

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

Health and Human Services Committee  
March 05, 2015

---

[LB258 LB264 LB369 LR41]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, March 5, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR41, LB258, LB264, and LB369. 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: Good afternoon and welcome to the hearings of the Health and Human Services Committee. I'm Kathy Campbell and I serve District 25 here in Lincoln and as the Chair of the Health and Human Services Committee. As is our practice here in the committee, we will do self-introductions first. And so I'll start on my far right, Senator.

SENATOR BAKER: Senator Roy Baker, District 30, Gage County, part of southern Lancaster County.

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

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

JOSELYN LUEDTKE: Joselyn Luedtke, committee counsel.

SENATOR COOK: I'm Tanya Cook, state senator from District 13.

SENATOR RIEPE: I'm Senator Merv Riepe. I represent District 12 which is Millard and Ralston. Thank you.

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

SENATOR CAMPBELL: And we have two pages today, Brook, who is from Omaha and majoring in marketing, advertising, and political science and attends UNL, and Jay is from Dalton, Nebraska. And I did have to ask where that was. (Laughter) And Jay is at UNL majoring in ag economics. And we are very lucky to have the two pages. Brook and Jay have just done a great job. I'm going to go ahead and start right in on the 1:30 and then I'll come back to the procedures for testifying. But I would like everyone to double-check their cell phones or their iPads or anything that they have that makes noise. It's very disconcerting if you're trying to testify and you're hearing a ring tone in the background. Okay. What we will do this afternoon...at the 1:30 hearing is a hearing on LR41 which I introduced this session. I'm not going to open on the legislative resolution because I've invited a guest to tell their story which is far more compelling than if I were to give an opening. But I do want the senators to know, and the people in

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

Health and Human Services Committee  
March 05, 2015

---

the audience, that this legislative resolution recognizes UNMC for its work during the Ebola situation and have asked the chancellor to be with us today in order to give us some information and, really, background on where he thinks this may be going. For our audience, you also need to know that I went around and asked senators if they would like to sign on to this and 48 of the 49 did, I think surely recognizing the impact that all of this had on the state of Nebraska and certainly at the medical center. So with that, Chancellor Jeffrey Gold is here with us today. And, Chancellor Gold, are you going to speak and then do you have someone else that you would like to have speak? [LR41]

JEFFREY GOLD: (Exhibit 1) I will do some introductions and I...hopefully that will do the job for you today. [LR41]

SENATOR CAMPBELL: Okay. As we need to do because of the transcribers listening to the tapes, please state your name for the record and spell it, please. [LR41]

JEFFREY GOLD: Certainly. My name is Dr. Jeffrey Gold. That's J-e-f-f-r-e-y G-o-l-d, and I have the honor of serving as the chancellor of the University of Nebraska Medical Center and the chair of the board of Nebraska Medicine. Senator Campbell, members of the committee, and the 47 cosponsors of this legislative resolution, we wish to extend our deep thanks to you for the opportunity to be here today and mostly for the content of the resolution. On Sunday, will mark exactly ten years from when the ribbon was cut on the biocontainment unit at the University of Nebraska Medical Center and our hospital affiliates. That represented the vision of a remarkable group of women and men who worked together recognizing the fact that having a fully functional biocontainment unit, maintaining the staff of the unit, was a critical thing to do to serve our communities and to serve our great country and, in so doing, serve the rest of the world. The unit was built shortly after the 9/11 tragedies when the concerns about SARS, Ebola, anthrax, monkeypox, and other highly contagious agents were very much the rage. While other communities had these thoughts and made initial efforts, the University of Nebraska Medical Center was the one that sustained those efforts. The unit is currently the largest in the nation with ten operational beds that represents well over 60 percent of all of the operational biocontainment beds in the United States. It is one of two facilities in the nation that is truly ready to respond to treat the nation's ill, treated by Ebola currently. UNMC is recognized as the standard, as the place to be diagnosed and treated for highly infectious diseases and is also recognized as the standard to be trained in highly infectious disease safety protocols and education, not just for our country but for the world. This resolution graciously acknowledges the biocontainment unit staff for their dedication, their professionalism, and their skill. This staff not only trains rigorously each month and quarterly in drills and exercises, but have also served as the experts for the nation. I am joined today by Ms. Kate Boulter who is the lead nurse from the biocontainment unit. Kate, would you just stand for a second for the group? And unfortunately not by Dr. Angela Hewitt or Dr. Phil Smith who serve as the directors of the unit who are actually off doing their thing teaching, but the three of these individuals

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

Health and Human Services Committee  
March 05, 2015

---

and a team of over 40 people have worked together for now a decade to maintain the expertise of this unit. As of this day, I am told that the biocontainment unit staff has trained 29 health systems comprising nearly 40 hospitals in 27 states and in 3 countries around the world plus the leading personnel from the Centers for Disease Control and Prevention, the Walter Reed Army Medical Center, the Wright-Patterson Air Force Base, Johns Hopkins, the Mayo Clinic, and a long, long list of other prestigious institutions who have come to Omaha to be trained in our facilities and whom our team have visited to credential their organization. As this resolution so eloquently states, UNMC is seeking to be designated by the United States Department of Health and Human Services as a national center for training, treatment, and research for Ebola and other highly infectious diseases. Achieving that national status will provide new opportunities for the state of Nebraska and, of course, for UNMC to collaborate and to leverage federal and state resources to benefit our core mission of training the best-prepared healthcare professionals and scientists to improve not only patient care but to create genuine public safety not only for our communities but for the rest of the nation and the world. We are working hard to create a single accreditation program to ensure that hospitals maintain their proficiency, skill levels, and so they are prepared for naturally occurring and/or weaponized infectious disease outbreaks in the future. I am proud to tell you that the Nebraska federal congressional delegation are all highly involved as are the Centers for Disease Control and Prevention, Health and Human Services, the World Health Organization, and many others and are highly supportive of UNMC's initiatives at the national level. We have actually had the opportunity to testify before the United States Congress about the importance of these programs, and indeed, almost every one of our strategic goals has become the law of the land. And indeed, the references, the materials, the policies, and procedures that we have developed have become the international standard for the maintenance, the safety of healthcare workers and communities and the treatment of patients around the world. UNMC appreciates this resolution. We appreciate the strong support of our Legislature and will continue to work with the Nebraska congressional delegation and all of the national agencies to achieve this national training designation. I thank you again and I'm very open to answer any of your questions, Senator Campbell. [LR41]

SENATOR CAMPBELL: Questions that you might have? Senator Riepe. [LR41]

SENATOR RIEPE: Senator Campbell, thank you. Thank you, Dr. Gold, for being here and the "gold standard" was not lost on me with name association. The question I had is doing with the credentialing. Is that a credentialing through the Joint Commission or through World Health Organization or is this a new credentialing organization? [LR41]

JEFFREY GOLD: This is a credentialing process developed by the Centers for Disease Control and Prevention about standing up between 40 and 50 designated hospital systems as so-called Ebola treatment units across the United States. These are questions about, how many personnel? How will they be trained? What are the physical

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

Health and Human Services Committee  
March 05, 2015

---

requirements of the unit? What are the safety issues regarding disposal of waste, transportation of patients, and other such things? The institutions that we have trained, the 29 systems and 40 hospitals, are designated to us by the Centers for Disease Control and Prevention and then they require that these teams be trained in one of the two, Emory or us, designated centers in the United States. [LR41]

SENATOR RIEPE: If credentialed, that's for how long a period of time? [LR41]

JEFFREY GOLD: I don't know, sir. [LR41]

SENATOR RIEPE: Okay. Thank you again. [LR41]

JEFFREY GOLD: But there will certainly need to be a recredentialing process lest our memories become short term. [LR41]

SENATOR CAMPBELL: Chancellor, we've been hearing on the news that there may...the outbreak may be coming back in some cases. Have you...do you have any other information about where we are in terms of the outbreak and have we seen its zenith or yet to come? [LR41]

JEFFREY GOLD: Well, it's very difficult to know exactly. We are very tightly tied to the World Health Organization. As a matter of fact, our dean of the College of Public Health is actually in Sierra Leone as a delegate and leading the public health efforts in Sierra Leone. The reason I say it's difficult to tell is that the public health measures that have been put into place are believed to be extremely effective in West Africa. And indeed, controlling the disease outbreak in West Africa is key to controlling the safety of the rest of the world as we have learned. But there is a seasonal nature to this. It has to do with the rainy season in West Africa. So it's hard to know whether, as we get into the next season which is when the epidemic really exploded last spring, whether we'll see some recrudescence of that or not. The statistics that we see on a daily and weekly basis have shown over the last several weeks that the numbers are actually rising and not falling. And I think that's what you're referring to, Senator Campbell. All I can say is, we monitor this very closely. Most of this is in Sierra Leone. It's...a lot of it is in the coastal communities and not in the inner communities and there's a lot of work being done right now to try to better understand that. There's also an extensive amount of work being done on vaccines that have been developed over the last year that are hoped to be effective as well. But we do monitor that extremely carefully. [LR41]

SENATOR CAMPBELL: This fall, we were getting ready to have a conference in Omaha and you and I and three or four other people had met right before that conference. And you were telling us about the number of how this information sort of just spread throughout the world about what UNMC was doing. And can you share some of those statistics? I mean, I was just blown away by how far-reaching the state of

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

Health and Human Services Committee  
March 05, 2015

---

Nebraska and UNMC is through this effort. [LR41]

JEFFREY GOLD: Thank you. It's a great question. We have taken a very proactive role in our relationship with the national media. And rather than force them to hunt for information, we always schedule press conferences, release information, provide experts who can talk with the broadcast networks as well as with the print media. And as a result of that, our media relations group tracks the number of broadcasts, the number of print impressions. It also has a way of measuring the number of...how large the broadcast audience is. So as of several weeks ago, the broadcast audience--that is to say, the number of individuals who have been listening to a broadcast that carries the words University of Nebraska, Ebola, and state-of-the-art care--was at 1,279,000,000 people. The print experience, the number of impressions, I am told, was at 598 million impressions. That's newspapers, magazines, etcetera, and this goes back, I believe, to last August. So in just over half a year, it's just at...and it covers every country in the world and certainly every part of the United States. [LR41]

SENATOR CAMPBELL: Every time I've heard...and I've heard two different presentations by people who were involved in the teams. And what is so distinctive to me is that, unlike other hospitals who struggle to find staff people to be a part of a containment unit is that, at UNMC, the staff had a great number of volunteers and the commitment of the whole staff to this. I think that's somewhat of an amazing testament to the nursing and the care level for the patients that did come. [LR41]

JEFFREY GOLD: Without a doubt, among the largest challenges, you know, I have had the opportunity to address every one of the groups of these 29 health systems, 39 hospitals, 27 states, etcetera. And when I talk to these people in the hallways during the coffee breaks, etcetera, their biggest concerns are, will they be able to muster a team of people who will volunteer to care for patients in event that this actually occurs? Our entire team is a volunteer team headed by Kate, seated behind me. And all I can say is that this is Nebraska in the best possible sense of a group of human beings who understand what their role is, recognize this is high risk but have the courage to stand up and do the right thing to care for other human beings. [LR41]

SENATOR CAMPBELL: It's quite a story, absolutely. [LR41]

JEFFREY GOLD: It is. [LR41]

SENATOR CAMPBELL: Any other questions or comments from the senators? Chancellor, we very much appreciate you coming today about the resolution. And it won't...the resolution will now go to the full Legislature for their vote and final approval. But we deal here with small segments, piece by piece, of the healthcare system in Nebraska that sometimes I think we lose sight of, when an event such as this happens in our state, how critically important it is to have good medical education and care. So

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

Health and Human Services Committee  
March 05, 2015

---

thank you. [LR41]

JEFFREY GOLD: Thank you, Senator, very much appreciated. [LR41]

SENATOR CAMPBELL: Thank you. Is there anyone else in the hearing room who would like to make comment on LR41? Thank you. [LR41]

JEFFREY GOLD: Thank you very much. [LR41]

SENATOR CAMPBELL: Seeing no one in the audience, we will close the hearing on LR41 and go to our regular schedule. What I want to do is go through the procedures for the rest of the hearings this afternoon. First of all, if you are planning to testify this afternoon, please complete one of the orange sheets on either side. Write as legibly as you can. And if you have brought handouts, they're not required, but we would like 15 copies. And if you need to have someone help you, the pages will be glad to do that. As you come forward, you can give your orange sheet and handouts to the clerk, and the pages will distribute them for you. As you can see when you sit down here, we have the light system. We do use the lights in the committee. You have five minutes. It will start out as green for four minutes. Then it will go to yellow which means you have a minute left. And it will go to red, and that's when you'll look up and see me trying to get your attention. Please, as we asked the chancellor to do, please state your name for the record and spell it so the transcribers can hear it. And I think I've covered everything, right? Now we will proceed with the hearings. And, Brennen, can you give us letters for the record on our first hearing? [LR41]

BRENNEN MILLER: (Exhibits 2, 3, 4, 5) Absolutely. Support letters from Children's Hospital and Medical Center, Nebraska Hospital Association, Nebraska Rural Health Association, and the Nebraska Board of Medicine and Surgery. Thank you. [LB258]

SENATOR CAMPBELL: Okay. We have LB258, Senator Nordquist's bill. And that bill is to adopt the Interstate Medical Licensure Compact, a very long title. [LB258]

SENATOR NORDQUIST: Right, right. [LB258]

SENATOR CAMPBELL: Thank you. Senator Nordquist, always good to see you. [LB258]

SENATOR NORDQUIST: Thank you, Chairwoman Campbell and members of the esteemed Health and Human Services Committee. I am state Senator Jeremy Nordquist from District 7 in downtown and south Omaha here to introduce LB258, the Interstate Medical Licensure Compact which would streamline medical licensure in our state. The compact was designed to implement a speedier, more efficient medical licensure process with fewer administrative burdens for physicians who are seeking

