

Transcript Prepared by Clerk of the Legislature Transcribers Office

Health and Human Services Committee March 27, 2025

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

**FREDRICKSON:** All right. Welcome to the Health and Human Services Committee. I am Senator John Fredrickson, representing Legislative District 20, and I serve as vice chair of the committee. The committee today will take up the bills in the order posted. This public hearing today is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and to fill it out completely. Please move to the front row to be ready to testify. When it is your turn to come forward, give the testifier sheet to the page. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill; these sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name, and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally, by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer, should they wish to give one. We will be using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you will have one minute remaining, and the red light indicates that you need to wrap up your final thoughts and stop. Questions from the committee may follow, which do not count against your time. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard; it is just part of the process, as senators may have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Props, charts, or other visual aids cannot be used simply because they cannot be transcribed. Please silence or turn off your cell phone. Verbal outbursts or applause are not permitted in the hearing room; such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at [nebraskalegislature.gov](http://nebraskalegislature.gov). Written position letters will be included in the official hearing record, but only those testifying in person

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before the committee will be included on the committee statement. I will now have the committee members with us today introduce themselves, starting on my left.

**RIEPE:** Thank you, Chairman. I'm Merv Riepe. I represent District 12, which is Omaha, Millard, and the fine town of Ralston.

**MEYER:** Senator Glen Meyer, District 17; Dakota, Thurston, Wayne, and the southern part of Dixon County.

**QUICK:** Dan Quick, District 35, Grand Island.

**BALLARD:** Beau Ballard, District 21 in northwest Lincoln, northern Lancaster County.

**FREDRICKSON:** Also assisting the committee today, to my left is our legal counsel, John Duggar, and to my far left is our committee clerk, Barb Dorn. Our pages today are Sydney and Tate, both students at UNL. Today's agenda is posted outside the hearing room. With that, we will begin today's hearing with LB367. Senator Hunt.

**HUNT:** Hi, everybody. Greetings. Good afternoon, members of the Health and Human Service(s) Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in the northern part of midtown Omaha. I'm here to present a bill that is a personal passion project of mine. I've worked on this bill since the beginning of my time in the Legislature. I think I've introduced it every year that I've had the opportunity to, and I'm really hoping we can close the book on it here in my final biennium, or else I'll pass it off to someone else, and you can keep working at it for another however many years, or however long it takes, but this is an important issue to me. The first time I introduced this bill, I think the hearing went until nearly midnight, and an opponent who attended from Texas stood up and yelled at me, and then he almost got in a fight with Senator Justin Wayne. And, like, it was much more of a circus than we're probably going to have today, so. I thank the committee for rescheduling this hearing because of the blizzard last week, and I'm appreciative to all the testifiers who were able to come. LB367 is a bill that would end the harmful, widely-discredited practice known as conversion therapy for minors, and bar the use of state funds for its use. Conversion therapy is a long-debunked pseudoscientific practice used by unscrupulous providers in an attempt to change a young person's gender identity or sexual orientation. The therapy employs a variety of shaming,

emotionally traumatic or physically painful treatments to make their victims associate those stimuli with their LGBTQ identities. It is practiced by some licensed professionals in the context of providing health care, as well as by clergy, or other spiritual advisers. Throughout recent history, techniques have included institutionalization, castration, forced sexual interactions, lobotomization, electroconvulsive shock therapy, and talk therapy. Regardless of the method, whether you're castrating somebody or giving them electroshocks while showing them gay pornography, or whether you're just doing talk therapy, these treatments have proven to be ineffectual and harmful. Since the 1990s, the American Psychological Association has recognized that conversion therapy causes severe psychological distress, trauma, and long-term emotional harm among young people. Conversion therapy is based on the false premise that being LGBTQ+ is a disorder or a disease that needs to be cured. The practice has no scientific basis, and has been discredited by all major medical, psychiatric, psychological, and professional counseling organizations. The American Medical Association supports state and federal bans, and the American Psychological Association states that there is no credible evidence that mental health interventions can change someone's sexual orientation. The practice almost never has the intended result of changing anyone's orientation or identity, but instead invalidates a person's identity, fostering lifelong shame and internalized homophobia or transphobia, which has devastating consequences. Survivors have increased likelihood of experiencing depression, anxiety, drug use, homelessness, and suicide. Those who have gone through conversion therapies, including here in Nebraska, speak of the medically-unsound methods employed by these therapists and organizations, such as behavioral therapy, electrical shock therapy, chemical aversive therapy, drug and hormone therapy, and surgery. These treatments include homophobic counseling, isolation, unnecessary medication including hormone treatment, subliminal therapies designed to enforce feminine or masculine behavior, and desensitization therapies that teach a young person to associate homosexual feelings with disgusting images. These forms of treatment frequently result in nervous breakdowns and feelings of guilt. Some patients have witnessed others in their programs commit suicide and mutilate their bodies and genitals. Many of these tactics caused mental breakdowns in otherwise healthy people. This bill would ensure that vulnerable youth are not subjected to this unethical and dangerous practice from a licensed provider under the guise of an accepted medical treatment by making it grounds for disciplinary

action under the Uniform Credentialing Act. That is, if any of the medical or mental health providers licensed by Nebraska under this act, such as a licensed psychologist, counselor, therapist, nurse, or doctor of any kind were to administer conversion therapy interventions on a minor patient, it would be grounds for disciplinary action against their license, and the patient could have a legal claim against them for a deceptive trade practice, and could seek remedies or penalties under the Uniform Deceptive Trade Practices Act. I want to highlight an important exception. The ban language in the bill includes an explicit exception on page 6, beginning on line 30, that it does not apply to practice or treatment conducted by a clergy member or religious counselor who is acting in a pastoral capacity and not in the capacity of a licensed health care professional. I felt this was appropriate to include, if there are circumstances in which a family makes the personal decision to inflict this kind of trauma upon their child out of a sincerely-held religious belief. So, if a faith leader or a youth group leader or spiritual adviser or something like that wants to have discussions with a young person about changing their identity in some way, they would still be able to do that. But I do think we have the responsibility and authority to say that when we are vetting and providing oversight over our credentialed health care professionals, the state has a role in ensuring that they are providing health care in line with evidence-based best practices when care is provided in a professional clinical setting. I know when I go to the doctor, I don't want my physician using treatments on me that lack supporting evidence of any effective results, which is known to have harmful effects on patients, but which they might want to try because it fits within their personal belief system. I would run away from that doctor; we all would. We put our trust, Nebraskans put our trust in our licensed providers, and by extension, us as state government leaders, that we are doing the necessary vetting and regulation of those providers to ensure that they're using credible treatments. It is our duty to provide appropriate disciplinary sanctions as well for bad actors in the health care field. You'll see the bill has no fiscal note, and we have a wide range of support from counselors and various types of psychiatrists and mental health practitioners from across the state. I'm afraid not as many of them are here as who originally wanted to speak because of the rescheduling and the weather, but I believe many of them did submit comments online. And there's also, as I mentioned in my very beginning of the opening, many, many years of testimony from Nebraskans that we can pull from as well. It's important to highlight that all of the

national standard-setting organizations for the major physical and mental health professions have issued statements in support of conversion therapy bans. The national association for school counselors, pediatrics, psychologists, physicians, nurses, and social workers have all asserted that conversion therapy goes against their professional codes of ethics. The American Psychological Association has repeatedly condemned this practice for its lack of scientific basis and its potential to cause lasting harm, such as increased rates of depression, anxiety, substance abuse, and suicide. LGBTQ people have been in the crosshairs nationwide, and in this Legislature. That is a fact, whether you are a person on this committee today that is supportive of the policies we reckoned with to legislate the rights or not, and you cannot ignore or dispute that. If you asked any LGBTQ person in Nebraska, they would tell you that Nebraska is an extremely, increasingly hostile place for them to live. Of course, there are pockets of strong, vibrant, diverse, accepting communities, and I'm very proud of those bright spots in our state. But to be a queer person in Nebraska or in this country is to question your future, your safety, your rights, and your children's rights. In this Legislature in the past few years, we've seen unprecedented attacks launched against the queer community in the name of protecting women or children. This year, we will debate again a bill from Kathleen Kauth to isolate and demonize queer youth from feeling safe in their own schools with their own friends. I'm here with a solution that is factually about protecting these children, which is evidence-backed, supported by all legitimate major medical, psychiatric, and pediatric organizations, who have all firmly stated that conversion therapy is dangerous for minors. Conversion therapy itself does a lot of harm to its victims that can stick with them for life. That we in the Nebraska Legislature have failed to act on this issue undermines a message of equality and acceptance in Nebraska. With bills like Senator Kathleen Kauth's LB89, we continue to perpetuate stigma and discrimination. We keep telling anyone who is young, who is smart, but who is part of a forward-thinking or marginalized group that we don't want them here. Colleagues, I'm afraid we've done a lot of damage. In my committees, we've been hearing a lot from young people who have told us that they are already making plans to leave, but we can reverse course, and this is one way to do that; this is one small part of that. By passing LB367, Nebraska will affirm its commitment to the health, safety, and dignity of all residents, ensuring that every individual can live authentically and free from the threat of conversion therapy's effects. Thank you very much. I'm happy to answer any questions.

