely to return things to the status quo. In fact, Senator Wesely's statement of intent stated, "The legislation is designed to return to the previous practice in Nebraska." LB214 in 1995. However the bill, which was originated by the physician's assistants and the nurse practitioners, did not include chiropractors in the legislation. The legislation passed without an amendment to include chiropractors and remained the same until 2000 when the term "nurse practitioner" was updated to the term "advanced practice registered nurse." Chiropractors remain off the list despite the fact physical examinations are clearly within their scope of practice and despite the fact that they have more extensive diagnostic training and education than some of the included professions. It is important to note, there is a distinction under Nebraska law between preadmission, school physicals, and athletic physicals. Athletic physicals may be performed by any licensed healthcare provider who is authorized to perform physicals within their respective scope of practice. Doctors of chiropractic currently perform these athletic physicals just as they routinely perform physical exams in their daily practice. They also perform Department of Transportation physicals for the bus drivers and, in some states truck drivers as well, who come to their offices for that service. Finally, I want to emphasize the effect of LB211 of...would be to allow parents an additional choice for their children's preadmission school physicals. Doctors of chiropractic are already trained and legally authorized to perform physical examinations including school sports physicals and routine physicals for their young patients. Access to qualified providers would be increased by LB211 especially in the areas where other providers may be many, many miles away. LB211 is a long-overdue correction of an oversight that took place within our statutes. This bill is a common-sense approach to providing parents a choice among qualified providers and increased access to such services. Thank you very much. [LB211]

SENATOR CAMPBELL: Thank you, Senator Kolowski. Questions from the senators about this?  
Senator Riepe. [LB211]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR RIEPE: Senator, am I to understand that this does include the eye examinations?  
[LB211]

SENATOR KOLOWSKI: At this time, I believe that does. That is correct. [LB211]

SENATOR RIEPE: Do you see any problem with that on regards to scope of practice? [LB211]

SENATOR KOLOWSKI: I would probably...I don't personally see it...a problem with that, knowing that they have, perhaps, a little bit of background in that area. But it would be an issue of discussion I think we could get into without any problem. [LB211]

SENATOR RIEPE: Okay. Thank you. [LB211]

SENATOR CAMPBELL: Senator Howard. [LB211]

SENATOR HOWARD: Thank you, Senator Campbell. Can you remind me, and it's been a long time since I had a school physical, but can you remind me of the components of a school physical? So there's an eye exam? [LB211]

SENATOR KOLOWSKI: If you think it was a long time for you, you should be at this...in this seat. (Laughter) [LB211]

SENATOR KOLTERMAN: I was thinking the same thing. [LB211]

SENATOR KOLOWSKI: Senator Howard, I know the routine they usually give students, but I collected neither one of those at the level I worked in public education because that's kindergarten as well as 7th grade. [LB211]

SENATOR HOWARD: Yeah, well, maybe a testifier behind you can answer that. [LB211]

SENATOR KOLOWSKI: I think they'll be able to do that. [LB211]

SENATOR CAMPBELL: As of yet, Senator Kolowski does not have his medical degree, so. (Laughter) [LB211]

SENATOR KOLOWSKI: No, only a different Ph.D. That's all. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Absolutely. [LB211]

SENATOR HOWARD: Thank you. [LB211]

SENATOR CAMPBELL: Any other questions? Will you be staying this afternoon? [LB211]

SENATOR KOLOWSKI: I will at this time. Yes, I will. [LB211]

SENATOR CAMPBELL: Okay. Excellent. All right, our first proponent? [LB211]

TIM GAY: (Exhibits 12, 13) I know you are electronic but I'm not on the handouts, Senator Campbell. [LB211]

SENATOR CAMPBELL: That's okay. [LB211]

TIM GAY: Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Tim Gay, T-i-m G-a-y, and I'm here appearing on behalf of the Nebraska Chiropractic Physicians Association in support of LB211. And as Senator Kolowski had mentioned, it is the 100th anniversary of licensing of chiropractors. It is a very important time and so the timing is very good on this. I'm not going to be repetitive of what Senator Kolowski has already told you, and there will be other experts behind me, other doctors, who will give you some more details. What I wanted to cover real quickly was, what I handed out here was LB214, the bill that actually was introduced after the Attorney General's Opinion. So we did a little research. I highlighted, of course, some of the things that we thought would be interesting. The blue tab is Senator Wesely...David Kats, a chiropractor physician, came in at that point late in a neutral position to testify on behalf of getting the chiropractors in on the bill. So when Dr. Kats came in, they were inadvertently left out of the bill. Now, this is 20 years ago and none of us were here. Maybe some other people behind me were here at that time. But just looking at the bill, when he handed out, he'll...he said many of the same things you will hear today. And again, I'm not going to be repetitive and go into that. What I wanted to point out on this bill was, it was heard early in--January 19--the legislative agenda as they...17 maybe. They then went into Executive Session immediately on that day. And they immediately held an Executive Session, passed it out of committee that day. There was an amendment proposed by Senator "Cap" Dierks at that point to allow the chiropractors in right after when they were doing that. That amendment failed, but the point I'm trying to make: This was a cleanup bill, it looks like to me. It was out. I think the chiropractors weren't involved in the drafting of the bill which sometimes happens. If you're not involved in the drafting, maybe people aren't looking out for your best interest. So with that, it was then passed out of committee. On the floor...the first part of this is all floor

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

record, and then signed by the Governor on February 8. So in 20 days, the bill was introduced, went through all the stages of legislation, and passed and signed by the Governor. So with that being said, many of the things that you're going to hear behind me of, the doctors, we're going to talk about the diagnostic educational components and some of those things that were not heard at that point. So what I wanted to do is bring that up to you. We've also...I want to submit this if the clerk could hand these out. This is a draft, also some more detailed history of what we found out. And I don't want to go into that because it would be much more exhaustive and go well beyond the five minutes. So we have that. It talks about many of the qualifications needed to perform the physicals and what the doctors have done. It...again, they'll be following up behind me. So with that, Senator Campbell, I just wanted to kind of get it into the record of how the process worked at that time. And I don't want to be misleading in any way or...but I'm just making a speculation on how sometimes these things work when they come in real quick and the Attorney General's Opinion, how that was. That is also in the testimony I just handed out so I won't get into all that. But that is in there. And if you would get the time, you know, to study this issue and read that, I think you'll find it very interesting of how the whole Attorney General's Opinion came and how it was dealt with. [LB211]

SENATOR CAMPBELL: Interesting. [LB211]

TIM GAY: Thank you, Senator Campbell. [LB211]

SENATOR CAMPBELL: Senators, any questions? I see them all reading diligently. Senator Gay, and I always think of you as Senator Gay, so you have to answer to that, I guess... [LB211]

TIM GAY: Yeah, thanks. [LB211]

SENATOR CAMPBELL: ...is there some reason why the chiropractors did not then come back in the next session or the next session or next...there's a great lapse of time here in which they did not come back to try to be included. [LB211]

TIM GAY: Yeah. I...Senator Campbell, I can't quite answer that. They weren't represented by Husch Blackwell at that time. (Laughter) Now, they...anyway. [LB211]

SENATOR CAMPBELL: It's a Friday afternoon. You can all chuckle. [LB211]

TIM GAY: Yeah. But I can't. And I think the doctors behind us will answer that... [LB211]

SENATOR CAMPBELL: Okay. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

TIM GAY: ...because, as you know, people...and I think maybe, you know, I've heard it from others on the committee and yourself, are you going to practice to the top of your game and the full potential? Is that what we need going forward? And I think that's the main part of the reason. There is a need for this that will be described. Even then, 20 years ago, they were talking about-- it's kind of funny--some of the same exact needs that you all have been talking about. Nurse practitioners and physician's assistants were under a scope of practice agreement, of course, that we just removed. So some of those things, that's probably why they were in the discussion. Again, I'm reading through it and you can read through it as well and come to that conclusion. And you're going to hear more testimony today. But I can't answer that. I think that will be addressed afterward, Senator Campbell. [LB211]

SENATOR CAMPBELL: Okay. And the other question has to do with, in the research that you did, did you find any from when they began, you know? In other words, what was the span from that to when they were taken out? Do you know how long they... [LB211]

TIM GAY: Clear...that was prior to...20 years prior. I could check in...Steve Grasz wrote a lot of that opinion. It's pretty in-depth. He gets to the point to where we were at and why...it was just kind of a...I think a school district asked, you know, what's the term of this? It was sent to the AG. At that point in statute, it's covered in there. I'm not an attorney and I don't want to get into all those things. He did in that, Senator. So if you'd read that... [LB211]

SENATOR CAMPBELL: Sure. [LB211]

TIM GAY: One thing, Senator Campbell, just another point, as I was looking through here, it was kind of funny, I saw that exactly on the same day they were passing this bill, they were bringing up motor vehicle...or marriage license and Senator Chambers was against it then too. (Laughter) It was the funniest thing. [LB211]

SENATOR CAMPBELL: It might have been helpful for me to have this. [LB211]

TIM GAY: Yeah. So at least he's consistent. But anyway, he was against it too and it was funny, so. [LB211]

SENATOR CAMPBELL: Thank you for bringing the history full circle there... (Laughter)  
[LB211]

TIM GAY: I got a chuckle out of that one, yeah, yeah. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: ...since the marriage license bill passed out of Final Reading today. Okay. Senator Riepe. [LB211]

SENATOR RIEPE: Thank you, Senator Campbell. I guess the question I have, I think I heard a little bit earlier that there was...this might be the only health resource for some smaller communities. And my question is, are these communities...when you say health resources, that would include, like, optometrist? You know, I'm still coming back and kind of focusing on the eye exam side of this thing. [LB211]

TIM GAY: Yeah. Well, Senator, in respect to getting a good answer on that question, I'm...I don't know on that. I'm pretty sure the doctors behind me will be covering that because they're very...they do these physicals, not the particular one right here, of course, but they do many others. I'm sure they can answer that question. I'm not trying to dodge it. [LB211]

SENATOR RIEPE: No. [LB211]

TIM GAY: I think you'll get a better answer from one of the following testifiers. [LB211]

SENATOR CAMPBELL: Any other... [LB211]

SENATOR RIEPE: I don't...I'm sorry. [LB211]

SENATOR CAMPBELL: Go right ahead. [LB211]

SENATOR RIEPE: I'll be brief. I know this committee has had a strong interest in, obviously, children. And so...and as Senator Kolowski could tell you as an educator, you know, concern with me is, if you don't...kids don't know what they can or can't see to what degree and so that's a...that's a little bit that...you need to catch that really early. [LB211]

TIM GAY: And, you know, we talk...and they do catch some of those things. But there again, I'll let them describe that. But there have been many things they've caught. And I think that will be covered in testimony of one of the doctors who is going to testify behind me. [LB211]

SENATOR RIEPE: Okay. Thank you. [LB211]

SENATOR CAMPBELL: Anything else, Senators? Thank you very much for your testimony and for the history. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

TIM GAY: Thank you, Senator. Thank you. [LB211]

SENATOR CAMPBELL: Our next proponent? [LB211]

BRADLEY STAUFFER: (Exhibit 14) Good afternoon, Madam Chair and members of the committee. My name is Dr. Bradley Stauffer, B-r-a-d-l-e-y S-t-a-u-f-f-e-r. I'm the chairperson of the Nebraska Chiropractic Physicians Association legislative committee. But I'm also a private practicing chiropractor in Gretna, Nebraska, and coming here today on my own behalf. I appreciate the opportunity to speak with you today to express my support of LB211 which reinstates the Nebraska chiropractors' abilities to perform school physicals. Just to give a little bit of background on this, school physicals in Nebraska primarily take place when children are entering either kindergarten or the 7th grade. They are taken by the parent to a private provider's office of the parent's choosing. Just want to be clear: Nothing in here mandates that chiropractors have to do a physical. It simply offers that as a choice to the parents. First, I'd like to take the opportunity to clear up some misunderstanding regarding the bill. This in no way changes the scope of practice for Nebraska chiropractors. We're already doing all these things in our office. We do them in preparticipation physicals that the NSAA and that the schools require in order for children to be able to participate in sports. We do them in Department of Transportation, DOT, physicals. In fact, we can do the bus drivers that drive the kids to school. And really, we're doing them over time in our office all the time as the need arises. I also want to address any confusion regarding the educational background of today's chiropractor. Chiropractors are required to have broad knowledge of the medical field and to have a broad and comprehensive education. I'm going to provide you the current curriculum of my alma mater, Palmer College, but that is indicative of what is required of education at all chiropractic schools across the United States. As you're going to see, chiropractors complete over 4,600 hours of education in what the federal government considers to be a five-year program. And that is five years after your undergraduate degree. As you're going to see from the curriculum, chiropractic students are required to complete 172 credit hours. Now, by comparison, physician's assistants who are graduating by UNMC right now, and doing these physicals and doing a great job of them, are required to have 123 hours. And they are...and that includes their time that they spend out in the field with their physicians. There also may be a misconception that chiropractors only train in treatment of the spine. The truth is, chiropractic education goes much deeper. I'm also going to provide you with a breakdown of the classroom hours for students at Palmer College. I think you're going to be surprised to see that chiropractic students spend almost twice as many hours in diagnostic classes as they do in spinal manipulation classes. And that includes courses that are not limited to but include physiology of the kidney, obstetrics, geriatrics, pediatrics, and even public health and psychology. I would also note that as you dig deeper into that curriculum, you're going to see blocks of time set aside for examination of the heart, the lungs, the eyes, the ears. All those things are included. And as you're...as you will see in that, Palmer College of Chiropractic students, as they graduate, not only have to do a number of physicals in order to graduate, they

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

also now have to do gynecological and prostate exams as well. I'm also surprised to hear that many people didn't realize that chiropractors work on children. I have been a practicing chiropractor for 20 years, have been seeing kids in my office during that entire time, and obviously do an initial exam and physical with them when they first come in. And I'm sure you're also aware that Medicaid does cover chiropractic for children and not only covers chiropractic for children but actually covers ongoing care for children for health reasons. As a wrap up, I'm going to take just a few minutes to discuss the reasons why the bill is important. Of course, one of the primary reasons is access. There are places in Nebraska where there aren't a lot of healthcare providers to provide exams. But even in the urban areas, we're seeing an increase in problems with people getting in to see providers and wait times. And let's face it, parents sometimes don't get their kids in right away and they wait till the last minute. And this provides another option for them. And then in some cases, chiropractors are the ones who have seen the child more than the family physician has and so the parents may choose to have them do the exam. And while I think those are all good reasons to pass LB211, I'm going to go back to what he said and say, I think that one of the biggest reasons is where medical care is going. Medical care is changing. We all know that. And so what we're seeing is increased wait times. We're going to see increased patient loads in providers' offices. And so it's going to be important that all providers are practicing near the top of their scope of practice. And so, you know, I think that's part of what the Legislature was looking at when they moved to take away the practice agreements for nurse practitioners. And I think, going forward in healthcare, that's going to be necessary in order for things to work like they're supposed to. I want to thank you for the opportunity to testify here today in support of LB211 which reinstates the chiropractors' ability to do school physicals. I'm going to provide you a packet here that provides the information on the education I talked about as well as a written copy of my testimony. I know you guys are all busy and have a million bills, but would appreciate you taking a look at it. It really does lay out how good our education is and how comprehensive our education is. And with that, I will hand this over and would ask that you would advance LB211 to the floor and I'd be happy to answer any questions. [LB211]

SENATOR CAMPBELL: Dr. Stauffer, let's go right back to Senator Howard's question....  
[LB211]

BRADLEY STAUFFER: Yes. [LB211]

SENATOR CAMPBELL: ...which...could you tell us what is entailed in a school physical?  
[LB211]

BRADLEY STAUFFER: Sure. A school physical, and I'm going to defer, too, to the doctor that's after me who has a very good specialty in this and probably can give you exact, verbatim list, but