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

Health and Human Services Committee  
March 05, 2015

---

licensure in multiple states. The compact was developed by the Federation of State Medical Boards. And it is based on several key principals which include developing a comprehensive process that complements the existing licensing and regulatory authority of state medical boards; creating another pathway for licensure that does not otherwise change a state's existing medical and surgery practice act; adopting the prevailing standard for licensure, affirming that the practice of medicine occurs where the patient is located at the time of the patient-physician encounter, requiring the physician to be under the jurisdiction of the state medical board where the patient is located; ensuring that the state medical boards that participate in the compact retain the jurisdiction; and creating the Interstate Medical Licensure Compact Commission. Currently, we were...well, we were one of the first ten states to introduce this compact. I first heard about it and began talking with national partners about it after a December NCSL meeting and then talked with local partners, the Medical Association and others since that time. There have now been 15 states which have introduced the legislation including Iowa, South Dakota. Wyoming has actually passed it and the governor has signed it. Utah has passed both houses and is on to the governor. It takes seven states voting in favor of the compact to form it. The other states that have introduced have been Ohio, Illinois, Iowa as I said, Maryland, Minnesota, Montana, Oklahoma, Rhode Island, South Dakota, Texas, Utah, Vermont, West Virginia, Wyoming. As you can see, many of those states are similar to Nebraska--Midwestern states, large states that see this as an opportunity for us to, in ways, expand our healthcare work force by streamlining licensure, still maintaining our medical licensure practice act, maintaining our ability to ensure that physicians practicing in this state are doing so appropriately, but making it easier for them to get licensed in multiple states largely for purposes of telemedicine. Certainly the technology is changing healthcare, but our licensure process has not caught up. So for many Nebraska, especially in rural areas, this committee knows better than anybody that access to in-person clinical services due to transportation limitations and lack of available physicians is often a challenge which results in poor health outcomes. This compact, as I said, will make it easier for physicians to obtain licenses in multiple states while ensuring that patients are not only provided safe, quality, in-person services...in-person or telehealth services, but that they have increased access to those services. Actually, first, this issue kind of came on my radar back in '09 or '10. I have a brother that's an oncologist in Omaha. And he was starting a company called--in addition to his cancer practice in west Omaha--called [canceropinions.com](http://canceropinions.com) where he got a group of physicians that he's worked with over time at Duke and Sloan Kettering and others to provide second opinion cancer care. And he had to spend extensive dollars on legal research to figure out, you know, where--especially if you're giving someone a second opinion on-line--where is the treatment provided. In that case, because it was a written second opinion submitted to the patient that they felt legally comfortable maintaining the license here and practicing essentially out of here sending those second opinions to the patients or wherever the other physicians that were working with him were at. But it was an issue that came up. And at the time I noticed the state...the Federation of State Medical Boards was

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

Health and Human Services Committee  
March 05, 2015

---

beginning a discussion on it and have now moved forward and adopted this compact. And now this legislative session, around the country, states are starting to actually act on it to make it easier for physicians to get licensed in multiple states. I'd be happy to answer any questions that I can. I think there will be someone testifying after me from the Medical Association too. [LB258]

SENATOR CAMPBELL: Okay. Senator Baker. [LB258]

SENATOR BAKER: Thank you, Senator Campbell. Senator Nordquist, do you happen to know how it works right now with regards to telehealth care, telemedicine, whatever you want to term it, as far...are these people that would be paid? [LB258]

SENATOR NORDQUIST: Well, this is just about being licensed to practice in... [LB258]

SENATOR BAKER: I know, but do you happen to know? [LB258]

SENATOR NORDQUIST: Yeah. Right. [LB258]

SENATOR BAKER: I realize this is off topic a little bit. [LB258]

SENATOR NORDQUIST: Oh, right. Yeah, please. [LB258]

SENATOR BAKER: But do you happen to know whether or not this provision allows those people to be paid who provide telehealth information? [LB258]

SENATOR NORDQUIST: Right. Yeah, so I carried a bill last year which...in Medicaid we do provide that payment. We had a limitation that you had to be outside of 30 miles. We removed that limitation. We also allowed payment for things like remote patient monitoring which is a form of telemedicine where you're sent home as a patient with telemonitoring equipment. But there was no payment allowed for the monitoring of that. It would have just been unpaid service, I guess. We allowed the payment for that. So there is payment there. And some...many insurance companies do cover that. Actually, as part of the bill last year we included insurance parity in...we introduced it that way to say that if an insurance company were to pay for me to see my physician in person, they have to pay for me to be able to do it through telemedicine. We weren't able to move forward with that at this time. So what we actually came back with to the Banking and Insurance Committee...it came to this committee last year because it was tied together with Medicaid. This year, it came separately to the Banking and Insurance Committee. And there will be a bill, it's about four or five bills down on General File, that that committee unanimously moved out, which it's kind of a step forward. It basically says that insurance companies need to, when asked, provide more clarity about what they will reimburse for. The issue that we've seen is that many providers aren't comfortable or don't have a firm understanding of what telemedicine services the insurer



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

Health and Human Services Committee  
March 05, 2015

---

will pay for. So that bill simply helps provide better transparency in that area. So the hopes are that providers can utilize more of that. It's a piece moving forward. Some states do have pure parity where the insurer has to pay the same whether it's in person or through telemedicine. We didn't establish that mandate yet. [LB258]

SENATOR BAKER: Thank you. [LB258]

SENATOR CAMPBELL: Senator Riepe. [LB258]

SENATOR RIEPE: Thank you, Senator Campbell. Senator Nordquist, the question I have is does the Department of HHS have a position on this? [LB258]

SENATOR NORDQUIST: I believe they're coming in neutral. I think they have some technical questions and issues. And you know, I don't know that we're...I think when we initially introduced this in talking with the Medical Association, I don't know that we were quite ready to run completely forward with it this session. I think that maybe we wait and see the...you know, we just had the first state governor sign it. Utah, now it's on the governor's desk. So only two states have moved forward. We may want to wait, hold it a session, wait until next year, get those technical issues completely worked out, see if the states that are adopting it make any changes that...because when you're in a compact, it's important that the language is very similar. We want to make sure that everything is aligned as appropriately. But I believe the department either will be testifying or submitting a letter in a neutral capacity, is my understanding. [LB258]

SENATOR RIEPE: Okay, thank you. [LB258]

SENATOR CAMPBELL: Any other questions? Just a comment, and that has been that this committee has had several bills in front of it having to do with the licensure of medical personnel who are the spouse of military people, which is critical to the state. I mean just look at Offutt and the number of people that come there. And our normal procedure takes a longer time. And it has been a drawback really for some of the spouses who could hold those credentials. And so one of the things I mentioned, I mentioned that to Senator Nordquist. This could be particularly important to Nebraska. [LB258]

SENATOR NORDQUIST: Right, right. Yeah, we want to make sure the process has the appropriate oversight over those licenses, but also we want to make sure we remove any barriers that just slow it down because of administrative reasons that don't protect the public or serve any real public purpose. [LB258]

SENATOR CAMPBELL: And I know that Dr. Acierno, I saw him come in. So I'm sure that he will testify from the department today. He's nodding. Any other questions? Senator Crawford. [LB258]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. Is there a particular reason it's focused on physicians? Is that really who pulled the discussion together? [LB258]

SENATOR NORDQUIST: Yeah. That's who pulled it together. I think there was just a lot of...and I think there's something similar for nurses already. [LB258]

SENATOR CRAWFORD: There is a nurse compact. Right, yeah. [LB258]

SENATOR NORDQUIST: Yeah. Right. That's what I seem to remember. I think it was just a group of providers where it became clear, through the expansion of telemedicine, that this is needed and the Federation of State Medical Boards began developing it a couple years ago and moved forward with the compact language. They just adopted it...I think it was just last fall that they approved the formal compact, and that's why you see states now starting to introduce it. [LB258]

SENATOR CRAWFORD: And is Iowa one of the states that's in that discussion? [LB258]

SENATOR NORDQUIST: Iowa has introduced it. [LB258]

SENATOR CRAWFORD: Okay. [LB258]

SENATOR NORDQUIST: I don't know where it is through the process. [LB258]

SENATOR CRAWFORD: Okay. [LB258]

SENATOR NORDQUIST: But Wyoming's is now signed and law, yeah. [LB258]

SENATOR CRAWFORD: I know we've had some issues with people moving across that border. [LB258]

SENATOR NORDQUIST: Oh, right. Sure, sure. [LB258]

SENATOR CRAWFORD: And so I would think this would really help with that issue. [LB258]

SENATOR NORDQUIST: Right. [LB258]

SENATOR CAMPBELL: Good point. Anything else? Senator Nordquist, are you staying or are you going back? [LB258]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR NORDQUIST: I will, yeah. Yeah. [LB258]

SENATOR CAMPBELL: Okay. Our first proponent for the bill. Good afternoon. [LB258]

ANN FROHMAN: (Exhibit 6) Good afternoon, Madam Chair, members of the committee. My name is Ann Frohman. For the record, that's spelled A-n-n F-r-o-h-m-a-n. I'm an attorney and registered lobbyist. And the Nebraska Medical Association asked me to testify today in support of this bill and in particular to thank Senator Nordquist for bringing it. This, whenever you're looking at a situation involving an interstate compact, it's somewhat of a unique creature in terms of delegation of authority. But in this instance where we're dealing with licensing and the ability to expedite a license, this compact is, from the perspective of the members of the Medical Association, an absolute great thing to consider. I did hand out a copy of the map that indicates on it the states that Senator Nordquist had referred to. And you'll see in there that a lot of compacting, when you're talking about licensing, logistics is very important. And in here you'll notice, yeah, we have Wyoming on one side. We have South Dakota as well as Iowa considering it. So in that consideration, the NMA would be very encouraged to see something move forward. The contents of this compact and the legislation in particular is one that I spent quite a bit of time reading through all of the ins and outs trying to see if they have, you know, tackled everything. And sometimes it's good to speak to what a bill doesn't do versus what a bill does do. And in this context I think that's appropriate. This bill does not in any way affect or alter the standard of care that's applied in the state of Nebraska. It does not in any way affect the disciplinary process or proceedings or standards or jurisdiction in the state of Nebraska. It is purely a licensing mechanism so that an individual let's say in the state of Nebraska that wants to provide some services in Wyoming can, using their...if they are a member of the compact, have that ability to use their principal state as the gateway into the compact and into let's say the state of Wyoming for that applying to the compact commission. The eligibility would be determined by the member state. That would be Nebraska. The fee, an additional fee, that is a drawback. When you create something like this you do have an additional fee because we're not removing any fees from the member states that they get currently. It's an additional fee to go through a one-stop shop in order to be able to practice in another state. So there's an additional fee that would be charged payable to the commission. And then the issuing state again would have their fees. So it doesn't change a whole lot other than expediting the process. It sets some standards. I think on page 3 and page 4 of the bill, that's the crux of what really is important because it sets the eligibility standards. And the eligibility standards are basically determined by the principal state in which the physician resides. They have three factors, one being employment, one being 25 percent of your practice or where you live. But calling that the principal state. So if your state is a member of the compact then that state determines your eligibility and then the issuing state issues the registration. So it's pretty clean from my perspective in looking at it. It has dealt with everything from renewals, which bootstraps on to the principal state, or I should say the issuing state of where you

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

Health and Human Services Committee  
March 05, 2015

---

go, to withdrawing from the compact, that, you know, Nebraska knows all too well those ins and outs. So it's tackled everything that I think needs to be tackled in interstate compacts. It's very, very thoughtful in those areas recognizing that when you're taking this to state legislatures, you've got to have this thing squeaky clean because you don't want to be making changes. The fewer the tweaks, the better. With that, I would be happy to answer any questions. [LB258]

SENATOR CAMPBELL: Any other questions? Senator Riepe. [LB258]

SENATOR RIEPE: Senator Campbell, thank you. Thank you for being here again. My question is, who pays the fee to the commission? Is that paid for by the applicant? [LB258]

ANN FROHMAN: Yes. [LB258]

SENATOR RIEPE: Okay. The other question that I would have is, as a trained attorney, what is your biggest concern about this particular new process, if you will? [LB258]

ANN FROHMAN: I'll give you my perspective from someone who's served on a compact commission. In insurance, we had an insurance interstate product licensing commission and a compact, and I chaired the finance committee for that. And that was...the upstart is generating the revenue to sustain the trigger of the magic number of states. And so that's the hardest part is the...you want to get to that number seven right away because you want to be able to provide value to the members of the compact and not be a drain on them as you're getting it set up. So I think that's the biggest challenge is the start-up. But as you'll see from that chart, this thing has been really studied well and thoughtfully put together that I think they'll get there quickly. We had to wait five...we had a 32-state trigger for our insurance compact. And the financing of that, getting that up and going was a challenge. So I think that will be a challenge here. Another one is that it isn't an answer for everything. It will be great for the physician who has to fill out, you know, the one booklet for Wyoming won't have to fill out another booklet for South Dakota. That's great on the front end. But it will not necessarily speed up the review process in terms of the fingerprinting and those sorts of things. So it's not...on the back end, you know, that work has to be done, and the diligence still has to be done. So it won't alter any of that. [LB258]

SENATOR RIEPE: Thank you. [LB258]

SENATOR CAMPBELL: Any other questions? Senator Crawford. [LB258]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell, and thank you, Ms. Frohman. Is there a part of the process where the states are...the compact itself is reviewing or examining the standards of the member states? Or is it assumed that as

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

Health and Human Services Committee  
March 05, 2015

---

each state is maintaining those entrance or application standards that are appropriate?  
[LB258]

ANN FROHMAN: Yes, the Federation of State Medical Boards is fairly confident that...they're a nonprofit in all states and the territories. They're very confident in the robustness of the standards. So when we talk standards, if we're talking standards of care by which a physician practices, those don't change. If we're talking eligibility standards, you're setting somewhat of a higher bar. But they got to the point where they found the sweet spot and said, yes, we are ready as an organization. We're confident in what the states are doing that we can do this. Does that answer your question? [LB258]

SENATOR CRAWFORD: Yes, thank you. [LB258]

SENATOR CAMPBELL: Anything else? Thank you, Ms. Frohman, for your testimony today. Our next proponent? Anyone else in the hearing room who wishes to speak in favor? Good afternoon. [LB258]