**FREDRICKSON:** Thank you, Senator Hunt. Are there any questions from the committee? Senator Riepe?

**RIEPE:** Thank you, Chairman. Thank you for being here. I don't want to delve in immediately to the merits or otherwise. I just-- do you have a roadmap to take this to a governor's signature? I mean, in the sense of-- I assume it doesn't have a priority, and I assume that you maybe are then looking at amendment onto something. Is that your-- is that your thought process to help us?

**HUNT:** That is my thought process. I've prioritized this in the past. This year, my priority bill is actually coming out of this committee as well, and I thank you for your support. This bill, I think you should vote it out, and we can find a home for it on another bill. Or, perhaps it'll be my priority next year. And if that's the case, I don't think we need to wait to next year to vote it out.

**RIEPE:** OK. OK. Thank you. I will probably want to come back with some more questions--

**HUNT:** OK.

**RIEPE:** --as I learn more. Thank you, Chairman.

**FREDRICKSON:** Thank you, Senator Riepe. Other questions from the committee? Seeing none.

**HUNT:** Thank you.

**FREDRICKSON:** Thank you for being here. We will now move on to proponents of LB367. Good afternoon.

**ALEX DWORAK:** Good afternoon, Senator Fredrickson, members of the HHS Committee. My name is Alex Dworak, A-l-e-x D-w-o-r-a-k, from the great town of Ralston. It's my honor to come before you today to testify in strong support of LB367. I didn't get written testimony made, and I just saw this earlier this morning because of the rescheduling, so I'm glad I noticed it and could be here. I actually canceled on seeing my own therapist this afternoon because I feel so strongly about speaking up about this. So, as a member of the queer community myself, I can echo what Senator Hunt has said. I have had many patients leave Nebraska already; I have many more who are talking about it, or actively making plans to do this, both adults and children. And it's loving families, people who just don't feel safe here and don't feel

welcomed. Remarks-- after the pandemic, when I was still seeing people in the hospital, running out to the parking lot, seeing people, knowing that I was at risk because I'm heavy-- and that's one of the risk factors that I know very well increased my risk of dying from COVID-- I never missed a day. And it occurred to me afterward that the prospect of me dying and leaving my wife a widow and my kids orphans didn't stop me from practicing medicine here in Nebraska; it took Senator Kauth to do that. I considered leaving Nebraska after the Let Them Grow Act, both because of what it told me because of who I am, and because it said that all my sacrifice, all my years of training, my over a decade of teaching hundreds of young medical professionals didn't count, and that politicians were going to tell me that they knew better than me. I meant to remind-- Dr. Amoura did flee Nebraska; she's in California now, and I still miss her. I did find the United States joint statement on conversion treatments-- I won't call it therapy because it's not. It's not clinically neutral, and it is harmful. This is something that I'll be glad to email to the committee members as a reference. 28 organizations, including the American Academy of Family Physicians-- my professional society-- as well as the AMA, and as Senator Hunt indicated, counselors, psychologists, social workers, nurses, physicians of all stripes all strongly oppose this. Interesting that there is a fiscal note on this, that I believe conversion efforts cost almost \$10 billion a year. They don't work, it's pseudoscientific, and again, it comes in presuming that we are wrong, we are deficient, that we're, we're an abomination-- I've heard that term in my youth. And if this, this doesn't go forward, it's the state of Nebraska saying implicitly-- or in some cases explicitly, depending on who's doing the talking-- that we don't belong, that we're not welcome here; that, despite all our efforts, this isn't the place for us. I'm fortunate to have two wonderful children. They're both extremely bright. One of them got such a high ACT score, he's going to get a full ride to UNO next year, which is where he would like to stay. My daughter plays at least 12 different musical instruments, went to Washington, D.C. for National History Day last summer, and probably is going again, and is also thinking about what she wants to do, maybe criminal justice. Those are just two examples of young people who have queer friends, who have queer family, and who are looking at this to decide, OK, where do I want to stay? Do I want to-- do I want to make my career here? Do I want to have my own family here, or do I want to go find someplace that's more welcoming to me? So, I appreciate your time very much. I will be very glad to answer

questions now or in correspondence, providing citations for everything that I'm saying. And I appreciate your time.

**FREDRICKSON:** Thank you, Dr. Dworak, for being here. Questions from the committee? Senator Riepe.

**RIEPE:** Thank you, Chairman. I have a couple of questions. Good to see you again.

**ALEX DWORAK:** Likewise.

**RIEPE:** And thanks for being here. Are there any statistics on the successful long-term conversion of thera-- this therapy?

**ALEX DWORAK:** I would not want to speak out of turn, but the consensus of the medical literature is that it just doesn't work, that it's a failure. There are numerous harms, including increased suicidality, disordered eating, disordered family relationships. And I would be glad to chase those down. Again, I would want to give you more than just my overall impressions; I want to give you exact citations, and I'd be happy to do that. Again, this is a pseudoscientific practice that the American Academy of Child and Adolescent Psychiatry, among others, and the Nebraska chapter of the Academy of Child and Adolescent Psychiatry vehemently denounce.

**RIEPE:** OK. Thank you, Chairman.

**FREDRICKSON:** Senator-- well, before we go more questions, we have a new committee member I want to introduce yourself for the record.

**HANSEN:** Thank you, Vice Chair. Ben Hansen, District 16; Washington, Burt, Cuming, and parts of Stanton Counties.

**FREDRICKSON:** OK. Thank you. Senator Meyer.

**MEYER:** Thank you, Vice Chair. What medical discipline administers conversion therapy? Is there-- is it confined to a specific medical discipline, psychiatric, or, or--

**ALEX DWORAK:** So, no reputable medical discipline administers these practices. It could be done in a variety of contexts. A counselor, of course, or a, a family physician like me. Anybody who is in a therapeutic relationship, where, where there is, of course, a power differential. People are seeking us out for our expertise and our

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knowledge, and they're trusting that because we're trained, we, we have our credentials, and we're licensed to practice medicine or therapy by the state, that they know that they're going to get quality and responsible practices. So, this could be done in a variety of circumstances, and I think that the multiplicity of disciplines that oppose this speaks to that. But really, anywhere there's an active health care relationship, there's potential for this to happen. And I think if this goes forward, that will more formally make it clear that, again, if you, if you want to do malpractice, you shouldn't, you shouldn't be in your position.

**MEYER:** May I? And so, with conversion therapy, is there a specific diagnosis that someone's trying to-- and, and once again, I, I-- I'm not very familiar with this. I've been doing some research on my own, and, and just trying to, to have a look and trying to get a greater understanding. Is there a specific diagnosis that would require conversion therapy?

**ALEX DWORAK:** Well, I appreciate your question, Senator, and also your interest in learning more and educating yourself. As a family physician, I am full-time learning about new things and constantly trying to find out new things, both for new literature and take care of all my patients. And so, I very much respect that. Not being somebody who would never do this, I'm not certain. I think, that there could be things such as sexual aversion disorder or other diagnosis codes that someone could try to pin it under, but it could be also wrapped into anxiety or depression. If somebody is being pressured by their family or their faith community that it's-- you know, "you're an abomination," because, again, things like that are said-- it would be-- if I'm perhaps anticipating, I think it would be very hard to ensure this isn't happening by looking at the ICD-10 or diagnosis codes in the medical literature. The-- this could be wrapped in or performed without being documented. Again, it's unethical to do it as-is, so I would have concerns that somebody who is doing one unethical, unethical thing might also do the unethical thing of not documenting what they're doing to try to get around it.

**MEYER:** It might be a, a therapy as a peripheral of some recognizable-- like, as you say, anxiety or something along those lines?