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

it's basically a screening physical. You're going to check the major components: blood pressure, height, weight, all those things. It's going to go into an eye exam and they do an ear exam. You're going to examine everything from skin to you're typically going to ask questions about family and make sure that there are no other issues in the home. Most of it is screening. I mean, I would take eye exam as an indicator. You're going to look for things like amblyopia which is commonly known as lazy eye. You're going to do an eye chart and you're going to look for strabismus, which is crossing of the eyes, things like that. And you do an internal eye exam as well to make sure that there are no issues inside of the eye which actually...I'll take this opportunity, we are trained to do that in school. One of our diagnostic classes is completely centered around eye...or, excuse me, head and neck. And so a significant portion of that is set aside. In the education we're required to do internal exams of the eye. And we're required, at least when I went through, and I can't tell you 100 percent true today, but I'm sure it's true, was required to purchase an ophthalmoscope and be able to do all the...and I know now they have to do the internal exams of the eye. [LB211]

SENATOR HOWARD: Thank you. [LB211]

BRADLEY STAUFFER: Yep, no problem. [LB211]

SENATOR CAMPBELL: Did you have a follow-up, Senator Howard? [LB211]

SENATOR HOWARD: No, that was it. [LB211]

SENATOR CAMPBELL: Okay. Questions, Senators, that you have? Okay. Thank you, Dr. Stauffer. [LB211]

BRADLEY STAUFFER: No problem. Thank you. [LB211]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB211]

CHRISTOPHER MURRAY: (Exhibit 15) Good afternoon, Madam Chair and members of the committee. I am Dr. Christopher Murray, C-h-r-i-s-t-o-p-h-e-r M-u-r-r-a-y. I'm a chiropractor from Hastings, Nebraska. I'm here to relate to you why providing school physicals to our patients is important in the reality that chiropractic physicians are performing basically all components of these exams already in our offices today and ultimately why, of course, forwarding LB211 to the floor for debate only makes common sense. Now, first of all, I want to come to you today as a chiropractor who performs DOT medical exams. I've been doing this since 2007. I was the first certified DOT medical examiner in the state of Nebraska. And I also teach DOT certified medical



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

examiner courses to medical doctors, doctors of osteopathy, nurse practitioners, advance practice nurses, as well as chiropractic physicians across the United States. I also perform preparticipation athletic exams that were referred to earlier, PPE exams, in my office. Now, the first point I'd like to make is that PPE exams are strikingly similar to school physicals. The NSAA, or the Nebraska School Activities Association, they acknowledge that chiropractic physicians can perform this type of exam. Both PPE exams and school physicals, they involve a medical history, thorough examination, a screening for sudden cardiac death, vision assessment, blood pressure checking, certification status, and referral to other medical specialists as needed. The most significant difference between these two exams is that school physicals are, of course, grades K and 7. Every component of the exams...of these exams if carried out already by doctors of chiropractic in the state of Nebraska. Now, the NCPA, or the Nebraska Chiropractic Physicians Association, they provide mandated continuing education hours in the areas of diagnosis and examination. In the last two years, the NCPA has provided continuing education hours in areas such as concussion and laboratory analysis and PPE examinations and including the 2012 American Heart Association, their recommendation for screening for sudden cardiac death. And this month, the NCPA will be providing continuing education hours--these are mandated hours that most chiropractors have to attend--on family violence, dermatology, concussion review, and also cardiopulmonary assessment. Based on this information that I have just shared with you, it should come as no shock that even in my office, I have found multiple patients with hypothyroid conditions, with diabetes, kidney infections, heart valve conditions--just referred somebody out with an aortic stenosis--and even potential cancers. And, of course, we refer them out for specialty care. I provided restricted certification statuses included a student who had a Chiari malformation, or abnormality of the skull and the cervical spine, and said that he should not be involved in full-contact sports and referred multiple patients out to optometrists and ophthalmologists because of vision impairment. I think it is prudent that chiropractic physicians provide this service, school physicals, as it relates to healthcare accessibility. The 2010 American Association of Pediatrics PPE monograph--now, this is an authoritative reference on PPE exams--it comes out and says that it endorses the concept of a medical home where students have athletic exams performed by the physician of their choice that has access to their medical records. Well, chiropractic physicians in the state of Nebraska, we are often the best portal of entry for many students because we are the ones that see them the most often and know their health history. Now, we're not asking for diagnosis and we're not asking for laboratory procedures. We're not asking for EKGs and we're not asking to be able to perform DOT exams or these exams on truck drivers or bus drivers that are driving our kids from school to home or to athletic events. We're not also asking for PPE exams. And the reason we're not asking for any of those is because we're already doing all of those already. What we're asking for is school exams which is grades K and 7. And we're asking this because our patients, they need this service, and we are oftentimes the most appropriate provider to provide this needed service. For the purpose of providing appropriate and accessible healthcare to the patients that we serve, I would ask that you forward LB211 to the floor. Thank you. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Questions? Senator Riepe. [LB211]

SENATOR RIEPE: Thank you, Senator Campbell. Thank you very much for being here. How long have you been out of training now? [LB211]

CHRISTOPHER MURRAY: Since 2007. [LB211]

SENATOR RIEPE: Seven, all right. [LB211]

CHRISTOPHER MURRAY: That's when I graduated but I've had, of course, ongoing training as well. [LB211]

SENATOR RIEPE: My question, follow-up question to that is then what assurance do we have that the consistency is there? Generally, if someone asked me about finding a doctor, I will say, find someone who has been out of residency about five years. They're old enough to have experience, young enough to have the new knowledge, new technology. So how do we have consistency across the state from, you know, young/old clinicians? [LB211]

CHRISTOPHER MURRAY: I think that...I think you're totally right and I think that all goes back to the profession in that state and what kind of continuing education they're providing. And the consistency that's being provided, at least by the Nebraska Chiropractic Physicians Association, is they're providing ongoing training, updated training on all these different screening areas. So, for instance, it's important to go over the most recent American Heart Association screening for sudden cardiac death. That's kind of a big, you know, buzzword in that area of screening. And that includes then the PPE monograph and those things. And that's exactly the kind of training that we've had. Concussion is another big one, of course. And that's been addressed a couple times the last two years. And again--again--the NCPA is providing mandated--these are mandated--hours that the majority of chiropractic physicians in the state of Nebraska, they basically have to attend. So the association here is behind providing us doctors the ongoing and necessary required training to continue to be up at our game, so to speak. [LB211]

SENATOR RIEPE: Is there any formal competency testing? [LB211]

CHRISTOPHER MURRAY: Besides...well, of course we have our board exams and those are all competency. We have four board exams and, you know, as... [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR RIEPE: Okay. Do the boards have to be updated, and not just classes, but updated and clinically tested every so often? I don't know a lot about chiropractic medicine. [LB211]

CHRISTOPHER MURRAY: Not in...no, not in terms of chiropractic in general. Now, you start getting into, like, the medical examiners as well, like for instance DOT certified medical examiners, some of those kinds of things which, you know, we've been performing those since '92 and there was no competency exams for those either for any profession whether they are DOs, MDs, nurse practitioners, or chiropractors, so there's no extra competency examination along the way there, just continuing education... [LB211]

SENATOR RIEPE: Okay. [LB211]

CHRISTOPHER MURRAY: ...except in the case of the DOT medical exams there is, because all providers, they have to be certified separately which is...that's a federal law. So all providers have to have that but besides that, no. And the same things with school physicals: There isn't any kind of a requirement for continuing education or continued certification for any provider out there right now either. [LB211]

SENATOR RIEPE: Should we have the DOT's requirement in general? [LB211]

CHRISTOPHER MURRAY: For everybody? Well, that's a big question. I know nobody wants that because it's a lot of extra work. But I'll tell you, it does provide consistency. And that's exactly what the DOT had to deal with, is they had...different providers came in and they said, you know what, we don't think we need the training but we need...they...we think they need the training. And so they then what...DOT came and said, no, we think that everybody needs this same, consistent training. If one person is going to get it, then everybody is going to have to get it. And that's exactly what happened. [LB211]

SENATOR RIEPE: Thank you very much. Thank you. [LB211]

SENATOR CAMPBELL: Other questions? Oh, sorry, Senator, did you have a follow-up? [LB211]

SENATOR RIEPE: No, thank you. [LB211]

SENATOR CAMPBELL: Any other questions? Dr. Murray, when you have the athletic exam, are you doing at the same time an eye exam? It's required? [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

CHRISTOPHER MURRAY: An eye exam is being done concurrently, yes. Yes, it is. It's on...in fact, if you do those...look at those two exam pages, the PPE exam and the school physical form, they both have an eye exam portion on there. [LB211]

SENATOR CAMPBELL: Do you happen to know all of the medical professions that can do athletic physicals? [LB211]

CHRISTOPHER MURRAY: It's my understanding...it's not specifically laid out in statute but basically, as long as--and I'm not a legal expert here--but as long as you have examination in your scope of practice then you can perform a preparticipation athletic exam, if you have examination, diagnosis, those things in your scope. [LB211]

SENATOR CAMPBELL: And the conditions of that physical are laid out by the athletic association? [LB211]

CHRISTOPHER MURRAY: The...you know, yes, the athletic...exactly. And that comes from the pre...the NSAA and--the Nebraska School Activities Association--and they have adopted the--I just mentioned it there--the 2010 American Association of Pediatrics PPE monograph which includes...that's their recommendations for screening. [LB211]

SENATOR CAMPBELL: And I realize that you've come into practice relatively soon but anecdotally, from other chiropractic physicians, is there any...do you have any history as to why they could...for how long a time they were doing this and then they stopped? [LB211]

CHRISTOPHER MURRAY: That is a great question. I could say this, because you're right, I'm relatively new, but ever since I came in, in 2007, and I'm doing, you know, DOT exams and things like that as well, but ever since I came in, I've been asking this question. And I've been hearing it from everybody around. They're saying, well, I don't know, why don't we do something, I don't know, why don't we do some thing about it, we should be doing it, oh, yeah, because we're all doing exams. And so it's all seemed like something wasn't quite right. But anyway, since 2007, well, this has been a little bit on my heart, trying to get that remedied. But at any rate, I know it's been in discussion since 2007. I think there's been...there's more need for just portal of entry services. I think that's probably becoming more and more of a need. And so I think that's probably where some of that push is also coming from as well. [LB211]

SENATOR CAMPBELL: Do you have any information that would tell us that the training has increased or...in depth since 1994? In other words, were what chiropractors doing in 1994 when

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

they considered the legislation compared to their training today? Would it be the same, better, more? [LB211]

CHRISTOPHER MURRAY: I do not...no, it would be different and it would be more. I don't know. I don't have that...the educational bit all worked out here. But I know that, for instance, over the years there used to be Part I board and then there was Part II board, Part III board, Part IV board. And the more boards we have, the more training there is. And, you know, so there is an extensive board examination process in all organ systems including eye exams and heart examination. And I know that that has increased along the way. I didn't have that part prepared here today, ma'am. [LB211]

SENATOR CAMPBELL: No, that's okay. I'm just...because my assumption is that the training in what you can do today is probably more extensive than you might have had in 1994. But I was just trying to prove my assumption. [LB211]

CHRISTOPHER MURRAY: The only thing...yeah, the only thing I would say, if you don't mind me saying, is that in 1992 is when DOT formally allowed chiropractic physicians to perform DOT exams which involves eye examination. You have to do an eye exam. It is required on a DOT exam to do an eye examination, internal/external eye exam, and that was allowed since 1992 as long as diagnosis was in your scope. And that was made off of...of course they knew what the education and training was at that time. [LB211]

SENATOR CAMPBELL: Okay. Thank you. Senator Baker. [LB211]

SENATOR BAKER: Thank you, Chairwoman Campbell. Sir, you perform sports physicals now? [LB211]

CHRISTOPHER MURRAY: Yes, sir. [LB211]

SENATOR BAKER: And in the course of doing sports physicals, do you ever see something that causes you to refer them on to a physician? [LB211]

CHRISTOPHER MURRAY: Oh, yes. You bet I do. I...many times. I've had...you know, okay, well, many times I've had different vision impairments, of course, that I referred out to either optometrists/ophthalmologists but also kidney infections. I had a gentleman, came in to do a preparticipation exam and, you know, he had been a patient, and his mother said, you know, he's been kind of tired lately. And we...and he just hasn't been quite right. And I had treated this person before too. So we did a blood test and, sure enough, he was hypothyroid. So his TSH was

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

elevated over ten and I referred him out for medical management--and is a Medicaid patient as well--but referred him out for medical management at that time. I've had other patients with kidney infections. A child came in, and this was on a preparticipation exam...a kidney infection, so I referred them out. One other I want to bring up here, too, which was on a PPE, and the child was having...the mother told me, well, you know, he hasn't been doing well in school lately either. And so I said, okay, well, it's time to do a urinalysis. And the student said, why do you need that? (Laughter) So I did a drug test because we do drug tests in our office. And that's totally within our scope, too. We do...you know, our offices, you need a paternity test or whatever the case might be, because we have diagnostic scope in our practices. So what did I do? I referred him...I told the mother about it, of course, and it was marijuana--his THC was elevated--and referred him out for at least a consultation with his general practitioner there. You know, we're not treating drug abuse conditions. We're not treating ophthalmoscopic conditions. We're not treating cardiovascular conditions necessarily. But we have to be able to screen. And that's what diagnosis is for, so we can find the most serious thing, refer them out where they need to be. But we certainly have the ability to diagnose and screen for these conditions and get them out where they need to be. [LB211]

SENATOR BAKER: Thank you. [LB211]

SENATOR CAMPBELL: Senator Howard. [LB211]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you for your testimony today. I'm curious as to how many other states allow chiropractors to perform school physicals. [LB211]

CHRISTOPHER MURRAY: You know, I don't know that number for sure. But I believe around us, I think there's...the four states around us do. I know Colorado does, I'm pretty sure Kansas and Missouri. I'm almost...I was just looking at this the other day and I believe there's four around us that do. But I can't...don't quote me on that. But I'm positive Colorado does and several others do, yes. [LB211]

SENATOR CAMPBELL: Senator Cook. [LB211]

SENATOR COOK: Thank you. And thank you, Doctor, for coming. I have a question about the DOT certification. [LB211]

CHRISTOPHER MURRAY: Okay. [LB211]

SENATOR COOK: Can you give me 30-word or less... [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

CHRISTOPHER MURRAY: Sure, well... [LB211]

SENATOR COOK: ...description of it and how the chiropractors came to be included in this? [LB211]

CHRISTOPHER MURRAY: Well, we came to be included because there was a need. There was a bunch of truckers out in there and bus drivers who needed the exam. [LB211]

SENATOR COOK: Okay. So over-the-road truck drivers and... [LB211]

CHRISTOPHER MURRAY: And bus drivers. [LB211]

SENATOR COOK: ...city bus and school bus drivers? [LB211]

CHRISTOPHER MURRAY: Anybody with that CDL A, B, or C... [LB211]

SENATOR COOK: CDL, okay. [LB211]

CHRISTOPHER MURRAY: ...if you're driving a big rig or you're driving a bus and you're carrying a lot of passengers, then it's probably going to... [LB211]

SENATOR COOK: Sure. [LB211]

CHRISTOPHER MURRAY: And you're driving across state lines, for sure, but also in the state...intrastate also applies. [LB211]

SENATOR COOK: All right. [LB211]

CHRISTOPHER MURRAY: But, you know, DOT saw that there was a need because there was such a disparity in how these exams were being performed. And so they provided this...well, brought it up for public opinion, having this National Registry of Certified Medical Examiners program. And so now all practitioners--MDs, DOs, DCs, nurse practitioners, advanced practice nurses--all have to have the same training which is usually targeted about eight hours. And actually, in the training that I provide to various doctors and professions, I'm not teaching them how to exam. They already know how to exam. We're just teaching them the certification requirements, you know, to...so to see if they're...be able to be certified to be out there on the road. And so they have eight hours of targeted classwork with a little review on different

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

diagnostic procedures and then there's a test. And the test is over, basically, the certification requirements. And so that's what...you can get placed then on the national registry and anybody who is being...who is driving around a bus or a big rig, then they all have to use the national registry to see who has been certified by DOT to perform these exams. [LB211]

SENATOR COOK: Okay. Thank you. [LB211]

SENATOR CAMPBELL: Senator Baker. [LB211]