DALE GIBBS: (Exhibit 7) Good afternoon. Thank you, Senator Campbell and members of the Health and Human Services Committee. On behalf of CHI Health, I'd also like to thank Senator Nordquist for introducing the bill. Thank you for the opportunity to testify in support of LB258. My name is Dale Gibbs. I'm the director of outreach in telehealth services, or rural health and telehealth services for CHI Health. Since 1995, CHI Health has been providing telehealth services to rural populations. That tradition continues today and, as the largest healthcare entity in Nebraska providing telehealth services, it is an important tool to increase access to education for healthcare workers, administrative meetings, and of course, providing greater access to specialty providers not available locally to patients across Nebraska, western Iowa, and northern Kansas. Telehealth allows healthcare workers to stay in their communities, receive continuing education, initial certifications and recertifications, and have the ability to interact with peers across Nebraska and the United States for their common benefit, all without incurring the costs of time away from the job, mileage, meals, and/or hotels. Telehealth's biggest benefit, however, is when a patient in one location can see a specialist in another without either one having to travel. Although statistics for calendar year 2014 are still being compiled by the Nebraska Statewide Telehealth Network, statistics from calendar year 2013 show patients did not travel 1,191,503 miles to see a provider for their healthcare needs. Next to having more specialists and primary care providers in each community, this is the best way to increase access to care which leads to prevention and reduced healthcare problems. That in turn reduces healthcare costs. Today's telehealth technology is such that we can provide all these benefits almost anywhere. In 1995, a telehealth camera cost \$75,000, but today we have software and cameras installed on PCs, laptops, and tablets using the Internet and meeting the strictest healthcare security standards all for under \$100. That should be \$200 with a camera. I'm sorry. Just double that amount. (Laughter) That's a typo on my

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

Health and Human Services Committee  
March 05, 2015

---

part. Telehealth is only limited by the bandwidth available and, of course, laws and regulations. LB258 allows states to continue to oversee the licensure of providers but, in cooperation with other states, it more importantly reduces barriers to better care and increases access to care for millions of its patients. If a provider has a license in good standing, it makes sense for them to be licensed in multiple states. As you're undoubtedly aware, there's a shortage of specialists and primary care providers in Nebraska. But being a member of the telehealth licensure compact, providers in other compact states will help us access patients needing care. We greatly appreciate the committee's work on all healthcare issues and urge that you vote LB258 to the floor for consideration. I'd be happy to entertain any questions. [LB258]

SENATOR CAMPBELL: Is it Dr. Gibbs? [LB258]

DALE GIBBS: No. [LB258]

SENATOR CAMPBELL: Mr. Gibbs, we do need you to spell your name for the record. [LB258]

DALE GIBBS: Oh, I'm sorry. [LB258]

SENATOR CAMPBELL: That's okay. [LB258]

DALE GIBBS: Dale, D-a-l-e, Gibbs, G-i-b-b-s. [LB258]

SENATOR CAMPBELL: Thank you so much. Senator Baker. [LB258]

SENATOR BAKER: Yes, thank you. Mr. Gibbs, if this compact comes into being, will there be some kind of a registry of people, you know, stating their area of expertise and their availability to offer? [LB258]

DALE GIBBS: I don't know if there would be a registry or not. That might be a little hard to keep up unless it was a central location, somebody responsible for it. And I don't necessarily see that happening. But I do think that specialists...I think specialists just about everywhere who are familiar with telehealth and who have been seeing patients in other states will be doing this, without a question. [LB258]

SENATOR BAKER: Thank you. [LB258]

SENATOR CAMPBELL: Senator Crawford, did you have a question? [LB258]

SENATOR CRAWFORD: No, that's fine. [LB258]

SENATOR CAMPBELL: Okay. Senator Riepe. [LB258]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR RIEPE: Thank you, Senator Campbell. My question, Mr. Gibbs, is have you had discussions with the Veterans Administration? They've had a lot of publicity about inability to get access? And I'm just running down that track. [LB258]

DALE GIBBS: I've had a lot of discussion with the VA over telehealth in Nebraska, but not on this particular subject. But I do know that there is a bill before Congress that a physician licensed in a state who's also practicing with the VA will automatically be licensed in another state as long as they're seeing the VA patients in that state. So the VA is...I mean that's the direction they want to go to. That bill has not...I don't think it's gone through committee yet, but it's been proposed. [LB258]

SENATOR RIEPE: Okay, thank you. [LB258]

SENATOR CAMPBELL: Any other questions? Thank you, Mr. Gibbs. [LB258]

DALE GIBBS: Thank you. [LB258]

SENATOR CAMPBELL: Your testimony was particularly helpful. It's amazing the number of miles that we're not traveling. [LB258]

DALE GIBBS: Absolutely, absolutely. [LB258]

SENATOR CAMPBELL: I have not seen that estimate before and noted that. So thank you very much for bringing that information. [LB258]

DALE GIBBS: Thank you. [LB258]

SENATOR CAMPBELL: Okay. Our next proponent, anyone else? Is there anyone who wishes to testify in opposition to the bill? Okay. Those who wish to testify in a neutral position. [LB258]

JOSEPH ACIERNO: Good afternoon. [LB258]

SENATOR CAMPBELL: Good afternoon. [LB258]

JOSEPH ACIERNO: I haven't seen you in a while. [LB258]

SENATOR CAMPBELL: Yes. [LB258]

JOSEPH ACIERNO: (Exhibit 8) Good afternoon, Senator Campbell, members of the Health and Human Services Committee. My name is Dr. Joseph Acierno; that's J-o-s-e-p-h A-c-i-e-r-n-o. I'm the Chief Medical Officer and Director of the Division of

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

Health and Human Services Committee  
March 05, 2015

---

Public Health for the Nebraska Department of Health and Human Services, and I am currently serving as acting CEO for the agency. I'm here today to offer neutral testimony regarding LB258. LB258 creates a new expedited license for physicians under the Interstate Medical Licensure Compact. This compact differs from others in that it does not allow practice in multiple states based on one license. The Interstate Medical Licensure Compact creates a process that allows physicians to become licensed in multiple states. The compact sets a standard that physicians must meet to be eligible for the expedited license. After receiving an expedited license through the compact, the physician then can apply for expedited licensure in another compact state. In recent years, there has been national attention initiated by representatives in the federal government in support of pursuing a national license for physicians. As technology for the practice of telemedicine has advanced, issues have been raised regarding the mobility of physicians and the portability of physician licenses. In an effort to avoid national licensure, the Federation of State Medical Boards has worked with states to pursue the concept of a compact for medical licensure. Seven states must pass legislation for the compact to become effective. Nebraska is 1 of 15 states that have introduced legislation this year to enact the compact. There have been a number of technical issues identified with this bill, and we have spoken with Senator Nordquist regarding those issues. For instance, the new eligibility requirement for medical education does not indicate how many years of graduate medical education must be completed or whether the completion of a residency program is required. It's also unclear what cost would be paid by the member states and it appears that the interstate commission appears to control fees. These are just a few of the technical issues that arise from the bill. It is essential that the Department of Health and Human Services retains the ability to regulate the practice of medicine in Nebraska and to take appropriate disciplinary action against physicians who provide medical services to patients in the state and that the state continue to generate fees from licensing that will sustain related programs without causing large increases in fees to providers to support such an approach. With that, I'd be happy to answer any questions. [LB258]

SENATOR CAMPBELL: Questions for Dr. Acierno? Dr. Acierno, has the department, in your discussions with your counterparts across the country, have you had occasion to talk to any of them in the other states where this is being introduced? [LB258]

JOSEPH ACIERNO: I haven't. We may have had some of our members of Public Health who deal with the Medical Board who may be dealing with other states regarding it. But I haven't personally been in discussion with anyone. [LB258]

SENATOR CAMPBELL: So I'm taking from your testimony and your comments that the department is more than willing to sit down with Senator Nordquist... [LB258]

JOSEPH ACIERNO: Sure. [LB258]



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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CAMPBELL: ...and pursue the idea because I think I can certainly see great benefit to the state. [LB258]

JOSEPH ACIERNO: And that's why we're neutral on it. I would like to continue that discussion. Don't forget, we have the Uniform Credentialing Act that obviously is over multiple professions in how this can harmonize with that because when you start looking at licensure and disciplinary records and what they have the ability to get and sharing investigative material, and if you're disciplined in another state, automatically being disciplined here, I think we need to take a look at philosophy on some of those things and where the state should retain the right to govern its own practice and who's...just to see how it all lines up with the Uniform Credentialing Act. And so obviously we do more discipline than we would like. But that's just one area. I think the fee issue is another one. Who's controlling the fees? How are the states brought into this? How do we tack it on to our fee structure if we have to? So again, the concept, I'm not against the concept. I just want to make sure that we harmonize Nebraska to make sure it's best for Nebraska as well. [LB258]

SENATOR CAMPBELL: Senator Baker. [LB258]

SENATOR BAKER: Dr. Acierno, what does it cost now to procure a license in Nebraska for a physician? [LB258]

JOSEPH ACIERNO: I think it's about \$121 for two years. [LB258]

SENATOR BAKER: Okay, insignificant amount. [LB258]

JOSEPH ACIERNO: It's a two-year license. It's probably one of the cheapest in the country. [LB258]

SENATOR BAKER: So under this scenario, let's say I were a physician in Wyoming and I wanted to be able to, through telemedicine, interact with patients in Nebraska. What would your review be? Would it be a total transcript review to see what their medical education had been? [LB258]

JOSEPH ACIERNO: Correct, correct. What we do is they would have...telemedicine, it doesn't matter where you're at. If you're taking care of a patient in Nebraska, you need a medical...you need a license in the state of Nebraska. So you would apply for a license like anyone else, which would be all...your credential, your medical education, all those sorts of things. So, sure, you have all of that reviewed. And then you need the license from here. [LB258]

SENATOR BAKER: Likely my preparation again, my hypothetical is that our physician's in Wyoming. My medical preparation wouldn't be identical to the medical preparation in

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

Health and Human Services Committee  
March 05, 2015

---

Nebraska. Will I get ruled out because it wasn't the same. [LB258]

JOSEPH ACIERNO: No. Well, generally speaking with medical education, it is pretty much a national standard. You're going to accredited medical schools, and then you're passing national examinations. Really the days in medicine of having specific state examinations have kind of gone away. The national examinations are really calling the shots. And so that's all incorporated into our regulations. So we have many physicians who are licensed in multiple states. We have...because whether it's Iowa and Nebraska, which is kind of a natural with Council Bluffs, Omaha. So we have various folks who have licensure in multiple states. So there's really not a whole great deal of difference between the states in a sense of basic educational requirements. [LB258]

SENATOR BAKER: Okay. Given what you just said, what would you anticipate a turnaround time would be for a person who would apply for a Nebraska license if they're a physician in one of those other compact states? [LB258]

JOSEPH ACIERNO: I don't know. I can't say because I don't know...what slows us down probably in this state more than anything is the fingerprinting process, which really, we send that off. Fingerprints take a while. Otherwise, as long as people follow directions, fill out the application, get everything we need, we turn the...we can turn it around within days. It's really the fingerprinting process is the slowest part of the process. But again, that's going off to...I think we're sending that off to State Patrol. So that just takes a while because so many professions anymore, so many facets of our lives, so many different workers are requiring fingerprinting that it really kind of overwhelms that system. So that's probably the slowest part of it. [LB258]

SENATOR BAKER: Thank you. [LB258]

SENATOR CAMPBELL: A hint might be, since we have a member of the Appropriations Committee here today, (laughter) that they look at that because this is not the first time that this committee has heard of problems because of fingerprinting. Senator Coash had a bill a couple years ago. I think Senator Harms might have run into some difficulty. It should be noted that the State Patrol, and they have testified here, you know, they're doing the best they can I guess. [LB258]

JOSEPH ACIERNO: And I would make clear, it's not that they're doing poor work. It's just they have a lot of it. So they're doing good work. [LB258]

SENATOR CAMPBELL: That's right. They're overwhelmed. [LB258]

JOSEPH ACIERNO: Yeah. So again, I don't know, recently there was a bill. Somebody wanted to put fingerprinting on to that. I can't remember which one it is. But it's just one more thing that gets added into the whole pot. [LB258]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CAMPBELL: I believe that Senator Harr's bill was for the nursing. Do you remember that? [LB258]

JOSEPH ACIERNO: Yes, that is it. [LB258]

SENATOR CAMPBELL: Am I right, is that it? [LB258]

JOSEPH ACIERNO: That is it. Yes. [LB258]

SENATOR CAMPBELL: Correct. Senator Crawford, you've been quite patient. [LB258]

SENATOR CRAWFORD: Oh, that's okay. That raised another question, but I'll start with my first question which was, I mean it looks like the intent of the bill is to create the commission that then will create the detailed rules. So I guess one of your concerns is about the specific years of education or the specific residency requirements. It seems that's the commission's role is to make sure all the states are agreeing on that, in my mind. [LB258]

JOSEPH ACIERNO: I'm not so concerned about education...well, I think it's not clear on the amount of postgraduate work that you have to do. I'm not so worried about that. I probably have more concerns about how much control we have over the disciplinary process and how investigative material is going to be handled because they talk about files that can be moved state to state. And we try to be very sensitive to that. We try to contain all of that. So those are the areas I think we have to look at harmonizing more than if you went to a medical school, I have no issue regarding that and where you may have trained if it's accredited. I can understand that centralization so I don't have an objection to that. I think it's just the other portions of it I'm a little more concerned about. [LB258]

SENATOR CRAWFORD: I have a follow-up question now on the fingerprints. Is there anything that we can do to expedite the fingerprint process in terms of fingerprints taken in another state or something? [LB258]

JOSEPH ACIERNO: I don't know. I wish I could tell you. Unless you know how to read fingerprints, maybe you could do them. But I really don't know the process that well to say what would help it. I'd probably leave that to the experts in law enforcement to talk about that. I really don't know. [LB258]

SENATOR CAMPBELL: I agree. Any other questions, Senator? You know, Dr. Acierno, it must have been about in the last month Speaker Hadley handed me an article about a physician in South Dakota and all the troubles that South Dakota had in regards to discipline. So I'm very sensitive to what you're talking about because the doctor also