**ALEX DWORAK:** If, if a patient is seeking care for something else and this is allowable, somebody could try to sneak it through that way, to say that, yes.

**MEYER:** Thank you.

**ALEX DWORAK:** And because there's no prescriptions directly associated with it, possibly things like hormone suppressors might be considered, but it would be easy to do the top portion of this and have it fly under the radar.

**MEYER:** Thank you. I appreciate it.

**ALEX DWORAK:** Yes, sir.

**FREDRICKSON:** Other questions from the committee? Seeing none. Thank you for being here.

**ALEX DWORAK:** Thank you.

**FREDRICKSON:** Next proponent for LB367. Welcome.

**BRITTA TOLLEFSRUD:** Hello. Hi everyone. So, hello and thank you for listening to testimony today on LB367. My name is Britta Tollefsrud, B-r-i-t-t-a T-o-l-l-e-f-s-r-u-d. I am an independently-licensed mental health care practitioner here in Lincoln. I work predominantly within the LGBTQ community, and I have to say, it is a tremendous honor to sit in front of you today as a supporter of a bill, this one in particular. You have a unique opportunity here with LB367 to not only protect the next generation of Nebraskans, but to also signal that you represent all Nebraskans, to second a point that Megan had-- or, Senator Hunt has made earlier. Studies show, as you will see in the handout provided, that conversion therapy is not only harmful to our youth, it is also unethical; it is ineffective, and costly to taxpayers. Countless studies show that LGBTQ+ youth subjected to conversion therapy are more than twice as likely to report a suicide attempt or multiple suicide attempts. Conversion therapy also has lasting effects. So, relative to LGBTQ+ youth who did not undergo conversion therapy, those who did reported higher numbers of depression, substance abuse, and psychological distress, which is costly to taxpayer dollars as they require additional care. Not only is conversion therapy harmful to their mental health, but it also inculcates a myth onto families which further exacerbates division and isolation for LGBTQ+ youth. Conversion therapy damages familial relationships, and can lead to loss of connection and community in Nebraskan youth, something I see quite regularly in my practice. As a clinician, if I were provided a therapeutic technique as

unsubstantiated and ineffectual as that behind the so-called "reparative therapy," also known as conversion therapy, I would, in effect, be actively harming my client and going against my ethical and medical best practices in doing so. Conversion therapy has been discredited, as mentioned before, by every major medical and mental health care organization. You also see that in your handout. Even Dr. Spitzer, the psychiatrist whose flawed study on conversion therapy has since denounced and apologized for endorsing the practice. To make it very clear, conversion therapy is harmful to-- it's a harmful practice. So then, why is LB367 worth passing, to your question? Currently, 22 states have laws or regulations in place protecting their youth from this harmful and ineffective practice. In Nebraska, 17% of LGBTQ+ youth reported being threatened or subjected to conversion therapy in 2022. This bill will thus strengthen licensing requirements to ensure that all clinicians like myself across the state are following ethical, efficacious, and legal standards of care. Without it, studies support that young people are fleeing states without said bans in place. Providers are preferring to practice in states where policies support ethical standards of care and provide freedom from unethical practices. As a clinician who practiced before and after the passing of LB574, I speak with authority when and about the direct impact of legislation has on my practice. I therefore do not take this lightly when I condone the banning of conversion therapy as a harmful practice, which--

**FREDRICKSON:** And you're in the red, but please finish your thoughts.

**BRITTA TOLLEFSRUD:** OK. Which should therefore be eliminated as a practice across the straight-- state to protect Nebraska's youth. Thank you for your time and attention. I'm happy to answer any questions.

**FREDRICKSON:** Thank you for your testimony. Are there questions from the committee? Senator Meyer.

**MEYER:** Once again to educate me, how long has conversion therapy been considered a, a therapy to be utilized in this fashion?

**BRITTA TOLLEFSRUD:** So, I can't speak to exactly when it was first administered. I can find-- and similar, I can find information and pass that along, if that's something that you're seeking. My best educated guess would be to follow societal trend lines, starting in the 50s. And as we know, that clinical practice in our DSM has

evolved, the-- so too has our diagnostic codes. So, as this becomes no longer a diagnosis, that being sexual-- being of a sexual minority, so too, then, would our, our therapeutic modalities change to adapt. So, to be clear, the DSM criteria no longer purports to have a diagnosis of sexual minority as a disability or a diagnosis of any kind, and therefore any therapeutic technique seeking to address that as a symptom no longer is necessary. So instead, what our work does is to address the anxiety and depression symptoms themselves; the identity is not a part of that.

**MEYER:** So, at one time, this was a diagnosis? Perhaps 50s or 60s, or it was not a diagnosis at one time?

**BRITTA TOLLEFSRUD:** Historically, we can speak to many, many, many flawed diagnoses that have since been repaired and addressed over time.

**MEYER:** And as in many other diagnosis and medical treatments over time, diagnosis change and treatments change.

**BRITTA TOLLEFSRUD:** Mm-hmm.

**MEYER:** OK. Thank you.

**BRITTA TOLLEFSRUD:** As should we. Yes. Thank you for your question.

**FREDRICKSON:** Other questions from the committee? Senator Hansen.

**HANSEN:** Thank you. OK. So, as a mental health care practitioner,--

**BRITTA TOLLEFSRUD:** Mm-hmm.

**HANSEN:** I'm-- I just-- I'm unsure, and I think you can probably clear this up. With specific language, when does it-- when does it go from questioning or statements as a practitioner into intent?

**BRITTA TOLLEFSRUD:** Ah, great question.

**HANSEN:** So, like-- so, what-- what's that-- what's that line where you're, like, somebody comes to you and says, look, I'm confused about X, Y and Z and you say-- but then if you say, "Well, are you sure?" Could that be, like, construed as conversion therapy? Or, like, what's that line? I, I just-- I'm just unsure.

**BRITTA TOLLEFSRUD:** Well, I'll borrow from language that has been offered to us before, which is neutrality. So, we offer space, and we are neutral parties. So, we offer a space for our clients to come in with their internal questions. They're essentially many times societal quandaries, if you will. And we seek to empower, embolden them to make those decisions for themselves. We don't have any oversight or insight into that. I'm happy to speak to LB574 as well, as a juxtaposition to this bill, given that LB574 asked for neutrality, thereby though, however, not being neutral in that this bill is saying there is an, a biased stance by the clinician. That is unethical.

**HANSEN:** Who determines the bias? Is it the patient?

**BRITTA TOLLEFSRUD:** Well--

**HANSEN:** So, like, you two are talking, and all of a sudden that person leaves, your patient leaves the room and says I felt like they were trying to convert me. And then, and then they end up suing you.

**BRITTA TOLLEFSRUD:** So, that's where the licensing requirement will seek to address what I believe you're saying. It's very clear-- conversion therapy is very clear. As Senator Hunt has illustrated, it is not as simple as I hear "What do you think about this?" It is an active pairing of negative stimuli with your identity. I can imagine that everyone up here, if you were to say I have an identity, and someone says let's pair that with something that is, is, is problematic or deemed unpleasant, that's pretty clear.

**HANSEN:** OK. All right. Thank you.

**BRITTA TOLLEFSRUD:** Yeah, absolutely.

**FREDRICKSON:** Other questions from the committee? Senator Riepe.

**RIEPE:** Thank you. Thank you for being here. One of the questions that I have is-- I guess this is-- what's the general age of, of a patient that might be going into conversion therapy that the parents-- obviously it's under 19, but is there some-- most of the time it's at a-- it's not a five-year-old, is-- or, or I don't know.

**BRITTA TOLLEFSRUD:** Yeah. I can't speak, again, to that specifically, but my answer would be anybody under the age of 19 is, is-- it-- would be receiving the problematic and harmful-- age wouldn't matter, if that's what I'm understanding your question to be.

**RIEPE:** OK. I think my, my second part to the question would be, is what, what consideration is given to the-- from the child, if you will, regardless of their age? How much say do they have on this, or is this mostly imposed by parents and guardians?

**BRITTA TOLLEFSRUD:** See, the, the statement of the word "imposed" puts agency, wherein-- I-- if I'm seek-- if I'm understanding your, your question correctly, it's at what point is the parent's agency over the child's treatment. Is that what I'm hearing?