SENATOR BAKER: Thank you. You know, part of the exams for students entering school and those entering 7th grade have to do with the checking on immunizations. Do you provide immunizations? [LB211]

CHRISTOPHER MURRAY: No, no. [LB211]

SENATOR BAKER: Or would you have that conversation? [LB211]

CHRISTOPHER MURRAY: You know, I do have that conversation with them. But what I basically tell them is this: that I...medications are outside of my scope of practice. So I'm not providing medication or vaccinations to them. But I do provide options. I say, you know, you need to discuss the vaccine and vaccine schedule with your medical professional. Or, you know, they'll...there's also the local...the county health department. They also provide vaccinations. And so you need to provide options for people as well. But, you know, for the patients who are comfortable...most comfortable coming to me as their provider to begin with, that's why I think it's a...it's great for them to have accessibility to us. [LB211]

SENATOR BAKER: Thank you. [LB211]

CHRISTOPHER MURRAY: You bet. [LB211]

SENATOR CAMPBELL: Senator Howard, did you have a follow-up? [LB211]

SENATOR HOWARD: No, I...no. [LB211]

SENATOR CAMPBELL: Okay. Doctor, I have one last question. Would...generally speaking, would all of the chiropractors across the state treat children? [LB211]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

CHRISTOPHER MURRAY: Would all of them? [LB211]

SENATOR CAMPBELL: Now? [LB211]

CHRISTOPHER MURRAY: Well, no, not all of them would, because it's as a choice, of course. And some people...there's some chiropractic physicians who tend to focus just on geriatric type populations. So there are some that wouldn't. And just the same way also in any practice out there, you've got your focuses and what...but everybody does have with the different...the exams that we take, of course, cover from pediatrics, geriatrics, and all populations, everywhere in between. So everybody who walks out from getting their degree, they've used an ophthalmoscope, they've used a blood pressure cuff, and when I went to school, everyone...of course, you had to purchase one. You had one. You had to use it. It was required in your board exams. You had to, you know? It was...that's...everybody had that minimum requisite. In training I also drew blood which...I draw blood in my office as well. And so there's...we do...I think people are very surprised to hear what chiropractic physicians have in their scope of practice, what we actually do in our offices. [LB211]

SENATOR CAMPBELL: Okay. Senator Crawford. [LB211]

SENATOR CRAWFORD: Thank you. Thank you, Chairwoman Campbell. And thank you for being here. So you don't provide immunizations but you provide information to the parents on where to get them? Is that what you said? [LB211]

CHRISTOPHER MURRAY: Sure, you bet. [LB211]

SENATOR CRAWFORD: Okay. And would you say that your profession has any particular view on vaccinations or a predisposition for or against vaccinations? [LB211]

CHRISTOPHER MURRAY: You know, I'm not going to...I can't speak for the whole profession. But I can say this, that in the last continuing education class, that was brought up that, you know, if...because on the school physical form and also on the preparticipation examinations, it mentions in there the vaccine schedules. And so it was brought up that, you know, vaccinations are not within our scope of practice. And if parents have a...this was brought up in our continuing education, that we should refer them to resources in the community and back to their general practitioners as needed for that service. [LB211]

SENATOR CRAWFORD: Thank you. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Okay. Senator Riepe. [LB211]

SENATOR RIEPE: Thank you, Senator Campbell. Are you a chiropractor that's with newborns...do you believe that they're in need of manipulation at the time of birth? I mean, there is that group of chiropractors that subscribe to that. [LB211]

CHRISTOPHER MURRAY: Well, I think there's probably a...I would say that anybody is possibly in need of an adjustment. But I don't think that everybody is in need of an adjustment either. You know, that's a personal view of mine. And that's probably not viewed by everybody the same. But, you know, I view--myself as a chiropractic physician--that there are various things including physical traumas...and you know it, there's birth traumas. I mean, we all know that. I just had a Medicaid patient just the other day who I've got to speak with Medicaid, the physician, about it, but about a torticollis, okay? And torticollis...in a shortening of one of the muscles over here and it can cause tension on the neck and things. And that's been from...since birth. So that's going to cause some pain, some discomfort, some, perhaps, reduced range of motion things in the infant. And so, you know, there's lots of things that may be of benefit for people. I believe that we take...we treat the whole entire body. So the spine is one aspect. But in our scope, we have nutrition, diet, exercise, all those things are in there. And we need to find what's keeping the body from doing what it's designed to do which is just to live and go through life as healthy as we possibly can. And for some people, it might be an adjustment. Another thing, it might be a dietary recommendation and exercise. And for those that those things aren't appropriate for--somebody has blood pressure at 200 over 110--that's not the time to be telling them they should be taking vitamin C. That's the time to be sending them out for crisis medical care. And that's why we need to be...have...do the diagnosis thing and be able to refer out when appropriate. [LB211]

SENATOR RIEPE: Thank you. [LB211]

SENATOR CAMPBELL: Any other questions? Thank you, Doctor, for your testimony today. [LB211]

CHRISTOPHER MURRAY: You bet. Thank you. [LB211]

SENATOR CAMPBELL: Okay. Our next proponent? [LB211]

CHRISTOPHER MURRAY: I do have... [LB211]

SENATOR CAMPBELL: Oh, yes. The page will hand them out to you. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

CHRISTOPHER MURRAY: Yes. Yes, thank you. [LB211]

SENATOR CAMPBELL: Our next proponent? Anyone else? Okay. Those who are opposed to the bill? Go right ahead. [LB211]

ROB RHODES: (Exhibits 11, 16, 17, 18, 19) Thank you, Madam Chairperson and senators. My name is Dr. Rob Rhodes, R-o-b, last name Rhodes, R-h-o-d-e-s, and I appreciate your time today. In Nebraska, we love our football, our work ethic, and our kids and families. In a football game with only seconds to go, you don't want the offensive guard throwing for the game-winning touchdown. He may be part of the team, but it is not what he has been trained in and represents as his area of expertise. I am a board-certified family physician and also a fellow the American Academy of Family Practice with over 20 years of experience as a practicing physician. I believe in team care but I don't want someone on the team that is not trained or someone that encounters infrequent patient visits for care of children. We need a voice for those little patients. And those pediatric patients, as they enter school in kindergarten or the 7th grade in the state of Nebraska, need a representative. I speak as a member of the Nebraska Medical Association. I'm a past board of director with the Nebraska Medical Association. And I also represent myself as a concerned voting resident and go on record opposed to LB211. In fact, I do believe also in team care. I have no financial interest in what I'm about to say because I'm the founder and president emeritus of Clinic with a Heart which was Lincoln's first free clinic established in 2003, and we collaborate as a team with chiropractors, physical therapists, and other appreciative volunteers that help us see patients in our community. Each year, we provide free kindergarten and sports and school physical clinics so that those that are less able to pay or to afford a physical can have their child seen, participate, and also get immunizations. None of our staff, chiropractors that volunteer, board of directors, or any of our members would ask nor want a chiropractor administering these at a free or at any charge. It's just not within their scope of practice. Even in a recent discussion in January 2015 with Lincoln Public School administration, legal counsel, and concerned medical doctors including myself, representatives of the chiropractic community stated that 90 to 95 percent of a chiropractor's time is spent on musculoskeletal issues and less than 10 percent of their time is spent on children less than 18 years of age. Pediatricians spend 100 percent of their time with kids under the age of 18. I've been in practice for 20 years. I spend at least 75...60 to 75 percent of my time dealing with kids and their parents. Interestingly, I'd like to clarify one thing that's already been, maybe, spoken to, is that Lincoln Public Schools and Omaha Public Schools do not allow preparticipation physical exams by chiropractors. It's not in their scope of practice. It's no different than a dermatologist doing the preadmission physical and a vision exam or me, as a family doctor, doing open heart surgery. Per the Health and Human Services May 8, 2012: Licensure for the practice of chiropractic physician means one or more of the combination of the following without the use of drugs or surgery...I would tell you that a lot of what I deal with every day, I need to be able to handle within my office. I'll let you read on page 2 there the diagnosis, analysis, and the art and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

treating of human ailments. But I would tell you that as a nurse practitioner in this state or a PA in this state or a DO in this state or even a medical doctor, we have exposure to this on a daily basis. Our little patients need an advocate that is better trained and has more diagnostic ability to diagnose and help with coordination of care. In an attached letter dated November 18, 2013, Dennis Marchiori, Ph.D. and chancellor of the Palmer Chiropractic...College of Chiropractic, states that of the 4,620 total hours of contact time that they must complete as a resident that they only get 570 hours in the area of diagnosis. Chiropractic schools don't require clinical rotations specific to areas such as family medicine, internal medicine, and pediatrics. Chiropractors are not primary care physicians nor primary care providers. Examining a patient to evaluate his or her overall health should be done by a primary care provider who can use their broad spectrum of training, clinical residency, and experience to include...to conduct the evaluations. And those are what we do in primary care. Some of them I've listed here and some of those are concerns that my peers also bring forward. Again, if we can talk about developmental milestones with parents, we need an advocate for those little kids. We look at the appropriate discussion of immunizations. We have whooping cough on the rise and measles on the rise in certain areas of our state. We have the ability to diagnose and prescribe appropriate medications for exercise-induced asthma which includes inhaler use and the availability of epinephrine pens, or EpiPens, for youth, athletic games, and physical education classes within the school districts. We can diagnose ocular and eye diseases like corneal cataracts and visual defects. We take care of youth and kids with concussions, a traumatic brain injury that can lead to long-term effects if not correctly diagnosed and treated. And what I'm very passionate about is the return to play as well as return to learn. We'll have other physicians talk about heart murmurs. We'll also talk about some of their peer issues. But I would point out that kids are not DOT drivers. And I think those little patients need an advocate that would look out for them as well. According to the American Medical Association--this is today's data--there are only...the states of...that they can perform back-to-school physicals in California if the school district allows it, Iowa only ages 7 to 12, Minnesota, Missouri, South Dakota, and Texas. And I would tell you that there's a bill in front of Texas that's pending that would remove this authority from the chiropractors' scope. And chiropractors cannot perform this in a long list of states. So I thank you for your time and appreciate your attention to this concern. [LB211]

SENATOR CAMPBELL: Okay. Questions? We'll go Senator Riepe and then Senator Crawford. [LB211]

SENATOR RIEPE: Thank you, Senator Campbell. I wanted to correct...get corrected if I didn't understand. I thought I heard you say that Omaha and Lincoln school systems do not accept a school physical examination by a chiropractor. Is that correct? [LB211]

ROB RHODES: That's correct. That's been confirmed by the Lincoln Public Schools within the last several weeks...two weeks. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR RIEPE: Okay. Thank you. [LB211]

ROB RHODES: You're welcome. [LB211]

SENATOR CAMPBELL: Senator Crawford. [LB211]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. So on page 1, you say that it is not in their scope of practice. On page 2, where you list out their scope of practice, it looks to me like that includes diagnostic and analysis, etcetera, etcetera, physical and clinical examination. So I guess I don't understand how you would say it's not in their scope of practice if the scope of practice includes that language you have on page 2. What in the...yeah, I'll just let you explain. [LB211]

ROB RHODES: Sure. Well, Senator, I think the question is a matter of skill and expertise and training but also, again, the coordination of care. If you look at some of the things that they can provide...again, I believe in team care. I think it's great. But I do get concerned when I see things that are mostly dealing with a kindergartner nerve energy or colonic irrigation and some of the things that are within their scope. I think that, again, coordination of care, even as...I mean, as I mentioned in my note that we are a patient-centered medical home. We can do immunizations. We can do prescriptions. We keep the cost down whether it's Medicaid, insurance, self pay. So our scope does entail a more broader opportunity. And maybe that's what I should have said, is that physicians that are trained in primary care, nurse practitioners, APCs, and DOs are trained more thoroughly in that area of scope. [LB211]

SENATOR CRAWFORD: So are you saying that the statement, it is not in their scope of practice, was an overstatement, because I'm trying to figure out exactly what you mean by that statement? Do you mean because that word is not in their list or is there something in the physical that specifically is not in their scope of practice that we can point to, this is on the physical list and it's not in their scope of practice? [LB211]

ROB RHODES: I would...I think we'll have other physicians that will be able to talk today about that. I get concerned about the eye exam. I get concerned about the heart exam that I don't think is part of the training to the degree that physicians and other primary care providers are trained in. [LB211]

SENATOR CRAWFORD: Thank you. [LB211]

SENATOR CAMPBELL: Senator Howard. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR HOWARD: What's the heart exam? [LB211]

ROB RHODES: The heart exam? It's a cardiovascular evaluation of auscultation of the heart, listening for any type of abnormality including a murmur or a rub, includes also positional change if you hear something where you actually have the patient squat or bring their knees up to their chest because that can also change the evaluation. We check pulses and peripheral pulses. It also may include a pediatric EKG in the office. [LB211]

SENATOR HOWARD: People do EKGs for school physicals? [LB211]

ROB RHODES: If we find something abnormal, yes. [LB211]

SENATOR HOWARD: So it makes sense that they would probably refer for that? [LB211]

ROB RHODES: They being the chiropractors? [LB211]

SENATOR HOWARD: Uh-huh. [LB211]

ROB RHODES: That...I believe that's what they...how they practice. [LB211]

SENATOR HOWARD: Absolutely. Thank you. [LB211]

SENATOR CAMPBELL: Any other questions, Senators? Okay. Thank you, Dr. Rhodes. [LB211]

ROB RHODES: Thank you. [LB211]

SENATOR CAMPBELL: We need to have a correction for the record. Brennen, would you make the correction? [LB211]

BRENNEN MILLER: Yes. One of the items for the record under the Nebraska Medical Association was from Dr. Rhodes so that will be pulled and added to his testimony. Thank you. [LB211]

SENATOR CAMPBELL: Okay. We need to be very clear whether we're having written letters of support or whether someone is testifying. Okay. Our next opponent? [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SCOTT APPLGATE: (Exhibit 20) Thank you, Senator Campbell, good to see everyone again. My name is Dr. Scott Applegate, A-p-p-l-e-g-a-t-e. I'm here in opposition to LB211. I am a pediatrician here in Lincoln. I'm board certified by the American Board of Pediatrics. I'm a fellow in the American Academy of Pediatrics. I graduated from medical school 19 years ago which, Senator, probably puts me beyond my prime for you, (laughter) but 16 years ago out of residency. [LB211]

SENATOR RIEPE: I'm sure you still have it. (Laughter) [LB211]

SCOTT APPLGATE: Thank you. This exam that we're talking about is more than a simple exam. It is not a presports physical. It is drastically more. Senators, you had asked before what's in a physical specifically. On the last two pages of the documentation I just presented is the Lincoln Public Schools exact requirements. It is the form that we fill out. It would be worth looking through so you can see what I'm talking about. On the front page of my information, I listed out 14 specific requirements in this physical exam. Those 14 specific requirements, if any single one of them are not able to be done by a chiropractic physician then we need to stop them from doing it because we'll have problems. And problems are not good for kids. The 7th grade physical is very similar but the 7th grade physical also includes behavioral assessments, sexual behavior, drug abuse and use, risk-taking behaviors. And all those things are important. They're a part of the scope of practice of a primary care physician but not that of a chiropractor. This is really a volume of knowledge that can't be picked up in a book, a couple years of training. It can't be picked up on the Web. It can't be picked up in dinner conversation. It does require the physician training that we get through residency, through specialty training, and through our ongoing education. I'm not going to go through all 14 of them ad nauseam. You have it written down here. But I am going to point out a few different ones. The screening: Once you screen for things like anemia, like lead exposure, things like abnormal blood pressures and urinary tract disease, you then must make sure that that gets treated. And that kind of treatment requires intervention. And, yes, it can be referred. But keep in mind that the bill was originally proposed because they needed access to these kind of things in a place where there were no physicians. If there's no physician there, there's just a chiropractor, there is no place to refer. And we really need someone intervening there who can take care of the problem, not gloss over it. It requires specialized knowledge in growth: weight growth; height growth; length; in the younger kids, head circumference; body mass indexes. What's the appropriate interventions for those? Look into nutrition counseling. That nutrition is not just normal nutrition counseling but abnormal because not every child that comes through here just needs a screening exam signed off because they're healthy. They're not all healthy. They need help. Normal sleep patterns in children is part of this. What happens to a child when they don't sleep well or snores at night? Is that part of the chiropractic training? I would argue not. The child snores at night, they won't sleep well. They may get up and have trouble focusing the next day. I've seen a hundred kids or more who have been diagnosed with ADHD simply because they snore at night, not because they have ADHD.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

