

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Health and Human Services Committee May 25, 2023

**HANSEN:** Well, good afternoon and welcome to the Health and Human Services Committee. My name is Senator Ben Hansen. I represent the 16th legislative District in Washington, Burt, Cuming, and parts of Stanton Counties. And I serve as Chair of the Health and Human Services Committee. I would like to invite the members of the committee to introduce themselves starting at my right with Senator Ballard.

**BALLARD:** Beau Ballard, District 21, Northwest Lincoln and Northern Lancaster County.

**HARDIN:** Brian Hardin, District 48, Banner, Kimball, Scotts Bluff Counties.

**M. CAVANAUGH:** Michaela Cavanagh District 6, west central Omaha, Douglas County.

**RIEPE:** Merv Riepe, District 12.

**HANSEN:** All right. And also assisting the committee is our research analyst, Bryson Bartels, our committee clerk, Christina Campbell, and our pages, Morgan and Isabel. Well, one of them is here anyway. A few notes about our policy and procedures. Please turn off the sounds of your cell phone. We're actually having two gubernatorial appointments today, and we take them in the order listed on the agenda outside the room. On each of the tables near the doors of the hearing room, you'll find green testifier sheets. If you're planning to testify today, please fill one out and hand it to Christina when you come up to testify. This will help us keep an accurate record of the hearing. If you are not testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also note, if you are not testifying, but have an online position comment to submit, the Legislature's policy is that all comments for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you do have any handouts, that you please bring ten copies and give them to the page. We use a light system for testifying. Each testifier will have, I think, considering it's not a full house, each testifier will have 5 minutes to testify. When you begin, the light will turn green. When the light turns yellow, that means you have one minute left. And when the light turns red, it is time to end your testimony, and we'll ask that you wrap up your final thoughts. When you come up

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to testify, please begin by stating your name clearly into the microphone, and then spell both your first and last name. On a side note, the reading of testimony that is not your own is not allowed unless previously approved. And we do have a strict no prop policy in this committee. So with that, we will start the first gubernatorial appointment of Dr. Noah-- OK, I'll make sure I get this right-- Bernhardson? For the Nebraska Board of Emergency Medical Services. Was I close?

**NOAH BERNHARDSON:** Ah, that's OK.

**HANSEN:** Welcome.

**NOAH BERNHARDSON:** Thank you. So my name is Dr. Noah Bernhardson, first name spelled N-o-a-h, last name spelled B-e-r-n-h-a-r-d-s-o-n., Don't worry about it, my family pronounces it multiple different ways, so--

**HANSEN:** OK. Well, if you could, what I'd like you to do is just kind of fill us in a little bit about the position you're applying for, some of your background, you know, qualifications, stuff like that. And we'll see if there's any questions from the committee.

**NOAH BERNHARDSON:** Absolutely. So the position that I applied for is a physician member of the EMS Board, and my passion for medicine actually started in EMS. I started as an EMS Explorer in high school, became an EMT paramedic. I worked as a fire medic for the city of Bellevue, volunteered just outside of Lincoln for Southeast Fire, was also a paramedic for the city of Nebraska City, prior to going to medical school. Attended medical school and then went and did residency in emergency medicine at the University of Mississippi in Jackson. And then I pursued a fellowship in EMS at Washington University in Saint Louis, Barnes-Jewish Hospital. I am a dual board-certified physician in both emergency medicine and EMS. I hold a state license both as a physician and an active-- I hold an active paramedic license in this state. I still hold certifications as a flight paramedic and a nationally registered paramedic. I serve on multiple committees on a national level for the National Association of EMS Physicians. Locally, here in Nebraska, I am medical director for 20 plus agencies, including Lincoln 911 Dispatch and Lincoln Fire Department. That's my background. My passion for, for medicine, like I said, truly started with EMS, would not be a physician if it were not for EMS. And I look forward to continuing my work, if this committee so deems, deems it worthy on the EMS Board.

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**HANSEN:** All right. Thank you very much. Are there any questions from the committee? Yes, Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thanks for being here. Do you have time to sleep?

**NOAH BERNHARDSON:** I do. Yes. So, I do. I actually sleep a lot better now that I'm not a fire medic and not working 24 hour shifts.

**M. CAVANAUGH:** Oh. It sounds like-- I mean, you have a very impressive background. What about being on this particular board interested you the most?

**NOAH BERNHARDSON:** The thing that interested me most about this was having actually practiced in this state in a multitude of different practice patterns, both career fire, volunteer fire, and part time rural/suburban. Knowing what I would have liked to have as my advocate as an EMS clinician on the board really drove me to pursue this position.

**M. CAVANAUGH:** What are some of the things you'd like to see happen in your role on the Board?

**NOAH BERNHARDSON:** So my role on the Board as a physician is to be an advocate for our EMS clinicians, but also be able to translate and act as a bridge between the hospital systems as well as our pre-hospital providers. Because this being EMS week, we truly do know that emergency care starts with, with many patients with a 911 call. And how do we affect that to the best of our ability statewide for all of, all of our clinicians and all of the patients that our EMS providers touch.

**M. CAVANAUGH:** Thank you.

**HANSEN:** Senator Riepe.

**RIEPE:** Thank you, Senator. Thank you for being with us. I have a concern-- I have a hospital administrator background, I have a concern about health care in rural. I was never served in the rural. But one of my concerns gets to be with the sustainability in terms of EMT techs, keeping volunteers, keeping equipment, keeping with new technology, all of that along with, you know. The other concern is with delivery of babies, and you make it into that business as well for physicians out there, emergency physicians. Our workforce development thing is a major concern, a major problem. But I go back to how do we do it with the texting, the volunteers that show up to

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transport these people in a critical hour to get them to some place where we can get some help to them? Maybe that's very broad. I'll allow you to address it however you want.

**NOAH BERNHARDSON:** So I agree wholeheartedly. We do face a challenge in this state, and in all states, with rural delivery of EMS. Some of my most passionate clinicians are rural volunteers, and I know the struggle that they go through. How the board can affect that partially is by making certain that the protocols that they operate under are clear, are up to date with national standard, but also allowing for variation from the medical director of each service to best tailor those to their service. Another issue is that the Board does and should do is advocate for volunteerism in the state from an EMS standpoint. And what does that look like from an educational standpoint? What does that look like from a recruitment standpoint? It varies agency to agency, but writ large from the meetings I have attended for the Board, that is something that's very pressing and urgent to us.

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

**HANSEN:** Any questions from the committee? All right, seeing none-- What the next steps are, is we will have an executive session to discuss the the nominees as a committee, then take a vote there and see if we can advance it from committee, and then it'll go on to the floor, or the governor's desk, to make a determination and what happens after that. So that's kind of the next steps after this. So we appreciate your coming here and, and, and sharing your thoughts and, and, and your and your opinions and stuff. Is there anything else you'd like to say?

**NOAH BERNHARDSON:** No, Just thank you for the opportunity to testify before you today. Again, if you guys have any questions, you guys should have my resume, but happy to answer any other questions that need to be asked.

**HANSEN:** So perfect. All right. Thank you very much for coming.

**NOAH BERNHARDSON:** Thank you.

**HANSEN:** Appreciate it. All right. So that will close our gubernatorial appointment for Dr. Noah-- What?

**M. CAVANAUGH:** Proponents, opponents, neutral?

**HANSEN:** Oh, shoot. Yeah. Sorry.

**M. CAVANAUGH:** That's fine.

**HANSEN:** Is there anybody else pushing it? Does anybody else wish to testify in support? OK. Is there anybody wishing to testify in opposition to the appointment? Anybody wishing to testify in a neutral capacity? Thanks for reminding me. All right, now seeing none, now we'll close the, the appointment for Dr. Noah Bernhardson. And then, next up, we have Dr. Timothy Tesmer. Welcome. Same kind of thing, share your background, and thoughts, and opinions, and why you would like to apply for the position.

**TIMOTHY TESMER:** Good afternoon, Chairman Hansen and members of the Health and Human Services Committee. My name is Dr. Timothy Tesmer, T-i-m-o-t-h-y T-e-s-m-e-r, I've been appointed by Governor Pillen as the Chief Medical Officer within the Department of Health and Human Services. I assumed the role of acting CMO on March 27, and I'm here today to begin the confirmation process. I am extremely honored to join CEO Danette Smith and the DHHS team. Everyone has warmly welcomed me. Already, I've experienced their collective dedication and innovation in fulfilling the department's objective of helping people live better lives. This team is truly phenomenal. I come today with over 30 years of medical practice experience as a board certified ear, nose and throat physician and surgeon. I'd like to share a bit of my background. I'm from Grand Island. My father was an electrician and my mother was a medical office manager. My parents taught me the principles of hard work and service. I attended Nebraska Wesleyan University and the University of Nebraska College of Medicine. My otolaryngology residency program was at the University of Louisville hospitals in Kentucky. I worked in private practice in Springfield, Missouri, followed by Colorado Springs as the lone ENT physician in a multispecialty practice. In 1998, my wife and I felt a desire to come home to Nebraska with our family of four children. Since being back in Lincoln, I have worked in single-specialty group practice and corporate models, and most recently, since the beginning of 2020, to my own solo practice, where I was the CEO, COO and CFO all wrapped into one. I want to call out this experience as one of great pride for my administrative and corporate decision-making ability. I had the vision of what I wanted to accomplish. I brought in experts in various fields such as legal, finance-- finance and marketing. To assist with the implementation of my vision, I collaborated with other physicians to help build my practice, I wrote policy, I set standards and I ensured that my team met those standards. These are the skills that I bring to this role today: the ability to set a vision, when necessary, make tough decisions, and collaborate with experts to achieve my goals. Additionally, my leadership experience has been vast and

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diverse over my career. I have taught and mentored providers, I have been on hospital executive committees where we oversaw staffing, planning, financials, data analytics and strategic planning for the facilities. Chaired a physician excellence peer review committee, where we investigated, completed root-cause analyses and determined appropriate internal course of actions for provider complaints within the facility, and completed the Nebraska Physician Leadership Academy. Most recently, in the fall of 2020, I became a member of Nebraska's State Board of Health. From the start of 2022 until my appointment to the position of Chief Medical Officer, I was chair of the board. It was my experience on the board that created my desire to become a public servant. The past decades have taught me that being a physician is more than the practice of medicine. There's an art to medicine, one that incorporates listening, developing caring relationships ethically and realistically, providing care, and most importantly, faithfully serving. It is that word, serving, that I place foremost in my actions. These are the qualities that I will bring daily to this position. I see this CMO role serving several functions. One, liaison between the Governor's Office and the Legislature, DHHS, physicians and citizens of the state. Two, understanding board, department licensure, governance and providing disciplinary measures when needed. Three, enhancing relationships within our state health care organizations, health care facilities, and local health departments. I'm sure there are many more that I will be excited to dive into. I appreciate that this position works alongside the public health expertise of our Director of Public Health, Charity Menefee, and our state epidemiologist, Dr. Matt Donahue. All this work is done under the guidance and vision of CEO Danette Smith, who challenges us to use our collective knowledge to innovate and co-create an HHS system that helps Nebraskans live their best life. That teamwork and collaboration is the best way to accomplish most anything. Goals, lofty or small, are usually not met by the efforts of one person alone, but by the collaboration of multiple interested parties. As CMO, I have the following goals. One, improving access to health care, a problem exasperated with the closing of health care facilities and the health care worker exodus. Two, improving infant mortality statistics by collaborating with entities both private and public to improve Nebraska's ranking. And three, maintaining our state's emergency preparedness framework. I am honored to be a part of the DHHS team and I promise to maintain the highest integrity of this position. I look forward to working with this committee. Thank you for listening, and I'm happy to answer any questions.