**RIEPE:** Well, I guess I'm saying that the parents maybe say you're going to this therapy whether you like it or not. And--

**BRITTA TOLLEFSRUD:** And to be clear, conversion therapy?

**RIEPE:** Yes. Oh, of course. Yeah.

**BRITTA TOLLEFSRUD:** Yes. I would deem that as harmful.

**RIEPE:** I, I was just-- they-- so, they really wouldn't have any say because they are a minor, I guess.

**BRITTA TOLLEFSRUD:** Correct. Right.

**RIEPE:** If you-- if your parents say you're going to do it, you're probably going to do it.

**BRITTA TOLLEFSRUD:** Right. Right.

**RIEPE:** OK.

**BRITTA TOLLEFSRUD:** And so, therefore, it also is important not only for the child but the parent to have clarity with regards to licensing requirements. And again, this strengthens licensing requirements. As a state where if you are seeking mental health care, medical health care, you want to make sure you know what you're going in for. This gives Nebraskans an opportunity to really strengthen our licensing requirements so that parents can make the most educated guess.

**RIEPE:** Do, do, do the parents-- before they would take a child to conversion therapy, do they come to a therapist-- you're not in the category of doing this, obviously, but would they go to the-- there and spend several sessions learning about the probability for success, or the ramifications of it, and the dangers and everything else, so

that the parents are educated in terms of what-- because they have authority as to what, good or bad, the, the-- at least they need to be educated.

**BRITTA TOLLEFSRUD:** Yeah.

**RIEPE:** But do, do therapists say, before I would even think about this, you have to come to me for X sessions?

**BRITTA TOLLEFSRUD:** So, I can only speak to the practice that I follow, my evidence-based practice, which would-- dependent on the child's age, the first few sessions would absolutely include the parent, and the goals would therefore be built with the parent and predominantly the-- my clients, the youth, in, in mind. And this would provide clarity to ensure that if conversion therapy is at any point to be introduced or any part of my practice, that would be-- well, first of all, if this passes, it would not be allowed, and it would give parents rights over taking action as recourse for this practice, harming their, their child--

**RIEPE:** OK.

**BRITTA TOLLEFSRUD:** --inadvertently or advertently.

**RIEPE:** Just for my benefit, what-- what's the, what's the magnitude of the problem in the state of Nebraska?

**BRITTA TOLLEFSRUD:** As I men--

**RIEPE:** I mean, not that one situation's not dangerous. But is-- I mean, is it fairly significant and we're just not aware of it? Or?

**BRITTA TOLLEFSRUD:** And that's a fair-- a good question. So, as, as we found, 17% are now subjected to the treatment as it is right now, and that's only what we know. As mentioned before, without this clarity in insurance-- or, in the licensing requirements, it may go unspoken, unknown. This would give-- this would give clarity in licensing requirements to make sure that redress could be, could be attained as needed. So, we may not-- so, the answer I suppose, is 17%, and likely more.

**RIEPE:** OK. Thank you. Thank you very much. Thanks for being here.

**BRITTA TOLLEFSRUD:** Yeah.

**RIEPE:** Thank you, Chairman.

**FREDRICKSON:** Senator Hansen.

**HANSEN:** Thank you. I, I think some-- what he was asking made, made me think of another question. I think this kind of goes back to my previous question. It's more for clarity, I think, for the practitioner, is what I have a question about. And so, I think we're talking about if somebody comes to you with confusion about their identity, or they got questions about their identity, or they're going through a process, we would label that-- is that gender identity, identity disorder? Is that the-- I don't-- is there, is there a correct term for that, that we use? Like, I think Senator Meyer was talking about, like, a diagnosis code.

**BRITTA TOLLEFSRUD:** Mm-hmm.

**HANSEN:** So, if they come to you with, with, you know, this-- I don't want to say condition because that sounds horrible. This-- the question that they have, right?

**BRITTA TOLLEFSRUD:** Yeah.

**HANSEN:** And then, you find out that maybe they do have, like, legitimate questions, and you're trying to find out more from the patient. Like, maybe, like, a, a male who thinks they're a female, but you find out through your diagnosis or your therapy that, no, I think they think they're a male because of maybe a hormone imbal-- I don't know. Some, some-- or maybe they're not, like-- you might have to ask certain questions, say, "Well, are you sure?" Or, like, could we-- let's try some of this talk therapy, or maybe go-- maybe just to kind of solidify the fact that, that they are correct in their assessment or their questioning. Like, are you able to do that then, with this? Or would that be deemed, like, intent again; that you're trying to coax them to go back to what you feel like actually they might be? Sorry for the long-winded question.

**BRITTA TOLLEFSRUD:** Yeah, I think I'm picking up--

**HANSEN:** I'm, I'm trying to phrase it the right way.

**BRITTA TOLLEFSRUD:** I'm, I'm picking up what you're asking. So, I think the best way to answer your question is to kind of elucidate some of my evidence-based practice, what I do, which is essentially to-- and

ask questions. I have no oversight with the identity of my clients. I ask questions, I facilitate self-reflection, I offer a broad societal understanding of gender writ-large. I have absolutely no agency when it comes to their identity. And I also want to be very clear: this does not happen overnight. These sessions take a long time for someone to come to some form of identity fruition, if you will. And again, to be very clear, I have nothing to do with that. I'm a holder for their reflection.

**HANSEN:** OK. All right. Thank you.

**BRITTA TOLLEFSRUD:** Mm-hmm.

**FREDRICKSON:** Oh, Senator Riepe.

**RIEPE:** Thank you, Chairman. I have an additional question. You're a professional, and you, and you have a reputation in the community. If someone came to you, and they said we want to-- we have a child, and we're committed to conversion therapy, how would you handle that? Would you refer them on to someone, or would you say, I can't ethic-- ethically refer them?

**BRITTA TOLLEFSRUD:** I would choose the latter.

**RIEPE:** OK.

**BRITTA TOLLEFSRUD:** And if this bill were passed, I would have the opportunity to point to this as a legal standing. I would probably illustrate the harms that I see, because I feel like that's my duty to warn and protect my clients' well-being. And, you know, to point out, as Senator Hunt has illustrated, there is pastoral care now that is afforded to the parents, should they choose that. I would also say there is plenty of pastoral care that also is neutral and embraces their child's identity, should they want to seek counsel from a faith-based perspective while also maintaining that familial relationship. So.

**RIEPE:** You've obviously thought that through. So, thank you very much. Thank you, Chairman.

**BRITTA TOLLEFSRUD:** Yeah.

**FREDRICKSON:** Other questions? I have a couple. So, I-- first of all, thank you for being here and taking the, the time to, to testify

today. Senator Hansen had-- got me thinking a little bit about this, and, and help me-- and correct me if I'm inaccurate in this assessment, but my understanding is that-- so, the explore-- exploration is, you know, if a client comes in and says, I'm wondering if I feel this way or that way, or I identify in this way or that way, that exploration process is-- would not be considered conversion therapy; conversion therapy itself would be when the practitioner makes a conscious effort to tell the patient, "You are not this, and I will change you from what you are saying you are." Is that the differential there?

**BRITTA TOLLEFSRUD:** Correct.

**FREDRICKSON:** OK.

**BRITTA TOLLEFSRUD:** Thank you for that, too, to illustrate the differentiation. So, there is, in conversion therapy, an explicit desired result to, again, create stimuli of identity-- be that sexual or gender minority-- with something unpleasant to create shame. And hence, where the symptoms of depression, anxiety, substance abuse, because then something that is a part of you or a part of that client's identity is then connected to an unpleasant stimuli, with the sheer act and focus of changing that person.

**FREDRICKSON:** OK. So, essentially going against the spirit of neutrality as a provider, and--

**BRITTA TOLLEFSRUD:** Exactly.

**FREDRICKSON:** --with a very specific endgame. OK. My other question for you is-- so, in the context of this larger-- you know, last few years, we have-- we-- obviously, there was a lot of robust debate about, like, LB574, for example. There was a lot of discussion about not-- we as a Legislature not intervening with a provider and their care. How is this different? You know, in other words, this is the Legislature essentially saying providers cannot do something, right? So, help-- can you tease that out for me, how this might be different from that?

**BRITTA TOLLEFSRUD:** Absolutely. So again, the word is neutrality. We are consistent in that we have been advocating for and continue to advocate for evidence-based practices being utilized writ-large among medical fields. LB574 came in, and we still advocated for the evidence-based practice that we had. Now, LB574 added onerous

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regulations on top of that, and now this seeks to actively curtail un-- "insubstantiated" practice. So, we are saying with this bill we support the banning of something that is not evidence-based practice.