And that kind of information or misinformation is inappropriate. Vaccine status concerns me particularly. It concerns me because not every chiropractic physician is as straightforward as Dr. Murray was in their reasonable assertion that they don't know what vaccines do and how they work and why we do them, the normal schedules for kids. And giving those vaccines, updating those vaccines, and educating on those vaccines is part of this physical exam. It needs to be done and it is beyond the scope of practice of the chiropractor. Unfortunately, a number of our chiropractic colleagues have given misinformation to kids. That misinformation causes unimmunized kids and unimmunized kids are part of the reason for the measles outbreak right now. Going through some of the testimony that was given up to now, the three...what some of the main reasons for wanting this bill passed was access to care. Access to care is important but not at the expense of the health of our kids. We simply can't allow that. We've had the...heard the suggestion that preparticipation physicals in sports are the same as this. No, they're not even close to similar. We've heard that Department of Transportation physicals are the same in adults. They're not even close. Kids are not just small adults. They're people all in and of themselves and they require a different aspect. We've heard that the training is similar to PAs. The PAs require an MD, a physician, to supervise them in order to do these exams. They're not doing them on their own. And these are really important, important suggestions. I think I'm going to pause right there and take any questions if there are any. Thank you. [LB211]

SENATOR CAMPBELL: Okay. Questions? Senator Crawford. [LB211]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. And thank you, Dr. Applegate. So is the sheet that you gave us in our packet... [LB211]

SCOTT APPLGATE: Yes. [LB211]

SENATOR CRAWFORD: ...is this the sheet that you would use for a kindergarten and a 7th grade physical? Is it the same sheet? [LB211]

SCOTT APPLGATE: It is. It's the same form, yep. [LB211]

SENATOR CRAWFORD: Thank you. And so what specifically on this sheet do you think is outside of the scope of practice for a chiropractor? [LB211]

SCOTT APPLGATE: Too long for me to list which is why I wrote that in the documentation. All 14 items are in one way, shape, or form outside the...problem for a chiropractor. Let me give you an example. [LB211]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CRAWFORD: Well, so, for example, I mean, you were talking about sleep disorders. [LB211]

SCOTT APPLGATE: Yes. [LB211]

SENATOR CRAWFORD: But is there somewhere on this form that they would need to mark about a sleep disorder? [LB211]

SCOTT APPLGATE: Only in the comments section on the bottom. [LB211]

SENATOR CRAWFORD: So you are just saying that there are...so that's what I was trying to get, the connection between the 14 examples you gave and this, tasks that we're asking them to do. [LB211]

SCOTT APPLGATE: Yeah. Let me give you a specific example. My patient comes in. He's also got concurrent asthma. At the end of the exam he says, I need a refill of my asthma medication. We've heard testimony prior that that would simply be referred back to their primary care physician. The problem is that once you refer back to the primary care physician and you ask me to tell the school what medicines you're taking, when, and why, now my name is on that form and I've got to repeat it. That increases the cost of medical care. So you can't simply have a chiropractor do the physical exam portion of it or part of the physical exam portion of it, send them then to the pediatrician to take care of the food allergies, their EpiPen, the notification of the school that they have a food allergy and how to treat it if it happens and not have me repeat all this information. It's just going to need to be done again. It's not appropriate. [LB211]

SENATOR CRAWFORD: So if I were just to understand correctly then a...when you are talking about what should happen in the physical, you're thinking the care elements that are identified in the physical? [LB211]

SCOTT APPLGATE: Yes, because these physicals aren't done because everybody is normal and they just need to be checked off. They're done to find the abnormalities and then appropriately understand them and appropriately intervene and that's where the chain falls apart when you have a chiropractor do this exam. [LB211]

SENATOR CRAWFORD: Okay. In terms of being able to follow up if something is identified in the screening required by the school? [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SCOTT APPELATE: I have two concerns about that. One is that, to make sure that that abnormality is identified. And number two, can you actually ensure that that follow up is done appropriately, because part of this is counseling for the families? And if that counseling is not done appropriately then all is lost and the family may not follow up like they were recommended to. [LB211]

SENATOR CRAWFORD: And the follow up and counseling of something that's identified in the screening? [LB211]

SCOTT APPELATE: For example, a weight problem. [LB211]

SENATOR CRAWFORD: Thank you. [LB211]

SENATOR CAMPBELL: Okay. Senator Riepe. [LB211]

SENATOR RIEPE: Thank you, Senator Campbell. First of all, Dr. Applegate, I'm not accustomed to seeing pediatricians with ties on. [LB211]

SCOTT APPELATE: I only put them on when I come here. [LB211]

SENATOR RIEPE: Thank you very much. We have worked diligently as a committee and talked, beyond my time here, about the medical home and the continuity of care. And I guess my question to you would be...is, do we take school exams seriously enough or is it sort of a quick and dirty? [LB211]

SCOTT APPELATE: In my practice and all the pediatricians that I work with... [LB211]

SENATOR RIEPE: I'm talking about school philosophies of kind of...of parents' philosophy of...because I know a lot of parents that will...at the last minute, they're...they'd like to go through a drive-through if they could. [LB211]

SCOTT APPELATE: Absolutely, and that's why we do it this way, so that that can't happen. We need to prevent that from happening because the pediatricians take it extraordinarily serious. This...the physical exam form you see there has been through a number of iterations over the years that I've been in practice to add things like Marfan's syndrome screening. Marfan's is a genetic disease that can cause heart problems. It's found because of connective tissue disorders. And it needs to be identified. It needs to be identified appropriately. And it needs to be

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

intervened in quickly. You cannot wait for the problem to happen in the school and then figure it out. The child will die if that happens. And that's why we have it there. And it's those iterations that make us take this so seriously. So, yes, we do take it seriously. There are parents that don't. And that's exactly why we need to keep the exam just the way it is because we're able to catch those so that the kids are taken care of despite the fact that their parents might be cavalier. [LB211]

SENATOR RIEPE: Thank you. Thank you. [LB211]

SENATOR CAMPBELL: Senator Howard. [LB211]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you for your testimony today. Are you representing the Nebraska Medical Association? [LB211]

SCOTT APPEGATE: I'm just representing kids. [LB211]

SENATOR HOWARD: Lone wolf, cool. I wanted to clarify, are you alleging that chiropractors are the cause of the measles outbreak? [LB211]

SCOTT APPEGATE: Part of...I'm asking that any chiropractor who advised their children not to immunize them or gave them any counseling whatsoever that advised them not to immunize them is in part a cause of the measles outbreak. Yes, I am. [LB211]

SENATOR HOWARD: That's a pretty big statement, sir. My other question is, when you talk about, PAs are supervised by MDs, the MD isn't in the room with them the whole time, correct? [LB211]

SCOTT APPEGATE: No, but the MD is available to them at all times. [LB211]

SENATOR HOWARD: Right, but they're not in the room with them. [LB211]

SCOTT APPEGATE: Nope, but they're available to them at all times. [LB211]

SENATOR HOWARD: Perfect. Thank you. [LB211]

SENATOR CAMPBELL: I'm going to follow up on that one. So, Dr. Applegate, aside from the chiropractors, what other medical profession is it, causing the measles outbreak? [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SCOTT APPLGATE: Well, I wouldn't...I wasn't picking on the chiropractors when I said that they are the cause. In fact, I specifically said that they're not the whole cause. Any person, any person, including the entertainment industry, who advises kids with misinformation about vaccines and it results in an unimmunized child does contribute to the measles outbreak, chiropractors included. [LB211]

SENATOR CAMPBELL: And this is just strictly asking for your opinion: Why do you think the chiropractors were included before and did the physicals and then were taken out? Why would they have been in there before? [LB211]

SCOTT APPLGATE: The 1994 AG's decision was before even my time. And so all I can do is read the decision. And I read it. And it appears that it was brought to the AG's attention at that time. And had it been brought to their attention prior to that, they would have taken that away prior. [LB211]

SENATOR CAMPBELL: Okay. Any other questions? Thank you, Dr. Applegate. [LB211]

SCOTT APPLGATE: Thank you. [LB211]

SENATOR CAMPBELL: Our next opponent? Good afternoon. [LB211]

PHILIP BOUCHER: (Exhibit 21) Good afternoon, Madam Chair. I am Dr. Philip Boucher, P-h-i-l-i-p B-o-u-c-h-e-r, of Lincoln, District 25. I'm a board-certified pediatrician practicing in Lincoln and a fellow of the American Academy of Pediatrics. I'm appearing on...in opposition to LB211 on behalf of the Nebraska Chapter of the American Academy of Pediatrics which has over 300 pediatrician members along with the NMA. We oppose LB211 for several reasons. First, chiropractic training does not properly prepare them to adequately address the needs of preadmission and preparticipation physical exams. The annual physical exam allows the physician to give a child a thorough examination, address health concerns, along with emotional, developmental, and behavioral concerns. Chiropractors' practice is focused on the diagnosis and manipulation of spine and joints. Physical exam maneuvers in a complete physical are very specific and must be practiced frequently to provide any valuable information. The preparticipation exam is not just an evaluation of the joints and muscles. There are many conditions which must be identified that would preclude sports involvement. In fact, in my practice, the majority of my time is spent addressing issues other than if they can play sports such as family life, school, and behavioral concerns and looking specifically for red flags which would preclude sports participation. An example that's been discussed already is the heart examination. According to the American Heart Association, there's more than 1,000 young athletes that collapse on the field each year. Many have underlying cardiac conditions which

predispose them to sudden cardiac arrest and death. The American Heart Association has several specific physical exam maneuvers, personal history questions, and family history questions which identify those at risk. If a chiropractor saw a patient and heard a murmur and didn't put a referral in to their pediatrician or cardiologist but otherwise marked the cardiac exam as adequate, that would be entirely inadequate as many physical exams are entirely normal but historical family history and personal history questions may show an underlying risk factor. There are many specific conditions which exclude participation in athletics. And overall, about 1 percent of athletes who are screened are completely disqualified from sports participation. Things like sickle cell disease, uncontrolled seizures, hypertrophic cardiomyopathy, long QT interval, and many others. In the opinion of the American...of the Nebraska Chapter of the AAP, our state's children would be put in an unnecessary medical risk by an inadequate medical evaluation. Secondly, routine physical exams are an essential component of a medical home, a concept endorsed by the AMA, AAP, the NMA, and the American Academy of Family Practitioners along with all other major medical authoritative bodies. Allowing chiropractors to complete these exams fragments medical care and increase costs. Most children are healthy. Because of this, the physical exam may be the only opportunity that a physician has to see, evaluate, and address the medical, social, and emotional needs of the child and family. The ideal examiner is the primary care physician who understands the past medical history, family dynamics, and can provide anticipatory guidance on the best outcomes at school, home, and on the athletic field. Emotional concerns are addressed. Substance abuse, depression, and violence are all discussed as part of this examination. I spend most of my time in these 7th grade physicals talking with parents about common issues that come up at the start of high school and helping teens to prepare for those issues such as peer pressure, alcohol use, and safety. Hearing and vision are also assessed at these visits and chiropractors don't have the necessary training or experience to perform or interpret the results. Even if they're doing eye exams or screenings, they may be missing critical components of that and, therefore, not referring when necessary. Nebraska would become a minority in the national medical landscape if this was...if this bill was passed. Only ten states allow chiropractors to complete sports, physical, and school examinations. We would be operating in the direct contradiction to the recommendations of the American Medical Association, the American Heart Association, and the American Academy of Pediatrics. Thirdly, chiropractors lack prescriptive authority. They cannot prescribe medicines which may be needed prior to sports participation. Chiropractors lack the pharmacology training to be prepared to address any current medications that have been prescribed elsewhere or the implications that these medicines may have on school or athletics. For example, children with exercise-induced asthma should be identified and treated prior to participation. Chiropractors don't have the ability to identify these patients nor prescribe treatment plans or teach parents how to administer the medications. Lastly, immunizations are a critical component of the preadmission physical exam. Chiropractors, as we have said, do not provide immunizations. And nationally, less than 70 percent of chiropractors support on-time immunization. There are some

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

chiropractors in our community in Lincoln and Omaha who discourage on-time immunizations. And I'll stop there since I have a red light. [LB211]

SENATOR CAMPBELL: Okay. Questions from the senators? Senator Cook. [LB211]

SENATOR COOK: This might be more of an administrative question. Dr. Boucher, you handed a letter out that has the letterhead of the American Academy of Pediatrics? [LB211]

PHILIP BOUCHER: That's correct. I'm here on their behalf. [LB211]

SENATOR COOK: All right. Okay, because it's signed by Dr. Carnazzo, and I'm like... [LB211]

PHILIP BOUCHER: She's the president of the Nebraska Chapter so I penned the letter and she signed it as the... [LB211]

SENATOR COOK: All right, good, because I heard you spell your name and I was like, ooh, I can confirm the spelling of the name--not. Is it B-o-u-c-h-e-r? [LB211]

PHILIP BOUCHER: Yes. [LB211]

SENATOR COOK: Thank you. [LB211]

SENATOR CAMPBELL: Brennen, did you get that change? [LB211]

BRENNEN MILLER: Yes. [LB211]

SENATOR CAMPBELL: It's not his letter. I mean, he didn't write the letter, so. [LB211]

PHILIP BOUCHER: I actually wrote the letter but Dr. Carnazzo is the president of our chapter so she signed off on it. [LB211]

SENATOR CAMPBELL: But we just want to make sure the record is straight. [LB211]

PHILIP BOUCHER: Oh, of course. Oh, of course. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: And for the record, you mentioned two other groups. Are you representing those also? [LB211]

PHILIP BOUCHER: I'm representing the American Academy of Pediatrics and the NMA. [LB211]

SENATOR CAMPBELL: Oh, okay. [LB211]

PHILIP BOUCHER: Those are the two. I don't think there was a different group. [LB211]

SENATOR CAMPBELL: That's helpful. Thank you. Senator Crawford. [LB211]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. And thank you for your testimony. I don't think it's in the letter but I think in your verbal testimony you mentioned a study about chiropractor support for on-time immunizations. I was just wondering if you could tell me the source of that study or a citation for that study. [LB211]

PHILIP BOUCHER: I don't have it on me. Actually, I have it on my iPad. [LB211]

SENATOR CRAWFORD: Okay. [LB211]

PHILIP BOUCHER: But I'd be happy to e-mail it to you, those sources. [LB211]

SENATOR CRAWFORD: I'd appreciate that. [LB211]

PHILIP BOUCHER: I have several sources that talk about the vaccine recommendations provided by chiropractors in their journals and in studies that have been done on their vaccine recommendations. [LB211]

SENATOR CRAWFORD: Okay. Thank you. [LB211]

SENATOR CAMPBELL: Any other questions? Thank you, Dr. Boucher. [LB211]

PHILIP BOUCHER: Thank you. [LB211]

SENATOR CAMPBELL: Our next opponent? Go ahead. [LB211]