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

Health and Human Services Committee  
March 05, 2015

---

practiced in Nebraska and I think surrendered his license, I think was the final. But it would seem to me that if that could be worked out, at least you'd have the exchange of information if someone is...if their license is being looked at by a state. [LB258]

JOSEPH ACIERNO: True. And if they are disciplined in other states, we can get the information. We know what's going on. And our colleagues here from the Attorney General's Office who do that kind of work could speak chapter and verse on all of that. But we are...and through various sources, we know if people have been disciplined. And actually, they're supposed to be reporting it to us pursuant to regulation. So we should know much of what's going on. But I appreciate what you're saying. [LB258]

SENATOR CAMPBELL: Okay. Any other comments? Thank you, Dr. Acierno. [LB258]

JOSEPH ACIERNO: Thank you. [LB258]

SENATOR CAMPBELL: Our next testifier in a neutral position, anyone else? Senator Nordquist, we are back to you. [LB258]

SENATOR NORDQUIST: Thank you to the committee for listening. I certainly am willing to sit down with Dr. Acierno and the Medical Association and any other proponents of the bill to see if we can work through any questions or get as much clarity as we can on any of the questions. And whether or not we move forward, try to move forward this session or next, I think we can have a discussion about that, too, and see how long it takes us to get clarity on it. I wasn't aware of the fingerprint issue. I go to the gym. They use my fingerprint now to let me in. So maybe we need to talk to 24 Hour Fitness about their technology that they use or something. (Laughter) But maybe me getting into the gym though probably doesn't rise to the level of fingerprinting physicians for licensure. [LB258]

SENATOR CAMPBELL: You never know. Well, you know, it's like how we all now train some of our phones to recognize us and not having to make entries. So I think it's a great look at the future and I appreciate you bringing the bill. Any follow-up questions the senators would like to ask? Thank you, Senator Nordquist. [LB258]

SENATOR NORDQUIST: Thank you. [LB258]

SENATOR CAMPBELL: And I saw you write it down for the Appropriations Committee. Okay, that will close our public hearing on that bill and we will proceed to our hearing on LB264, Senator Morfeld's bill to provide for issuance of credentials under the Uniform Credentialing Act based on military education, training, or experience. And we have letters for the record. [LB258]

BRENNEN MILLER: (Exhibits 9, 10) Yes, Senator, in support, Nebraska Board of

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

Health and Human Services Committee  
March 05, 2015

---

Medicine and Surgery, and in opposition, Nebraska Board of Dentistry. [LB264]

SENATOR CAMPBELL: Senator Morfeld, please start. Thank you. [LB264]

SENATOR MORFELD: Chairwoman Campbell, members of the Health and Human Services Committee, my name is Adam Morfeld. That's A-d-a-m M-o-r-f-e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB264. LB264 changes the Uniform Credentialing Act and requires that, by December 15, 2015, the Department of Health and Human Services create a streamlined credentialing program for members of the armed forces to recognize their military training for civilian fields. How it will work is that, with the recommendation of the appropriate board, they will accept the training upon presentation of the satisfactory evidence of such military training by an applicant for education and service completed by the applicant in the military. This will apply to members of the armed forces of the United States, active or reserve, the National Guard of any state, the military reserves of any state, or the naval militia of any state toward the minimum standards for credential in that particular field. As the son of a marine who served in the military for over 25 years, my father, this legislation is important to me. I introduce this bill because I want Nebraska to be known as a military-friendly state and welcome our sons and daughters back home by not recognizing only their service but their...also their expertise gained while serving. Nebraska is the only state, including the District of Columbia, who does not have a law like this on their books. The bill is pretty simple. Its intent is to streamline the process for military members to get credentials they need from training they received while in the military. It doesn't change the requirements needed for a certification or a license. It simply asks the state to take those credentials gained whilst in service to our country and apply them to the required credentials for civilian licenses. The Uniform Credentialing Act oversees 34 practice acts such as the Advanced Practice for Registered Nurses, Alcohol and Drug Counseling, Athletic Training, Audiology and Speech-Language Pathology, Chiropractic, and the list goes on and on. LB264 streamlines the process for military members to use their training. This and other legislation that welcomes veterans to Nebraska, and in many cases back to their home, is incredibly important to myself and other Nebraskans who come from military families. We want to be known as a military-friendly state and join the rest of the country to make the transition from military to the work force easier for our veterans. Finally, and perhaps even more importantly, we want to ensure that medical areas of critical need are filled throughout our state, an issue that is particularly acute not only in our rural areas but also in some urban areas such as my district that has few medical professionals and no major medical facilities. I urge your favorable consideration of this bill. There are members of the military and others who will follow me who can explain in more detail why this bill is needed. I'd be happy to answer any questions. [LB264]

SENATOR CAMPBELL: Thank you, Senator Morfeld. Questions from the senators? Okay. Will you be staying? [LB264]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR MORFELD: Yes, I will be. Thank you. [LB264]

SENATOR CAMPBELL: Okay. All right. Our first proponent for the bill, LB264? Senator Baker, I thought it was you for a minute there. [LB264]

SENATOR MORFELD: I'd love to have the support of any committee members. (Laughter) [LB264]

SENATOR CAMPBELL: I can recognize that. Good afternoon. [LB264]

PAUL COHEN: (Exhibit 11) Good afternoon, Senator Campbell. My name is Paul Cohen, P-a-u-l C-o-h-e-n. My address is 13111 Hamilton Street, Omaha, Nebraska, 68154. Thank you for providing me and what's left of my voice the opportunity to visit with you today on behalf of the over 2,700 Nebraskans who are members of the Military Officers Association of America and its Nebraska chapter in support of LB264. By way of background, I'm a former second vice chair of the 377,000-member Military Officers Association of Nebraska. I've been the local chapter president and legislative chair for the chapter for several years. I served for nearly 35 years with the U.S. Air Force, the Nebraska Air National Guard. My last assignment was as the assistant adjutant general for air from which I retired in 1995 in the grade of brigadier general. I thank Senator Morfeld, Senator Crawford, Senator Garrett, Senator Kolowski, and Senator Nordquist for introducing this particular legislation. Several years ago when similar proposals came to this committee, I testified that Nebraska was one of 22 states that had not yet enacted a bill that would allow the department or board given the responsibility for licensing or certification of the various professions listed to accept education, training, and experience obtained while in the military service. As late as January 22 of this year, I wrote to Senator Campbell because I misread the date of this hearing (laughter) and indicated that 48 states had passed this legislation. As you already have heard today, Nebraska is the only state, including the District of Columbia, that has not adopted the necessary statute that would help us attract veterans to our state with the skills that we need. Veterans in the rest of the country may present transcripts of military service provided by the Department of Defense to licensing boards when applying for professional licenses or certifications and receive credit toward qualification requirements. This speeds the process and eliminates a costly redundancy of effort and expense for the veteran who must otherwise duplicate training already accomplished or repeat experience requirements already obtained. Over the years, I have attended hearings of this committee and have heard, as we have today, the need for increasing numbers of professionals in many of the fields included in LB264. Yet our state has failed to enact any legislation regarding licensure that would help alleviate the shortage. The lack of evidence of clear administrative procedures to consider military experience has also added to the perception that Nebraska is unfriendly to veterans who wish to obtain licenses or certifications to practice in the state. As in other states, only a

statutory statement that we recognize military experience will suffice. Passage of this bill will allow Nebraska to compete more effectively with transitioning veterans with skills needed in our state. And as you are well aware, the competition for transitioning veterans is increasing, not decreasing, as military transitions to a smaller force. Veterans, particularly those with the skills identified in this bill, are a ready work force. In most cases, they have done more than enough to meet most, if not all, of the qualifications. They just happened to do it in a military setting rather than in civilian institutions. The bill does not propose, as Senator Morfeld stated, nor do we advocate the lowering of any standard that a department or board may have in determining qualified candidates for licensing in the professions listed in LB264. We recognize the need to maintain the highest standards, but there is substantial agreement nationwide that training and experience gained in military service in these professions are more than adequate to count as achieved when reviewing and judging prerequisite requirements for licensing. Of course, as a state, we could elect to be the only state not on record in recognizing military training, experience, and education as part of a candidate's qualifications. Our state could continue to be shown on the various rating scales and illustrative maps as the only one that does not welcome veterans in the skills...with the skills listed. While that may not be the intent, it certainly is the unmistakable message that invites veterans to take their skills elsewhere. We urge the committee to favorably recommend LB264 and let us join the other 49 states and the District of Columbia in eliminating artificial barriers to employing otherwise qualified veterans in their chosen professions. I thank you for the opportunity to express our views on this matter. I'd be pleased to answer any questions that you may have. [LB264]

SENATOR CAMPBELL: Senator Crawford. [LB264]

SENATOR CRAWFORD: Thank you. And thank you, General, for being here. I appreciate it very much. [LB264]

PAUL COHEN: Thank you, Senator. [LB264]

SENATOR CRAWFORD: So the intent really is to...is not necessarily, we served in the military, give us a license. The intent is to have some thought by each board, as I understand it, to consider, now what would be...how should we treat those military experiences and what would be the equivalency? So I think that's one of the challenges, is you're not going to lay all that out in statute. In statute you're going to say, we want the boards to take the time to do this. So is that your sense of what the intent of the legislation is? [LB264]

PAUL COHEN: Said beautifully, could not have said it better. It's exactly the intent of what we see this legislation as providing. We're not asking for any special consideration to give credit where credit is not due. But because the standards have been set and

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

Health and Human Services Committee  
March 05, 2015

---

established in the training of military people and the experience they have, we think it's transferable. So the issue is, how do you identify what is transferable? And there are plenty of best practices available that would help and identify how you compare this apple to that apple and make sure that it comes out one that you can eat, not one that you want to put, you know, for feed. It is not a complicated process anymore because there have been standards established around the country and with the Department of Defense to meet the needs of our returning veterans to make the transition to the civilian work force. And that's all, we think, this bill provides. And we think that's very important. [LB264]

SENATOR CRAWFORD: Thank you. [LB264]

SENATOR CAMPBELL: Other questions? Mr. Cohen, I remember, I thought it was Senator McGill that introduced it. Am I correct on that memory? [LB264]

PAUL COHEN: Yes, ma'am, you are correct. [LB264]

SENATOR CAMPBELL: I thought that there were supposed to be follow-up conversations with the department. Do you know whether those ever transpired or that you were in any meetings? [LB264]

PAUL COHEN: I was not in any meetings. I don't know if they did transpire. [LB264]

SENATOR CAMPBELL: Okay. [LB264]

PAUL COHEN: And of course, when the term limits set in, that may have been the end of that talk...conversation. [LB264]

SENATOR CAMPBELL: Right. And as I recall, the bill...was the bill introduced once or twice? [LB264]

PAUL COHEN: Twice. [LB264]

SENATOR CAMPBELL: I know one of the times it...I think we were at the end of a short session or whatever... [LB264]

PAUL COHEN: That's right. [LB264]

SENATOR CAMPBELL: and we just could not...I mean, we wouldn't... [LB264]

PAUL COHEN: That's a good memory, Senator, yes, exactly right. [LB264]

SENATOR CAMPBELL: Not always is the memory good. (Laughter) But I am



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

Health and Human Services Committee  
March 05, 2015

---

recalling...and because the committee was very interested in this concept. But by no means do I...would it imply differently but I think we thought that there should be some follow-up conversation. And I see that Dr. Acierno is here in the department so perhaps they could shed some light on that. [LB264]

PAUL COHEN: One of the problems...excuse me, Senator. [LB264]

SENATOR CAMPBELL: Sure. [LB264]

PAUL COHEN: One of the problems at that time was discussed was, it was broader in scope... [LB264]

SENATOR CAMPBELL: Oh, okay. [LB264]

PAUL COHEN: ...than LB264. And that raised a number of issues about who was responsible for what and, in fact, put the committee in a tough position to try and do things that may not have been within your purview, should have been over in another committee. [LB264]

SENATOR CAMPBELL: Thank you for that memory. Senator Baker. [LB264]

SENATOR BAKER: Thank you. Is it General Cohen? [LB264]

PAUL COHEN: Yes, yes, it is. [LB264]

SENATOR BAKER: Would you respond to this? We have a letter in front of us from the Board of Dentistry saying, to qualify as a licensure for dentists, etcetera, must graduate from schools, college, or programs that are accredited by the American Dental Association commission on dental accreditation. Has...have your schools in the military that train people to be dentists, have they applied for accreditation? [LB264]

PAUL COHEN: Dentists must come in, at least to the Air Force, to my knowledge...and Mr. Dempsey, who is here from the Department of Defense, can clarify that. But in terms of the Air Force, you can't be a dentist in the Air Force unless you have already done that. [LB264]

SENATOR BAKER: Oh, okay. [LB264]

PAUL COHEN: Dental assistants, we do provide training for dental assistants but not for dentists themselves. DDS, you have to come to the Air Force with a DDS. [LB264]

SENATOR BAKER: I see. Thank you. [LB264]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CAMPBELL: As a follow-up to that, General, what...they are also talking about dental hygienists not dental assistants. Do you know whether the training is done for dental hygienists? [LB264]

PAUL COHEN: There is a training protocol for dental hygienists and dental assistants as well within the military. [LB264]

SENATOR CAMPBELL: Okay. Any other questions? Thank you, General Cohen, very much. [LB264]

PAUL COHEN: Thank you very much. Thank you. [LB264]

SENATOR CAMPBELL: And we very much appreciate your service to our country. [LB264]

PAUL COHEN: Thank you, Senator. [LB264]

SENATOR CAMPBELL: Our next proponent? [LB264]