**FREDRICKSON:** Thank you.

**BRITTA TOLLEFSRUD:** Mm-hmm.

**FREDRICKSON:** Other questions? No. The chair has walked in, so now I keep deferring to the chair. But I will finish out this testifier. OK. I'm seeing none. Thank you for being here.

**BRITTA TOLLEFSRUD:** Yes, thank you.

**HARDIN:** Next testifier. LB367, proponents. Any more proponents? Welcome.

**JOSEPHINE LITWINOWICZ:** Sorry. I didn't hurt anything. OK. I know there's wires over there. My tango partner, it, it's her fault. [INAUDIBLE]. I'm sorry. Can you restart the clock, please?

**HARDIN:** Sure.

**JOSEPHINE LITWINOWICZ:** Hi, my name is Josephine Litwinowicz, J-o-s-e-p-h-i-n-e L-i-t-w-i-n-o-w-i-c-z. And-- oh. Good afternoon, Chairman Hardin, and members of the committee. I just want to say that, you know, the, the sing-- the, the-- probably the person that won the war, World War II was Alan Turing. You can arguably say he's the only one, and he was gay, and they tried to convert him in, in, in a sense, and put him in an institution, and he committed suicide. The-- well, for me, there's no way. If you were try to convert me now. I'm a feminine woman. I even have to put up a shell, you know, around here. I'm not a-- you know, a flaming woman, but-- anyway. I, I, I have a shell here because the people look at me on the street. They, they're trying to convert me. That's enough conversion therapy, right there. And if I was-- what else was I going to say? I just know if, if I was a kid and I had to deal with that, that would have been devastating. It's a hard-- it's hard dealing with who I am anyway because it's-- it messed up my life in significant ways. That's another issue, but-- I've-- I, I just-- it doesn't work. I, I don't know the numbers in my head, but it's-- it doesn't. It's barbaric. And it, you know, if you try to-- and it's just-- you know, Leonardo da Vinci was gay. And they, you know, they tried to convert him in a sense. Anyway. I don't know. This is-- I don't know. I, I forgot what

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else I was going to say. I just think you ought to let them grow up and have relationships, then they can find out who they are, too. And they will. That happens a lot. So, just let them grow up, you know? Don't, don't mess with their heads. And so, that's it. Thank you.

**HARDIN:** Thank you. Questions? Seeing none. Thank you.

**JOSEPHINE LITWINOWICZ:** Thanks.

**HARDIN:** Proponents, LB367. Welcome.

**TAYLOR HASEBROOCK:** Good afternoon, "Chairsperson" Harder-- Hardin, and the members of the Health and Human Services Committee. My name is Taylor Hasebroock, T-a-y-l-o-r H-a-s-e-b-r-o-o-c-k, and I am here today to testify in strong support of LB367. I want to thank Senator Hunt for introducing this, this essential piece of legislation which protects Nebraska's youth from the harmful and discredited practice of conversion therapy. Conversion therapy is not therapy at all; it is a dangerous practice that has been widely condemned by leading medical and psychological organizations, including the American Psychological Association, the American Academy of Pediatrics, and the American Medical Association. This practice is based on the false premise that being a part of the LGBTQ+ community is something that needs to be fixed. Not only is the-- this notion outdated and harmful, but it has been proven to cause significant psychological distress, including increased rates of depression, anxiety, and suicidal ideation among those subjected to it. I personally have seen significant psychological distress put onto children. When I was in high school, my best friend's parents forced her to go to conversion therapy. When she refused to go, they instead kept her grounded for the remainder of our high school experience. This was three years that she was unable to participate in activities, including sports and other extracurricular activities at school. She was unable to see her friends outside of school. She was only able to be outside of the house when attending class. I watched as this negatively affected her, as she showed symptoms of depression and suic-- suicidal ideation for the remaining years of high school. And, as soon as we graduated, she then left Nebraska, and she ran away and disappeared to California. She was my best friend, and I haven't really seen much of her and talked to her only in our classes that we had together throughout high school. It is important to know that passing LB367 would lead Nebraska to have the opportunity to take a strong stand for the well-being of our youth. We must send a clear message that we value all young people

who-- for who they are, and that we will not tolerate harmful and deceptive practices that put their mental and emotional health at risk. I urge the committee to advance LB367 and protect our state's youth from the dangers of conversion therapy. Thank you for your time and consideration.

**HARDIN:** Thank you. Questions? Seeing none. Thank you.

**TAYLOR HASEBROOCK:** Thank you.

**HARDIN:** Proponents, LB367. Welcome.

**SCHYLER PUTNAM:** Hi. Thank you. Hello, committee members. My name is Skyler Putnam, spelled S-c-h-y-l-e-r P-u-t-n-a-m, and I am here today to express my strong support for LB367. Conversion therapy is a harmful and widely-debunked practice that attempts to change an individual's sexual orientation or gender identity. Recognized by leading health organizations as ineffective and dangerous, conversion therapy has been shown to cause lasting emotional and psychological damage. This bill seeks to protect minors from being subjected to such discredited practices, which have no basis in scientific research or medical evidence. LB367 directly addresses these concerns by prohibiting health care professionals from administering conversion therapy to minors. This bill is a much-needed step toward protecting the mental health of our youth, particularly those who may already face challenges due to their sexual orientation or gender identity. These individuals deserve care that affirms their identity and helps them navigate their lives in a supportive and healthy environment. By defining conversion therapy as a deceptive trade practice, this bill acknowledges the harm that is caused when individuals or organizations profit from selling false promises to parents and children. Such services are not only unethical, but are a violation of consumer rights. This provision sends a clear message that exploiting vulnerable children for financial gain will not be tolerated in Nebraska. LB367 represents a critical opportunity to protect the mental and emotional health of young Nebraskans. This bill demonstrates Nebraska's commitment to protecting its children, and ensuring their well-being by preventing harmful practices like conversion therapy from being imposed on them under the guise of treatment. I urge the committee today to support LB367 and take this important step in ensuring that every young person in Nebraska has access to the care and support they deserve. Thank you.

**HARDIN:** Thank you. Questions? Seeing none.

**SCHYLER PUTNAM:** Thank you so much.

**HARDIN:** Thank you. Proponents, LB367. Welcome.

**MACKENZIE LONCKE:** Thank you. Thank you, Senator Hardin, and senators of the Health and Human Services Committee for the opportunity to provide testimony. My name is MacKenzie Loncke, M-a-c-K-e-n-z-i-e L-o-n-c-k-e, and I'm the policy fellow at OutNebraska. OutNebraska is a statewide, nonpartisan nonprofit working to celebrate and empower LGBTQ+ Nebraskans. I also wanted to take a quick second to thank you guys for rescheduling the hearing to today. Wednesday was crazy, and I would have been very dis-- difficult to drive, so we appreciate it. OutNebraska speaks today in support of LB367. It's time to add Nebraska to the growing list of nearly 30 states that have banned conversion therapy, including our neighboring states of Kansas, Missouri, Colorado, and Iowa that all have conversion therapy bans in some forms in their states through bipartisan support. We believe Nebraskans want our young people to be safe and to have every opportunity to thrive in our great state. While many view conversion therapy as a relic of the past, it is still very much happening, and yes, it's happening here in Nebraska. The Trevor Project's 2022 U.S. national survey on the mental health of LGBTQ+ youth found that 17% of Nebraska's LGBTQ+ youth have been threatened with or subjected to conversion therapy. Conversion therapy is not based in science, not in medicine, and not in fact. It is rooted in false, outdated ideas that LGBTQ+ people are unnatural, or need to be cured. I think most of us have never or no longer believe that being gay is something that's unnatural or needs to be cured, and on that same line, we all want to protect the youth of our state from harm. In front of you is an opportunity to ban a harmful practice that has led youth to be twice as likely to attempt suicide because of. I've included for you a packet of American medical associations that have denounced and strongly opposed the practice of conversion therapy. As you flip through, you can see that the associations range from pediatrics to mental health to nursing and physicians; it's a really wide breadth. And for concerns about parental or religious rights, this bill will not impact them; parents and churches retain the right to their interpretations of biblical teachings. This legislation will only curb licensed professionals from using damaging practices that have been shown through research to produce serious, life-threatening harm for young people who are subjected to them, as we have heard from experts

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and survivors today, and probably through online comments. OutNebraska believes that Nebraska should value and honor the lives of all of our young people. Doing so means protecting them from conversion therapy. We respectfully encourage you to advance LB367 to General File, and to ensure the youth of Nebraska are also able to live the good life. Thank you.