Health and Human Services Committee  
March 06, 2015

---

SARAH WIERDA: (Exhibits 22, 23) Good afternoon, Senator Campbell and the members of the Health and Human Services Committee. My name is Dr. Sarah, S-a-r-a-h, Wierda, W-i-e-r-d-a. I'm a board-certified pediatric ophthalmologist in Omaha, Nebraska. I'm speaking to you today in opposition of LB211, a bill that would give chiropractors the ability to administer school health examinations and visual eye screenings. As a pediatric ophthalmologist, this concerns me for a number of reasons. The main goal for vision screening in children is to detect those who are at risk for or have amblyopia. Amblyopia is when one eye does not see as well as the other eye and if untreated during childhood, amblyopia can lead to severe, permanent vision loss. Not only does vision screening help to detect amblyopia but it can also detect other problems such as refractive errors, strabismus, cataracts, glaucoma, and retinoblastoma. While only about 5 out of 100 children tested will have a problem, these are all serious conditions and require referral to an optometrist or ophthalmologist for further evaluation and treatment. For that reason, I believe that the healthcare provider giving these examinations should have appropriate education and training to ensure detection of that 5 percent with disease and have the further knowledge to refer the patient for treatment. Evaluating a child's vision is often very complex. In preschool-aged children, we often use the Snellen chart which is like the adult vision chart with letters. But children are not little adults. And, therefore, not all children are able to cooperate with this examination. This is especially true in the child with amblyopia. If you can imagine that you had one eye that had perfect 20/20 vision and another eye that had very poor vision, or amblyopia, you would not want somebody covering the good eye and forcing you to look out of your bad eye. Frequently, when children with amblyopia undergo vision screening and the good eye is covered, they will peek around the cover during the test. To somebody that is not trained in giving proper vision screening, this child with amblyopia will pass this test and go on undetected. As an ophthalmologist, if the Snellen chart is not sufficient for vision screening, you can use something called a photoscreener as another method of providing vision screening in children. It is a technique in which the children would look into a machine that takes a picture of the eyes and generates immediate information about the eyes. These machines have just recently been accepted by the American Academy of Pediatric Ophthalmology and Strabismus as an acceptable alternative for providing vision screenings. The advantage of this screening is that it is quick. And this makes it very useful in the uncooperative child. The disadvantage is in the cost of approximately \$5,000 per device. I find it hard to believe that a chiropractor office would want to undergo such a large investment. Currently, the Lions Club of Nebraska is in the process of raising money to buy five of these photoscreeners to take across the state of Nebraska in order to improve access to quality eye care. Primary care physicians are also well trained in the ability to look through the ophthalmoscope and assess a patient's red reflex. Red reflex testing is employed in young children and can also detect amblyopia, strabismus, refractive errors, and cataracts. I had a three-year-old patient very recently who was referred to me by his primary care physician for a dark red reflex in both eyes. This child had a high amount of farsightedness or hyperopia and required glasses to improve his vision in both eyes. I also had a three-week-old who was referred for a decreased red reflex in one eye and was diagnosed with a unilateral cataract



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

requiring surgery at five weeks of age. LB211 does not require the chiropractor to have specific training in either of these vision screening methods. As I hope I have outlined, vision screening in children is a complex task and should be performed by primary care physicians, optometrists, and ophthalmologists who have undergone the necessary education and training to provide high-quality care to our state's children. In addition to my testimony, I would also like to submit for the record a letter from Dr. Richard Legge, a pediatric ophthalmologist from Omaha. I thank you for your time and I would welcome any questions. [LB211]

SENATOR CAMPBELL: Questions from the senators? Senator Riepe. [LB211]

SENATOR RIEPE: Thank you, Senator Campbell. I want to go back...and thank you for being here. Did you say it was 5 in 100 children that might have serious eye problems? [LB211]

SARAH WIERDA: Right. [LB211]

SENATOR RIEPE: And how time sensitive is that between the... [LB211]

SARAH WIERDA: The earlier detection and the earlier treatment that you give a child, the better outcome they will have. [LB211]

SENATOR RIEPE: Sure, okay. That makes sense. Do you get a lot of referrals from, you know, communities that wouldn't have the expertise but that you'd be able to bring to the marketplace? I mean, Omaha is very fortunate to have a lot of... [LB211]

SARAH WIERDA: Right. I get referrals from statewide. [LB211]

SENATOR RIEPE: Statewide, you do? [LB211]

SARAH WIERDA: Yes. [LB211]

SENATOR RIEPE: Okay. Okay. Thank you, Chairman. [LB211]

SENATOR CAMPBELL: Any other questions? Thank you very much, Doctor. [LB211]

SARAH WIERDA: Thank you. [LB211]

SENATOR CAMPBELL: Our next opponent? [LB211]

LINDA OHRI: (Exhibit 24) Senator Campbell and committee members, I am Linda, Dr. Linda Ohri, L-i-n-d-a O-h-r-i. I want to start out by saying that I utilized a chiropractor during most of my teenage years for a back problem I had as did a number of members of my family over the years and received very satisfactory treatment for them. So I've had good memories of work with chiropractors in the past. School health exams for children entering the beginner grade, kindergarten, and those entering the 7th grade are really essential opportunities for education and guidance to families about the important role that immunizations play in protecting both the individual and the population health of our state's students. Such visits are also the place and time when many students obtain a group of immunizations that are required at each of those points in their development, both those that are mandated in Nebraska and then other nonmandated vaccines that are recommended by the Centers for Disease Control and Prevention and that that primary provider needs to know and understand and educate them about. For some students, it's a time when the physician advises that a particular vaccination is contraindicated and that they shouldn't get it and will then prepare the waiver form, the medical exemption form. For families, and we have quite a few of them these days, that are hesitant about immunizations, it's a key opportunity for that provider to give an evidence-based discussion of the benefits and the safety profile of the various recommended vaccines. My review of the curriculum of a sampling of U.S. chiropractic programs provided no real evidence that education on immunizations is a routine component of chiropractic education programs. It is not within the scope, as we've heard before, of practice for Nebraska chiropractors to prescribe or to administer vaccines. So that means that a child who has seen the chiropractor for that physical is going to have to be referred elsewhere but the form will be signed and the child can go on to school if they follow up with getting the immunizations. There are some safeguards with that. If they don't get that inhaler, as an asthmatic, there's no follow-up with that if the family chooses not to do it once that form has been signed to get them into school. This would create a barrier against immediate access, the fact that the chiropractor doesn't provide the immunizations. It provides a barrier against immediate access to the immunizations for their patients if these practitioners were authorized to do exams. I want to also mention, I did a general search--and of course it's always hard to make sure that you're getting a really comprehensive search--but I did a look at continuing education for chiropractors. What were the various educational opportunities available to chiropractors about immunizations? And what I saw was, a strong majority of the continuing education materials or programs that were available to chiropractors for their CE credit were really antivaccine in nature, often containing unfounded and disproven claims about vaccination as I looked at those materials. In an April 2000 report in the medical journal Pediatrics, the two chiropractor authors stated: A vocal element of the chiropractic profession maintains a strongly antivaccine bias. These authors reviewed the results of a mail survey of a random sample of U.S. chiropractors and found that approximately one-third of those surveyed believed that there was no scientific proof that immunization prevents disease. And furthermore,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

one-third believed that contracting an infectious disease is safer than immunizations. More than half of the respondents believed that the risks of pertussis vaccination outweigh its benefits. There has been recent surveys that pretty much corroborated that at least half of those surveyed did not agree with immunizations for their own children. So in closing, I'll leave the rest of you other to say the ACA, the America Chiropractic Association, has a conscience clause which is essentially a philosophical exemption statement. And in Nebraska, we do have currently established legal requirements for school-mandated vaccines. And this creates a conflict of interest for those chiropractors who concur with their organization. Be happy to answer any questions. [LB211]

SENATOR CAMPBELL: Thank you for your testimony. Senator Cook. [LB211]

SENATOR COOK: Thank you. Thank you for your testimony. If...would it be fair to characterize your opposition as being based primarily in your view that the chiropractors are opposed philosophically to immunizations for school-aged children? Is that the basis of your opposition? [LB211]

LINDA OHRI: Actually, I think I neglected to say that I am representing the Immunization Task Force Metro Omaha, so I am limiting my comments to the issue of immunizations. [LB211]

SENATOR COOK: Ah, that's why. Thank you. [LB211]

LINDA OHRI: Okay. Thank you. [LB211]

SENATOR CAMPBELL: Other questions? Senator Howard. [LB211]

SENATOR HOWARD: Thank you. Thank you for your testimony today. I'm curious, has there ever been a study of Nebraska chiropractors in regards to their feelings around vaccines? [LB211]

LINDA OHRI: I could not find anything that was a survey of Nebraska chiropractors. There is a journal, Dynamic Chiropractic, that...it's a trade journal and it does just, kind of, Internet surveys. And they did one in 2014 which would have been available to...it wouldn't have just been Nebraska. It would have been everybody. But in that response, they asked about chiropractors immunizing their own children. And in that...immunizing their own children. And in that, three-fourths of the respondents to that survey either did not immunize their children or limited the immunizations that their children's provided. Now, how many of those people were from Nebraska, I don't know, but they could have been some. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR HOWARD: Right, but we are not sure. [LB211]

LINDA OHRI: We don't know what the Nebraska...right, right. [LB211]

SENATOR HOWARD: We have no evidence that Nebraska chiropractors feel this way. [LB211]

LINDA OHRI: I think most of us who work in the area of immunizations are aware. I have attended programs that chiropractors presented that were antivaccine. However, I can't speak for any...the global chiropractic profession. [LB211]

SENATOR HOWARD: What were the titles of those presentations? [LB211]

LINDA OHRI: It was on safety of vaccines. And that's typically where the issues arise, is about contesting the safety of vaccines. [LB211]

SENATOR HOWARD: Was it a Nebraska provider who put it on or was it a national chiropractor? [LB211]

LINDA OHRI: I...you know, it's been about three or four years ago that I went to that. [LB211]

SENATOR HOWARD: Oh, years, okay. [LB211]

LINDA OHRI: It's been when we were dealing with a lot of the right to refuse legislation attempts that have gone through in the last several years. And that's when I was...had attended a program that was held, actually, at one of the movie theaters here in town and a had pretty good attendance. [LB211]

SENATOR HOWARD: Okay. Well, thank you. [LB211]

SENATOR CAMPBELL: Other questions? Senator Cook. [LB211]

SENATOR COOK: Unless somebody else hasn't gone once...I just thought that--and I also serve on the Education Committee, full disclosure--my... [LB211]

LINDA OHRI: (Laugh) I've seen you before. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR COOK: ...thought is that the reason why the children are having the physical is that it is in part a condition of admission, as far as I can recall, into the Omaha Public School district. That...in other words, I think what the policy says is that, that's fine, parent, if you choose for your own reasons, right now religious, but we may refuse service, if you will. So I'm getting a little muddled--once again, it's Friday afternoon--about whoever is performing this physical, the school district, the one with which I'm most familiar, can say, "no, thank you" to... [LB211]

LINDA OHRI: Right. There is a safety catch. [LB211]

SENATOR COOK: Yes. [LB211]

LINDA OHRI: And I mentioned that and maybe I wasn't very clear, with immunizations, that while...a key part of immunizations is education... [LB211]

SENATOR COOK: Okay. [LB211]

LINDA OHRI: ...so that people understand because they...we have a lot of misconceptions about immunizations. And so that's the really key point of that health visit at kindergarten, in junior high, because those are major points for immunizations. So the school won't necessarily let the child in without immunizations just because they didn't get them at that provider's office. But you're losing that opportunity for education and anticipatory guidance from that provider if you have a provider who...certainly if they're opposed to immunizations, it's going to be a problem, but even if it's not in their scope. If it's not in their scope, they're going to have to refer on to somebody else in order for that person to get the anticipatory guidance and education about immunizations as well as simply getting the physical vaccination. [LB211]

SENATOR COOK: Thank you. [LB211]

SENATOR CAMPBELL: Other questions? Senator Howard. [LB211]

SENATOR HOWARD: Thank you. Is it possible that there are any physicians who might be opposed to vaccines? [LB211]

LINDA OHRI: Most certainly, yes, there are. [LB211]

SENATOR HOWARD: Thank you. [LB211]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Any other questions? Thank you very much for your testimony.  
[LB211]

LINDA OHRI: You're very welcome. Thank you. [LB211]

SENATOR CAMPBELL: Our next opponent? Okay. Anyone in a neutral position? Senator Kolowski, I believe we are back to you. Brennen, do we have any other letters or corrections for the record? [LB211]

BRENNEN MILLER: No, we do not. [LB211]

SENATOR KOLOWSKI: Senator Campbell, fellow senators, thank you very much for your patience this afternoon. It's...I want to thank everyone who also came forward to give information to this hearing as well. I'd like to note that, if I may, something about vaccinations, it should be noted that preadmission school physicals are mandated and governed by the Nebraska Revised Statute 79-214(2). School vaccinations, on the other hand, are required and governed by a different statute, Revised Statute 79-217. It is true that doctors of chiropractic do not administer injections. However, it is entirely up to the parents of the student whether to have both the physical examination and immunization requirements met by the same healthcare provider, just to point that out for reference for the future. I'd also, for the record, just for disclosure so you understand this...my wife and I have two sons. They're both in the science field and both in young science fields in that sense within the realm of overall science. One is a forensic scientist in the Washington, D.C., area after coming from New York to Washington, D.C., in the last two years after twelve years in New York City. And our second son is a chiropractor. And he lives in Colorado, in Loveland, Colorado. His wife is also a chiropractor and they have a small clinic there in Loveland. And he is probably a little more, in the sense of a number of things, qualified in the physical sense of a lot of that because he had five years of Nebraska football and also four years of graduate school at Palmer School of Chiropractic that you heard about today. And he and his wife both graduated from there. And they are holistically into both the manipulation as well as diet, nutrition, and exercise. So it's...they're taking a holistic view to health management and doing well in that particular capacity. But it's...they are both young sciences when you compare them to other sciences. And forensics are very important for our oldest son and what he does because of what that does to crime scene analysis. And our youngest son with the chiropractic aspect is also filling a need and many, many people are looking at the holistic aspect of health management, not just the narrowness, in some cases, of their family physician and what they do in that way. And that's just the growing aspect of what we find ourselves in. My son has given--in Colorado--has given Department of Transportation physicals for years to truckers and bus drivers. That's available out there. And that is a full complement of what they provide for their communities and also the health physicals that they give for students in the schools in the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

area as well. So it's something I hope we'll give consideration to. You've heard both sides today. I think it's something that's been missing from the opportunities of selection in Nebraska. And I hope we'll...I thank you for your consideration of the presentation today. Thank you very much. [LB211]

SENATOR CAMPBELL: Senator...oh, all right. We'll go with Senator Cook. [LB211]

SENATOR COOK: I'll go fast. Thank you. Thank you, Madam Chair. And thank you, Senator Kolowski. I'm recalling that you voted in favor of the immunization bill that we had up recently up on the floor related to meningitis. Remember, it came out of education, that you were in support of that? Don't let me speak for you. [LB211]

SENATOR KOLOWSKI: I believe I was. [LB211]

SENATOR COOK: Yeah. [LB211]

SENATOR KOLOWSKI: I'd have to check the record to make sure. [LB211]

SENATOR COOK: I guess I'm just trying to draw a strange and long conclusion to whether or not there's any Thanksgiving or dinner conversation within your chiropractic family in terms of opposition to vaccinations or immunizations in general or any...to any one of them in particular that you would share with the committee at this time. [LB211]

SENATOR KOLOWSKI: Surely, I would be happy to share that. My son and his wife are selective about their immunizations with their children. [LB211]

SENATOR COOK: All right. Thank you very much. [LB211]

SENATOR CAMPBELL: Senator Riepe. [LB211]

SENATOR RIEPE: Senator Campbell, thank you. Senator Kolowski, you were a longstanding senior leader at Millard School system. [LB211]

SENATOR KOLOWSKI: Yes, sir. [LB211]

SENATOR RIEPE: And we've heard today that Omaha and Lincoln exclude chiropractors. The Millard School District is in both of our districts. And I am not aware of it but are you,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

that...does Millard allow chiropractors within its school district to do these physicals? Or do you know? [LB211]

SENATOR KOLOWSKI: I'm not aware of that... [LB211]

SENATOR RIEPE: Okay. [LB211]

SENATOR KOLOWSKI: ...either as far as any exclusion that would be placed upon them. And again, as a senior high school principal, we don't deal with either the kindergarten or the 7th grade. But if those students come to our school, the nurses take the students and usually follow up as far as their...making sure they have their health forms done by the correct physical and immunizations or whatever else would be required. And we have a nurse on hand in our building that takes care of that full time. [LB211]

SENATOR RIEPE: Okay. Thank you. [LB211]