JERRY STILMOCK: Good afternoon, Chairperson Campbell, members of the committee, my name is Jerry Stilmock, Jerry, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association, and the Nebraska Fire Chiefs Association in support of LB264. We need help. You need help. If you drive anywhere in the state, for the most part, if there's an accident, you are going to be served by volunteers from Omaha to Lincoln, Gretna, Ashland, Greenwood, all of those communities, southeast Nebraska, southeast rural, Ralston volunteers. Seward volunteers, for the absent senator this afternoon. Information that I had available to me, in 2011...from 2013 there was a reduction in categories, not volunteers, but of the categories of credentialed emergency responders by 568 people. When you go to a football game for a high school level, sometimes in a small community, you see the volunteers out there at a football game. If you go to a basketball game, volleyball game, you probably don't see that reference. They're supposed to be a noncontact sport. But I can tell you that one incident where I personally observed, a gentleman came back from serving our country, he was a trained EMT. There was an incident on the floor. A young lady actually just collapsed. And to see somebody collapse without any contact sends a shiver through the fans and lo and behold what it felt like to that parent or parents that were in the stands. I turned to the gentleman next to me who had just returned from serving our country and he said, Jerry, I want to do something but I can't, I'm not authorized to do this in Nebraska. It begs the question that you never want to hear answered negatively, but what happens if no one answers the call? So I know the purpose of the bill and I don't want to inundate you with recruitment of volunteers, but I think it's important to understand that Nebraska has an issue with volunteers in the communities. For the first time that I'm aware of, a rural community--Cass County,

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

Health and Human Services Committee  
March 05, 2015

---

Greenwood on the interstate, internal Elmwood, Avoca, to the far east, Plattsmouth--for the first time, that county has hired paid paramedics to come in and respond during daytime because of the lacking of volunteers in those communities. So I think it's a great measure that Senator Morfeld has brought, that Senator Crawford has joined in in it, and I urge all of you to join in and help. You know, I realize it's only one component, but it's a very important component for Nebraska and we'd urge you to consider and move the file to...the matter to General File. Thank you, Senators. [LB264]

SENATOR CAMPBELL: Thank you, Mr. Stilmock. Questions? Senator Cook. [LB264]

SENATOR COOK: Thank you. And thank you, Mr. Stilmock. To what would you attribute Nebraska being, once again, the last state to have this sort of statute on its books if you could identify one reason and especially in light of the fact that many of us are here to Offutt and other assignments? [LB264]

JERRY STILMOCK: Conservatism. I think we're a conservative body. You are a conservative body. We, as citizens, are a conservative body. And I think we tend to tread slowly and with great deliberation when we look at something like this. And, Senator, we hear it...we, on the outside of the glass, we hear you say it--well, you as one of the senators, as one of your colleagues--well, just because another state does it doesn't mean Nebraska does it and certainly nobody has followed us on the Unicameral. But we need to do it. And I think the answer to your question is I should have just stopped with one word which you had asked for was conservatism. I think we're a very conservative group of citizens in Nebraska. [LB264]

SENATOR COOK: All right. Thank you. [LB264]

JERRY STILMOCK: I wish I had something more intuitive but I don't. [LB264]

SENATOR CAMPBELL: Senator Crawford. [LB264]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. And thank you, Mr. Stilmock. Would your members be interested and willing to participate in a group that's talking about what the expectations are and what kind of training there is in the military and how that matches or what the gaps are between that and what Nebraska expects on those standards. Do you think you have members who are, you know, willing and interested to sit down and have those kinds of discussions to prepare and help the boards who are making those decisions? [LB264]

JERRY STILMOCK: I can answer that in one word: Absolutely. [LB264]

SENATOR CRAWFORD: Thank you. [LB264]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CAMPBELL: Any other follow-ups? Okay, thank you, Mr. Stilmock. [LB264]

JERRY STILMOCK: Thank you, Senators. [LB264]

SENATOR CAMPBELL: Our next proponent? How many other proponents do we have for the bill? Okay. This is our last proponent? Okay. Good afternoon. [LB264]

MARTIN DEMPSEY: (Exhibit 12) Madam Chair, committee members, good afternoon. My name is Martin Dempsey, M-a-r-t-i-n D-e-m-p-s-e-y. I work for the Department of Defense in the Military Community and Family Policy office. Thank you for this opportunity to express Department of Defense support for service member licensing, LB264. For the past three years, we've heard from our opposition that there are no complaints in Nebraska on this issue. As a rule, we tend not to lodge complaints to authorities unless we perceive we have not been treated equitably with regards to the rules. We seldom question whether the rules are equitable. So if our service members are being treated like everyone else according to the rules, even if the rules require they do something in addition, such as accomplish training completed while on active duty, they are much more likely to remain silent. Some service members may think that the rule may be unfair but they would simply say that it's the way it is and press on. Unless the legislators believe that service members should just suck it up and move on, there are systemic reasons for making these changes. Secondly, the argument of "show me the data" requires that there is an overt request for input on a specific issue that can drive the statistics. Otherwise, Nebraska will probably end up in the position of being the only state without any systemic approach to serviceman licensure and over time servicemen will recognize that they can achieve licensure more easily in the other states and may...and then complain why Nebraska doesn't have the same provisions. The bottom line: It is understandably prudent to be skeptical of making changes to address a need that may not exist. On the other hand, in the case hard statistics have never been gathered on this issue, to assume, therefore, that it isn't a problem is to assume that if one had a problem, they would complain about it, officially or worse, that Nebraska is the only state in America to where service members skilled in these professions never come up military separation or ever will come. In closing, the Department of Defense would like to thank Senator Morfeld introducing LB264. I wish to thank the committee for considering this issue. I look forward to Nebraska joining the other 49 states and the District of Columbia in enacting this legislation. Madam Chair, I stand ready for questions. [LB264]

SENATOR CAMPBELL: Excellent. Questions from the...Senator Crawford, sorry. [LB264]

SENATOR CRAWFORD: Thank you. No, that's fine. Thank you, chairwoman Campbell. And thank you for being here. Are you familiar with the Midwest Higher Education Commission Multi-State compact (sic) on Military Credit? That's a lot of words.

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

Health and Human Services Committee  
March 05, 2015

---

(Laughter) Are you familiar with that? [LB264]

MARTIN DEMPSEY: I am, ma'am. Yes, ma'am. [LB264]

SENATOR CRAWFORD: Okay. And just for...so that members of committee know, we actually are members of that. The state of Nebraska is a member of that coalition. And it is a resource to help the different states go through this process of figuring out what should change in boards or how to figure out this translation. So have you had any discussions with states in that compact that have used those resources in terms of trying to make their changes on the ground which is the tough part, frankly, of making that change on the ground to look at the board recommendations and figure out what changes to make. [LB264]

MARTIN DEMPSEY: Yes, Senator, great question. I have in Kansas, in Missouri, and in Iowa. I have been with those...the officials that sit on that committee. Again, I was with another branch of that committee when we did the Interstate Education Compact for Military Children nine years ago and established ground rules for that, of which Nebraska is a member. [LB264]

SENATOR CRAWFORD: So what does that...can you just give an example of what that looked like in one of those states in terms of how they got from the principal of, we should recognize credit, to looking at board standards for some profession? [LB264]

MARTIN DEMPSEY: Well, even though there's a, I'll say coalition for lack of a better term, each day is still unique in that their boards sit down and they look at the rules themselves and they ask, does this individual and the, I'll say resume, he or she has submitted, fill the billet for this license that they're looking for? If not, they then get back to that individual telling them what they need, in other words, whether it's a year or two year of education or maybe a remedial class somewhere. And I haven't seen a state yet that does it the same. [LB264]

SENATOR CRAWFORD: Thank you. [LB264]

SENATOR CAMPBELL: Any other questions, Senators? Mr. Dempsey, when our new Governor took office and spoke to the Legislature, one of the emphasis that Governor Ricketts made to the Legislature was the support and concern and what we needed to do to help returning service people to the state of Nebraska. So it may be interesting to now reenergize some of these conversations based on what the Governor had to say to the Legislature. I think he was extremely sincere in his comments and wanting Nebraska to be a welcoming state. So I expect that we'll follow up with some discussions. [LB264]

MARTIN DEMPSEY: I think that's a very prudent observation, Madam Chair. With the

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

Health and Human Services Committee  
March 05, 2015

---

unemployment rate for military servicemen between 24 and 26, earlier when this started to...there was 22 assigned, it was 28 percent. Now I think it's down to, like, 16 percent. But it's still above the national average. And the...with the Army alone reducing their numbers 80,000 over the next five years, multiply that by the other five services and you can see there's going to be a large number coming to the civilian work force. [LB264]

SENATOR CAMPBELL: Right. [LB264]

MARTIN DEMPSEY: And a lot of those individuals are very talented and very well-trained. [LB264]

SENATOR CAMPBELL: You've testified before us when these bills were up before if I remember right. Did you? [LB264]

MARTIN DEMPSEY: That's correct, Madam Chair. [LB264]

SENATOR CAMPBELL: And I should remember this but were you a part of the armed services? [LB264]

MARTIN DEMPSEY: I was 24 years in the Air Force, retired Chief Master Sergeant. [LB264]

SENATOR CAMPBELL: Well, I much appreciate your service to our country, too. I wanted to make sure that my memory served me correct. [LB264]

MARTIN DEMPSEY: Thank you, Madam Chair. [LB264]

SENATOR CAMPBELL: Thank you very much. Okay. Our next proponent? Anyone else? Okay. Anyone who wishes to oppose LB264? All right. Those in a neutral position to LB264? Good afternoon again. [LB264]

JOSEPH ACIERNO: (Exhibit 13) Good afternoon again. Good afternoon, Senator Campbell, members of the Health and Human Services Committee. Again, my name is Dr. Joseph Acierno, J-o-s-e-p-h A-c-i-e-r-n-o. I'm the Chief Medical Officer and director of Division of Public Health for the Nebraska Department of Health and Human Services and I am currently serving as acting CEO for the agency. I'm here today to offer neutral testimony regarding LB264. The Uniform Credentialing Act regulates persons and businesses that provide health and health-related services and environmental services. LB264 proposes changes in the UCA to require the department to accept education, training, or service completed by an applicant through military service toward meeting the minimum standards for a credential. Recognizing military education, training, or service towards minimum requirements for a credential may be acceptable in certain professions and not in others depending on whether the education, training, or service

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

Health and Human Services Committee  
March 05, 2015

---

earned through the military is comparable to education or training currently required. Many professions require education or training to be accredited by a recognized entity and that may pose challenges for military education or training to be determined as comparable. There have not been issues in Nebraska with credentialing military applicants. On average, credentials are issued within two days following the date that all requirements are met. In addition, the UCA allows military persons who are renewing their credentials to waive the renewal fee and waive the continuing competency requirements if they can provide documentation of active military service. With that, I'll answer any questions. [LB264]

SENATOR CAMPBELL: Dr. Acierno... [LB264]

JOSEPH ACIERNO: Yes. [LB264]

SENATOR CAMPBELL: ...given what you've outlined here, do you think that the question that...comes down to the fact that we don't have anything in statute? [LB264]

JOSEPH ACIERNO: I'm not sure I understand the question. [LB264]

SENATOR CAMPBELL: Well... [LB264]

JOSEPH ACIERNO: But I don't know that it comes down to statute. I think it's how we implement the UCA... [LB264]

SENATOR CAMPBELL: Okay. [LB264]

JOSEPH ACIERNO: ...more than it is in the statute. When we'd looked at this a couple years ago, and I looked at it with you, Senator Crawford, we were looking at trying to get an idea which professions...obviously we regulate a number of professions all the way from body artists to physicians. And one of the areas I'll use as an example that there was a focus on was really emergency medical folks, EMS services, paramedics. And we looked at it and said, well, what is...is there an issue? We accept the training that the military offers. So we find that we are actually...we're already accepting the training. It's a matter of just going through the process. So to know...I appreciate where somebody may say they have a problem or they're not talking about a problem. Well, we should know if there are issues that they believe there's comparable training that we can review and determine whether it is. So I think, depending on the professions, I think one we're talking about here and Senator Baker brought up as far as the dentist goes, that's going to sit in its own world of training... [LB264]

SENATOR CAMPBELL: Right. [LB264]

JOSEPH ACIERNO: ...because of the accreditation of dental schools. So it's profession

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

Health and Human Services Committee  
March 05, 2015

---

to profession how we're looking at things here. But I would use the example, really, of the paramedics, the EMTs. We're accepting the training already the military is doing. It's all part of the list of what is acceptable. So...but with that being said...but I would...it would be...from the department's standpoint, I would like to understand, what professions specifically... [LB264]

SENATOR CAMPBELL: Okay. [LB264]

JOSEPH ACIERNO: ...do we feel we're not targeting well? Is it respiratory therapists? Is it cosmetology? What is it, because when you start looking at all of them, do we really have an issue or is there a couple of them we're more concerned about than others? [LB264]

SENATOR CAMPBELL: Right. And I'm sure that perhaps we need to have another sit-down conversation to try to determine, where is the problem here... [LB264]

JOSEPH ACIERNO: Sure. [LB264]

SENATOR CAMPBELL: ...and make sure that what you are doing in practice is recognized. Let's put it that way. [LB264]

JOSEPH ACIERNO: Right. And that's, I think, where, obviously if somebody is well-trained and would meet requirements, by all means, you know, they should be licensed. But it's understanding what...the bill is very broad to say do...with all this. But I'm in the position of having to implement a law and I'm trying to understand, how does this all work from profession to profession? What training are you talking about and how do we just move it to a reasonable conclusion? [LB264]

SENATOR CAMPBELL: Senator Crawford. [LB264]

SENATOR CRAWFORD: Sure, thank you. Thank you, Dr. Acierno. [LB264]

JOSEPH ACIERNO: Yeah. [LB264]

SENATOR CRAWFORD: I think that, you know, one of the issues in the way...what you're talking about in the testimony is, you know, two days after the requirements are met. And I think the real heart of the issue is trying to have these discussions about the requirements. And I think what's...part of what's happening is that that discussion needs to happen board to board to board to board. And so we keep coming into the situation where we're trying to say, what all does this one statute need to have? What the statute really just needs to do is launch that discussion and the discussion is going to happen board to board to board to board. And the...what we did in our interim study is we just...we started with three and thought, well, let's look at these three. And of those