**HARDIN:** Thank you.

**MACKENZIE LONCKE:** I'd be happy to take any questions.

**HARDIN:** Are there questions? Seeing none. Thank you.

**MACKENZIE LONCKE:** Thanks.

**\*TANYA ENCALADA CRUZ:** Obviously if someone is being deceptive, that is a big warning sign.

**\*SHANNON CORYELL:** I hope you all vote this out of committee. Conversion therapy does more harm than good. I suggest watching Boy Interrupted to learn just how harmful these practices can be.

**HARDIN:** Proponents, LB367. Not seeing any other proponents, I'm going to read two proponents from online, from our ADA community: one submitted by Tanya Encalada Cruz, representing herself. And she states "Obviously if someone is being deceptive, that is a big warning sign." End quote. Also, a second proponent is Shannon Coryell, and she writes "I hope you all vote this out of committee. Conversion therapy does more harm than good. I suggest watching Boy Interrupted to learn just how harmful these practices can be." End quote. That's all of our proponents. Opponents, LB367. Welcome.

**GREG BAYLOR:** Thank you, Senator. Mr. Chairman and members of the committee, my name is Greg Baylor, G-r-e-g B-a-y-l-o-r, and I'm senior counsel with Alliance Defending Freedom. Thank you very much for the opportunity to testify. LB367 violates the First Amendment. It invades the counselor-patient relationship to dictate what can and cannot be said. It forbids certain speech based on its content and its viewpoint. The Supreme Court has repeatedly held that restricting speech because of its content or viewpoint is almost never permissible. Lower federal courts have struck down laws virtually identical to LB367. For example, in a case called Otto v. City of Boca Raton, the U.S. Court of Appeals for the Eleventh Circuit struck down two local counseling censorship ordinances because they violate the

Free Speech Clause of the First Amendment. Now, it is true that two appellate courts have rejected free speech challenges to counseling censorship laws similar to LB367, but these courts embraced the rather odd notion that when counselors are speaking to their patients, they are not actually engaged in speech; these courts declared that when counselors are speaking to their patients, they're instead engaged in conduct. By slapping the label "conduct" on what is clearly speech, these courts evaded the correct legal test that judges apply to content-based restrictions on speech. When courts apply the correct test, called strict scrutiny, they almost always strike down the law in question. This unusual and incorrect approach did get the attention of the U.S. Supreme Court. In a case called *Chiles v. Salazar*, the court has agreed to review one of these erroneous, erroneous decisions, and it'll hear arguments in the fall. When a law forbids speech based on its content or viewpoint, something that LB367 clearly does, the correct judicial approach is to analyze whether the regulation is the least restrictive means of achieving a compelling governmental interest. This approach, again, is called strict scrutiny. LB367 would not survive strict scrutiny. Now, to be sure, protecting children is an important governmental interest. But as the Eleventh Circuit observed, the evidence that talk therapy harms children is weak. The APA found that, quote, no clear indication of the prevalence of harmful outcomes among people who have undergone talk therapy regarding sexual identity and attractions. One final point. There is increasing evidence that counseling censorship laws like LB367 harm children. These laws inevitably channel gender-diffused children into so-called gender-affirming care. This puts them on a pathway that usually includes-- concludes puberty blockers, cross-sex hormones, surgeries, and a lifetime of challenging, expensive medical and mental health care. This is particularly unfortun-- unfortunate, given that the vast majority of children confused about their sexual identity will come to accept their bodies by simply going through puberty. Thank you again for the opportunity to testify, and I'd be happy to answer any questions that you might have.

**HARDIN:** Thank you. Questions? Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Hardin. Thank you for being here, and for your testimony. I, I had a couple questions. So, you'd, you'd mentioned, for example, that your concerns related to First Amendment. I'm also thinking about how, you know, this committee, we hear a lot of bills about scope of practice, professional conduct, et cetera, et

cetera. I think it's pretty well-established as the state that we sort of have the right to kind of oversee professional conduct in, in those ways. And so, can you tease that out a little bit for me? Help me understand your-- how-- what you're saying [INAUDIBLE].

**GREG BAYLOR:** Yes. Thank you, Senator, for the question. Yeah, it is true that the Legislature does have the authority to regulate various kinds of practitioners, as this Legislature has done in the Uniform Credentialing Act and the various sub-acts that are underneath it. But the distinction between speech and conduct is really important when it gets down to what the Constitution permits. Some of the ac-- so-called treatments that have been discussed today, things like electroshock therapy, aversion therapy, those clearly are conduct. I think it is legitimate for the Legislature to exercise authority to regulate those things. But at one, when it does come to speech, there's a different analysis that applies. The Legislature would have to prove, or someone defending this law would have to prove, that it satisfies strict scrutiny; that it advances a compelling governmental interest. There is no other way of achieving it. I think it's a pretty common-sense test to understand what the distinction between conduct and speech is. When someone is uttering words to the patient, and the patient is hearing it, and they're having a conversation, that's clearly speech. If a doctor is administering a particular drug or a particular procedure, that's clearly conduct, and the Legislature does have the capacity to regulate it.

**FREDRICKSON:** So, the 30 states that have banned this and that stood-- in-- including the city of Lincoln, where we are; there's a, there's a city ordinance that, that bans this, and that's stood the test of time as well. Help me understand how that argument holds up, because it seems like it's not winning elsewhere.

**GREG BAYLOR:** Yeah. Thank you, Senator. No-- well, first of all, there are fewer than 30 states that have these laws. It's somewhat under 25. There are some states that have executive regulations that prevents the state funding, so I'm going to quibble a little bit with the number, but--

**FREDRICKSON:** Sure.

**GREG BAYLOR:** --I think your point is well taken. Are all those laws unconstitutional? I would answer that they are, the answer is yes. We've been going through, over the last few years, a period where

these have been tested in court. You had two cases coming out of Florida-- the Vazzo case, the Otto case; you had a case coming out of state of Washington called Tingley v. Ferguson; you now have Salazar v. Chiles [SIC] out of the Tenth Circuit. So, at the time when legislatures were passing these laws, they were not fully cognizant of the free speech problems, or they chose to ignore them, right? Where they chose to value whatever interests they thought they were pursuing in the law over the incredibly important interest in free speech. So, we'll see what happens. The Supreme Court is going to-- has taken this case. It's going to argue it next fall. It might be til June 2026 until we get a decision, but you could see a decision that says all of these laws are unconstitutional as applied to talk therapy, as applied to conversations; speech between counselors, other mental-- medical and mental health professionals and their patients.

**FREDRICKSON:** OK. That's helpful. I appreciate that. And I, I guess my final question for you is, you know, help me understand how it would be in the best interests of our state to continue to allow for something that, that has been so widely discredited and debunked.

**GREG BAYLOR:** Well, I think one of the concerns about this law, as I said in my testimony, is that it would channel patients, their counselors, their providers into gender-affirming care, which is, for most children, a very bad option.

**FREDRICKSON:** OK.

**GREG BAYLOR:** I think we--

**FREDRICKSON:** If I may interrupt you--

**GREG BAYLOR:** Yeah, please.

**FREDRICKSON:** Are, are you familiar with mental health treatment and the, the, like, the idea of channeling-- I'm-- help me understand that more. I'm, I'm unfamiliar with that.

**GREG BAYLOR:** Well, there-- you know, there's the Dutch protocol, which the WPATH has endorsed, and it starts if a child just questions their identity-- I'm not talking about homosexuality, I'm talking about gender identity. If they just question it, they would say that the proper response is to start socially affirming that. And the evidence demonstrates that once you start socially affirming, it's almost inevitable the next step will be the administration of puberty

blockers, which are dangerous, which are experimental for this use. And that step, again, leads to the next step, which is the administration of cross-sex hormones. And that almost inevitably leads to the performance of surgeries, surgeries that often mutilate, sterilize children. And they, they, you know, they lead to a lifetime of necessary medical care. So, I think you need to understand this-- in my opinion, respectfully-- the second order of consequences of passing a law like this. What will happen if you have it? It makes that pathway far more likely, and I think Nebraska has an interest in preventing that.