SENATOR CAMPBELL: Questions from this side of the table? Okay. Senator Kolowski...and I don't know how rapidly you could put this together, but I would ask, I guess, that you make a phone call or have your staff make a phone call and find out how many school districts in the state have the same stipulation that a chiropractor not be given either an athletic or a...I mean, that's the first time I had heard that issue, particularly from my home school district, because I think it would be helpful to the committee to know how widespread that is. And I'll probably just follow up, in all honesty to you, and talk to some of the LPS people here because I want to know why they put that into place. [LB211]

SENATOR KOLOWSKI: I would also want to know and we'll be glad to do that. And my guess is, as soon as you start heading west, it gets...you have fewer and fewer locations and, therefore, they probably have a wider range of people that are permitted to do the physicals and account for those. [LB211]

SENATOR CAMPBELL: Right. That would be my assumption too. Senator Baker. [LB211]

SENATOR BAKER: Senator, Kolowski, I'm telling you something you already know, probably, but the Nebraska Council of School Administrators can quickly gather that information if you ask them to. [LB211]

SENATOR KOLOWSKI: They probably can. [LB211]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR BAKER: Yes. [LB211]

SENATOR KOLOWSKI: And we'll double-check on that, yes, sir. As a lifetime member, I'll...  
(Laugh) [LB211]

SENATOR BAKER: They told me that any time I wanted a survey, let them know so they could  
do that. [LB211]

SENATOR KOLOWSKI: Thank you. [LB211]

SENATOR CAMPBELL: Okay. Are there any questions that any of the other senators have  
thought of that they would like Senator Kolowski's office to follow up on? Anything? Okay.  
Thank you, Senator Kolowski. [LB211]

SENATOR KOLOWSKI: Thank you very much, everyone. [LB211]

SENATOR CAMPBELL: (See also Exhibit 27) And that closes the hearing today on LB211.  
And we will move...we'll take some...a little bit of time--Senator Howard, you've got time--to let  
our guests who are leaving...all right. We will proceed to our last hearing of the afternoon,  
LB235, Senator Howard's bill to adopt the Consumer Protection in Eye Care Act. Go right  
ahead, Senator Howard. [LB211]

SENATOR HOWARD: Thank you. Good afternoon, Senator Campbell and members of the  
Health and Human Services Committee. My name is Sara Howard, H-o-w-a-r-d, and I represent  
District 9 in Omaha. Today I bring you LB235, the Consumer Protection and Eye Care Act.  
LB235 addresses consumer protections related to eye care. It recognizes the advent of new  
technologies that will enable consumers to get various assessments of their vision from kiosks  
and other remote equipment like optometry ATMs basically. As healthcare continues to evolve,  
new technologies and new applications of telehealth will create expanded opportunities for  
patient care and expanded access to care. But these new technologies also create new challenges  
for how the state should regulate and oversee their use and for how the state can assure that there  
are appropriate consumer and patient safeguards in place. Some of these technologies will have  
the potential for suggesting or evaluating refractive error. A refractive error is an error in the  
focusing of light by the eye and a frequent reason for reduced visual acuity. As a result, some  
consumers could assume they had sufficient information from these assessments to constitute a  
prescription for eyeglasses or contact lenses. There are important safeguards in place today for  
consumers who rely on prescriptions for eyeglasses and contacts but absent the changes  
proposed by this bill, those safeguards would not be applicable to...for consumers using these

new kiosks. And since prescriptions of all kinds are appropriately regulated by the state, I think it's important that we update the requirements for prescription eyewear to reflect new technologies and new capabilities for eye care that are coming into the healthcare marketplace. There are three key elements of the Consumer Protection Eye Care Act. Number one, it establishes that prescriptions for eyeglasses and contact lenses may not be based solely on refractive data or information generated by an...by automated equipment. This is in keeping with the standard of care for virtually all other prescriptions issued in healthcare. For the patient's safety, prescriptions are not issued without evaluation by a doctor or a licensed provider and some assessment of health or medical status of the patient. This bill is premised on that standard. So it's premised on having a human being do it instead of a machine. (Laugh) Two, it requires that the healthcare provider evaluating the data from the kiosks or other remote technology must be licensed to practice in Nebraska. This is important so that the state of Nebraska, through our health profession licensing boards, is able to have regulatory oversight of the healthcare provided to our citizens. Number three, it establishes basic standards for the operation of kiosks and other remote technologies including compliance with the Americans with Disabilities Act, compliance with the federal Health Insurance Portability and Accountability Act, or HIPAA, and approval by the Food and Drug Administration for the intended use and assurance of appropriate liability insurance coverage related to the equipment use. And the FDA, I thought that was weird when I heard it because food, drugs...but they actually have to approve all medical devices which is really interesting. So LB235 is not anticompetitive. It doesn't prevent the use of technology or preclude providers from using those technologies or making the technology available to Nebraska consumers or healthcare providers. It simply establishes appropriate parameters for the use of these technologies that will protect Nebraska consumers and enable the state to exercise appropriate regulatory authority. LB235 is not a scope of practice issue because I am never doing that again. (Laughter) Use of the technologies that would be addressed in this bill would not change or impact the current scope of practice of optometrists or other healthcare providers. This bill is simply providing appropriate parameters to safeguard consumers and provide that when remote and automated technologies are used to evaluate patients for prescription eyewear, those patients have some of the same assurances as to standard of care that they would have without those technologies. There will be other witnesses following me who will be able to address aspects of the bill from a more clinical or technical perspective and who would be able to address questions you may have in that regard. And I'm glad to try to respond to questions as well. Also, I have to say, I had a really good experience with the department on this bill. They came to me today with some technical issues. And so we're working out an amendment. Those revisions...there are three sort of small revisions: One is a reference to the definition of provider in Section 1 and narrowing that scope to only applicable providers so doctors, ophthalmologists, optometrists, and not acupuncturists, so just clarifying that; and then in Section 3, changing the expiration date requirement on the spectacles and contacts to mirror the FTC guidelines; and then in Section 6, referencing the Uniform Credentialing Act as they already govern physicians and optometrists and other credential holders. And once this amendment is drafted, I'll bring it to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

the committee for review. Like I said, we just found out at 11:00 this morning. Thank you for your consideration of the bill and I would appreciate your support of LB235. And I'm happy to answer any questions. [LB235]

SENATOR CAMPBELL: Questions for Senator Howard on the act? So this means that someone couldn't just put a kiosk in a minute clinic and I'd look in there and it would tell me what was wrong with my eyes and then I'd go get a prescription? Is that the deal? [LB235]

SENATOR HOWARD: Yeah, that's the deal. But you need a physician or an optometrist to be able to adequately evaluate that. It's more than just a machine. Patient care is more than just a machine. [LB235]

SENATOR CAMPBELL: Oh, absolutely, I'm just trying to be really clear about... [LB235]

SENATOR HOWARD: No, no, yeah. [LB235]

SENATOR CAMPBELL: ...what...that the kiosk...that we're trying to say, it's not that you can't use the kiosk, but you can't just put it in there and then I could go get a pair of glasses. [LB235]

SENATOR HOWARD: Right, exactly. Exactly. [LB235]

SENATOR CAMPBELL: Okay. [LB235]

SENATOR CRAWFORD: One other... [LB235]

SENATOR CAMPBELL: I'm going to go Senator Riepe and then I'll come back. [LB235]

SENATOR RIEPE: I'll be quick. Thank you, Senator Campbell. Is this something that is occurring at this time on these kiosks and that we're trying to rein this in now? Is that what... [LB235]

SENATOR HOWARD: We don't have any that I know of in the state of Nebraska but they are cropping up in other states. [LB235]

SENATOR RIEPE: So it's a early intervention kind of thing to set the rules before we would have them? [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR HOWARD: Absolutely. [LB235]

SENATOR RIEPE: Okay. Thank you. [LB235]

SENATOR HOWARD: Thank you. [LB235]

SENATOR CAMPBELL: Senator Crawford. [LB235]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell, and thank you, Senator Howard. Just want to clarify the penalties that are discussed in the bill would be for someone who sets up a kiosk. [LB235]

SENATOR HOWARD: Um-hum, yes. [LB235]

SENATOR CRAWFORD: So it...or maybe in some other way tries to be the seller of it, not the user of it? I just wanted to clarify that on the record. [LB235]

SENATOR HOWARD: Um-hum, absolutely. Not for the user. [LB235]

SENATOR CRAWFORD: Okay... [LB235]

SENATOR HOWARD: Thank you. [LB235]

SENATOR CRAWFORD: ...because one thing we might anticipate, and I think counsel pointed this out in a note is, in the future, if someone has, like, an app or something...so again, I just wanted to clarify that your intent is the person who is trying to get consumers to use it is the person you're wanting to make sure we are regulating? [LB235]

SENATOR HOWARD: Yes. [LB235]

SENATOR CRAWFORD: Okay. Thank you. [LB235]

SENATOR CAMPBELL: Any other questions? [LB235]

SENATOR RIEPE: I have a quick question. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Yes, Senator Riepe. [LB235]

SENATOR RIEPE: I'm sorry, Curious George. The optometrists have a letter in here. I don't know whether there are ophthalmologists that are going to testify either one way or the other. But do you have a sense of where the ophthalmologists might stand on this? [LB235]

SENATOR HOWARD: As far as I know, everyone is okay with it. I've...I know I would have heard by now. (Laugh) [LB235]

SENATOR RIEPE: Okay. Yes, you would have. Okay. [LB235]

SENATOR HOWARD: So as far as I know, the optometrists, ophthalmologists, MDs, they're all on the same page. [LB235]

SENATOR RIEPE: Wow, okay, thank you. [LB235]

SENATOR HOWARD: I agree. [LB235]

SENATOR CAMPBELL: We can do a real quick...how many are here to testify in favor of the bill? In favor? Okay. Oh, thank you. Two. Okay. Those opposed? Okay. And in a neutral? All right. I think you might get an answer, Senator Riepe, to your question. [LB235]

SENATOR RIEPE: Thank you. [LB235]

SENATOR CAMPBELL: Thank you, Senator Howard, and we know you're going to stay, so. [LB235]

SENATOR HOWARD: Thank you, Senator Campbell. [LB235]

SENATOR CAMPBELL: We'll take our first proponent. [LB235]

JOSELYN LUEDTKE: Letters. [LB235]

SENATOR CAMPBELL: Oh, letters for the record. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

BRENNEN MILLER: (Exhibit 25) Just because we talked about that a minute ago...I have a neutral letter from the Nebraska Academy of Eye Physicians and Surgeons. [LB235]

SENATOR CAMPBELL: Okay. All right. Good afternoon. [LB235]

DAN NOVAK: Good afternoon, Senators. My name is Dr. Dan Novak. It's D-a-n N-o-v-a-k. And I am an optometrist and I practice here in Lincoln. I'm here representing the Nebraska Optometric Association. I'm speaking today in support of LB235 because we believe it is appropriate and important for patients receiving vision care using certain automated technologies...have some of the same assurance of safety as those patients who receive their care more traditionally in a doctor's office. The type of technology we are discussing includes any automated device that might be used as part of conducting an examination either remotely or in person. Examples of such technology could be an application for a computer, a remote camera, or a standalone piece of equipment like a kiosk you might find in a store or office. They will conduct the test and then send that information to someone at another location. As healthcare moves to take advantage of telemedicine, there are automated technologies in development and in existence that would allow an eye care provider to extend the boundaries of their practice and conduct limited portions of their eye examination remotely. For example, a camera could be automated to capture images of the inside of a patient's eye who has diabetes. And those images could be transported back to the patient's optometrist or ophthalmologist to interpret. Other technology has the potential for assessing the refractive state of the eye. Nebraska optometrists and ophthalmologists are authorized to use the technology described in this bill today. In fact, many eye care providers are already using automated technology in their offices now to supplement their examinations. We are also authorized to use those technologies remotely. So again, to be clear, LB235 is not a scope of practice expansion bill for optometry or ophthalmology. This bill is intended to assure that a licensed optometrist or ophthalmologist is involved in the use of automated and remote technologies whenever a prescription for spectacles or contact lenses is involved. And since prescriptions of all kinds are based on medical findings and assessment of the patient's health, the bill clarifies that prescriptions may not be based solely on a measurement of the optical state of the eye. For example, when I write a prescription for eyeglasses, it is standard of care for me to evaluate how a patient's eyes are working together, how they team, how they focus, how they move. And additionally, I evaluate the patient for other potential causes of vision changes like diabetes, cataracts, or corneal swelling. LB235 does not prohibit companies from selling or operating automated technologies. It does not preclude the use of telemedicine in vision care. It does not prevent use of kiosks or other remote locations. It simply establishes appropriate requirements for involvement of licensed doctors, provides that operators of these devices would be required to clearly identify the doctor's name and Nebraska state license number, and requires that the owner of the equipment would need liability insurance to adequately cover claims made by patients. And the bill appropriately enables the state of Nebraska to monitor and regulate the use of these technologies and, if necessary, take

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

disciplinary action as they do for healthcare provided by all licensed practitioners. Patients should be entitled to that type of oversight by the state. LB235 would ensure that patients seeking vision care are protected in the same manner as they are today. I would appreciate your support of LB235 and would encourage you to advance it from committee. I know there will be a representative from the state Board of Optometry following me to add some perspective regarding the consumer protection implications of this bill, but I would be happy to answer any questions and thank you for your time. [LB235]

SENATOR CAMPBELL: Dr. Novak, have you ever seen one of these kiosks? [LB235]

DAN NOVAK: I have seen, actually, one, actually, here in town that would...it kind of...it doesn't, like, have you try on glasses, that type of thing. It does kind of have you...it asks you questions about your vision and then it would, like, say, maybe, we recommend that you have an eye exam. But it doesn't necessarily, like, check your prescription, like, to get a pair of glasses. [LB235]

SENATOR CAMPBELL: You don't look into it or anything? [LB235]

DAN NOVAK: No. [LB235]

SENATOR CAMPBELL: Really? [LB235]

DAN NOVAK: No. [LB235]

SENATOR CAMPBELL: Is it in a pharmacy? [LB235]

DAN NOVAK: It is in another establishment. I mean, it has a pharmacy in it. [LB235]

SENATOR CAMPBELL: Okay. That's very tactful, Dr. Novak. (Laughter) [LB235]

DAN NOVAK: Yeah, you can narrow it down. I'm not going to tell you. I mean, I...well. But there are some pharmacy companies that are developing this type of technology where they're experimenting with putting a kiosk that you can buy glasses and contacts in. But you... [LB235]

SENATOR CAMPBELL: By looking into it? [LB235]

DAN NOVAK: ...yeah, and you can try on some glasses. But it currently requires that you bring your own, like, prescription, like, written prescription. But again, the, you know, the idea is

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

maybe down the road, there might be an autorefractor put inside one of these kiosks that would be able to check the prescription and then generate the prescription for you. And then you could go and buy them right there. [LB235]

SENATOR CAMPBELL: How accurate would such equipment be in picking up all of the small...I mean, astigmatism and different things that may come? [LB235]

DAN NOVAK: Right. Yeah, and that's a really good question. That's something, I guess, we really don't know, to be honest with you. We were talking about that before this. We, as optometrists or ophthalmologists, we go through a lot of measures to kind of control those type of things to and to make sure that we are accurate with our prescriptions, of course. So I honestly can't tell you how this uses algorithms and things like that to somehow...so we don't know, I guess, specifics on that yet. [LB235]

SENATOR CAMPBELL: And my colleagues here all know I had cataract surgery about a month ago. And so I'm needing these readers until everything heals and so forth. And I didn't realize...my optometrist said, well, how are you doing? And I said, oh, well, you know, these are okay but they don't...they're not quite...and he said, well, that's because they don't...you know, on a \$10 pair of glasses... [LB235]

DAN NOVAK: Right. [LB235]

SENATOR CAMPBELL: ...they're not going deal with the astigmatism that I have or some other things. And I...and so when I was listening to all this, I'm thinking, someone would walk in and use one of these and have no idea that that cannot pick up those abnormalities. [LB235]

DAN NOVAK: Right. [LB235]

SENATOR CAMPBELL: That's kind of scary. Senator Riepe. [LB235]