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**HANSEN:** Thank you. Are there any questions from the committee? Senator Riepe.

**RIEPE:** Thank you, Chairman Hansen. Thank you, Dr. Tesmer, for being with us. And you hit a soft spot in my heart with being a Wesleyan grad. I, I don't happen to be a grad, but I did spend ten years in association with Wesleyan. I have a very high regard and for the graduates as well, my son being one. Jumping right into it, one of the biggest questions that will come up at this hearing and one of the biggest challenges you'll face has to do with the gender dysphoria. And I guess I would not ask you for your plan, but I would ask you if you can define for us a little bit what's your plan to create a plan would be? Who would you engage in that and how we might talk about that?

**TIMOTHY TESMER:** Thank you, Senator Riepe. With the law, and I'm paraphrasing, but it says that the promulgation of regulations for gender-- nonsurgical gender dysphoria care rests on the shoulders of the Chief Medical Officer. In reality, that will be accomplished by a team of multidisciplinary healthcare providers, which we-- every attempt will be made to incorporate family practice, pediatrics, adolescent medicine, endocrinology, hormonal therapy, behavior, mental health therapy counselors, myself, legal specialists. So it will truly be a multidisciplinary team that will be providing those regulations. And they will be accomplished in a thorough, evidence-based fashion, to follow the Administrative Policy [SIC-- Procedure] Acts, APA. You all have a lot of acronyms that I'm not used to yet. But it will follow the APA guidelines, incorporating the Attorney General's Office and the Governor's Office to make sure that those regulations can be passed. Now, including in that process, once draft regulations are written, there will be public hearings held. And after the public hearings are held, a summary of those public hearings will be made. We will go back and see if there need to be any substantial changes to those regulations. And if so, there would likely be another public hearing held. If all of that finishes out with the regulations that the whole team, the whole committee agrees upon, it will then go to, I believe, the Board of Health for its review. And once-- and that will be held under an Open Meetings Act, of course. Once that is done, it would then go to the Attorney General's Office for their review. And if that is accomplished, then it goes to the Governor's Office for his review and signature.

**RIEPE:** And that's all obtainable by the 1st of October.

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**TIMOTHY TESMER:** That is not all attainable by the 1st of October, Senator.

**RIEPE:** OK.

**TIMOTHY TESMER:** I can tell you that the process is already underway. This bill was voted on and is now law from just a few days ago, but the process is already underway, formulating the legal structure for, for the APA guidelines. We are in the process of collecting experts that we would ask for their help, for their consultation, both within the Department of Health and Human Services and outside DHHS, which would be-- which could be regional or even national. So I-- that process will not be done by October 1. I know the-- I know the, the law goes into effect on October 1. I can tell you that this process will be as time-efficient, but as thorough as necessary, because I know the nature of this issue. I get it. I know people are hurting. We want to do the right thing within the guidelines of the law that's now been enacted.

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

**HANSEN:** Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you for being here and your willingness to serve the state. So if I'm hearing correctly, no on October 1. Do you have an estimate of what a reasonable timeline is?

**TIMOTHY TESMER:** I do not at this time, Senator.

**M. CAVANAUGH:** OK. Will you continue to keep this committee updated on the timeline as it evolves?

**TIMOTHY TESMER:** Of course, if that's requested, I'd be more than happy to.

**M. CAVANAUGH:** I would say consider this a request.

**TIMOTHY TESMER:** And it will be followed.

**M. CAVANAUGH:** Thank you. I'm a big fan, proponent of process and we have a process of credentialing review, or some people call it the 407 process.

**TIMOTHY TESMER:** Um-hum.

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**M. CAVANAUGH:** And you have been on the Board of Health and now you are the Chief Medical Officer. Could you speak to what your belief is about the credentialing review process and the role that both entities should play in that process?

**TIMOTHY TESMER:** Are you talking about the 407 process?

**M. CAVANAUGH:** Yeah, the scope of practice changing--

**TIMOTHY TESMER:** OK.

**M. CAVANAUGH:** --of a scope of practice.

**TIMOTHY TESMER:** That, I believe, was enacted in the mid-1980s--

**M. CAVANAUGH:** Possibly, I don't--

**TIMOTHY TESMER:** --relative to the-- unburdening the Legislature with the task of determining scope of practice. Is, is this extension or scope of practice which has been unregulated, should it be regulated? So I believe the law started in the mid-1980s. So at the Board of Health, that is one of the important functions that the State Board of Health does, run the 407 process, doing a technical review committee, which usually at least one Board of Health member sits on and chairs, a DHHS staff person helps facilitate, and then involved parties, persons or interested persons or parties sit on to determine if the proposed scope of practice is needed. Is there sufficient education to say that this would be reasonable for the scope of practice to proceed? Is there ways of following that process along? So in basic form, that's the scope of practice.

**M. CAVANAUGH:** So you just walked through with Senator Riepe's question about the process that you'll go through with the implementation of LB574. Would you-- is it fair to say that before the enactment of LB574, or even the introduction of LB574, it would not have been out of bounds to ask for a credentialing review of that scope of practice and gone through that, that process as we have for so many other things, and then brought forth legislation bearing out from that credentialing review process?

**TIMOTHY TESMER:** As I understand, at least from my experience on the Board of Health, any scope of practice health, health-related issue would come from this committee first--

**M. CAVANAUGH:** No, a request for a creden--

**TIMOTHY TESMER:** --to the Board of Health.

**M. CAVANAUGH:** A request for a credentialing review would not come from this committee, it comes from outside entities within the healthcare community.

**TIMOTHY TESMER:** OK. And so I'm--

**M. CAVANAUGH:** And we are--

**TIMOTHY TESMER:** For me to, for me to ask an opinion on something that again you all on the HHS Committee--

**M. CAVANAUGH:** Well as, as--

**TIMOTHY TESMER:** --voted on, so I don't--

**M. CAVANAUGH:** --so as the president of the Board of Health, you did weigh in on this. And it is the Board of Health that does the credentialing review. And so I'm trying to get at, if you have acted in the role as the, the chair of the Board of Health that oversees the credentialing review process, and you are now going to be the Chief Medical Officer, which does not oversee that, but has now essentially been tasked with a different type of credentialing review scope of practice through LB574, I'm just trying to get at what your understanding is of the process. And also if you think that we up until this point have followed our own processes that we historically put into place.

**TIMOTHY TESMER:** I honestly, Senator, can't comment on whether or not you all have followed your own--

**M. CAVANAUGH:** Well, I'm asking--

**TIMOTHY TESMER:** --guidelines.

**M. CAVANAUGH:** I'm asking for your perspective on that.

**TIMOTHY TESMER:** Well, if you're, if you're-- with regards to the statement that came out from, from the Board of Health--

**M. CAVANAUGH:** Yes.

**TIMOTHY TESMER:** --at their March meeting.

**M. CAVANAUGH:** Yes. Your March meeting, yes.

**TIMOTHY TESMER:** Yes.

**M. CAVANAUGH:** You were a part of it.

**TIMOTHY TESMER:** OK. That statement was drafted by a member of the Board of Health and presented to the Board of Health that day, that Monday in March that the board met.

**M. CAVANAUGH:** And is that a typical process?

**TIMOTHY TESMER:** Oh, that can be a typical process because that statement--

**M. CAVANAUGH:** Is it a typical process? When has it happened before?

**TIMOTHY TESMER:** Statements relative to--

**M. CAVANAUGH:** Legislation pending in the Legislature, when have you been presented with a statement like that and voted on it the same day?

**TIMOTHY TESMER:** Oh, I think that we-- I, if-- I believe that we have from the Board of Health presented statements relative to motorcycle helmet law.

**M. CAVANAUGH:** We have not-- I sit on the Transportation Committee and the Health and Human Services Committee, and we have not received a statement on the helmet motorcycle law.

**TIMOTHY TESMER:** I-- Senator, I can't comment on that. All I know is that, that the Board of Health has come out with a statement on motorcycle helmet-- their opinion on motorcycle helmet.

**M. CAVANAUGH:** This year.

**TIMOTHY TESMER:** I believe it was this year, as it has been in previous years for quite a, quite a long time.

**M. CAVANAUGH:** I have not seen that statement.

**TIMOTHY TESMER:** If-- I would be happy to go back and research that, if you would like.

**M. CAVANAUGH:** I think it would be very helpful for understanding the consistency of how the Board of Health has operated under your leadership to have a better understanding as to whether or not this is a common practice. Because, as you can imagine, it did not appear by

everything that was known to the public to be a common practice, nor did it appear to be transparent, nor did it appear to be appropriate. And from my view, is it, is it appropriate to instill somebody as the Chief Medical Officer who has the judgment to collude with a sitting senator on legislation to circumvent the process of the Board of Health that does the credentialing review scope of practice? And I'm failing to see that you grasp an understanding of the work that you were doing at the Board of Health and how that relates to the Chief Medical Officer. And I'm trying to give you the opportunity to explain that you have that understanding. So that's an open-ended question, you can answer it however you like. But I currently don't feel that you understand what you have done, how that has impacted legislation, and how your current job moving forward is going to impact all of this.

**TIMOTHY TESMER:** Senator, I respectfully disagree with your use of the word collusion. There has been no collusion.

**M. CAVANAUGH:** So the Board of Health did not work behind closed doors with Senator Kathleen Kauth to put together a statement that they voted on in-- behind closed doors and then released without any names or signatures on it to the Legislature? And then there was not records requested given to the press, published in the press that spoke to all of that? How would you categorize that, if not collusion?

**TIMOTHY TESMER:** I was not aware of that draft statement that was presented to the Board of Health until the day it was presented.