**FREDRICKSON:** And so, what I'm-- and from what I'm hearing you say here, though, is that that would also be a-- not a neutral stance of the providers. If, if a provider is channeling a patient into a certain treatment, that would also be a concern as well, because that would not be a neutral stance on the provider. My understanding from this bill is to ensure that providers have neutrality, right? And what I'm hearing you say is, like, this channeling into puberty blockers or whatever it is, if a, if a provider would be channeling a patient in it, that also would not be neutral. So, that would be a concern with this bill as well.

**GREG BAYLOR:** You can-- oh. Thank you, Senator. May I answer? You can say a lot of things about this bill, but the suggestion that it's neutral is just untrue. The bill explicitly draws a distinction between therapy that's designed to help a child harmonize their body with their internal sense of self and therapy that helps them transition explicitly permits a covered provider to help a child transition, so it's not neutral. It leaves open that option. That's the legal option, and would make illegal the other option. So I, I would, I would, I would take exception to the notion that this bill promotes neutrality.

**FREDRICKSON:** Thank you.

**HARDIN:** Other questions? Senator Meyer.

**MEYER:** Thank you, Chair. I am not an attorney, and I do not pretend to be one. But I do have a question. Where-- it would appear at some point in time that there was legitimate diagnosis of a need for conversion therapy. So, where is the line drawn between a diagnosis and freedom of speech?

**GREG BAYLOR:** Right.

**MEYER:** Because as I look at this, we have an exclusion for neutral supportive or lawful counseling. I would think that would fall somewhere under the freedom of speech neighborhood. And, and I'm not talking about conduct, because you addressed that.

**GREG BAYLOR:** Yes.

**MEYER:** Difference between conduct and, and-- you made the delineation there. So, where- where's the line between the diagnosis and freedom of speech?

**GREG BAYLOR:** Yeah. Thank you, Senator, for the question. Let me attempt to answer it by making an observation about what diagnostic codes exist right now in this area, and specifically with respect to gender identity. For a time, the DSM-IV characterized gender identity disorder-- gender identity disorder as a, a mental health condition that warranted treatment. A few years ago, the American Psychological Association modified the DSM and eliminated gender identity disorder as a diagnosis, and replaced it with something called gender dysphoria. There's a little bit of a debate about exactly what that means, but I think the conventional sense is that gender dysphoria is not simply the existence of a conflict in the person's mind between their, their body and their self-identification, but it also consists of the anxiety, depression, and other negative consequences that customarily accompany that. So, right today, you know, a counselor could have a patient come in, the parents say, my, my child is questioning his sexual identity. And the, the, the counselor would say, well, this may be a case of gender dysphoria, and would begin to ask questions. And I think Senator Hansen asked an appropriate question about when will that sort of questioning be interpreted as evidence that you're pursuing a goal that the pound-- the parents and the counselor doesn't want. I'm concerned about that if this law comes to pass. So, what I, what I think-- so, that's the sort of the diagnosis background. So, what if the parents say, you know what, I've heard all this terrible stuff about hormone treatments and about surgeries, and I've also learned that the "suicia"-- suicidality issue is just not what's been, been presented in many contexts. In fact, the evidence does not show that suicidality comes-- goes up when a child is, is, is-- experiences talk therapy. But a, but a parent says, I don't want my child to go through all of that. I would like you to help them explore this issue and see if they can resolve, harmonize

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the, the discordance that they're feeling in their head and their body. And honestly, a lot of therapists, if they aren't subject to one of these laws, was engage in a process called watchful waiting. Well, they will attempt to assist the child with depression and the anxiety, and allow puberty to happen. Evidence shows that upwards of 90%, 95% of kids who are experiencing some kind of disharmony, gender identity disorder, gender dysphoria, whatever label you want to use-- if they're just allowed to go through puberty, that harm-- that, that, that their dysphoria, it'll desist is the word that the, that the medical professionals use. Now, I think all of this is there's a free speech overlay on it. The Free Speech Clause says-- doesn't just say you have the right to be neutral. The Free Speech Clause gives parents and the practitioners a right to take a-- to have an, have an opinion and to pursue a goal, and I think this law would undermine that.

**MEYER:** It begs a follow up question, but I'm not sure I have one fully formulated, so I'll pass for now. But hopefully one of my colleagues will help me out, so.

**HARDIN:** Other questions? Thank you for being here.

**GREG BAYLOR:** Thank you.

**HARDIN:** Opponents, LB367. Welcome.

**MATT HEFFRON:** Good afternoon. My name is Matt Heffron, M-a-t-t H-e-f-f-r-o-n. I'm an attorney with the Thomas More Society, a national nonprofit law firm that's headquartered in Chicago with attorneys all over the country, including an office in Omaha. I'm testifying today on behalf of and at the request of the Nebraska Family Alliance. I'll follow up on some of the comments made by ADF's Greg Taylor [SIC]. LB367 is flagrantly unconstitutional, and if passed, the state will be sued their-- through their department heads, and presumably, the state of Nebraska will pay attorneys fees. That is just a fact, that's not a threat. It'll happen because this is a, a bill which is primarily aimed at talk, talk therapy. All the discussion about electronic prods and chemicals and whatnot, that's not the way it's done these days; it's through talk.

**HUNT:** Yes, it is.

**MATT HEFFRON:** Trusted adults talking to children who have problems. The only type of speech that is banned by LB367 is speech, which is--

there-- well, there are only certain types of speech which is, is banned. And particularly if a minor is unhappy with his same-sex attraction, or if he's experiencing what has always been called gender dysphoria, professionals cannot even speak to them to help them work through their goals. Specifically, though, if the professional wants to assist them, particularly mentioned is trans-- to the transgenderism, that is allowed. So, there's certain types of content which is restricted and others which is allowed. That's a blatant and flagrant constitutional violation. It's called content-based restriction, it is presumptively unconstitutional, and I'll quote a statement from the United States Supreme Court: above all else, the First Amendment means that government has no power to restrict expression because it-- of its message, its ideas, its subject matter, or its context-- content. End quote. That's from the Mosley case. The way the split in the circuits has been resolved through the Chiles v. Salazar case is that it's almost certainly that the, the Supreme Court is going to slap down these various statutes which allow for what they call conversion therapy. I see that my time is about to, to run. I say-- I'll, I'll tell you that it's particularly unfortunate because there are many children now who could use the help. Many do come and talk about their difficulties with same-sex attraction, and it's particularly unfortunate for minors. I handed out a, a handout there; that is a brief that my law firm recently filed supporting the petition for cert by Mr. Taylor's [SIC] law firm, ADF. And what-- the only reason I, I gave it to you is it outlines-- and, and I've outlined for you-- a number of the cases in which now we see that pushing too quickly into the transgender type therapy is actually wrong. In many countries, particularly Sweden and Britain are now backing away from their earlier embrace of transgender--

**HARDIN:** You're in the red, but-- you're in the red, but keep going.

**MATT HEFFRON:** I am done. I--

**HARDIN:** Keep going.

**MATT HEFFRON:** No, I say I'm done. That's it.

**HARDIN:** OK. Very well. Thank you for being here. Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Hardin. Thank you for being here, and your testimony. I want to be sure I heard you correctly. Did you say that the practices such as electroshock and other things outside of

talk-- did, did I hear you correctly that you said that's not currently happening in Nebraska?

**MATT HEFFRON:** I don't know if I said that's not currently happening. What I said was that this particular bill, LB367, is almost all dealing with talk; a discussion between a therapist and a child seeking the therapist's help.

**FREDRICKSON:** OK.

**MATT HEFFRON:** That's what, that's what our complaint is, is that-- and that's why it is a constitutional violation, because it's subjecting a certain content of speech to a restriction, and not, not restricting other types of speech. And that is-- whether you call it professional speech or not, in fact, NIFLA has already downed that, or if you will, discredited that theory. Professional speech. NIFLA is the, is the National Institute of Family Life Associates [SIC] versus Becerra, and they said in that case-- they said that professional speech is no less speech just because it's uttered by a professional. It, too, is protected by the First Amendment.

**FREDRICKSON:** OK. So, I, I may have misunderstood you, but just to be clear, would you agree that a psychotherapist should not be conducting electroshock therapy or other--

**MATT HEFFRON:** You know, I, I-- doesn't sound good to me. I don't know anything about it--

**FREDRICKSON:** OK. OK.

**MATT HEFFRON:** But I mean, if that's still going on-- and I don't know if it is or not--

**FREDRICKSON:** Yes. Well, I can, I can-- I'm a mental health provider. I can confirm it is in, in this state, so. But I just wanted to clarify that for the record.