SENATOR RIEPE: Senator Campbell, thank you. I had asked earlier about the ophthalmologists. And I did...I received an e-mail from an ophthalmologist. [LB235]

DAN NOVAK: Okay. [LB235]

SENATOR RIEPE: And I'm going to ask you if you would respond to this. His contention was that LB235 was the legislation will make, and I quote, will make Nebraska one of most hostile



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

states for medical technology and economic development in the nation. I'm trying to drill down on that and to understand that, that...I mean, that's a pretty strong statement. [LB235]

DAN NOVAK: That is a bold statement, yeah. So I guess, again, like we mentioned, Senator Howard and myself, that we're not trying to prevent people from using this technology. We're just trying to get them to have some sort of assurance of safety when they use this technology. [LB235]

SENATOR RIEPE: Okay. Okay. Thank you. [LB235]

SENATOR CAMPBELL: Any other questions, Senators? Senator Riepe, did you have a follow-up? [LB235]

SENATOR RIEPE: No, I'm just puzzled. But thank you. [LB235]

SENATOR CAMPBELL: Okay. Thank you, Dr. Novak, for your testimony today. [LB235]

DAN NOVAK: Thank you. [LB235]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB235]

KIM BAXTER: Good afternoon. My name is Dr. Kim Baxter. That's K-i-m B-a-x-t-e-r. I'm pleased to address you today on behalf of the Nebraska Board of Optometry. This is my seventh year on the board and I'm currently serving as chairman. And I am in a multidocor practice in North Platte where I've been in practice for the past 34 years. I speak today for the Board of Optometry in favor of LB235. Optometrists and ophthalmologists alike are excited about new developments and technology that may potentially contribute positively to the quality of eye care we deliver and the access our patients have to that care. However, we also recognize that in order for advances in technology to be positive, these advancements must be applied in responsible ways both ethically and professionally. As members of Nebraska's Board of Optometry, our primary responsibility is for the protection of our citizens. So the question we must ask ourselves is, how might the unbridled use of new technologies potentially cause harm to the consumer? And how do we continue to ensure that the health, safety, and welfare of our citizens are protected as we inevitably see new technologies emerge within our state? The most obvious answer to this question is that we must require that, for any remote refraction or kiosk being used to provide an eyeglass prescription, there must be a Nebraska licensed optometrist or ophthalmologist who assumes full responsibility for that prescription. This protection for the consumer is the primary aim of LB235. It is important to keep in mind that many of these new

technologies we are discussing are only designed to provide a refraction test for the patient. But there are many other components to an eyeglass prescription beyond the refraction or what we might think of as the power of the eyeglass prescription. These other components cannot be adequately addressed without the involvement of an eye care professional. And if the final result does not adequately satisfy the needs of the patient, someone needs to be accountable to the patient and held to the same standard of care that is required of Nebraska's licensed optometrists and ophthalmologists. One of the biggest concerns is that the consumer, when receiving a refraction remotely or at a kiosk, may assume that it is comparable to an actual eye exam. And even if they are told that this is not a substitute for a complete eye health exam, we know that many consumers will still assume their eyes are healthy if they feel they are seeing adequately with new glasses made from this prescription. Therefore, it is vitally important that the patient be properly informed that this refractive testing by itself will not ensure that their eyes are healthy. Someone needs to be responsible for thoroughly communicating this important fact to the patient and to be accountable for making proper referral to an eye care professional when there is reason to suspect that an eye care...or an eye health condition may be present. Again, the Board of Optometry believes that in order to protect the public, a doctor licensed in Nebraska needs to be involved to accept this responsibility for proper implementation of these technologies and the safeguarding of the Nebraska eye care consumer. There will be other examples of emerging technologies that could potentially harm the public now or in the future. But we also recognize that there are potential benefits for the consumer and we feel that it is important for patients to have access to all eye care services including some remote testing if they prefer that service. We do not want to prohibit patients from choosing to receive a remote or kiosk refraction should they elect to do so. LB235 would simply ensure that prescriptions are not based solely on such refractions. It would ensure that the doctors writing the prescriptions for glasses remotely are accountable to Nebraskans the same way doctors that are providing this care in person are and would ensure that technologies meet some basic consumer safety standards. Another consumer protection provision contained in LB235 is the limit on the strength of over-the-counter reading glasses that can be purchased without a prescription. The rationale for this is analogous to pharmaceuticals where some low-dose medications like ibuprofen are available over the counter without a prescription but for higher doses, a prescription is required. In case of reading glasses, it is highly unlikely that a normally sighted person would need more than prescription plus 2...plus 3.25 to see clearly at near. If they needed more power than that, there would likely be a significant distance vision deficiency that could impair driving or would likely be a significant or some ocular disease requiring the patient to require such a large amount of magnification. And we believe it is in the patient's best interest to assure they get a prescription in those cases. The protection of our fellow Nebraskans in the primary concern of the Board of Optometry and for that reason, we strongly support LB235 and ask the committee to advance it. I apologize for running over. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: You're fine. Thank you, Doctor, for your testimony and particularly for coming from North Platte today to be with us today. [LB235]

KIM BAXTER: Thank you. [LB235]

SENATOR CAMPBELL: Questions from the senators? Did you hear, Dr. Baxter, the comment that Senator Riepe had read from an ophthalmologist? [LB235]

KIM BAXTER: Yes, I have seen a copy of that just this morning, Senator, and... [LB235]

SENATOR RIEPE: Have you? I got it this morning. [LB235]

KIM BAXTER: Yeah, it's kind of a last-minute thing, but I believe the doctor, the ophthalmologist from Illinois who wrote the e-mail, is...has a financial interest in a company that is in...making preparation to release such equipment to the public. And I guess, one thing I'd point out to you, it's that the claims he makes in the letter are pretty extreme and way, I mean, shocking to read. It's important, I think, to recognize that this is an issue that's important to all states across the country and we're seeing many states introduce legislation of what we're proposing...what's being proposed today. And Michigan, in fact, has already passed a law that makes it unlawful to have a kiosk or online refraction services in their state. They're totally prohibiting it. And we are not asking that. We don't...we...as I say in my testimony, we want to make these technologies available to the public if they should so choose to make use of them. But we just want to make sure they're used in a responsible way and that the consumer is protected, that they know what they're getting, and that there's a licensed doctor who is going to sign off on these prescriptions so somebody is accountable. You know, this thing could get out of hand in a big way pretty quickly, so. [LB235]

SENATOR CAMPBELL: Any other questions? Oh, sorry, Senator Riepe. Go right ahead. [LB235]

SENATOR RIEPE: Senator Campbell, thank you. I wanted to follow up a little bit on this too. And you're right, I think he does have a...he's an entrepreneurial type of ophthalmologist. I didn't see where he's from. But he...this is another quote now, right or wrong, but his quote is, optometrists are trying to prevent consumers from accessing this new technology in Nebraska. And he goes on to say that it's particularly...his technology is particularly advantageous in rural markets which is very attractive to us in Nebraska. But he also says that it's already being widely used--widely--by the VA hospital...or VA and the Indian Health Services. And so, you know, I'm personally quite eager to learn more about this because... [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

KIM BAXTER: Well, his statement that we are trying to prevent the use of this is untrue. He apparently hasn't read the law. And the other comment he makes about making this...being advantageous for patient access in rural areas, that's a nonissue in Nebraska, really, because Nebraska is well situated throughout the whole state to provide services in even our smaller communities. There's many rural doctors who have satellite clinics and provide eye care to some of the smaller communities in the state. So I think that's totally unfounded as well. [LB235]

SENATOR RIEPE: Thank you. Thank you. [LB235]

KIM BAXTER: Thank you, Senator. [LB235]

SENATOR CAMPBELL: It is in my e-mail box. I just checked. So it's probably...I'm trying to see...Senator Riepe, you might help me. It just shows that it was sent to me so I was probably blind copied or something. Okay. Thank you very much. [LB235]

KIM BAXTER: Thank you for your time. [LB235]

SENATOR CAMPBELL: Absolutely. And, Dr. Baxter, please convey our thank you to everyone who serves on the board. We realize that you're giving of your time and expertise to help the state and we really appreciate it. [LB235]

KIM BAXTER: It's an honor and privilege. I appreciate you saying that, Senator Campbell, and the same goes to you, we appreciate all you do for our state, all of you. [LB235]

SENATOR CAMPBELL: Drive safely home. [LB235]

KIM BAXTER: Thank you. [LB235]

SENATOR CAMPBELL: Okay. Our next proponent? I didn't think I saw anybody. Anyone who is opposed to the bill? Good afternoon. [LB235]

AARON DALLEK: (Exhibit 26) Good afternoon. It's been nice spending time and watching you guys. Let me just get situated. So thank you, Chairwoman Campbell. And Senator Howard is not here but... [LB235]

SENATOR CRAWFORD: Oh, she's right... (Laughter) [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

AARON DALLEK: ...oh, sorry, didn't see the seat, and members of the committee...thank you for the opportunity to speak today. My name is Aaron Dallek, A-a-r-o-n D-a-l-l-e-k, and I am the CEO and cofounder of Opternative. I'm also a signature on that e-mail that you received so I will be able to respond to some of the questions you have. Opternative is an ocular health technology start-up whose core service is Web-based refractive eye exams. These exams are equal in performance, quality, and patient satisfaction, to your comment. We've done significant testing and are doing an IRB, independent clinical test currently starting Monday that will prove that we are statistically equivalent to using the current systems that are out there. And we will make that publicly available. To give some context, the most common testing device used today is the phoropter. It was originally...it's been used since 1921, almost 100 years ago, to determine prescriptions in glasses and contacts. Now, just imagine the ability for someone in rural Nebraska to take an eye exam, consult with a licensed eye care provider, and receive a prescription for glasses and contacts all from the comfort of their own home within 24 hours. This is the exact type of innovation I hope to see thrive in Nebraska. We firmly believe in innovative health technologies and that it has the ability to lower costs. It has the ability to increase access and offer providers and patients more options to give and receive care and will allow many people to save the time and expense associated with traditional office exams. This is not an eye exam ATM. This is not an eye exam machine. This is a doctor reviewed, clinically tested way of providing eye exams via telehealth, something that the Nebraska telehealth bill supports and was renewed by this committee recently. I am ultimately here as a medical innovator and an entrepreneur to sound the alarm regarding legislation that would just prevent...would not just prevent my company from bringing health innovation to Nebraska but that I believe will send a message to innovative health technology that Nebraska is closed for business. Specifically, I believe that LB235 will, in fact, not protect consumers but rather results in protecting a small subset of eye care providers who would prefer not to have new technology disrupt the traditional methods of providing eye exams. At its heart, LB235 mandates that a prescription for glasses or contacts can only be given in an in-person interaction. This mandate is being put in place despite the advent of scientifically sound technology that allows eye care providers to offer patients a web-based refractive eye exam without leaving home. While there are some eye care providers who support this legislation, others oppose it based on the belief that they should be able to use these new technologies to provide eye care to their patients if, in their professional judgment, and that's very important, it offers the best approach. In fact, the American Academy of Ophthalmology "recognizes the potential of information technology including Internet-based screenings, refraction, and other diagnostic tests in increasing access to healthcare services, enhancing patient involvement in the healthcare decision making, improving efficiency, and reducing overall healthcare costs." This is a direct quote from the AAO's recommendation on innovation to its members which I've included as the last page of the packet I sent you. This entire process meets and exceeds the standard of care for refractive services and allows eye care providers to adopt and adapt innovative technologies to service their patients, some of whom have never before accessed eye care especially in rural areas. I am the CEO of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

one company who could be deterred by this legislation. But there is no doubt there are other health technology companies, and they're watching closely to see if Nebraska chooses to remain open to cost-saving and efficiency-producing innovation or if it decides to close its doors to new technology. I strongly urge you to set aside this legislation today so that you may more closely examine its impact on Nebraskans' ability to receive care from their eye care providers. Throughout history, new technology has brought competition to legacy products and services. Rather than passing laws to block innovation, I urge you instead to support policies to foster competition so that Nebraskans and their healthcare providers can reap the benefits of new technology if they so choose. Thank you for the opportunity to offer this testimony and I would be happy to answer some questions. [LB235]

SENATOR CAMPBELL: Senator Cook. [LB235]

SENATOR COOK: I have a question. You made reference to our telehealth statutes and those statutes have come before this committee. And I don't remember a specific reference to this kind of technology in those statutes. [LB235]

AARON DALLEK: Not specifically. So I was... [LB235]

SENATOR COOK: Were...what were you referring to? [LB235]

AARON DALLEK: I would be happy to read it. I was referring to number (3), so 71-850: The use of telecommunication technology to deliver healthcare services can reduce healthcare costs, improve healthcare quality, improve access to healthcare, and enhance the economic health of communities in medically underserved areas of Nebraska." I was referring to the spirit of the law and not specifically to our specific technology, just that I know that Nebraska and telehealth...telehealth in Nebraska is a very important thing for many constituents here because it is a rural state. And I was just bringing up that this is an opportunity for a technology like ours to offer Nebraskans a more accessible, less expensive option in between health exams. And I know this is going to be a question that comes up is, this is not a technology to replace optometrists which you've seen here today, ophthalmologists who wrote that letter, and the people who wrote the letter from the AAO and the Nebraska society. This is to enhance their ability to offer services to their patients. We recommend, just as the AOA who--we have a representative here--states on their Web site that every two years someone goes and gets a full health exam from a licensed eye care professional. All of our exams, all of our refractions, are reviewed by an ophthalmologist or an optometrist. And it's very important that we state that this is not an automated kiosk, this is not an automated solution. And we are... [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR COOK: Okay, thanks. My question was about the...where that language came from. [LB235]

AARON DALLEK: Oh, I'm sorry. [LB235]

SENATOR COOK: It's not specifically in our language because I remember that from when we had the bill. Thanks. [LB235]

SENATOR CAMPBELL: I'm going to go to Senator Kolterman and then we'll come back around. [LB235]

SENATOR KOLTERMAN: Thank you, Senator Campbell. Thanks for coming today to testify. I'm coming at this from the perspective of the consumer, from a consumer protection perspective, how would...let's say I go to a kiosk or get an app or whatever this new technology would bring. And I do...go through the steps. I get my prescription. I get my glasses. I...do you sell the glasses as well through this type of outlet? [LB235]

AARON DALLEK: Yes. [LB235]

SENATOR KOLTERMAN: So I get all of that and a month later I discover that I didn't have the proper exam and I've got a tumor behind my eye. Who, at that point, do we turn to from a professional liability perspective? [LB235]

AARON DALLEK: So as I stated before, we recommend that people still go see an eye care professional every two years. And we educate patients on the importance of health. One of the things that the committee should recognize is that there are many people who go years with just readers or with a pair of glasses from five years ago who don't come in because of cost, because of access issues. And those people are even at more risk for developing undiagnosed diseases. Now, our test does have some level of screening where, if you have best corrected visual acuity with your glasses on below a certain level, which indicates cataracts, which indicates macular degeneration and other diseases, we would not be letting them go through our tests. Now, we do not state that this is a full health exam because it is not. And we educate people. And one of the important things about technology is, by bringing access to people and by helping them think about their eyes more often than some people who may go four or five years, this is going to give them that education of why it's important to go to the...one of the optometrists which...stated here before. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR KOLTERMAN: But, sir, you didn't answer my question. My question was, who do I turn to for professional liability if...you can say, well, I'd go every...we encourage you to go every two years. I understand that. [LB235]

AARON DALLEK: We... [LB235]

SENATOR KOLTERMAN: Let me finish, please. [LB235]

AARON DALLEK: I apologize. [LB235]

SENATOR KOLTERMAN: And then you turn around and say, you find out you got a tumor that that normal regular ophthalmologist or an optometrist would probably pick up through a physical exam, what kind of professional liability to you have? [LB235]