**M. CAVANAUGH:** But you are aware of it now?

**TIMOTHY TESMER:** I am aware of it now, yes.

**M. CAVANAUGH:** And you're aware of all the details surrounding it now?

**TIMOTHY TESMER:** What I've read in the paper. Yes.

**M. CAVANAUGH:** And how would you categorize all of that?

**TIMOTHY TESMER:** I don't know how to comment on that because that was-- I was not involved in--

**M. CAVANAUGH:** Were you the--

**TIMOTHY TESMER:** --the drafting of that statement?

**M. CAVANAUGH:** Were you the chair of the Board of Health at that time?

**TIMOTHY TESMER:** Yes. Um-hum.

**M. CAVANAUGH:** So you were in charge of the actual board when this happened? Do you not--

**TIMOTHY TESMER:** Yes, chair of the board.

**M. CAVANAUGH:** Do you not bear any responsibility for what happened as the chair of the Board of Health?

**TIMOTHY TESMER:** I cannot-- I cannot--

**M. CAVANAUGH:** Did you ask any questions--

**TIMOTHY TESMER:** --control. When--

**M. CAVANAUGH:** --about how this was formulated, who this was formulated with, what the timeline was, what the background was? Or did you just vote for it?

**TIMOTHY TESMER:** Oh, no. There was time for discussion on that draft.

**M. CAVANAUGH:** It wasn't public. That, that, that conversation was not public. That was not part of the public part of the meeting. And what you're saying to me is it was presented and you voted on it, but it's not that simple. Everything that we have read in the media reports makes it clear that it was not that simple.

**TIMOTHY TESMER:** Um-hum.

**M. CAVANAUGH:** That there was a coordinated effort in advance of that. And what I'm asking you is, what did you understand to be when you sat in that room behind closed doors without the public there voting on this and it was presented to you that day? What information did you have and what information did you ask for that you didn't have already?

**TIMOTHY TESMER:** I did not have any information in advance of when that draft statement was presented to the board. The morning session of the State Board of Health encompasses subcommittee meetings. And the subcommittee meeting that that draft statement came from was called the PHEL, Public Health Education Legislative Committee.

**M. CAVANAUGH:** And did--

**TIMOTHY TESMER:** That's--

**M. CAVANAUGH:** --they have public meetings? Did the, did the subcommittee have public meetings around the drafting of that statement?

**TIMOTHY TESMER:** Senator, I don't know. The pre-- the, the statement was presented at the PHEL subcommittee meeting that Monday morning and discussed at that time. It was then voted to be advanced to the afternoon session, which was under the Open Meetings Act. So it was further discussed at the afternoon session. But any time previous to that, Senator, I did not have any knowledge of any behind-the-scenes activities.

**M. CAVANAUGH:** And when that statement came to you to-- for a vote, what questions did you ask about the statement that you were signing on to?

**TIMOTHY TESMER:** I asked question-- the main question I asked was that the term "irreversibility" or "irreversible," which to me meant surgical procedures. So the, the statement talked about the, and I'm paraphrasing, the State Board of Health affirms the feeling that irreversible procedures for gender, gender dysphoria therapy are not in the best interest of a minor that-- and further mental health therapy needs to be done because of the complexity of the condition and the age of the persons involved. Again, in my mind--

**M. CAVANAUGH:** Were you presented with any documentation to back up the statement that you were voting to affirm? Were you presented with, as you would in a credentialing review process, where you go through you have the subcommittees, you have testimony, you have comment, you talk to experts in the field and you hear about the medical procedures? Was there any documentation presented to the committee, to you and others that explained and outlined what you were affirming to be the statement from the Board of Health? Or did you just simply have the words on the page and vote for those words on the page?

**TIMOTHY TESMER:** The draft statement again was discussed and put forth at the morning's subcommittee meeting.

**M. CAVANAUGH:** I'm asking about the meeting that you were a part of.

**TIMOTHY TESMER:** As far as any documentation, no, we were not presented with any documentation.

**M. CAVANAUGH:** Did you ask for any documentation?

**TIMOTHY TESMER:** I don't, I don't recall that anyone asked for any documentation.

**M. CAVANAUGH:** Did you ask for the opinions of any medical experts in the field related to the things that were being espoused within that document?

**TIMOTHY TESMER:** No. That day? No.

**M. CAVANAUGH:** Did you--

**TIMOTHY TESMER:** When it was voted.

**M. CAVANAUGH:** Did you after that day or before that day ask for any of that?

**TIMOTHY TESMER:** Certainly, Senator, not before that day, because I didn't know that that draft statement was going to be presented.

**M. CAVANAUGH:** Why did you vote for it?

**TIMOTHY TESMER:** Because I feel that irreversible, irrev-- please understand, irreversible treatment for gender dysphoria in my mind means surgery. And I do not feel--

**M. CAVANAUGH:** But why did you vote for the statement?

**TIMOTHY TESMER:** Because I agreed with the statement as it was written. Irreversible treatment not-- should not be done for minors for gender dysphoria.

**M. CAVANAUGH:** Do you consider yourself a man of science?

**TIMOTHY TESMER:** Yes, I do have over 40 years of medical experience.

**M. CAVANAUGH:** Right. And when you decide on a medical procedure that you are going to recommend to a patient or how you're going to do it, how do you make those decisions? Do you use your training, your background? Do you use empirical data, evidence? I mean, or do you just say, well, I believe this to be true. I'm going, I'm going to perform this surgery because I just believe that it's the best thing. Or is that informed by expertise, study, science?

**TIMOTHY TESMER:** Medical decisions are made-- should be made based on one's education, medical education, training, on their own personal experiences. So and, and following established guidelines for medical care.

**M. CAVANAUGH:** And do you feel like the doctors that have been treating transgendered youth have not been following the guidelines for medical care all of this time?

**TIMOTHY TESMER:** I don't-- I'm not-- I am not saying, Senator, that they're not following whatever their guidelines are. I'm not saying that at all.

**M. CAVANAUGH:** Do you disagree with what the guidelines are--

**TIMOTHY TESMER:** If you--

**M. CAVANAUGH:** --prior to Monday of this week? Did you disagree with what the guidelines were prior to Monday of this week?

**TIMOTHY TESMER:** If you-- I don't want to be argumentative here, Senator. But if you could then enlighten me on what the guidelines are, because the guidelines are fluid as I know them. The guidelines include behavioral mental health therapy, the guidelines include puberty blockers, the guidelines include cross-hormone therapy.

**M. CAVANAUGH:** There's guidelines for each of those and how they are utilized and how they are prescribed. There's guidelines for all of those. So have you always disagreed with the guidelines for the utilization of puberty blockers? Have you always disagreed with the guidelines for the utilization of hormone therapy? Have you always disagreed with the guidelines for utilization of top surgery for-- and in this question specifically-- do you disagree with top surgery for transgender children or do you disagree with top surgery for all children?

**TIMOTHY TESMER:** I don't believe-- I do not believe that top surgery for minors is in their long-term best interest. Again--

**M. CAVANAUGH:** For transgender minors or for all minors?

**TIMOTHY TESMER:** For transgender minors.

**M. CAVANAUGH:** Why not for all minors?

**TIMOTHY TESMER:** Because top surgery for transgender minors involves irreversibly changing the physiologic characteristics so that one can change their gender identity versus, let's say, top surgery for someone who wants to have an augmentation or an enhancement procedure. The difference is the fact that changing one's gender identity to me makes top surgery not in the best interest of a minor. I'm not saying

that once they are of consenting age, they can't say that. But that's not what this bill--

**M. CAVANAUGH:** Then why would you--

**TIMOTHY TESMER:** --is talking about.

**M. CAVANAUGH:** Why would we not make all minors be of consenting age to have top surgery? Is it just because you disagree with being transgender?

**TIMOTHY TESMER:** No, I don't. Senator, I don't disagree with being transgender. What I'm--

**M. CAVANAUGH:** Then help me understand what the difference in top surgery is. Because what I am hearing you communicate is that it is based on how a person identifies, which is absolutely discriminatory and unconstitutional. That's what I'm hearing from you. And if I am hearing you incorrectly, I would love for you to correct the record. But what I am hearing is that you think that top surgery is OK if people identify the way that you want them to identify, but it's not OK if they don't identify the way that you want them to identify.

**TIMOTHY TESMER:** No, I'm--

**M. CAVANAUGH:** And that's not how medic-- medicine works. So please speak to that.

**TIMOTHY TESMER:** Senator, I-- it's not what, it's not what I want. OK? I have my personal opinions, as everybody has personal opinions. OK? But as this going back to the draft statement that came from the Board of Health--

**M. CAVANAUGH:** I'm giving you an opportunity to clarify on top surgery for gender identification.

**TIMOTHY TESMER:** OK.

**M. CAVANAUGH:** If you don't want to take that opportunity, that's fine. But I do-- what you have stated, and what I am stating back to you is that you have a discriminatory view of how medicine should be applied, and I don't want to leave it at that, if that's-- if you disagree with how I am characterizing that, I'm trying to give you the opportunity to review how I am characterizing what you have just said to me. Which is, I am characterizing it as discrimination in medicine. And if that

is your intention, fine. But if that was not your intention, now would be a good time to clarify.

**TIMOTHY TESMER:** I respectfully disagree.

**M. CAVANAUGH:** With the characterization?

**TIMOTHY TESMER:** That, that, that-- with your characterization of me being discriminatory. OK?

**M. CAVANAUGH:** Then--

**TIMOTHY TESMER:** I want that to be--

**M. CAVANAUGH:** I would take-- I would say you take this opportunity to explain.

**HANSEN:** Senator Cavanaugh.

**M. CAVANAUGH:** Yeah?

**HANSEN:** I just want to ask other committee members [INAUDIBLE].

**M. CAVANAUGH:** Yes. I'm sorry. I just want to make sure he-- I don't want to leave it with my interpretation. I would like him to have that opportunity. But if he doesn't want it, that's fine.

**HANSEN:** OK, and we'll come back to him so.

**M. CAVANAUGH:** Yep.

**HANSEN:** I just want to just make the rounds here. Senator Ballard.

**BALLARD:** Thank you, Chair. Thank you for being here, Doctor. I'm gonna change topics a little bit. In your testimony, you said one of your goals is to improve access to healthcare. I mean, as you know, we have a problem with, with closing nursing homes and, and in, especially in the rural area. Can you elaborate on your plan to, to address access to healthcare, especially with healthcare facilities in Nebraska?