**MATT HEFFRON:** But you don't do it, right?

**FREDRICKSON:** Yep.

**MATT HEFFRON:** You think it's unethical?

**FREDRICKSON:** Electroshock therapy? Yes.

**MATT HEFFRON:** And that's not my focus here, is not electroshock therapy. My focus is the fact that LB367 does not allow children to talk through their problems if they're concerned and not wanting to be same-sex attracted, or not wanting to go down the transgender route. It does not allow the, the people here, or the therapists here in Nebraska to help them. How awful. To me, that's--

**FREDRICKSON:** It seems like there might be a fundamental misunderstanding of psychotherapy here. But I, I appreciate your testimony. Thank you.

**MATT HEFFRON:** All right.

**HARDIN:** Other questions? Tell us about this case. Can you give us a summary of what you handed to us?

**MATT HEFFRON:** Oh, yeah. I, I sure can. Mr. Taylor's [SIC] firm, ADF, filed a certificate for-- a petition for certiorari to the Supreme Court. And that is the case of Chiles v. Salazar, and that was the one that the Supreme Court took up and said, yes, we do want to deal with that. Now, there's a history behind that. The, the fact is that when another case came out of the Ninth, Ninth Circuit trying to characterize what had been called conversion therapy or talk therapy as-- could be-- that it could be banned. In the Tingley case, they tried to say, this is conduct, and that's as opposed to the Boca Raton-- the-- Otto v. (City of) Boca Raton case in Florida, which says how can you say that something which is entirely speech is conduct? It went up to the Supreme Court, the Tingley case did, on a, on a writ of certiorari, and the Supreme Court, after many conferences, decided not to take the case. Three justices wanted to; justice Alito, Justice Thomas both said, look, if you don't deal with this now, we're going to see it again. It's going to be the same argument followed by some other circuit. Sure enough, that's what happened in Chiles v. Salazar. Chiles v. Salazar did exactly what Justices Alito and Thomas said was going to happen; they tried to follow what the Ninth Circuit was doing and calling it conduct when it's entirely speech. And so, we're at this point when, when that case was grabbed by the Supreme Court. It's almost certain they're going to say that is an unconstitutional way to treat speech. Now, we-- I, I told you this was the ADF's petition. We have represented clients who are detransitioners, and we know about the issue. So, we have filed a, an amicus brief-- excuse me-- it's actually the first amicus brief filed in this case, and it was on behalf of the Ethics and Public Policy Center in Washington, D.C.,

which you may know; it's, it's a well-known Washington think tank that was founded by George Weigel [SIC] and now run by Ryan Anderson. And so, our, our particular amicus in support of the petition for certiorari simply was-- it was going through all the odd or detrimental effects of, of taking children and pushing them through the transgender routine or immediately accepting their, their-- I-- discussion of their identity, and then promoting them to puberty block-- blockers and, and, and surgeries. And so, that's what some of our brief that you have before you talks about, is that the odd effects, or the bad effects that came about because of that.

**HARDIN:** OK. Thank you. Other questions? Thank you for being here.

**MATT HEFFRON:** Thank you.

**HARDIN:** Opposition to LB367? Those in the neutral, LB367. Seeing none. We had online: proponents, 160; opponents, 84; 1 in the neutral. Welcome back, Senator Hunt.

**HUNT:** Thank you, Chairman Hardin. You know, as you heard from proponents of the bill, 28 states and D.C. have passed bans on conversion therapy, like in this bill. When I first introduced this bill, 13 had, and now we're up to 29, and there are also a number of countries that have bans on conversion therapy. I would like to share some of them with you. Belgium, Canada, Cyprus, Ecuador, France, Germany, Greece, Iceland, Malta, Mexico, New Zealand, Norway, Portugal, Spain, Albania, Brazil, Chile, India, Israel, Taiwan, Vietnam, Argentina, Fiji, Nauru, Paraguay, Samoa, Switzerland, Uruguay are some of the countries that have banned conversion therapy, this practice. You know, the thing with this bill is it just says that if you'd like to operate with a professional license in Nebraska that you're going to uphold the standard of care as, as is the consensus of your, your organizing industry, you know? So, is that the American Medical Association, the psychological association, pediatric association, whatever. It's just saying if you'd like to hold a license in Nebraska as a therapist, as a doctor, as a counselor, what have you, you can not be telling kids that they're sick if they're gay. We're not talking about First Amendment issues here. From what I heard from the opponents-- which is the same thing we hear every single year-- they really don't know how therapy works. There's nothing that would be happen-- and you know, I can tell by the conversations here, by the questions from committee members, by the opposition testimony, we've got a lot of people who've never been to

therapy, who are not conversant with what the standard of care in psychotherapy actually is. And that's OK, but we cannot be legislating from a place of ignorance. And we not only have-- you know, what did I read off?-- 30-plus countries, nearly 30 states, 60-plus counties and municipalities that have banned this, because it again-- is it is-- it is against the standard of care, as agreed upon by every major medical association. The way this bill is written, the conservative way for all of you, is to say that pastors, clergymen, whatever-- you can still tell kids that they're going to hell if they're gay. Parents can still take these kids to the pastor and say, "I think my kid's a homo, can you beat it out of him?" That would be OK to do under this bill. But what you cannot do is hold a credential in the state of Nebraska, hammer that to your wall, and say I'm providing a legitimate service, because you are not. It is not the standard of care in any way as recognized by any organization. The bans-- you know, speaking about the First Amendment issues that were brought up by opponents, the bans target the conduct and the speech of licensed professionals; it doesn't limit free expression at all. It's just targeting the conduct. And courts have found that regulating professional behavior, when it comes to public health, when it comes to public safety, it's well within the right of a state to do that. It's not OK for any doctor or health care professional to give their patient advice that not only goes against the standard of care, but could actively harm them. That's not a free speech issue. And, you know, you can look at page 6 of the bill, where a lot of the meat of the bill is-- and this was added to the bill the second time I introduced it-- "conversion therapy does not mean a practice that does not seek to change an individual's sexual orientation" "and that is neutral with respect to sexual orientation and gender identity;" provides assistance to a patient undergoing gender transition; "provides acceptance, support, and understanding to a patient or client." Again, this is just speaking to the nature of what therapy actually is, which it sounds like a lot of people don't understand. It is always OK to give exploratory, affirming, neutral care to your patients. I don't think it's a secret; all of you know that my child has been through all kinds of, of therapy, talk therapy around gender identity and sexual orientation, and at no point would a therapist ever say, "This is what your gender is, and we're going to get you puberty blockers and we're going to get you surgery, and we're going to get you hormones, and I'm going to affirm that this is what your gender is, because I'm telling you that's what it is." That's not the role of a therapist, and you guys don't have to worry, and opponents don't have to worry because

licensed, credentials therapists-- licensed, credentialed therapists in Nebraska know that that's not their role. Attorneys for the family institute, whatever-- they are not the experts in psychological health care; psychological health care people are. To Senator Meyer's-- you know, I have, I have a couple responses to a few questions that came up. Often-- and, and also Senator Riepe talked about this-- some kids do want this. Some kids do want to go to conversion therapy. This bill would not prevent adults from going to conversion therapy, by the way. Some kids want to, and it's because they have so much confusion and self-loathing because they've been raised in a culture or a church or a family where they understand that it's a bad thing to be gay. And so, they want-- they would do anything to not be that way so they can be accepted by their peers and their teachers and their friends and their parents and their pastor. It's a tale as old as time. You guys know this. You know that that's what kids go through. And it's abusive. And all a therapist does is affirm that kid, give them a safe "space" to explore their feelings. And maybe they do conclude that they're not gay, or maybe they conclude that they are. But what we cannot allow is for credentialed therapists in Nebraska to hide behind their license and say, "I'm going to prevent you from being gay, because that's my ideology." That is something pastors and priests and clergy members can do under this bill, not people who are licensed mental health therapists. This is something that comes from the era of lobotomies, the era of institutionalizing people for deviant behavior, the era of disappearing people who are too queer. This has nothing to do with the standard of care today, and there's no diagnosis that's recognized today that conversion therapy would be the treatment for. It's pseudoscientific, it's debunked, and every major medical association agrees with that. Thank you, Mr. President [SIC].

**HARDIN:** Questions? Seeing none. Thank you.

**HUNT:** Thank you.

**HARDIN:** This concludes our hearing for LB367. We are going to go into exec.