AARON DALLEK: We...the ophthalmologist, would take that liability. And we have malpractice insurance that all of our ophthalmologists have that insurance and they would, just as in...like any eye care professional, would take the liability associated with that. And it's important to note that, although it's not common knowledge, the...there are...it is common that waivers are given to the health exam by ophthalmologists, sometimes by optometrists, and this is used because people don't want dilation and things along those lines. So it is not unheard of. And I would imagine, you know...I would imagine that most optometrists, speaking candidly, would say that they have, at some point in their career waived the health exam because a patient decided that it was more convenient just to do the refraction. And I don't have any, you know, studies or anything to prove that. But I know this from 20 years of experience going to optometrists. [LB235]

SENATOR KOLTERMAN: But, my... [LB235]

SENATOR CAMPBELL: Go right ahead. [LB235]

SENATOR KOLTERMAN: Yeah, thank you. But my question really is, so I get through the exam, we have this...it...the other part of it is, is there a waiver that they're signing when they pick up these glasses or they're dispensed to them? Is there any kind of a waiver that you're requiring that you waive yourself of any liabilities? [LB235]

AARON DALLEK: We state in our legal liabilities that this is a refractive exam and that they need to go see a health provider for their full health exam. [LB235]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR KOLTERMAN: So in essence, they've signed a waiver taking the liability away from you when they get their glasses. [LB235]

AARON DALLEK: There are many waivers in optometrist and ophthalmologist offices around the country because it is... [LB235]

SENATOR KOLTERMAN: Well, but I'm not talking about anybody else. [LB235]

AARON DALLEK: It is common practice. [LB235]

SENATOR KOLTERMAN: I'm not talking about anybody else. I'm talking about your particular practice. [LB235]

AARON DALLEK: Yes, we have a waiver. However, if they were to have an issue, we would address that the same way any eye care professional would. It's the same type of waiver that eye care professionals around the country use on a regular basis. [LB235]

SENATOR KOLTERMAN: When I go to my optometrist, I know that I sign a waiver because they explain it to me, a person to person that says you don't have to do this but we highly encourage it. I don't sense that you would have that same type of relationship between a kiosk and the person getting the prescription. [LB235]

AARON DALLEK: Again... [LB235]

SENATOR KOLTERMAN: Just personal opinion. [LB235]

AARON DALLEK: ...the definition of kiosk here is one of the issues with the bill which states that any telecommunication device, any computer, any kiosk, is considered a kiosk in Nebraska. That is not what I believe to be a kiosk. Now, if you're talking about a kiosk you walk up to in a Walgreens, for example, you do an autorefractor and it spits out a prescription. I wholly support the limitation in not allowing for that in Nebraska. That is not what our technology is. Our technology is a store-and-forward telehealth technology that is...as you will see there is...in the third page of your packet, there is information on other forms of ocular telehealth being done around the country at the VA, at the Indian Health Services. We referenced that for the e-mail so you'll be able to look that up, Senator...Riepe? [LB235]

SENATOR RIEPE: Um-hum, that's correct. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

AARON DALLEK: I apologize. [LB235]

SENATOR KOLTERMAN: Thank you for your testimony. [LB235]

SENATOR CAMPBELL: Mr. Dallek, I think we're going to move on so we get to the questions. Go right ahead, Senator Baker. [LB235]

SENATOR BAKER: Thank you. Mr. Dallek, you're the cofounder. Is there...of the type of machine that we're talking about, is there one patented model around the country that's being used for this or are there lots of different machines being used? [LB235]

AARON DALLEK: There are multiple ways you can do this. We feel we have unique way of doing that. We just use your computer and a smartphone. So there is no machine. There...it is the computer you have on your desk right there and a smartphone and you can take an eye exam. Now, unfortunately, I don't know if you guys would fit within our age group. We do restrict it to 18 to 40. (Laughter) [LB235]

SENATOR CAMPBELL: Whoa, okay, thank you, Mr. Dallek. [LB235]

SENATOR RIEPE: Just barely. [LB235]

SENATOR COOK: One person, ironically. [LB235]

AARON DALLEK: So, now, that's not say we won't build a solution that is capable. But with the need for reading glasses that you have, which is called presbyopia, it does make it a challenge to read a phone. And so we are very focused on building technology that is easy to use that you already have on your desk. We are registered with the FDA so we are following all the FDA regulations associated with what we're required to do. [LB235]

SENATOR BAKER: So there needs to be another entrepreneur to figure out something for people over 40? (Laughter) [LB235]

AARON DALLEK: No, we're going to do that. We have ways that we believe we can do that. But there...we have concerns, obviously, about the health. As you get older, there are more concerns about cataracts and macular degeneration. So we want to have tools available for screenings of things like macular degeneration before we release a tool like that. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR BAKER: That's the question I was leading to was not that...to...you know, if this were allowed, whether it would require an expensive investment whereas you find out here that MIT scientists have developed a \$2 vision acuity screening device for smartphones. Wouldn't you be concerned about that, what people would turn to if they can get a \$2 app? [LB235]

AARON DALLEK: So there's a very key difference between the Inetra solution, which you're referring to, which is an autorefractor, autorefractors have been around since the 1960s. Many of the optometrists, probably here, have used them or used them in their practice. And we are not an objective refraction which is the measurement of the eye. We are a subjective refraction. And the difference is that we are asking you questions just as an optometrist would based on what you see. And that...so the test is 15 minutes. This is not a short test that you just, you know, scan your eye. It is a very comprehensive test that identifies sphere, cyl., axes, and will identify add power, so it identifies all parts of the prescription to your point, Chairman Campbell. [LB235]

SENATOR BAKER: Thank you. [LB235]

SENATOR CAMPBELL: Any other questions, Senators? Thank you, Mr. Dallek. Oh, Senator Riepe. [LB235]

SENATOR RIEPE: I'll be quick. It makes me real happy when I hear someone can talk about safe, good experience, good outcomes plus increased access and lower cost. I mean, that makes me a happy camper. What percentage...and this...I want to go to cost. What percentage of an average eye exam is this going to be? Is this going to be half price, I mean, or is it going to be...do you have a feel for...I like the cost number. [LB235]

AARON DALLEK: Yeah, so our technology right now is listed at \$30. We were...not set it exactly what the price is. But it's listed at \$30. And depending on what part of the country and where you go, eye exams could cost anywhere from \$40 to over \$150 depending. And that is a very...it depends on the practice and what's being done. But... [LB235]

SENATOR RIEPE: I'm not holding you to that. I just wondered, ballpark. [LB235]

AARON DALLEK: It can be a savings of over 50 percent, even sometimes 70 and 80 percent. And can I...do you mind if I add one quick thing on the schools... [LB235]

SENATOR CAMPBELL: Very quick, Mr. Dallek. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

AARON DALLEK: Very short, I know. Sorry. Yeah. The last thing is, although we don't have anything for children and school screenings and we're not planning on doing anything on prescribing to children, our test is an advancement in the Snellen eye chart and other aspects of visual screening. And we believe that in the future it will be something that can be used by licensed professionals to do more advanced screenings. That's it. Thank you. [LB235]

SENATOR CAMPBELL: Thank you, Mr. Dallek. [LB235]

AARON DALLEK: I appreciate it. [LB235]

SENATOR CAMPBELL: Anyone else in the hearing room in a neutral position? Yes, sir, you're neutral? [LB235]

STEVEN JACOBSEN: I would like to...(Inaudible). [LB235]

SENATOR COOK: That was opposition. [LB235]

SENATOR CAMPBELL: Oh, I'm sorry, opposition. [LB235]

STEVEN JACOBSEN: I'm not opposition. [LB235]

SENATOR CAMPBELL: You are neutral? [LB235]

STEVEN JACOBSEN: I would be in neutral. I think. [LB235]

SENATOR CAMPBELL: Okay. Come forward, sir. I didn't see anyone else in the room raise their hand for opposition other than Mr. Dallek. Okay, go right ahead, sir. [LB235]

STEVEN JACOBSEN: I am an optometrist, Steven Jacobsen, S-t-e-v-e-n J-a-c-o-b-s-e-n. I've been in practice in Fremont, Nebraska here for over 40 years and I just had Friday afternoon off here and saw this and decided I'd come and I just took some notes and so that's why I thought I can't stand by and just listen to a few things like this presented by the opposition here because, in my 40-some years of practice, I technically probably have never written a prescription for glasses because, as I've understood it, Nebraska doesn't license opticians. And it's treated as a lens formula, a plus and minus, all these type of things here. I've always written my lens formulas in what I call eight-diopter powers. Now, I've also been contacted as recently as even last month to...can you round off the power so I can get my one-hour glasses made in quarter-

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

diopter steps? Now, I've also gone two months ago to visit Pasch Optical and that was one of the places that fill our eyeglass prescriptions and they have technology that can grind prescriptions down to 0.01 of a diopter. So I've always said to my people, well, if you went to a bank and they said, well, can you only round it off to quarters, well, I don't want to do that. I'm a perfectionist. If I've fine-tuned my refraction, which runs about \$15, and I produce a power that I know is going to be accurate for their eyes, I don't want to have somebody else rounding this off or having some remote control type of thing decide what this power might be. Just briefly, a couple things that I figured out on prescriptions: prism, the aiming of the eyes, the separation of the eyes, the vertex distance, the distance...if you've worn glasses...I don't think he was wearing glasses but if you move them in and out, you'll notice that it changes like this. There are actually what we call as-worn technologies which will tell us, because of the size of your nose, the bridge, the tilt of that lens is going to make all these changes. Now, true, we do have a focusing system in our eyes except maybe I overheard yours which, your focusing system is gone because of the cataract now here. But most people, if they put on too strong or too weak glasses, the eyes will try to adapt to these powers. Somebody mentioned torticollis, the condition where I might be...neck turned like this. If you have a vertical hypertropia, a person may want to have to go like this just to make their eyes level. So it may not even be a condition from a kid that needed something like this. So it touches onto all kinds of these other factors. So I don't want to go on too much more here but I would have serious misgivings on self-driving cars, accessing rural...putting kiosks in the Crawford counties or something like this you see here, I don't think it's going to go there. It's going to go in a high...metropolitan area. It's going to be produced just like on Web-based technologies like this. And even if you're trying to judge a color on your phone or your PC of address, this can be perceived differently here. That's my rambling, sorry about that, so. [LB235]

SENATOR CAMPBELL: Thanks for coming on your afternoon off. [LB235]

STEVEN JACOBSEN: You're welcome. [LB235]

SENATOR CAMPBELL: That's impressive, and on a Friday. [LB235]

STEVEN JACOBSEN: Thank you. [LB235]

SENATOR CAMPBELL: Thank you, Doctor, for coming and your comments. We appreciate them. Anyone else in a neutral position? All right. Senator Howard. [LB235]

SENATOR HOWARD: I'll be very quick. Thank you, Senator Campbell and members of the committee, for dutifully listening to testimony on LB235. I did want to clarify a few points. The bill does not specify that these exams need to be done in person. At...nowhere in the bill does it

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

require an in-person exam. And incidentally, our telemedicine statutes allow out-of-state doctors to consult with in-state physicians. So I don't see an issue in that area. And in regards to professional liability, I'm not sure if you felt as though you got a full answer. My thought is that the professional liability would land on the ophthalmologist or optometrist on the...at the other end. But we don't know if they are required to have medical liability. It could...it depends on their state. Every state requires some type of medical liability. But what that might look like and how that would interact with Nebraska state law, we don't know because it wouldn't be a Nebraska provider necessarily. Does that make sense? [LB235]

SENATOR KOLTERMAN: I'll wait till you're done and I'll ask you a question. [LB235]

SENATOR HOWARD: Okay. Okay. That was pretty much it. But I do think that this bill is sort of a step forward. And it...and as Mr. Dallek indicated, he is already complying with the FDA. He didn't indicate about HIPAA or ADA but I will also say, Nebraska is a very unique state. I went to school in Illinois and so I'm very comfortable and confident with the type of culture in Illinois. We have a very different culture. We're very unique. There's a reason why I moved home. And this bill is more of a protection for our citizens and we are looking out for them. So with that, I will close and I will try to answer any questions you may have. [LB235]

SENATOR CAMPBELL: Senator Kolterman. [LB235]

SENATOR KOLTERMAN: Yeah, thank you, Senator Campbell. And, Senator Howard, where I was going with that is...well, you know I'm in the insurance business. [LB235]

SENATOR HOWARD: Yes, sir. [LB235]

SENATOR KOLTERMAN: And when the Affordable Healthcare Act (sic) came out, there was an organization called navigators. And my concern, and the professional agents in the state of Nebraska, had concerns about navigators and professional liability. If somebody gets the wrong policy, who are they going to blame? I see the same similarities between this. And I know we might have been on the opposite ends of that spectrum but I think we're on the same page on this bill. And so I have...I still believe, and maybe I'm old fashioned, but there's still a need for a professional relationship between the customer and the person doing the work. So that's where I'm coming from. And that's where my questions were coming from. So thank you. [LB235]

SENATOR HOWARD: I agree. And as an attorney, I think considering who is liable in an incident of malpractice or missing something that you should have seen that was clearly there is incredibly important for patients. So thank you. [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR KOLTERMAN: Thank you. [LB235]

SENATOR CAMPBELL: Senator Riepe. [LB235]

SENATOR RIEPE: Thank you, Senator Campbell. As a legal trained mind, I would ask you...it's my understanding that no waiver can intercede if you...if it's gross negligence. You're not protected by a waiver if it's... [LB235]

SENATOR HOWARD: No. [LB235]

SENATOR RIEPE: A waiver can't protect you from gross negligence. [LB235]

SENATOR HOWARD: Right, nor from intentional misrepresentation. [LB235]

SENATOR RIEPE: Whoever is going to get in the way is going to get hurt. [LB235]

SENATOR HOWARD: Yeah. [LB235]

SENATOR CAMPBELL: Senator Cook. [LB235]

SENATOR COOK: Thank you, Madam Chair. And congratulations, Senator Howard. You are the only one eligible from the committee for...to potentially use this Web-based refractive eye examination. (Laughter) I...my question emerged because we've learned so much about Medicaid, the medical assistance program. We...our children in Nebraska are children--ours--until they turn 19, or state wards. When I say "our children" I mean the taxpayers, residents of the state. How might a product like the one that Mr. Dallek is developing and marketing...I mean, I guess the question emerges, how would that work... [LB235]

SENATOR HOWARD: How would we bill? [LB235]

SENATOR COOK: ...because they're not an adult especially if they're a ward of the state? [LB235]

SENATOR HOWARD: Right. [LB235]

SENATOR COOK: And is it Medicaid eligible? I mean, all those unique things... [LB235]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR HOWARD: Well, and how would that out-of-state provider become a Medicaid licensed provider here if they're out of state? And how would that...yeah, the billable would be very questionable because telemedicine for Medicaid currently, we usually have a provider on one end from Nebraska and then an out-of-state provider who consults with the Nebraska provider. So I'm not sure how the billing would operate for Medicaid. [LB235]

SENATOR COOK: Thank you. [LB235]

SENATOR HOWARD: That's a good question, though. [LB235]

SENATOR COOK: Right. [LB235]

SENATOR HOWARD: I mean, it's a puzzler. I have no idea. [LB235]

SENATOR CAMPBELL: But we're not going to probably get to it today. [LB235]

SENATOR HOWARD: Yeah. Yeah, no. [LB235]

SENATOR COOK: That's true. [LB235]

SENATOR HOWARD: But we can dig into it, I mean, how the billing works and that type of function, yeah. [LB235]

SENATOR COOK: Or...and my question is, if you're not 19, and I... [LB235]

SENATOR HOWARD: How you consent or how do you sign a waiver, right... [LB235]

SENATOR COOK: That's where I... [LB235]

SENATOR HOWARD: ...because if you're like...if it's in a mall and you're 15 years old and you think it's funny... [LB235]

SENATOR COOK: Right, (laugh) and there's a big old tumor back there. Anyway, thank you. [LB235]

SENATOR HOWARD: Thank you. [LB235]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Health and Human Services Committee  
March 06, 2015

---

SENATOR CAMPBELL: Any other questions? Okay. Thank you, Senator Howard. [LB235]

SENATOR HOWARD: Thank you, Senator Campbell. [LB235]

SENATOR CAMPBELL: That concludes our hearings for this afternoon. Thank you, everyone. Have a good weekend. [LB235]