**TIMOTHY TESMER:** I'm happy to. But I want to preface that by saying I've only been on this job two months. So that said, I fully realize, and it relates to Senator Riepe's comment, yes, we have healthcare facility crisis issues. We have healthcare worker crisis issues, transition of care issues, getting someone out of the hospital to an appropriate secondary facility to continue to receive care. Yes, I realize that that's an issue. I have already reached out to physicians

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and Hospital Association to, to convene listening sessions to get their points of view on this and see what could possibly be brought forth as some alternatives. Making a rural hospital into more of an outpatient facility. Outpatient surgery. No overnight stay, but more of a day surgical procedure. Making, making rural hospitals perhaps turn into more birthing centers. Those are some possibilities. Those are some conditions that have been-- that are out there as models. So I guess I would like the opportunity to explore what those possibilities might be.

**BALLARD:** Perfect, thank you.

**TIMOTHY TESMER:** And retaining the healthcare workers, whether it's from a pay standpoint or reducing their stress, their burnout, that's very, very important.

**BALLARD:** A follow-up, if I may, Mr. Chairman. And then, I'm not trying to put you on spot, just something we can think about over the interim. What, what kind of policies can this committee think about to help address that issue? And if you don't have any off the top of your head, that's OK. But it's something that we can, we can take to the interim with us.

**TIMOTHY TESMER:** I don't know that I've got any specific policies to tell you right now, other than we have to be able to make healthcare attractive for young people to want to come into that service, servant role. Whether it's from pay or whatever their professional feelings that they get, we have to make, we have to make that attractive. So again, I would enjoy the opportunity to explore that further.

**BALLARD:** Yeah. Thank you for being here, Doctor.

**HANSEN:** Senator Day.

**DAY:** Thank you, Chairman Hansen. And thank you, Dr. Tesmer, for being here today. You mentioned earlier in promulgating the regulations for gender-affirming care that has been delegated to you, that you would gather a group of professionals to sort of advise you on how to do that. How would you go about choosing who would be working-- you would be working with on that?

**TIMOTHY TESMER:** We would be looking for specialists within the Department of Health and Human Services, which there are some. We would be looking for local specialists, local-- I kind of hate to use the word experts, because no one is going to be an expert in everything, but local experts, I guess. Regional, within this state or

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surrounding states or even more national. Those people that are recognized as leaders in gender dysphoria care.

**DAY:** OK. So you would be engaging people who specialize or currently provide gender-affirming care?

**TIMOTHY TESMER:** Yes.

**DAY:** OK. So you will have somebody who provides that type of care guiding you on providing-- or advising you on regulation?

**TIMOTHY TESMER:** Yes, of course.

**DAY:** OK. And then you mentioned APA. Are you referring to the American Psychological Association--

**TIMOTHY TESMER:** No.

**DAY:** --when you say APA?

**TIMOTHY TESMER:** Administration Procedural Act [SIC-- Administrative Procedure Act].

**DAY:** OK. Thank you. And then just a couple of questions about going back to the statement that came out on March 20 from the Board of Health. Why did the Board of Health put out a statement on a bill that they previously-- over the weekend, essentially-- on a bill that they previously hadn't made any attempts to put out a statement on?

**TIMOTHY TESMER:** Early--

**DAY:** Or discussed.

**TIMOTHY TESMER:** Early in each year, when you all convene, introduced legislation is tabulated. The Board of Health has what they call a "bill tracker." So it's, and especially through that PHEL, Public Health Education Legislation subcommittee, that bill tracker is tabulated. And it's looked at by that committee which legislative bill proposals would possibly the Board of Health need to weigh in on if it was felt to be appropriate. And again, that bill on gender dysphoria care was on the legis-- was on the subcommittee's legislative tracker--

**DAY:** OK.

**TIMOTHY TESMER:** --and was brought up then that Mon-- that subcommittee meeting the Monday morning before the afternoon formal Board of Health

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meeting. So it was determined that with everything that was going on in the Legislature, in the media, that it would be important for the Board of Health to make a-- it was, it was felt to be important that the Board of Health make a statement. And so that's when it was presented that Monday morning.

**DAY:** So who determined-- I mean, you, you, you know, what came out publicly from the FOIA request between Senator Kauth and members of the board discussing, making sure that there was a statement put out before Tuesday debate. So I guess that's my question. And I think maybe Senator Cavanaugh was alluding to this earlier of it appears to the public and to us that there was someone on the board that wanted to make sure that that statement came out before the bill came up for debate on Tuesday.

**TIMOTHY TESMER:** OK.

**DAY:** Who was that person?

**TIMOTHY TESMER:** I don't-- I, I don't know who that one-- I don't know that there is one person. The, the subcommittee, PHEL subcommittee, has several board members on it, but I honestly don't remember who brought up that draft statement.

**DAY:** OK. And the, the draft statement at that time supported the bill that would essentially outlaw any type of gender-affirming care, including puberty blockers and hormone therapy. And you signed on to support that. Yes. The statement that came out on March 20 was in support of LB574 as originally introduced, which would have outlawed any type of gender-affirming care and referrals for gender-affirming care, and you signed on to support that. And I'm just asking, has your stance on that changed since then, or do you still support outlawing or regulating any type of gender-affirming care for minors?

**TIMOTHY TESMER:** As I remember, Senator, the statement that came from the Board of Health talked about irreversible. Again, that is the operative term here, irreversible, in my mind. Puberty blockers are not irreversible.

**DAY:** The statement was in support of LB574.

**TIMOTHY TESMER:** I, I'm sorry. I don't-- I can't comment on to the-- all I know is the statement from the board, that came from the Board of Health is as it was written. And I have no-- I really don't understand if that related to the original LB574.

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**DAY:** So you signed a statement supporting a bill but you weren't unsure of what the details of the bill were?

**TIMOTHY TESMER:** I signed on to the statement, Senator.

**DAY:** Right.

**TIMOTHY TESMER:** I signed on to the statement that came from the Board of Health.

**DAY:** Right, and it de--

**TIMOTHY TESMER:** Relative to its--

**DAY:** --and it detailed--

**TIMOTHY TESMER:** Relative to any behind the closed door things.

**DAY:** That's not what I--

**TIMOTHY TESMER:** I can't comment on that.

**DAY:** I'm not asking about that.

**TIMOTHY TESMER:** I don't know how to comment on that.

**DAY:** I'm asking about your, your support for the bill as it was originally introduced as essentially illustrated by you signing on to support the statement that supported LB574, which would have outlawed any type of gender-affirming care. And I'm just asking now that you have been delegated the task of outlining what gender-affirming care should look like for minors outside of surgical intervention, has your opinion changed on that since you signed the statement supporting outlawing any type of gender-affirming care?

**TIMOTHY TESMER:** Again, Senator, not to be argumentative, but my thought again, the draft statement-- if you're talking about the draft statement, again, I'm going back to the term "irreversible."

**DAY:** It included, but it included things that were outside of those that were only irreversible. It also included outlawing puberty blockers and hormone therapy.

**TIMOTHY TESMER:** The draft statement from the Board of Health said that?

**DAY:** It supported LB574 explicitly--

**TIMOTHY TESMER:** I dont, I don't--

**DAY:** --and then detailed-- I'm happy to get you a copy of that. And I'm not trying to argue with you here.

**TIMOTHY TESMER:** That would be great because I don't remember that Board of Health statement mentioning anything on LB5-- there was nothing in that statement that I recall saying LB574. Nothing.

**DAY:** OK. You don't remember signing that it was specific to the bill LB574?

**TIMOTHY TESMER:** No, I--

**DAY:** OK.

**TIMOTHY TESMER:** I'm sorry.

**DAY:** No, that's OK. Thank you. If anybody else has any questions, I'd let you go.

**HANSEN:** I might make one comment. I think just on a quick search, it's not uncommon for the Board of Health to write letters in opposition or support specific bills. They did write a letter in opposition to the helmet law this year, I believe it was this year or it was last year. Also LB123, LB181, LB181 LB189, LB561, LB588. And just for a quick search, those are certain letters that were written, either in opposition or in support of a specific bill by the Board of Health so.

**TIMOTHY TESMER:** And so some of those may predate my time on the board.

**HANSEN:** Yeah, I think all those were this year.

**TIMOTHY TESMER:** OK.

**HANSEN:** So. Senator Walz. Just making sure. We'll go back to Senator Cavanaugh, OK? Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. So the statement that Senator Day was talking about at the very beginning says that children experiencing gender questioning and gender dysphoria are particularly vulnerable to exploitation by social media and influences outside of medical practice. Are children who are not experiencing gender dysphoria, they are not influenced by outside social media?

**TIMOTHY TESMER:** No, I don't believe that.

**M. CAVANAUGH:** You don't-- you believe they are influenced or they are not?

**TIMOTHY TESMER:** I think social media has, has a huge impact on-- OK, we're talking about children. I think social media can play a huge impact on all children.

**M. CAVANAUGH:** So I go back to my question as to why you would not want to ban surgery, irreversible top surgery for all children if they are being influenced by outside social media in their desire to change their appearance. Why just transgender children? If the belief is that they are doing this because they are being influenced by social media and not because it is what is best for them, then why are we not banning it for all children?

**TIMOTHY TESMER:** I know where you're coming from here, Senator. I understand that. My-- again, my personal feeling is that if you want to go back to the top surgery part, I do not believe that that is appropriate for a minor in the context-- and I'm not discriminating against transgendered--

**M. CAVANAUGH:** Well you are, if you're deciding--

**TIMOTHY TESMER:** In your definition, it may be. But it's not the way I feel inside.

**M. CAVANAUGH:** I think it's the legal definition, not just my definition. The legal definition is discriminating--

**TIMOTHY TESMER:** You may know that better than me.

**M. CAVANAUGH:** Denying medical--

**TIMOTHY TESMER:** [INAUDIBLE] the way I feel.

**M. CAVANAUGH:** Denying medical care to a person based on their gender identity is, is the legal definition of discrimination.

**TIMOTHY TESMER:** I think there are a number of-- I think there is-- there's a-- a high number of institutions that feel that top surgery should not necessarily-- these are institutions, not just me-- that feel that top surgery should not be done on minors until they are of consenting age.

**M. CAVANAUGH:** Right, but you are the--

**TIMOTHY TESMER:** So if you're gonna say that, then you're calling other--

**M. CAVANAUGH:** You're the--

**TIMOTHY TESMER:** --these health, these institutions discriminatory. And I don't know that that's--

**M. CAVANAUGH:** No, it's not discriminatory if you, if you enforce it equally amongst all. It's discriminatory when you target a specific population of individuals and deny them access to a specific type of healthcare that you are willing to give to a broader group of people. But you have decided that this group of people will be denied access to that healthcare. That is discriminatory. If you say all 19-- and all people under the age of 19 can't have top surgery, that is not discriminatory. Whether or not it's good policy or not is a different question. It is not discriminatory. But if you say only people under the age of 19 who identify in a way that I disagree with, that is discriminatory.

