

Legislature - First Session - 2019

Introducer's Statement of Intent

LB735

Chairperson: Senator Sara Howard

Committee: Health and Human Services

Date of Hearing: March 21, 2019

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The impetus for LB 735 is the refusal of DHHS to take any action against a doctor, against whom I filed a formal complaint August 17, 2017 for performing a purported “hernia” examination on a female patient (a mandatory pre-employment requirement of the State Patrol). The examination was described by The Omaha World-Herald (8/2/17):

As part of the exam (the patient) said she was to “remove her pants, lay on her back on the examination table, bend her knees to put her feet flat on the table and open her knees exposing her genitalia.” Then, she said, she was required to roll over, exposing her anus.

The World-Herald quoted several health care professionals, including doctors, who employed such descriptors as, “no legitimate medical purpose”, “highly unusual and a bit suspect,”, and asserted that “a pelvic hernia exam could not be done with a look alone,” and noted the medical instrument (speculum) which would be required and how used.

The doctor-female patient relationship is especially unique because a particular type of very personal interaction is involved which implicates the expectation of respect, decency, personal dignity, bodily integrity. It is grounded in trust and confidence, not only in the doctor’s medical knowledge and competency – but trust that he will not take advantage of his professional position as a means to act inappropriately or salaciously, and that he will do only what is medically necessary and proper under the circumstances of her situation.

The health and wellbeing of the patient is the paramount goal of the practice of medicine (“First, do no harm”) and not to provide the maximum opportunity for indulging inappropriate predilections when dealing with an uninformed, vulnerable, trusting patient.

Because the doctor’s conduct was determined not to warrant any type of sanction whatsoever, a protective protocol for pelvic examinations of any and every type should be developed by DHHS and be required to be made available to every female patient, as well as every doctor, so that no repetition of the herein-described sexual misconduct will occur.

An appropriate sanction should be annexed to it so that it will have some “bite” and be more than merely a recital of aspirational platitudes. Revocation of the license to practice medicine is warranted.

Principal Introducer: _____

Senator Ernie Chambers