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

Health and Human Services Committee  
March 05, 2015

---

three, the EMT was an interesting example because that's where, actually, the military changed their practice to be a better fit to states because there was a national test everywhere. So the military said, well, we should probably have our folks do that. So that was their, I think, proactivity that makes that such a good fit for us. And so I don't think that we...so I think the idea in other states has been, pass the statute to launch that discussion board by board by board. And obviously this is something we talk about with the introducer. And if the time line is too tight, you know, we could talk about that. But the idea is to launch the discussion--and it will be different in every single board--about what it looks like and what the military training looks like, what dentists looks like versus hygienists. So that's the discussion we need to have board by board. And I think the idea behind the statute is to authorize and to direct those boards to have those discussions. [LB264]

JOSEPH ACIERNO: I just think when...and I understand that. I think what you will find...the way we have done things and with training requirements here, I think what you will find is we're in line, that we would be in line. I don't...I tell you the speed at which we're...because the department...many people have said, well, they're just sitting on my application. We track it. We know how long we're on applications. And we know what might slow down certain applications. And certain professions just take longer than others because of individual requirements. But we know how fast we can turn around. We don't sit on them just because we like to sit on them. There's always another license coming through. So I appreciate where...what you're saying, Senator. I...it is my belief, though, that you will find that our training requirements don't differ substantially to what any look at will show. So I think, overall, we're probably in pretty good shape in that regard. But again, I'm open-minded to the discussion to look at it. [LB264]

SENATOR CAMPBELL: Okay. Follow-up questions, anyone? Thank you, Dr. Acierno. [LB264]

JOSEPH ACIERNO: Sure. [LB264]

SENATOR CAMPBELL: Anyone else in a neutral position for the bill? Seeing no one, Senator Morfeld, we are back to you. [LB264]

SENATOR MORFELD: Committee members, thank you. Good discussion today and I appreciate Dr. Acierno coming out here to talk, and I look forward to working with them on this bill along with any other committee members that want to work with me on this. I...you know, coming from a military family, my father actually works for the Department of the Navy and he works for the Department of the Navy in the family services division. So he helps the families transition back into civilian life once they return. And one of the things that military families do is, once they transition out, they look at the maps and the charts that show different states that have certain services and preferences for military members. And so, while I appreciate that our standards may be in line, by virtue of not

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

Health and Human Services Committee  
March 05, 2015

---

even having a process, we may be turning away veterans that we never even heard about or who may never even try to look at Nebraska because they want to, after transitioning out of the military, have the smoothest transition back into civilian life so that they have a job and they're successful and then they can plant their roots. There was a bill two years ago that I believe Senator Crawford introduced that made our instate residency requirements for tuition purposes for our state college system and university system much more friendly to military families. And I decided to come back to Nebraska. This is where all my family is from, five generations. I decided to come back despite the fact that I was denied instate tuition. And I took a \$40,000 or \$50,000 hit in student loans on that. But I decided I wanted to come back and be with my family. And not very many military families and kids would do that, actually. Most would probably go to the state where they receive instate tuition. And for me, that would have been South Dakota at the time. And so for me, legislation like this is more than just giving preference to military members. It's about allowing military members who left their state, left their families to serve their country and to welcome them back and to reunite them with their families and with their home state. And having requirements like this in place and preferences like this in place is not just a military preference or veterans preference in my mind. I mean, I think that's important. But it's also about reuniting them with their home state and their families. And that's why I think that this legislation is important. Many of the requirements may very well be in line with military training and standards. But the fact of the matter is that we need to make a statement to military members that they are, in fact...and then ensure that they are among the various different boards. And with that, I'd be happy to answer any questions. [LB264]

SENATOR CAMPBELL: Senator Morfeld, I was just quickly looking at the bill. And I know you can probably answer this faster than what I can look. Let's put it that way. [LB264]

SENATOR MORFELD: Okay, maybe. [LB264]

SENATOR CAMPBELL: And only because I want to go back to Senator Crawford's point about...that the legislation needs to be an enabler to launch and request of the Board of Health and the different professional boards to review this and ensure that we have the standards. The point being...is if that's not what it says, that may be the linchpin in working with Dr. Acierno that we get that language to ensure that that review takes place not just to say, well, they should. Is that...am I making sense? I see nods. [LB264]

SENATOR MORFELD: No, that... [LB264]

SENATOR CAMPBELL: So you may want to relook at how...and I was trying to look at that. You've got...in Section 3 on the very last page, you do...you talk about that recommendation. I just don't know whether that...we can shore that up maybe. [LB264]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR MORFELD: I'm more than happy to work with the department and the committee to move this forward in a substantive way so, open. [LB264]

SENATOR CAMPBELL: Okay. We'll leave it to you and Dr. Acierno to set up an appointment and get back to us because I do think we're on the right path here and we may be saying the same thing. But obviously our statutes are not reflecting that to the military people who look at us. [LB264]

SENATOR MORFELD: And that's my main concern. Thank you. [LB264]

SENATOR CAMPBELL: Okay. Thank you very much, Senator Morfeld. [LB264]

SENATOR MORFELD: Thank you. [LB264]

SENATOR CAMPBELL: All right. That concludes our hearing on Senator Morfeld's bill, LB264 and we will proceed to our last hearing of the day, Senator Riepe's bill, LB369, which is to change provisions relating to impaired credential holders under the Uniform Credentialing Act. Thank you, Senator Riepe. [LB264]

SENATOR RIEPE: Thank you. Before Senator Morfeld left, I wanted to...as a sailor, I wanted to thank you for acknowledging that the Marines are part of the Navy. [LB369]

SENATOR MORFELD: (Laugh) I can't do that in public, sir, so... [LB369]

SENATOR RIEPE: Don't tell your dad. [LB369]

SENATOR CAMPBELL: All right, Brennen, do we have letters for the record? [LB369]

BRENNEN MILLER: (Exhibits 14, 15) We do, a support letter from the Nebraska Board of Medicine and Surgery and in a neutral position, a letter from the Nebraska Pharmacists Association. Thank you. [LB369]

SENATOR CAMPBELL: Senator Riepe, just feel free to start out whenever you're ready. [LB369]

SENATOR RIEPE: (Exhibit 16) Thank you, Chairwoman Campbell and members of the Health and Human Services Committee. In listening to today's testimony, I thought that we may need to call the Governor and declare this, March 5, the Nebraska medical credentialing day. It seems like we spent our entire day here. Today, I will introduce, or I am introducing, LB369. I am Senator Merv Riepe. And that's spelled, Merv is M-e-r-v. Riepe is spelled R-i-e-p-e. And I represent District 12 which is Omaha, Millard, and Ralston. LB369 was brought at the request of the Department of Health and Human

Health and Human Services Committee  
March 05, 2015

---

Services and I believe that LB369 will promote safety for patients, credentialed practitioners, and additional methods to address practice impairments for the Department of Health and Human Services. LB369 amends the Uniform Credentialing Act to allow clarification and synchronization with the Americans with Disabilities Act. LB369 provides alternative procedures to address practice impairments for professions credentialed by the Public Health Division of the Department of Health and Human Services which include licensed, certified, and registered. I'm going to walk through the current process, then move to LB369, and end with my proposed amendment to the bill. Under current law, the agency needs additional options to limit the credentials of an applicant or a credential holder. This bill is intended to authorize the agency to use alternative procedures regarding practice impairments. Currently under Nebraska statutes, the department receives the complaint regarding the credential holder or applicant as to a practice impairment. The director investigates the complaint to determine if reasonable cause exists to question the qualifications of the applicant or credential holder. And if the director finds reasonable cause, he or she shall report those findings and evidence to the appropriate board. The board then makes a determination if reasonable cause exists to question the qualifications of the applicant or the credential holder and appoints a panel of three qualified physicians or professionals to review and analyze information and then submits to the board its written findings and conclusions. If the board finds the applicant or credential holder to not qualify...not be qualified to practice, the board shall certify that fact to the director with a recommendation for denial, refusal of renewal, limitation, suspension, or revocation of the credential. The director shall then deny, refuse to review or renew, limit, suspend, or revoke the credential as the director determines to be necessary for the protection of the public. Under LB369 that I'm presenting today, the department receives the complaint regarding the credential holder or applicant's alleged practice impairment. The department may present information to the appropriate board to determine if there is an impairment to practice rather than the director. The board makes initial determination as to reasonable cause to question the qualifications and chooses between four options to formulate a recommendation. The board may: (1) determine there is enough information to make final recommendation to the director; (2) receive and consider reports or examination from a qualified physician of the applicant's or credential holder's choice and relevant information from applicant or credential holder; (3) require applicant or credential holders to submit to diagnostic examination by a physician approved by the department; and (4) appoint a panel of three qualified physicians or professionals to review and analyze the information. The panel would submit to the director...or to the board written findings and conclusions. The board then considers all information and makes a recommendation to the director. The recommendation may state the application or credential holder is fully qualified to practice or, if the applicant or credential holder is not fully qualified to practice, the board may recommend to (1) deny, refuse to renew or revoke the credential; issue or renew the credential with specific limitations, terms, or conditions; or (3) suspend the credential. The director makes a finding by written order determining the applicant or

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

Health and Human Services Committee  
March 05, 2015

---

credential holder is fully qualified to practice. Or if the applicant or credential holder is not fully qualified to practice, the director may again deny, refuse to renew, or revoke the credential; (2) issue or renew the credential with specific limitations, terms, or conditions; and (3) suspend the credential. Under AM687, which is here to be handed out, the department receives the complaint regarding the credential holder or applicant as to a practice impairment. The director investigates the complaint to determine if reasonable cause exists to question the qualifications of the applicant or credential holder. And if the director finds reasonable cause, he or she shall report those findings and evidence to the appropriate board. The board makes a determination if reasonable cause exists to question the qualifications of the applicant or credential holder and chooses between four options to formulate a recommendation. And those four are: (1) determine there is enough information to make final recommendations to the director; (2) receive and consider reports or examination for a qualified physician of the applicant or credential holder's choice and relevant information from applicant or credential holder; (3) require applicant or credential holder to submit to diagnostic examination by a physician approved by the department; and (4) appoint a panel of three qualified physicians or professionals...or professions to review and analyze the information. The panel would submit to the board written findings and conclusions. The board then considers all information and makes a recommendation to the director. That recommendation may state the application or credential holder is fully qualified to practice or, if the applicant or credential holder is not fully qualified to practice, the board may recommend to, again, deny, refuse to renew, or revoke the credential; (2) issue or renew the credential with specific limitations or nondisciplinary terms or conditions; or suspend the credential. The director shall then deny, refuse to renew, limit, suspend, or revoke the credential issue or renew the credential subject to nondisciplinary terms and conditions as the director determines to be necessary for the protection of the public. The department of HHS is here to testify and can give specific answers regarding this bill. Also, the Attorney General's Office is here to testify and will shed some light as to its role in the process. Thank you for your consideration of LB369 and I gladly accept questions you may have regarding this effort to promote safety for patients and for those credentialed professionals that may have a practice impairment. Thank you. [LB369]

SENATOR CAMPBELL: Senator Riepe, then the amendment that you've given out becomes the bill? [LB369]

SENATOR RIEPE: Yes. [LB369]

SENATOR CAMPBELL: Okay. Unless the senators object, I think it might be helpful to move to the department and the Attorney General's Office to hear that testimony because that may answer some questions that we have unless anyone objects. [LB369]

SENATOR RIEPE: I will be here for the close in case that there are questions that come

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

Health and Human Services Committee  
March 05, 2015

---

back. [LB369]

SENATOR CAMPBELL: You object? [LB369]

SENATOR COOK: He sits right back here, so... (Laughter) [LB369]

SENATOR RIEPE: Okay. [LB369]

SENATOR CAMPBELL: Oh, okay. But I think that just might be easier, if we move to that and then we will take proponents and opposition and neutral. But I think the department and... [LB369]

SENATOR RIEPE: I agree. [LB369]

SENATOR CAMPBELL: ...the Attorney General's because I have been led and given some information that part of this also involves a court case that had been settled. [LB369]

SENATOR RIEPE: That's correct. [LB369]

SENATOR CAMPBELL: So we may have questions on that. Is that correct, Senator? [LB369]

SENATOR RIEPE: Yes, that is correct. [LB369]

SENATOR CAMPBELL: Are you comfortable with that lineup? [LB369]

SENATOR RIEPE: Absolutely. [LB369]

SENATOR CAMPBELL: Okay. [LB369]

SENATOR RIEPE: Thank you very much. I will be around here at the end, obviously. [LB369]

SENATOR CAMPBELL: Okay. We will then proceed. Does the department wish to testify first and then the Attorney General? And you can state for the record what your position is. I just thought it might be helpful to start with the two agencies. [LB369]

JOSEPH ACIERNO: (Exhibit 17) I'm sure you know my position, but good afternoon for the third time. [LB369]

SENATOR CAMPBELL: Yes. [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

JOSEPH ACIERNO: Senator Campbell and members of the Health and Human Services Committee, for the record, my name is Dr. Joseph Acierno, J-o-s-e-p-h A-c-i-e-r-n-o. I don't think I've ever had to spell my name that many times in a couple hours. I am the Chief Medical Officer and director of the Division of Public Health for the Nebraska Department of Health and Human Services here today to testify in support of LB369 that was initiated by the Division of Public Health. And I want to thank Senator Riepe for introducing the bill. The Uniform Credentialing Act regulates persons and businesses that provide health and health-related services and environmental services. LB369 proposes to modify an existing process in the UCA that is used when a credential holder is alleged to be unqualified for professional practice due to physical or mental disability or deterioration or substance abuse. The changes proposed by the bill are intended to clarify the process and to synchronize the UCA with the Americans with Disabilities Act. The current process in the UCA provides for an examination of applicants and credential holders when the department receives a complaint or a report that indicates the person's ability to practice his or her profession is impaired by abuse, dependence, or active addiction to alcohol, any controlled substance, any mind-altering substance, illness, deterioration, or disability. The examination is conducted by a committee of three qualified physicians or other qualified professionals who are appointed by the respective professional board and the cost of that examination is paid by the department. The committee reports its findings to the board for a determination of whether the applicant or credential holder is qualified to practice. If the board finds the applicant or credential holder is not qualified to practice, the board recommends to the director the denial, refusal of renewal, limitation, suspension, or revocation. The director then issues an order as he or she determines to be necessary for protection of the public. Action taken under this provision is considered as disciplinary action. LB369 offers a rearrangement of the process that is less cumbersome and offers more options to the department, the boards, and the applicant or credential holder. The board may receive additional information such as diagnostic exams provided by the applicant or credential holder. The board may require the applicant to undergo a diagnostic examination by an approved provider at the credential holder's expense. The board may appoint the three qualified physicians or other qualified professionals to review, analyze the information regarding the applicant or credential holder at the department's expense and they also report that finding. Based on all the information, the board would then make a recommendation to the director as to whether the applicant or credential holder is qualified to practice or continue. The board could recommend denial; refusal of renewal; revocation of the credential; issuance; renewal of the credential with specific limitations, terms, or conditions; or suspension of the credential. The director then issues an order that he or she determines to be necessary. The department was involved in a U.S. District Court lawsuit several years ago in which an applicant for a credential alleged discrimination under the ADA. The court found in favor of the applicant and it was apparent that changes in the statute were necessary. There needed to be authorization for the department to monitor credential holders who have a physical or mental condition that impairs their ability to practice without requiring