**TIMOTHY TESMER:** OK.

**M. CAVANAUGH:** And what I am hearing you say is only people who identify in a way that you disagree with should-- shall be denied healthcare.

**TIMOTHY TESMER:** Again, I respectfully disagree. Again, I'm going to go back to say, yes, I have my personal opinions. We all have personal opinions. But I do realize, I do honestly realize that in this role, I have to put my personal opinions aside. OK? And this is one of those situations that I-- while I have a personal opinion, I have to put that aside and be involved in the care of transgender minors. I have to put my personal opinions aside. Yes, I com-- I did what I did. I signed on to that draft. But I realize that I have to put my personal opinions aside. That's why, and a team of experts, again, if you want to use the word experts.

**M. CAVANAUGH:** Well, I'm not sure because I would be interested to know how you are going to identify these experts. Because if you're going to use the experts that came and testified in support of LB574, those were individuals that didn't practice in the field. If we're talking about experts at practice in the field, then yes, that would be experts. But if we're just talking about people who are podiatrists or ENTs, then we're not talking about experts in the field of gender-affirming care.

**TIMOTHY TESMER:** I can assure you, Senator, that experts in the field of gender-affirming care will be part of this team. Now, within the context of the law that's been enacted, bill that's been enacted, surgery is not going-- that we can have those experts available and on the team. But surgery is not part of what the enacted law now states.

**M. CAVANAUGH:** I understand that. I'm trying to get at--

**TIMOTHY TESMER:** Everything else is on-- everything else is on the table.

**M. CAVANAUGH:** I'm trying to get at your judgment and how you're going to utilize your judgment. Myself and this committee is tasked at deciding whether or not we think you are capable of doing the job that you have been nominated for. And so whether or not surgery is on the table or off the table, it's a question of your judgment and your interpretation of the laws and your interpretation of discrimination. And I have to be perfectly honest with you, I don't think this is going to come as a surprise, I'm very concerned. I'm very concerned by what you are saying today. I'm very concerned about putting somebody in one of the most influential, powerful healthcare positions who is sitting here openly telling me that they are discriminating and making medical decisions. That is very, very concerning to me. And I keep trying to get you to rebut-- refute what I am saying, to tell me that I am wrong, to tell me that you are not actually going to discriminate against people with-- based on their gender identity or some other defining characteristics. And all you are coming back to me with is an answer that, yes, in fact, that is how you will conduct yourself.

**TIMOTHY TESMER:** Again, Senator, I respectfully disagree. I disagree.

**M. CAVANAUGH:** I appreciate that you disagree, but you are not laying a case for the opposite. You disagree and then reinforce the statements.

**TIMOTHY TESMER:** A-- OK. Again, as I said, I may have personal opinions. And I say this, this is the third time I've said this now, we all have personal opinions. OK?

**M. CAVANAUGH:** But how do they impact you as a medical provider and how do they impact you as a Chief Medical Officer? How do your personal opinions-- will you set them aside because they are clearly discriminatory against the LGBTQ community? Will you set that aside to do the greater good and the work? And you are now being tasked with the biggest legislative piece in the history of this state to define what it means to be a trans person in this state, starting with our

most vulnerable children. And there is a thought, and I have this thought myself, that this is just the beginning to eradicate trans people from existence in our state. And I am concerned that you, as the Chief Medical Officer, hold the idea that they should not exist and will work in concert with whoever. Based on what you have done to date, that you will work in concert with people to ensure that they no longer exist. And I am hoping beyond all hope that I am so off base and incorrect. And I am asking you to show me, in your words today and your actions moving forward how wrong I am. But so far, everything you have said has reaffirmed my opinion. And I am concerned. I am deeply, deeply concerned about the discrimination that you are openly sharing with us today. I will leave that as my last statement in question. You may speak to it if you like.

**TIMOTHY TESMER:** If I could, please. And again--

**M. CAVANAUGH:** Absolutely.

**TIMOTHY TESMER:** --some of, some of, some of which I've already said before. I can assure you right here, right now, I can assure you that personal opinions will be put aside. This issue, this one issue, I hope doesn't define the whole Chief Medical Officer role. I hope so.

**M. CAVANAUGH:** Well, I think it might.

**TIMOTHY TESMER:** Well, I again, I disagree. There's a whole lot more--

**M. CAVANAUGH:** It's defined this entire year in the state of Nebraska.

**TIMOTHY TESMER:** Well, that-- and that's-- OK, that, I don't have control over that.

**M. CAVANAUGH:** Well, we all-- actually--

**TIMOTHY TESMER:** I can't fix a bill.

**M. CAVANAUGH:** --we all have control.

**TIMOTHY TESMER:** I can't change a bill.

**M. CAVANAUGH:** We all have control over that.

**TIMOTHY TESMER:** What I can do is assure you--

**M. CAVANAUGH:** You can vote-- you voted for a letter that participated in making it a defining characteristics of our state this year. So you do actually have control over that. You are in a position of power and

you have utilized that position of power to make this a defining issue. And now you are in a different position of power that has been tasked with this. So you are at the epicenter of all of this.

**TIMOTHY TESMER:** OK. And OK, if that's the way you characterize it, then I'm happy to be at the epicenter of this role. If that's what this CMO role is defined by, I'm happy to do that. Again, I'm going to bring back my 40 years of medical experience. I have treated people of all ages, genders without any discrimination. So I will put my personal opinions aside, although I don't think they are discriminatory. However, I will put those personal opinions aside and do my very best in what I've done for over 40 years as serve-- do my very best and compile a multidisciplinary collection of experts and advisers. Everything's on the table relative-- everything is on the table relative to this issue, with the exception of surgery. We cannot change-- I can't change the law. I can work with what the law now states. We can work so in a thorough, regimented, legal fashion and come up with regulations that the intent would be to address this issue and give a broad recommendation involving adult-- adolescent medicine specialists, endocrinologists. We have to be able to talk about not only behavioral health, mental health, as I said, puberty blockers. We have to talk about cross-hormone therapy because that can be in the transition, in the continuum of treatment. There's, there's the issue of surgery that's not going to be discussed. It can't be because that's not what the law says. Whatever there. I get that part. But we will put everything else on the table and come up with regulations, which hopefully, I pray, hopefully deal with this in a appropriate, evidence-based, rational, helpful fashion.

**HANSEN:** Dr. Tesmer, if I could. Let's go around and see if there's any other questions from other committee members. Senator Day.

**DAY:** OK. So we know there's an October 1 effective date for LB574. And you mentioned that potentially you may not have the guidelines established by then. What is-- how do you see the status of gender-affirming care in the interim, like between now and then? What does that look like?

**TIMOTHY TESMER:** My, my understanding is October 1, this-- I keep using the word law-- this law goes into effect. So there is in this a grand-- quote unquote, grandfather clause. If someone currently right now, up until October 1, I guess, is undergoing treatment, whether that be with behavioral health, puberty blockers, cross hormones, or even surgery, that would be continued.

**DAY:** OK.

**TIMOTHY TESMER:** That would be grandfathered. So in that collection of people--

**DAY:** Through October, October 1, yes.

**TIMOTHY TESMER:** --if they're currently undergoing treatment, they would be allowed to continue their treatment. And it wouldn't be necessarily stopped as of October 1.

**DAY:** OK.

**TIMOTHY TESMER:** They are grandfathered in. It's-- October 1 is the start until such regulations are written or whatever the word is, promulgated.

**DAY:** Sure.

**TIMOTHY TESMER:** And I don't know how long that will take, but I get the importance of this. And we will-- the team, the committee will work as diligently and as efficiently as possible to come out with those regulations. I understand there's going to be a hiatus, a "limbo land" here, but we will do our very best effort to get something out and, and, and get the process-- as I said, it's already started, but getting, get it going.

**DAY:** OK. That's great. Thank you. And I do have another question about do you intend to provide any further guidance on the pregnancy termination restrictions that are in LB574?

**TIMOTHY TESMER:** If need be, yes. Now my-- if you're talking about the termination of pregnancy guidelines?

**DAY:** Yes.

**TIMOTHY TESMER:** OK. There are, if I remember correctly, five listed situations or circumstances that would exempt penalty under that law, including an ectopic pregnancy, a miscarriage, if there was an accidental or inadvertent injury that, that needed to be addressed and the termination of pregnancy. If there was an act that was done with the intent of preserving the life of the un-- the unborn child, that also would be exempt as well as anything relative to in vitro fertilization. Now secondarily to that, the term "medical emergencies" is in there. Now, there's no definition in there of what medical emergencies are. But I can tell you that from the standpoint of a

pregnancy, medical emergencies can involve and would involve hemorrhage which could be life-threatening to the mother, can involve a severe, overwhelming infection or sepsis, which could involve the possibility of death. It could involve a hypertension, a hypertensive crisis. Those are three basic medical emergencies. And then you tack on the comment of substantial and irreversible alteration of major bodily functions. That's also a very, very broad description. But if you look at medical definition of major bodily functions, that includes the cardiovascular system, that includes the neurologic system, including the brain, that includes the respiratory system, that includes the gastrointestinal digestive system, that includes the renal, the kidneys system-- system, that includes the immune system. So those are major bodily functions which would fit the bill of, of, of that language there. So there's wide, wide latitude there. And I realize that it's difficult, very difficult in a moment's notice to know if something's going to, as we say, turn south and really get bad fast. It's difficult when you're at that-- and I've been in those situations from an ear, nose and throat standpoint. You have to make your best medical judgment without regard to whatever else happens, you have to make your best medical judgment. So there's wide latitude in there in those descriptive terms.

**DAY:** So then what do you feel like the role of the Board of Medicine will be in determining what terminations or abortions are lawful and are not?

**TIMOTHY TESMER:** You mean the Board of Medicine and Surgery.

**DAY:** Yes, I'm sorry, Board of Medicine and Surgery.

**TIMOTHY TESMER:** All right. Now, again, I'm going to say I've only been on this job for two months now. However, my understanding of the process would be that if the case is opened, if a, a standard of care violation is determined to have occurred, then it would be thoroughly investigated. And then the results of that investigation would, I believe, go to the Board of Medicine and Surgery for their review, because it would be involving perhaps the Attorney General's Office. But it would be reviewed by the Board of Medicine and Surgery. And they would likely make a det-- hopefully make a determination, which then would come across my desk for a thorough review of all the information, the whole situation. And whether or not, using the criteria that's in the law, I would sign off on whatever penalty, I guess. Now, and the penalty, I get it. The penalty with the pre-born act is revocation of license. I get that. That's very, very serious. I get that. So it's-- that's not a task that I would take lightly at

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all. But I would apply the law. I would-- in the context, context of the whole situation and the descriptive terms within the law, I would, I would feel comfortable making a, a decision.

