

**LB 535**  
**Health and Human Services Committee**  
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My name is Dr. Joseph Acierno, (J-o-s-e-p-h -A-c-i-e-r-n-o). I am the Chief Medical Officer and the Director of the Division of Public Health in the Department of Health and Human Services. I am here today to testify in opposition to LB 535.

Though I am in opposition to LB 535, I am not attempting to minimize the public health impact and lives affected from prescription drug abuse. This discussion should be focused on the methodology by which we will address the problem. Nebraska drug overdose age-related death rate is one of the lowest in the country.

In 2011 the Legislature passed LB 237 which was signed into law by the Governor on April 14<sup>th</sup>, 2011. The purpose of LB 237 was to provide health care providers with another tool to monitor the care and treatment of patients, to ensure that prescription drugs are being used for medically appropriate purposes, and to prevent the misuse of prescription drugs.

The Department supported LB 237 because the Department recognized the value of the prescription drug monitoring program provided for by LB 237 using the vehicle of the Nebraska Health Information Initiative, which as it is implemented, allows physicians and other prescribers' access to patient information and health care records in close to real time. Real time is the somewhat elusive goal of all conventional prescription drug monitoring programs.

The Department has worked for the last two years with the Nebraska Health Information Initiative to incorporate the provisions of LB 237 into Nebraska's Health Information Exchange. Not only will providers be able to review a patient's aggregate health record and any previous sequence and type of medical care, they will be able to review any medications the patient has been prescribed, along with the diagnosis and patient outcomes.

Rather than having a goal of helping providers prescribe medication appropriately to the needs of the patient, LB 535 essentially provides for a database with information about who prescribed what, to which patient, in what amounts and where prescriptions were dispensed. LB 535 does not require the most important piece of information, which is, "Why" was the medication prescribed? It should be about appropriate patient care.

LB 535 allows database information to be provided to local, state and federal law enforcement, which was specifically and intentionally not provided for in LB 237 because LB 237 was focused on improving patient treatment rather than for law enforcement investigation.

LB 535 tasks the Department to review the data in the database to see if a person is obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances. The Department would be required to review data to see if there could be a violation of law or breach of professional practice by providers based on database information and begin an investigation. The department already has authority to investigate breach of professional practice and can work with our law enforcement partners as needed.

LB 535 carries a substantial upfront cost and significant annual operating costs and would require future funding to implement new technologies and methodologies as needed for potential modifications to the database.

The basic question should be asked, "Would LB 535, if enacted and funded, result in lower rates of addiction, overdoses and death? Or, are the provisions of LB 237, already in place, more likely to help providers provide the best, most effective medical treatment?"

The Department believes that prescribers and dispensers will have a way to ensure that patients are obtaining legitimate prescriptions for legitimate medical reasons by continuing on the present course.

Thank you for allowing me the opportunity to testify. I would be happy to answer any questions.