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

Health and Human Services Committee  
March 05, 2015

---

disciplinary action against the credential. It was recommended by the Assistant Attorney General at that time who represented the department in the case to pursue changes that would synchronize the UCA with the ADA, recognizing that qualified individuals under the ADA should not be discriminated against because of their disability. The department has been communicating with the Attorney General's Office and have worked together to create an amendment to LB369 to address the issues in the green copy while still achieving the ultimate goal of this legislation. I believe LB369 offers improvements to the UCA by establishing a process that is more logical and efficient than the present process and offers more options to achieve the desired result which is an accurate assessment of an applicant or credential holder's ability to practice safely. An improved process to address the issue is becoming increasingly more important because the department expects there will be an increase in reports of applicants' or credential holders' inability to practice safely in coming years. Modern medicine and drugs have extended life and improved control of disease. Healthcare providers can practice longer than ever before. But the downside of chronic illness are often associated with aging or...is becoming more prevalent. A number of diseases can be subtle in deterioration of physical or mental abilities over time. [LB369]

SENATOR CAMPBELL: Dr. Acierno, just complete... [LB369]

JOSEPH ACIERNO: Yeah. [LB369]

SENATOR CAMPBELL: ...I mean, because this is important to get into the record. [LB369]

JOSEPH ACIERNO: Okay. [LB369]

SENATOR CAMPBELL: You can slow down a bit. [LB369]

JOSEPH ACIERNO: Yeah, I'm watching...I'm doing this, you know? [LB369]

SENATOR CAMPBELL: We'll have Brennen take... [LB369]

JOSEPH ACIERNO: I'm multitasking. It's like a lobster. I'm watching one and reading with the other here. [LB369]

SENATOR CAMPBELL: I know. And I don't want you to do that because we need to get all of this in the record. [LB369]

JOSEPH ACIERNO: Okay. Okay, that's fine, because I was going to...when you were going to go to red, I was just going to skip and put it in. Modern medicine and drugs have extended the life and improved the control of disease. Healthcare providers can practice longer than ever before. But the downside is chronic diseases that are often



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

Health and Human Services Committee  
March 05, 2015

---

associated with aging are becoming more prevalent. A number of those diseases can result in subtle but sure deterioration of physical and mental abilities over time. Likewise, modern medicine continues to make great progress in developing pharmaceuticals that treat both short-term, long-term illnesses, and disease. All drugs have side effects, some of which may be a decrease in physical or cognitive abilities. And, in fact, some prescribed drugs can cause dependency. Moreover, most recreational drugs can cause dependency, either physical or psychological. Unfortunately, both prescription drug abuse and recreational drug use are increasing. Healthcare providers, perhaps because they are dedicated to helping others, may not recognize or may ignore their own symptoms of decreased ability to safely practice. Providers are subject to the same illnesses and diseases and use the same pharmaceuticals as the general public. And some providers, like some in the general public, will abuse prescription drugs or use recreational drugs or alcohol to excess. Patients and clients have a right to expect their healthcare providers are physically and mentally fit for professional practice and will practice safely. Every professional board desires for credential holders to meet the highest professional practice standards. For all of these reasons, the department supports an improved, efficient, thorough, and fair process to assess whether a healthcare professional can safely practice his or her profession. I believe the provisions in LB369 will meet those improvement standards and I support its advancement. And with that, I'll take a breath and entertain any questions. [LB369]

SENATOR CAMPBELL: Dr. Acierno, I hope you are aware that Senator Riepe has introduced a white copy amendment which becomes the bill. And do you support the white copy amendment? [LB369]

JOSEPH ACIERNO: Yeah. Yes, and I think, working with the Attorney General's Office, I think we...I'm confident we can support that, sure. [LB369]

SENATOR CAMPBELL: So we've finally gotten to that point? [LB369]

JOSEPH ACIERNO: Yeah. [LB369]

SENATOR CAMPBELL: And it's good to have that amendment going into the discussion. Do you run into a lot of cases in which there is a complaint of impairment? [LB369]

JOSEPH ACIERNO: Well, we...a fair amount of it. But there's...it's an interesting issue. We're looking at folks who may have disabilities here. We're looking to keep this out of, necessarily, discipline. You don't want to discipline a condition. You want to discipline conduct. So even if you have a condition that would be under the ADA, but if conduct didn't meet professional standards, we could discipline that. But we don't want to discipline somebody just because they have a disability. And that's really what we're

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

Health and Human Services Committee  
March 05, 2015

---

trying to do here. Do we see a fair amount of abuse of alcohol and drugs by professionals? Yes, way too much. But the majority of those cases includes conduct which then should be disciplined. So we are not trying to circumvent discipline but we're trying to have a better analysis overall of the potential licensee or the licensee. We have a better picture and we can then defend an action if we choose to limit their license in some way. This was the problem we had with the case before the district court. We could not support disciplining a potential licensee. There was no conduct involved. It was by the mere fact of a condition. And so this gives us an avenue to actually analyze, better analyze, with the help of the professional boards, to actually understand the condition of the individual. If this individual hasn't resulted in any conduct that has violated anything in the Uniform Credentialing Act, well, maybe we should look at...maybe they have an issue where they shouldn't be operating, let's say, or they shouldn't be doing something. We would limit the license. So it is...it may be in good standing. They shouldn't be doing certain things. There is another thing to say, they are impaired on the job and now have had conduct which now we have to say, wait a minute, you can't be doing that. And then they need to be disciplined. I know it's subtle but what it gives us is really a bigger avenue by which to analyze the licensees or potential licensees. [LB369]

SENATOR CAMPBELL: Now, my understanding is that the court case was around 2012. Was there some reason why we've had this lapse of time? That's one question. And number two, is there a reason that this needs to be expedited? [LB369]

JOSEPH ACIERNO: I don't know about expedited. The reason why it took time is just, I would say, priorities moving out of the agency which you hear all the time. So I think it's where it rises and where it might go at that time. But I wouldn't say that it needs to be expedited per se but I do think it's something that we need to take a closer look at because we've already been called on it, so. [LB369]

SENATOR CAMPBELL: Do you have any number of cases that are awaiting using this procedure? [LB369]

JOSEPH ACIERNO: I don't off the top of my head because I don't see every complaint that comes in. I'm walled off from that because I'm the eventual judge. So I don't see every complaint coming in. I see the end result when it hits my desk for ruling. So I don't have that information. [LB369]

SENATOR CAMPBELL: And I would guess that there is a fair amount of peers sitting down...I know from a hospital perspective that peers sit down and say, you know, there is a problem here and try to take care of that before it gets to a complaint to you. [LB369]

JOSEPH ACIERNO: Sure. [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CAMPBELL: So there's a fair amount of that also... [LB369]

JOSEPH ACIERNO: True. [LB369]

SENATOR CAMPBELL: ...which is very helpful to someone if they're having difficulty because of a substance abuse or whatever. [LB369]

JOSEPH ACIERNO: Right. And, you know, interesting, we focus on substance abuse, but there are other physical issues that might be going on with a practitioner that they may not even recognize. These are all difficult cases and you try to take them one at a time. And this is why, with some of the other tools, whether you have them examined or whether you look at their medical record or the physician panel or provider panel, we can take a better shot of that individual to determine how best to handle them. And ultimately this is about protecting the public. It's about protecting the licensee, potentially, too, against themselves depending on the...how profound their issue is. So it's ultimately about safety. But I agree with you. [LB369]

SENATOR CAMPBELL: Okay. Thank you. Questions? Senator Howard. [LB369]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you, Dr. Acierno. I'm curious about the reasonable cause standard. Is their case law behind that? [LB369]

JOSEPH ACIERNO: Which...where are you looking at specifically? [LB369]

SENATOR HOWARD: Well, in the green copy...do you have the green copy? [LB369]

JOSEPH ACIERNO: Okay, yes, I do with amendments. [LB369]

SENATOR CAMPBELL: It's in the white copy, Senator Cook? [LB369]

SENATOR COOK: Yeah, (3)(a) in the white copy. [LB369]

SENATOR CAMPBELL: On page... [LB369]

SENATOR COOK: Page 2 at the bottom. [LB369]

SENATOR HOWARD: Bottom. [LB369]

JOSEPH ACIERNO: I need help, I got so many things here. [LB369]

SENATOR CAMPBELL: It's line 22, Dr. Acierno... [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR COOK: Yes. [LB369]

SENATOR CAMPBELL: ...in the white copy. It says, "If the board determines that reasonable cause exists" and then Senator Howard's question is... [LB369]

SENATOR HOWARD: What's the standard? [LB369]

JOSEPH ACIERNO: I don't know that off the top of my head as far as where...I...reasonable...I'm just trying to get my thoughts together how I would phrase that. [LB369]

SENATOR HOWARD: Sure. [LB369]

JOSEPH ACIERNO: I think if they have enough...I'm going to say enough information. I don't know the basis of that actual phraseology though, but if they are lead to believe by their analysis that there would...that there may exist a question as to the qualifications. I don't know that I can break that down into whether it's...if you're looking at, kind of, the criminal end of things, you know? [LB369]

SENATOR HOWARD: Right, but reasonable man standard has case law behind it. [LB369]

JOSEPH ACIERNO: Yeah, I would say that. I don't know...I can't honestly say that I know that phraseology, what case law is sitting right behind it. I don't know that. [LB369]

SENATOR HOWARD: And then, if I may... [LB369]

SENATOR CAMPBELL: You'll probably get to ask that question again. [LB369]

SENATOR HOWARD: Okay. [LB369]

SENATOR CAMPBELL: Okay. Go right ahead. [LB369]

SENATOR HOWARD: Thank you. When you say that you're walled off from the investigation, are you the director when the statute says the director will conduct an investigation, or... [LB369]

JOSEPH ACIERNO: Yes, but what happens is, yeah, I can say, do it. But then I don't get involved in the actual fact finding. We have an investigations unit that does that. [LB369]

SENATOR HOWARD: Oh, and then you take everything in? [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

JOSEPH ACIERNO: Yeah, everything comes back to me eventually. But I don't orchestrate it. [LB369]

SENATOR HOWARD: Okay. You don't get updates? [LB369]

JOSEPH ACIERNO: No, that's what they do for a living. They investigate things. They do whatever they need to do and then bring the matter back. But, no, as the fact finder, I think if I start digging too many different ways then I'm actually...could potentially be biased where I'm headed with it. But that's what they're trained to do, our investigators. But they work with the Attorney General's Office every day on investigating cases. So they are professional in that and I am not as an investigator. [LB369]

SENATOR HOWARD: Thank you. [LB369]

JOSEPH ACIERNO: Yeah, sure. [LB369]

SENATOR CAMPBELL: Other questions? Senator Cook. [LB369]

SENATOR COOK: One question just to clarify for the record, Doctor... [LB369]

JOSEPH ACIERNO: Yeah. Yeah, yeah. [LB369]

SENATOR COOK: ...that when we are talking about conditions that it is inclusive, that the world of Parkinson's is in the same as the disease of alcoholism or...and substance abuse... [LB369]

JOSEPH ACIERNO: It could be, sure, absolutely. [LB369]

SENATOR COOK: ...and not kind of making that distinction now that we... [LB369]

JOSEPH ACIERNO: No, I'm not. I think we're using it as an example. But there is...these are...and that list is getting longer and longer. [LB369]

SENATOR COOK: Sure. [LB369]

JOSEPH ACIERNO: But they are all held in the same way, yes. [LB369]

SENATOR COOK: Okay, good. Thank you. [LB369]

SENATOR CAMPBELL: Good question. Thank you. Senator Howard. [LB369]

SENATOR HOWARD: Thank you. Sorry. I'm sorry. [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

JOSEPH ACIERNO: That's all right. [LB369]

SENATOR HOWARD: Okay. What's the rationale behind the...sort of the subcommittee of three qualified physicians? [LB369]

JOSEPH ACIERNO: That goes back to the UCA originally. I don't...and that is really just carried through from legislation of the past. So I wasn't around when that was all put together many, many years ago. So I don't know where that came from. I don't know the history of that. [LB369]

SENATOR HOWARD: I mean, I think it's a good idea. [LB369]

JOSEPH ACIERNO: We...yes. [LB369]

SENATOR HOWARD: I was just looking for the rationale. [LB369]

JOSEPH ACIERNO: Yes, we have used that. And...but I couldn't give you the history behind it. [LB369]

SENATOR HOWARD: And then does this language...was it recommended by the ADA or does it mirror other states' language? [LB369]

JOSEPH ACIERNO: No, I think we tailored this to the Uniform Credentialing Act, ours, in looking at just the way the ADA...it really doesn't mirror the ADA per se where there's exact language put into it. But it allows us to evaluate conditions that may be under...or qualify under the ADA, if that answers your question. [LB369]

SENATOR HOWARD: How many other states have this statute? [LB369]

JOSEPH ACIERNO: I don't know how many do. [LB369]

SENATOR HOWARD: Okay. [LB369]