**DAY:** OK. I just have a couple of non-LB574 quick questions, is that OK? This is not related to the bill. Have you ever had any professional complaints filed against you?

**TIMOTHY TESMER:** I have had-- I am listed in the National Practitioner Databank as having a malpractice case--

**DAY:** OK.

**TIMOTHY TESMER:** --against me back in the late 1980s, I believe.

**DAY:** OK.

**TIMOTHY TESMER:** I finished my residency in 1987. Case in 1988, I believe. Something like that.

**DAY:** OK. Thank you. What do you see the role as the CMO in determining mandates for public health, like vaccine requirements for mask mandates?

**TIMOTHY TESMER:** Well, again, as I said in my, in my statement here, I have the beauty of working alongside direct-- the Director of Public Health. So in concert, perhaps, if med-- if a medical opinion is needed, I'd be happy to do that now. Now, mandates in general, yeah, some mandates can be very helpful. It's been very, very well demonstrated, childhood vaccinations for one, OK? There are other mandates that have shown medical benefit, flu vaccines. Now, mandates, as I understand it, have to go through a pretty rigorous federal and state regulatory process. So but I mean, mandates can be helpful.

**DAY:** OK. Thank you.

**HANSEN:** Senator Walz.

**WALZ:** Just one quick question.

**HANSEN:** OK.

**WALZ:** Thank you. Thanks for being here today. So over the-- throughout the session, we kind of gathered a group of senators and we had a, a committee that would discuss LB574.

**TIMOTHY TESMER:** Um-hum.

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**WALZ:** We had some pretty good conversations. And based on the feedback that we got between the senators, we came up with some protocols-- is there a-- is that me? Sorry--

**M. CAVANAUGH:** It's the whole room.

**WALZ:** --came up with a list of protocols, and I think we got feedback from the medical community as well and had an amendment, it was-- that would have gone onto LB574. I'm just wondering if you had any chance to see the protocols that this committee came up with.

**TIMOTHY TESMER:** I looked at some of them, yes.

**WALZ:** OK. So I guess my question is, are those protocols something that you would consider as part of your protocol? The protocol that we came up with--

**TIMOTHY TESMER:** Well, that's-- but they're not, they're not part of the law, they're not part of the bill now.

**WALZ:** No, they're not. So I guess my question is, would you be willing to consider some of the things that we had come up with in that committee?

**TIMOTHY TESMER:** Within, within, within the context-- within the context of the now-enacted law, I'd be happy to-- I would be willing to look at that. But I'd have to apply that to the, the, the boundaries or the context of the existing law now. So I'd be happy to-- yes, I'd be happy to look at that, OK?

**WALZ:** That's it. Thank you.

**HANSEN:** Senator Riepe.

**RIEPE:** Thank you, Chairman Hansen. Obviously, Dr. Tesmer, if confirmed, you're going to have a full-time job with no overtime pay. I do have a related-- or a totally unrelated question. I come from Douglas County, that's my district. We have for many years had probably on sexually transmitted diseases, the STDs, we've had a terrible problem in Douglas County. And I don't know whether you will have a role in terms of how do we get on top of that particular problem and to come to a better status, better performance for Douglas County?

**TIMOTHY TESMER:** Well, I think maybe not only for Douglas County, but Nebraska on the whole. And I think I appreciate that question because

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right now there are-- there's work underway with-- across the nation, not only in Nebraska, the rise of syphilis cases. And, and, and even breaking it down further, congenital syphilis, which affects newborns and can be a reason for infant mortality, which relates back to one of the goals that I have. So through the state, through our state epidemiologists, that-- those analysis are already being done to try to find what are some of the root causes. Would it be dating apps? I'm throwing out things. Would it be dating apps and the ability to hook up with people easier now? Are there disparities in healthcare relative to certain populations? I mean, that's the whole basis for, for public health, trying to make the people and communities healthier. So do I have any solutions right now? No, sir, I don't. But again, that is being looked at. And if need be, and if requested, more than happy to share that information with you.

**RIEPE:** Thank you. Thank you, Mr. Chairman. Thank you very much.

**HANSEN:** All right. So like I mentioned before, then we're going to hear from proponents and opponents and neutral testimony. But what will happen after this will have an executive session, actually right after this hearing, make some decisions and then that will then determine what happens with your appointment. Next it goes to the floor then for further debate, and then on to the Governor's desk if approved. So, so I appreciate you being here.

**TIMOTHY TESMER:** Thank you.

**HANSEN:** Yep. Any other comments? Yes.

**TIMOTHY TESMER:** I would, please.

**HANSEN:** Yep.

**TIMOTHY TESMER:** If I could, please. I appreciate the opportunity to sit here this afternoon. I really, really, truly do. I felt moved to leave a pretty sweet gig doing my private practice. And I felt moved to get out of the four walls of my exam room. That was my idea of public health. When you all would come into my exam room, ten by ten square feet and we would try to make things better. OK? A friend of mine said, well, now you're potentially moving to 70-some-6,000 square miles as your exam room with four borders. OK, I get that. And I, I wanted that challenge. I'd like, I'd like that challenge. But in the end, it's not about me. This is not about me or anybody else that would sit here at this chair. It's not about me. It's about our neighbors. It's about the citizens of Nebraska. I get it, some of them

are hurting. Some are hurting. I understand that. I would like the opportunity to serve in whatever capacity I can to try to make their lives better. Thank you very much.

**HANSEN:** Thank you. And thanks for answering our questions too. I appreciate it. All right, thank you. So the first do is here-- anybody wishing to testify in support of the nomination?

**JULIA KEOWN:** Chairperson Hansen and members of the Health and Human Services Committee, thank you for having us here today. My name is Julia Keown, J-u-l-i-a K-e-o-w-n. I am a native Nebraskan, also from Grand Island, as Dr. Tesmer is, a mother, a registered nurse and a sexual assault forensic examiner with 17 years of direct care experience serving Nebraska's most vulnerable populations. I am board certified in three, possibly soon to be four, different areas critical care: trauma care, sexual assault care for adolescents and adults. And I recently took my board exam for pediatric sexual assault. In health care, I would be considered an expert on these very narrow fields, OK? So these fields would not be expanded to other fields, such as gender-affirming care. That is outside my scope of expertise, outside my scope of practice. So I come to you in support of Dr. Tesmer's appointment as Nebraska's Chief Medical Officer. Physicians are bound by a strong code of ethics and have been deemed by the American public as the second most trusted and ethical profession in the United States, second only, I might mention, to nurses. Which obviously I have a bias there, right? I came to the hearing today to share information with the public on how rules and regulations governing medical care and healthcare. are implemented in healthcare, all right? So those of us in healthcare remember back to the early days of medical school, nursing school, what have you, chiropractic school, where we learned about evidence-based medicine and evidence-based practice, right? So attached to my testimony is actually a pictograph from UNMC's, their library's website, showing how we in healthcare inform ourselves and our practice utilizing the best evidence available. So as you guys can see from that pictograph on the first page, people like me, people like Dr. Tesmer, members of the Board of Health of Nebraska, these entities are considered background evidence, right? So there's four levels of evidence, one being the highest, four being the lowest. Our opinions, Dr. Tesmer, myself, Board of Health, as much as I would like to think differently, they really don't count, OK, on anything medicine when we're implementing these large-scale healthcare issues. OK, so what does count when we're considering implementing a large-scale health program? So the first level is going to be your systematic reviews and your meta analyses, right? That's taking a whole bunch of studies that have been done, making sure that

they are kind of equal to each other, there's no confounding variables or anything like that. Make sure they're generalizable to the public, right? You're going to take that and you're going to base something on that, right? That gives you your level two. That's those evidence guidelines that Dr. Tesmer was talking about following. Those are kind of the Bible, if you will, the Quran, the Vedic scriptures, whatever, right? One of my degrees is in religious studies. That's what you look at when you're in healthcare. That is your scripture, is those evidence guidelines, those clinical practice guidelines. All right? So when we think about how AM1658 to the LB574, the Let Them Grow Act will be implemented, based on my professional experience and our national norms in medicine in the United States, best practice is actually to adopt those clinical guidelines. In the United States, we have a clinical guideline that is known as the, quote, Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons. So our work has already been done for us, right? Awesome. This guideline is written by physicians practicing in gender-affirming care. So this was-- this is what we're talking about, these narrowed, narrow field experts. These are our experts. The initial guideline came out in 2009 and was updated in 2017 with little change, suggesting that patient outcomes are consistently positive with this guideline that has been in use for 14 years. Quoting from the actual article that I have in front of me--

**HANSEN:** Red light is up. Sorry to cut you off here.

**JULIA KEOWN:** Absolutely. No worries. No worries.

**HANSEN:** Any questions from the committee? Senator, Senator Riepe. Sorry.

**RIEPE:** OK. Thank you, Chairman. I would like to ask you to expand a little bit more on what you were saying.

**JULIA KEOWN:** Of course. Thank you. So I actually have the article in front of me, both the 2017 and the 2009. Interestingly, super similar to Senator Walz's and Senator Cavanaugh's amendments that were not considered. So quoting from this article, this evidence-based guideline was developed using grading of recommendations, assessment, development and evaluation. That's just a medical approach that we use to looking at guidelines and making sure they're up to par-- approach to describe the strength of recommendations and the quality of evidence. The task force commissioned two systemic reviews, so that's two different level one pieces of evidence there, and used the best available evidence from other published systematic reviews and

individual studies. This guideline is written by the American End-- American society called Endocrine Society, and is cosponsored by the American Association of Clinical Endocrinologists, the American Society of Andrology, the European Society for Pediatric Endocrinology, the European Society of Endocrinology, Pediatric Endocrine Society and the World Professional Association for Transgender Health. So that's the WPATH that everybody's talking about, right? So in summation, I have the most the utmost faith in Dr. Tesmer's ability to uphold his medical oath and follow national norms in the United States on what is the best medical practice by using a clinical guideline, this-- this one ideally-- to promulgate rules and regulations for LB574.

**HANSEN:** Thank you.

**RIEPE:** Thank you. Thank you [INAUDIBLE].

**HANSEN:** Any other questions? Seeing none, thank you. We'll take our next testifier in support. And I'll try to add, if we can, we'll try to keep the comments pertaining to the appointment of Dr. Tesmer and not like expounding so much on LB574 as much as we might want to. But I'm hoping we can just kind of keep the conversation a little close to the appointment. I know that pertains to what's going on here with LB574, but which we can talk about. But I just want to make sure we don't go off the rails too much here so. All right, anybody else wishing to testify in support? All right, anybody wishing to testify in opposition? We'll take the first one.

**ABBI SWATSWORTH:** The page made me copies, and then [INAUDIBLE]. Thank you.

**HANSEN:** Welcome.

**ABBI SWATSWORTH:** Thank you, Chairman Hansen and members of the Health and Human Services Committee. My name is Abbi Swatsworth, A-b-b-i S-w-a-t-s-w-o-r-t-h, I'm the executive director of Out Nebraska. We are a nonpartisan, nonprofit organization working to celebrate and empower the LGBTQ community across our state. Nebraska has grave concerns with the appointment of Dr. Tesmer as Nebraska's Chief Medical Officer. We're here today in opposition to that appointment. During this legislative session, Dr. Tesmer has already proven that he's not trustworthy in his work with the Nebraska Board of Health. Rather than operate properly under the Open Meetings Act, under Dr. Tesmer's leadership, members of the board participated in a series of text messages that resulted in one of the board's most politically

motivated actions. The medical professionals appointed to the Board of Health and appointed as Chief Medical Officer are entrusted by the public to consult with other medical experts, literature and the public before making decisions or issuing statements that affect the whole state. The reason their guidance is subject to public hearings is because their decisions affect almost 2 million Nebraskans. Dr. Tesmer neglected his responsibility to Nebraskans. Instead, he allowed his board to flaunt the authority of the Open Meetings Act to fill a direct request of one senator to restate this individual's position as a position of the overall board. How can the public trust Dr. Tesmer to provide proper accountability to the medical community and to concerned citizens if he is willing to allow politics to be put before process? Furthermore, we would like to speak for the record that anyone charged with setting rules and regulations on a particular healthcare practice should have experience providing that care, or at the very least have proven that they are willing to listen to Nebraska doctors and national experts on the subject matter. With the Board of Health's response to LB574, it is clear to us that Dr. Tesmer does not heed science. For these reasons and for others that will be lifted up by the medical and community members present here today, we respectfully ask you not to confirm this appointment. And I am willing to answer any questions to the best of my ability.

**HANSEN:** All right, thank you. Are there any questions from the committee? Seeing none.

**ABBI SWATSWORTH:** Thank you.

**HANSEN:** Thank you. We'll take the next testifier in opposition, please. Welcome.

**GRACE JACOBSON:** Hello. My name is Grace Jacobspon-- Jacobson, spelled G-r-a-c-e J-a-c-o-b-s-o-n. I am opposed to the appointment of Dr. Tesmer due to his lack of expertise regarding pediatric medicine in endocrinology. He will be expected to create rules and regulations for medications that already have established best practices and protocols in place to ensure that they, they are the correct treatment for patients. I have nothing against Dr. Tesmer and would not be opposed if he did not have this additional responsibility due to LB574 and also the clear issues with the behavior of his commit-- his board during this last legislative session. I wish I could trust that Dr. Tesmer would defer to experts and listen to current best practices and medical science. I wish that I could have faith in this system, but this legislative session has shown that this system is not as robust and as solid as I thought it was. And especially due to Governor

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Pillen's actions and statements, I absolutely cannot support any appointment at this point because I cannot trust that the people being appointed will actually do their jobs without bias and within the-- with the best interest of Nebraska citizens at heart. And this is interesting because I have tried to testify in front of this board at three or four hearings this legislative session. Every single one of them, we've run out of time for opposition testimony. I wasn't expecting to be able to testify today, which that's kind of exciting. I finally get to say, would you please consider actually allowing every single Nebraskan citizen who comes to testify to actually make their voices heard? Either you need to do that or you need a way that people who come to testify and who are cut off due to the time constraints can submit a comment then and there to be added to the record. I'm sorry for being so frustrated about this, but I have been unable to testify multiple times. I've had to take off work. I've had to drive across town because I found out that there was a hearing that I didn't get notice of because some of them happen, you know, within two days. And it's extremely frustrating that my voice has not been heard by this committee at any hearing except for this one, which is an appointment. So if the Judiciary Committee can ensure everyone is heard, I think the Health and Human, Human Services Committee can do the same. Thank you for your time.

**HANSEN:** Any questions from the committee. Senator Riepe.

**RIEPE:** Well, not that the Chairman needs to defended, but there is a process for hearings that individuals who aren't able to be heard, because we try to do the equal time, are allowed, and not only allowed, but encouraged to fill out, I believe it's a white form, to express their concerns. And those are all considered. So I just think we need to be on record--

**GRACE JACOBSON:** Well, that is not something that regular citizens know about. That's not a process that is--

**RIEPE:** I think it's announced at the meetings-- at the hearings. And the copies are provided at the door, either inside or outside of the immediate door. And there-- if you're going to go up and testify, you have to fill out, I think it's a green slip. But if not, there is the white slip that says--

**GRACE JACOBSON:** Yes, you can say if you--

**RIEPE:** --state your position and state your concerns.

**GRACE JACOBSON:** You can do that, but you can't actually testify. You can't give a full statement on that teeny, tiny little section on that form.

**RIEPE:** Well.

**GRACE JACOBSON:** I'm saying that the issue here is due to the cutoff of written testimony online being-- or brought to the Capitol-- being noon the day before the hearing, if someone, say, doesn't find out about the hearing until 12:30 the day before and wants to come and make their voice heard, but they're cut off due to time, they have no way to actually express their explicit concerns to the committee as a whole within an official, like, hearing capacity for that specific issue. They can contact each individual senator. They can try to have, you know, contact all of the committee and be like, could you please pass this on? You could do a mass email, but you can't do it on the record as a statement, more than just the little blurb, which that is, in my opinion, that takes away the voice of Nebraskans.

**RIEPE:** Well, not to be in our defense, but we did spend 3.5 hours-- no, 3 hours and 15 minutes on both sides of the discussion, equal time. And so that was, that was where we as a committee-- and I don't mean to speak for the Chairman, he's quite capable of speaking for himself. I'm just as a member, that's-- I think we've provided a fair and open opportunity. And opportunity is sometimes the most that we can guarantee.

**GRACE JACOBSON:** With all due respect, Senator, I sat in that hallway for a total of 7.5 hours.

**RIEPE:** So, you know, I sat in the room for that same-- for more than that.

**GRACE JACOBSON:** Yes, in a chair. Not on the floor. Not causing problems to your joints that have hypermobility. And you were able to walk the next day. You also didn't drive all the way across the state from the Panhandle to try and testify like other people that were there who did not get to testify. This is a-- I am concerned about the voices of Nebraskans not being heard in their full capacity. I get it, it sucks to be here. But how do you think it feels when you have waited the entire day? You've had to take off work, you've had to pay for the gas, you've had to hang out in a loud hallway with, in my case, like I shouldn't have even had-- I shouldn't have even been here most of those days. I'm vulnerable for COVID-19 and other diseases. That's why I'm wearing a mask. I shouldn't even be here. But I'm here

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because I am concerned about the voices of Nebraskans not being heard, especially when you have a multiplier of 4 to 5 times the number of people on one side of an issue that come to testify. That says something. That's a big deal. I've never seen so many people come and try to testify for something. And I've been doing this on and off since 2015, 2016. I've been coming to the Capitol to protest for climate, guns, teacher's rights, like all sorts of things. I've never seen any of this happen. And Nebraskans are just being ignored. And it's just really interesting that when I went to testify for the Judiciary Committee, which they were here until almost 10:30, 10:45 at night, that night, it was for the anti-- it was for the drag ban bill. Every single person who was able to stay, they were able to testify. And that's my-- that's my concern. And I get it, it's exhausting to be here. How do you think I feel? I've canceled two of my vacations so far just to come and try to make my voice heard. And now I don't get another vacation until maybe late July. That's the next window, which fingers crossed. But it's just, it's frustrating.

**RIEPE:** Thank you, Mr. Chairman. I have no further questions.

**HANSEN:** Any other questions from the committee. Seeing none, thank you.

**GRACE JACOBSON:** Thank you for your time. And thank you for listening.

**HANSEN:** We'll take the next testifier in opposition, please, if there is one. Welcome.

**HEATHER RHEA:** My name is Heather Rhea, it's spelled H-e-a-t-h-e-r R-h-e-a. It's confusing because there's lots of HEAs in a row. Mr. Chairman and committee, I am here to encourage you to not confirm Dr. Tesmer. I think due to the unprecedented series of events this legislative session, unfortunately, we can't separate this from LB574. And so I cannot support a government-appointed ear, nose and throat expert as being confirmed to the Chief Medical Officer position, and encourage you to consider my opinion on this. I do have a child who's trans, she's been receiving gender care for about four years here in Nebraska. It's been a slow and deliberate process. She has a therapist for a minimum of a year who consulted a second therapist to even recommend that she seek gender-affirming care from the endocrinologist. We also got confirmation from our family physician as well to refer to the endocrinologist, which then we spent hours filling out questionnaires, both herself and I, to be able to see the gender care expert. Which then had a waiting list for months before we could even see her. And so it was over a year between when we started

that until she could even discuss puberty blockers. She did start puberty blockers and estradiol about that year into it, and then was closely monitored for any health side effects from the hormone therapy-- which for a teenager who's terrified of needles, having a monthly blood draw isn't exactly a fun time for anyone-- just to ensure that her other health was not negatively impacted by this. And that's the standard for kids that are receiving-- anyone really who's receiving hormone replacement therapy. After it was confirmed that her levels in prescriptions were good for her, then they added progesterone to her regimen. I tell you this not because I want my daughter to be identified as a transgender person. She is delightful, she's intelligent, she's brilliant. She's coming for your job, to be honest. And she shouldn't be treated differently than other kids her age at all. There is a standard of care already set forth for gender-affirming care for minors. Obviously, we did it. We did not walk up one day and say, hey, give me some hormones. That's not how it works. I do not believe that I'm possessed by any demons as a parent of a transgender child. I'm a pretty rational person with a professional job, which was nice enough to give me the afternoon off to speak with you lovely folks. But my point is that there is a standard of care that already exists, that has existed and that's served young Nebraskans well. And so I think that it's not necessary at this time to have direction from an ENT that supersedes the current standards. For me personally, it's terrifying to me. It's horrifying. It keeps me up at night thinking about families who don't know that their kids are trans yet, because the idea that they can't get the support and care that my family has been lucky enough to get is haunting to me. I and my daughter are terrified about the Governor's current remarks. After today, I'm even more opposed to Dr. Tesmer being confirmed in this position. I was prepared to say that it's not his fault that he's being-- that this is being laid at his feet. But after his-- my concerns about his discriminatory comments, even his language when he was talking about transgender care, it was an issue to be dealt with. It was not about making the lives of transgender youth better, like he says about everything else. I want to make the lives of Nebraska better, except for being transgender youth. And so I want to encourage you to consider this carefully, that we need someone who's been through this process or that's worked directly with the trans community, because the message that we are sending is that trans youth should be alienated, that they're broken, that they're mutilated, that they should be treated differently from their nontrans counterparts. And confirming this appointment is only going to further that message. And I think the message should be that we need to treat

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trans care with urgency and the importance of those kids reaching their full potential. Thank you for your time.