JOSEPH ACIERNO: But I...it is becoming a bigger issue, I know this, across the country, is the issue of, under the ADA and how licensees are treated. But I could not give you whether 17 or 25 states that have enacted certain legislation...but this has been on the radar screen of other states. [LB369]

SENATOR HOWARD: Thank you. [LB369]

SENATOR CAMPBELL: Senator Crawford. [LB369]

SENATOR CRAWFORD: Thank you. Is...on page...well, this is the white copy. So page

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

Health and Human Services Committee  
March 05, 2015

---

4, line 30... [LB369]

JOSEPH ACIERNO: When you say the white copy, what are you speaking... [LB369]

SENATOR CRAWFORD: Oh, I mean the... [LB369]

SENATOR HOWARD: The amendment. [LB369]

SENATOR CAMPBELL: The amendment. [LB369]

SENATOR COOK: The amendment. [LB369]

SENATOR CRAWFORD: Yes. [LB369]

JOSEPH ACIERNO: And amendment...which is amendment three... [LB369]

SENATOR CAMPBELL: AM687. [LB369]

SENATOR COOK: AM687. [LB369]

SENATOR CRAWFORD: AM687, yes. [LB369]

JOSEPH ACIERNO: Let me even see if I have that amendment on me. [LB369]

SENATOR CRAWFORD: And if not, well, basically, maybe you'll not have to look at it. The main word is nondisciplinary. [LB369]

SENATOR CAMPBELL: There we go. [LB369]

JOSEPH ACIERNO: Thank you. [LB369]

SENATOR CRAWFORD: Thank you. [LB369]

JOSEPH ACIERNO: Okay, if you go to which page? [LB369]

SENATOR CRAWFORD: Is the...page 4 near the bottom. [LB369]

JOSEPH ACIERNO: Yes. [LB369]

SENATOR CRAWFORD: The word nondisciplinary... [LB369]

JOSEPH ACIERNO: Yes. [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CRAWFORD: ...is that what we're trying to get at in terms of making sure that... [LB369]

JOSEPH ACIERNO: Yes. [LB369]

SENATOR CRAWFORD: ...if there are some kind of allowances or limitations... [LB369]

JOSEPH ACIERNO: Correct. Correct. Exactly. [LB369]

SENATOR CRAWFORD: Okay. That's the real heart of that? Okay, okay. [LB369]

JOSEPH ACIERNO: It is the heart of all of this actually. [LB369]

SENATOR CRAWFORD: Thank you. [LB369]

SENATOR CAMPBELL: Okay. Senator Crawford, did that... [LB369]

SENATOR CRAWFORD: Yes, it did, thank you. [LB369]

SENATOR CAMPBELL: Do you have anything else? Any other questions, Senators? Okay, thank you, Dr. Acierno. [LB369]

JOSEPH ACIERNO: Thank you. [LB369]

SENATOR CAMPBELL: And I'm assuming you'll be around for a little bit? [LB369]

JOSEPH ACIERNO: I sure will. [LB369]

SENATOR CAMPBELL: Okay. If it's okay to go with the Attorney General's Office....okay. Please come forward. [LB369]

BRENNEN MILLER: Senator Campbell, lights? [LB369]

SENATOR CAMPBELL: No, let's try it...we'll try this without the...I'm assuming that we may have a lot of questions here. [LB369]

MILISSA JOHNSON-WILES: I apologize. [LB369]

SENATOR CAMPBELL: That's all right. Take your time. Are you all testifying? [LB369]

\_\_\_\_\_: No, we're just here to help. [LB369]

SENATOR CAMPBELL: Support staff. [LB369]



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

Health and Human Services Committee  
March 05, 2015

---

MILISSA JOHNSON-WILES: I needed some help. (Laugh) [LB369]

SENATOR CAMPBELL: All right. Back up. Please identify yourself for the record and... [LB369]

MILISSA JOHNSON-WILES: Thank you. Thank you. Madam Chairperson and members of the committee, my name is Milissa Johnson-Wiles. It's M-i-l-i-s-s-a, Johnson, J-o-h-n-s-o-n, dash, Wiles, W-i-l-e-s. I'm Assistant Attorney General appearing on behalf of the Attorney General's Office today. Just to make clear, we are supportive of LB369 with the amendment of AM687 that was introduced by Senator Riepe today. [LB369]

SENATOR CAMPBELL: Okay. [LB369]

MILISSA JOHNSON-WILES: So we were...had original objections to LB369 as introduced and have been working with the department to address their concerns, our concerns, and as a result have come up with this that we are supportive of. Just to give you a little bit of background in case you had questions about it, the department was in a position back in 2007 that there was an applicant from out of state and she had some physical and mental issues. And there...as a result, there was actually kind of a long, protracted application process. And the department offered her a temporary educational permit with some probationary restrictions that she did not want and refused to take and appealed that decision. In the meantime then she applied for a full medical license as a physician and she applied for a full medical license and the department again offered her a probationary type license and she rejected that and appealed that as well. And in that case, the hearing officer and Chief Medical Officer ultimately found that she was qualified to practice and granted the license without any restrictions. I can tell you that she was a force with the department. And the department actually had good reason to be concerned about...with the mental issue...her compliance with medication. So that was one of the reasons why they had some trouble. But I can tell you that they felt that they...their hands were tied with respect to offering a license that did not have some sort of disciplinary connotation attached to it based on our current statutes. So they were doing their best but they also, I thought rightly, had some concerns and ultimately she filed that action and obtained a jury verdict in the amount of \$72,000, okay? So as a result of that, our office...I understand. I was not that person but I understand. Our office mentioned, you might want to do something about changing the procedure. And the department was like, rightly so, I'm concerned about not wanting to be in that position again. So as a result, we have worked with the department to come up with language that would allow them to give that new license or to...at the time of renewal when we're talking about qualifications with a...with some nondisciplinary terms and conditions so that it doesn't put them in the position that they were before. [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR CAMPBELL: Okay. Questions, Senators? I'm going to go back to a question that Senator Howard asked and that is, as you worked with the department, did you use any other state or ADA guidelines or anything in this particular legislation? [LB369]

MILISSA JOHNSON-WILES: Thank you for asking that question. No. And the reason is, the statute that we're trying to work with in order to provide this procedure is a...it's the...we refer to it as the three physician panel statute. It's always...it's been there for a while but it's, frankly, rarely been used. And the...so working within the framework of that statute which, frankly, is not the best in my opinion, but it's what we're working with, is separate from any sort of other states or any ADA concerns. I personally think that the ADA has to be, kind of, addressed on a case-by-case basis. So...but we want to be...we want to give the opportunity to give nondisciplinary terms where appropriate. [LB369]

SENATOR CAMPBELL: And so at this point, you feel that the amendment to the bill that Senator Riepe has given us begins to meet the criteria that has to be in place for the department to carry out in response to the lawsuit? [LB369]

MILISSA JOHNSON-WILES: Yes. Yes, and in answer to one of your questions before, we currently have--you had asked Dr. Acierno--we currently have two cases that are...would be candidates, for a lack of better word, for nondisciplinary terms. [LB369]

SENATOR CAMPBELL: Okay. So the answer to the question in terms of expediting the legislation is important. [LB369]

MILISSA JOHNSON-WILES: Well... [LB369]

SENATOR CAMPBELL: I mean, even though it's been a span of time between when the court case happened and this legislation, and as Dr. Acierno said, the department has had other things going on, but you're clearly saying to us that there are other cases following up here that could use the statutes. [LB369]

MILISSA JOHNSON-WILES: I...we do have two cases that would be implicated, yes. [LB369]

SENATOR CAMPBELL: Okay. [LB369]

MILISSA JOHNSON-WILES: And I...there's a possibility that there are other avenues available. And again, we're only one part of the process. There still would be recommendations on whether that would be appropriate. [LB369]

SENATOR CAMPBELL: Okay. Senator Howard. [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR HOWARD: Thanks. Just a point of clarification: Does this process...is this process triggered exclusively by a complaint or is it also triggered by just a plain application? [LB369]

MILISSA JOHNSON-WILES: Well, the process can come up...both, actually. So a new application...in fact, the plaintiff in the ADA lawsuit was a new application, okay? So she filed her application. She had to get all of her documents together to submit that showed that she was qualified to obtain a license. And that's actually what the information that we had received from the two other states that she was licensed...asked more questions and caused the department's concern in that particular case. But then on top of that, you can receive a complaint. I mean, the department can receive a complaint or the director on the basis of his own information based on the current statute and then the...this legislative bill with AM687, a complaint can come in that a person, by reason of some sort of disability, that their practice is being affected or they have reasonable cause to affect...to question their qualifications, to continue to hold that license. [LB369]

SENATOR HOWARD: Okay. Thank you. I think more, as I'm thinking about this, I'm wondering how it would interact with Senator Nordquist's bill and...because his is to streamline that process across states. And then this would be unique. But thank you. [LB369]

MILISSA JOHNSON-WILES: Yeah. Sure. [LB369]

SENATOR CAMPBELL: Any other questions, Senator? Senator Cook. [LB369]

SENATOR COOK: Morbidly curious... [LB369]

MILISSA JOHNSON-WILES: Yes? (Laugh) [LB369]

SENATOR COOK: So you've indicated or said that there are potentially two cases that would benefit, potentially, from having a statute that's reflected in most of this language in the amendment. So I'm wondering and hoping that this...you're not...doesn't slow down that process, that speedy trial, all of those principals we learned about in the... [LB369]

MILISSA JOHNSON-WILES: This...the fact that this legislative bill is pending, whether it slows that down, the process, I would say no. [LB369]

SENATOR COOK: Okay, I hope...would hope not. [LB369]

MILISSA JOHNSON-WILES: The interesting thing in the plaintiff's case that, well, was, frankly, unique was that she didn't accept the offer... [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR COOK: Oh, I see. [LB369]

MILISSA JOHNSON-WILES: ...whereas when you have other circumstances where it's like, okay, a...we actually have under the statute the ability to do a voluntary limitation or a voluntary surrender that is nondisciplinary already. So depending on the appropriate circumstance... [LB369]

SENATOR COOK: Oh, I see. [LB369]

MILISSA JOHNSON-WILES: ...we have nondisciplinary options. But this would expand it and allow it a little bit more. [LB369]

SENATOR COOK: All right. Thank you very much. [LB369]

SENATOR CAMPBELL: Any other questions, Senators? For the record, how would the Attorney General's Office like this to be entered? As supporting, neutral... [LB369]

MILISSA JOHNSON-WILES: We are a proponent of LB369 with AM687. [LB369]

SENATOR CAMPBELL: Okay. And we will enter it as such. Thank you very much for your testimony today. [LB369]

MILISSA JOHNSON-WILES: Okay. All right. Thank you. [LB369]

SENATOR CAMPBELL: All right. Other proponents of the bill? Anyone else? Okay. Those who are opposed to LB369? Good afternoon again. [LB369]

ANN FROHMAN: Good afternoon. My name is Ann Frohman. For the record, that's spelled A-n-n F-r-o-h-m-a-n, and I'm here to testify in favor of LB369. And in concept...I have not seen the amendments that you've discussed. But the members of the Nebraska Medical Association did ask me to voice their support in terms of the concept of recognizing an alternative path when the situation warrants due to the fact that it's pretty restrictive now in the disciplinary context. And that may not always be warranted, is what we've heard in earlier testimony. So I will keep it brief in that regard. However, our members did indicate that they wanted to stress one point and it is that, in their view, patient safety comes first. And that should always be, you know, the paramount concern, recognizing the sensitivities of dealing with a medical professional who has or may have some issues with an impairment, that those are delicate situations. And we defer to the director of the Division of Public Health and, again, with the AG's Office on how to tackle the technical aspects of that but support the efforts of going forward and do appreciate the steps. [LB369]

SENATOR CAMPBELL: Okay. Ms. Frohman, after you have an opportunity to look at

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

Health and Human Services Committee  
March 05, 2015

---

the amendment, if you have any follow-up comments, feel free to submit them to the committee. [LB369]

ANN FROHMAN: Okay. [LB369]

SENATOR CAMPBELL: Okay. Thank you very much. Any questions? Seeing none, anyone else in the room in favor of the bill? Anyone in opposition to the bill? Anyone in a neutral position? Okay. Senator Riepe, you are at closing. [LB369]

SENATOR RIEPE: Thank you, Senator. I would like to thank all of those that testified, and in particular Dr. Acierno with the Department of Health and Human Services and also Ms. Johnson-Wiles from the Attorney General's Office for their collaborative effort in making this thing happen. As you can see, this bill is a technical bill and the department feels it is important to synchronize the UCA with the American Disabilities Act. The amended LB369 as established is a process that gives the options to the Department of HHS regarding practicing safely in our Nebraska communities. With that, I will answer any questions. [LB369]

SENATOR CAMPBELL: Okay. Any follow-up questions? [LB369]

SENATOR RIEPE: We did have one little clarification piece on the reasonable cause. And it's not changed from what it was prior, so I think it was rather unclear or general enough that it...there was no change in that. [LB369]

SENATOR HOWARD: Usually there is case law that specifies what reasonable cause or reasonable man standards are. It's just, I was wondering if there was something in Nebraska that indicated what that was. [LB369]

SENATOR RIEPE: Okay. [LB369]

SENATOR CAMPBELL: Senator Kolterman. [LB369]

SENATOR KOLTERMAN: Yeah, I just can't let Riepe go without asking him a question. (Laughter) [LB369]

SENATOR CAMPBELL: Of course. [LB369]

SENATOR RIEPE: Hang on. [LB369]

SENATOR KOLTERMAN: Is your next piece of legislation that you bring to this going to have something to do with how we regulate the hiring of hospital administrators? [LB369]

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

Health and Human Services Committee  
March 05, 2015

---

SENATOR RIEPE: Well, as a former, I repeat former, hospital administrator, I'm not in that business anymore, Senator. So thank you. [LB369]

SENATOR KOLTERMAN: Thank you. [LB369]

SENATOR CAMPBELL: (See also Exhibit 18) And with that last question from Senator Kolterman, we will conclude the hearings this afternoon. And we would ask that our guests leave as quietly as you can because we will be going into Executive Session. [LB369]