**HANSEN:** Thank you. Are there any questions from the committee? Yes, Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you for being here. Thank you for advocating for your daughter.

**HEATHER RHEA:** It's been a rough few months.

**M. CAVANAUGH:** I'm sure it has. And I just, I'm sorry for what we, as the Legislature have done to you and your family. And I appreciate you being here. And you're an amazing parent. And also, your daughter is brilliant and she's brilliantly famous so. I'm just my--

**HEATHER RHEA:** That's recent.

**M. CAVANAUGH:** My husband is texting me about her. So thank you. Thank you.

**HEATHER RHEA:** Thank you.

**HANSEN:** All right. Thank you for coming to testify. We'll take the next testifier in opposition. Welcome.

**RYAN NICKELL:** Hello. Ryan Nickell, R-y-a-n N-i-c-k-e-l-l, representing myself and speaking in opposition to the appointment of-- I forget his name.

**HANSEN:** Dr. Tesmer.

**RYAN NICKELL:** Dr. Tesmer, thank you. I'm going to go off script and just say I agree with the, the previous speakers. But about process. So I believe that the doors to this room need to remain open because it says on the Constitution. And that's all I'm going to say.

**HANSEN:** OK. All right. Thank you for coming. We'll take the next testifier in opposition. Welcome.

**CINDY MAXWELL-OSTDIEK:** Thank you. Good afternoon, Chairperson Hansen and members of the Health and Human Services Committee. My name is Cindy Maxwell-Ostdiek, that's C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k, and I want to thank you for holding this hearing open today for all that come to testify. Unfortunately, that was not. The case at all hearings this session, and many Nebraskans were turned away, including

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from the Health and Human Services Committee. I'm cofounder of the Nebraska Legislative Study Group and a concerned member of our community, and I'm here today in opposition to Dr. Tesmer's confirmation to Chief Medical Officer for the state of Nebraska. This request is based on Dr. Tesmer's leadership performance as the chair of the Nebraska Board of Health. We have concerns about the process the Nebraska Board of Health completed in taking a position on LB574 and the resulting letter read by a Senator on the floor of the Legislature that contradicted recommendations by all credible major medical associations. This year, the Board of Health identified 16 bills specifically included in the meeting agendas and minutes available at [dhhs.ne.gov/licensure/pages/agendas-and-minutes.aspx](https://dhhs.ne.gov/licensure/pages/agendas-and-minutes.aspx). Dr. Tesmer stated LB574 was one of the bills identified by the public health, education and legislation committee of the Board of Health, but LB574 was not included in the list of bills the board publicly stated they were following before they drafted the position. The Legislature has granted extraordinary authority and responsibility to the state's Chief Medical Officer to implement restrictions on care for Nebraska's transgender children, and that authority includes restricting healthcare these children's parents have consented to. How can Nebraskans trust Doctor Tesmer will apply health care standards recognized by experts and credible medical associations and science in all areas of public health, but especially regarding LB574? Please do not confirm Dr. Tesmer as Nebraska's Chief Medical Officer. Thank you.

**HANSEN:** Thank you. Any questions from the committee? Senator Day.

**DAY:** Thank you, Chairman Hansen. Thank you for being here today, Cindy. So you said that LB574 was not one of the bills that was listed as the Board of Health was following it before they put out the statement. Where did you find that information?

**CINDY MAXWELL-OSTDIEK:** I listed the link in my testimony--

**DAY:** Yes. OK.

**CINDY MAXWELL-OSTDIEK:** --but I could certainly send it to you.

**DAY:** Yeah, that would be great.

**CINDY MAXWELL-OSTDIEK:** On the website, there's a list under Board of Health for agendas and minutes.

**DAY:** OK.

**CINDY MAXWELL-OSTDIEK:** And LB574 is not listed on any agenda.

**DAY:** OK.

**CINDY MAXWELL-OSTDIEK:** And then it is in the minutes of that last meeting, just it appears there.

**DAY:** And that was the meeting that they put out the statement? OK.

**CINDY MAXWELL-OSTDIEK:** Um-hum.

**DAY:** Thank you.

**CINDY MAXWELL-OSTDIEK:** Um-hum.

**HANSEN:** All right. Thank you for coming to testify.

**CINDY MAXWELL-OSTDIEK:** Thank you.

**HANSEN:** Anybody else wishing to testify in opposition? All right, seeing none, is there anybody who wishes to testify in a neutral capacity? Welcome.

**HELEN GRACE:** OK. Hello. My name is Dr. Helen Grace, H-e-l-e-n G-r-a-c-e, I appreciate the opportunity to be here today. I do want to preface that I thought Dr. Tesmer would stay in the room, because my comments are generally directed toward him in this neutral capacity. I'm a board certified pediatrician here in Nebraska, and as a pediatrician, public health is paramount to the welfare of children in our state. In my role, promoting and protecting the health of children and the communities where they live, learn, work and play is very critical. Pediatrics automatically lends itself to this arena as the goal is prevention and promoting wellness for all Nebraska children and their families. There are significant concerns affecting children today, as I'm sure most of you are aware. As the world and our state recover from COVID-19, many of the long-term effects on our children and them not being in school and all of the other things are just becoming clear. From March 2020 to October 2020, mental health-related emergency department visits increased by 24 percent for children ages 5 to 11, 5 to 11-year-olds, and 31 percent for children 12 to 17. This is compared to 2019 CDC data. Therefore, in 2021, the American Academy of Pediatrics declared a state of emergency in response to mental health challenges facing children, adolescents and their families during the pandemic. The suicide rate has increased significantly for children, and the increase was even greater in children 5 to 11. That used to be a very rare phenomenon. While it is still not common, it is no longer rare, and that is very concerning. The rate of attempted suicide for children in the U.S. is about 7 to 8 percent, roughly.

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Compared to that, 40 percent-- that is not a mistake-- 40 percent of transgender youth have attempted suicide. Not suicidal ideation, not a thought. Have attempted suicide in their young adult or teen years. The LGBTQ youth are not inherently prone to suicide risk because of their sexual orientation or their gender identity. This is very important to note. It is not their inherent sexual orientation or gender identity that increase this risk. Rather, they are at higher risk due to mistreatment and stigma that they are subject to in some parts of our society. This makes it much more difficult for these children to find appropriate medical and mental health services. The most protective factor for struggling youth is a supportive and loving family. Heather just demonstrated that for you today with her testimony and how well her daughter is doing. I bring this information to you here today so you understand the struggle that we as pediatricians are facing for children in the state. I bring this information to be helpful. There are ways to help. Many people have been working hard to help our kids. I had hoped to say to Dr. Tesmer that I would like to count him in that group. There are resources in our state that already meet the criteria set forth in this law. The American Academy of Pediatrics, the American Medical Association, and the American College of Obstetrics and Gynecologists all have established guidelines on reproductive healthcare and transgender care. I'm more than happy to serve as a resource in this landscape and have many colleagues also willing to lend you their expertise. My sister is an ENT as well, I was going to tell him that. I often joke with her that if something's going on with the child and it's below the neck, she better call me. I also grew up in Grand Island, so I was hoping-- I'm sure Dr. Tesmer and I have people in common. I look forward to working with him and with you to take care of children in Nebraska. Thank you for your time today. And if you have any questions, I'm happy to respond.

**HANSEN:** Thank you. Any questions? Yes, Senator Day.

**DAY:** Thank you, Chairman Hansen. Thank you for being here today, Doctor. Would it be possible for you to send my office a typed-up copy of your testimony, please?

**HELEN GRACE:** Sure.

**DAY:** Thank you.

**HANSEN:** Any other questions? Senator Walz.

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Health and Human Services Committee May 25, 2023

**WALZ:** Thanks for coming and thanks for your testimony today. Because he's an ENT, do you think that he's still capable of doing-- following through with what he needs to do, based on his background right now?

**HELEN GRACE:** So in the past, the Board of Health has always been: Did you have good knowledge in public policy? Can you put together a coalition? Can you be a good leader? Based on some of what he said today, that he would pull in experts from our state who treat patients, those people are available. Some of us are sitting in this room today. If that is what happens, then I do think that he could lead. I think most people with an interest in serving Nebraska could lead the Board of Health if that's where their heart is. He told us today that his heart is to serve Nebraska. But I want-- my concern is, and that's what I hope to help him with, is that he doesn't know all of Nebraska. None of us can, but that he would reach out to those of us who do know some parts of Nebraska that he is not familiar with. So he could do it. But I'm learning more about what happened with the letter and the Board of Health, and it doesn't look like in that regard he did do that. He-- there are people in the state available, and it looks like something got-- the letter got signed very quickly without discussing it with other physicians. So if he's really going to build a coalition, I think he can do this job. If he chooses not to build a coalition and he is in politics instead of medicine, then I don't think he can do this job.

**WALZ:** Can I ask one more question?

**HANSEN:** Yes.

**WALZ:** I don't even know how to ask it, but are you familiar with the information that that-- I can't remember her name. She testified--

**HELEN GRACE:** Heather?

**WALZ:** Yes, thank you.

**HELEN GRACE:** OK.

**WALZ:** With the recommendations or the evidence-based guidelines?

**HELEN GRACE:** I'm familiar with some, with some of it.

**WALZ:** OK.

**HELEN GRACE:** I don't-- I usually refer for gender care. My role in this, in the general pediatric office is to, number one, make sure

children are accepted and loved for who they are. And I don't judge them with any of my own opinions. And then one of my most important jobs is making sure they have Heather, a safe sta-- safe, stable, nurturing relationship. That is the antidote for the concerns about the Internet and the bullying and all the things that our children are going through. And these things are so much more common and worse for children who are struggling with gender identity.

**WALZ:** OK. Thanks again for being here.

**HANSEN:** Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you for being here. I just wanted to kind of reaffirm for the record, you've mentioned it, but since our record is audio translated into words, that Dr. Tesmer did not stay. And that is not common, especially for a confirmation hearing as significant and as important as this. That he actually did depart the room when he completed his portion of the hearing, and that is unfortunate. So I just wanted to-- I'm doing that on your time, but I wanted that stated on the record.

**HELEN GRACE:** No, that's fine. I really hoped to speak to him. Yeah.

**M. CAVANAUGH:** Thank you.

**HELEN GRACE:** Because Nebraska has a history of doctors working together for the betterment of patients. That is a-- my parents have served in the state, my sisters and I currently serve the state. We have a very long history. And my parents, my mom was honored at St. Francis in Grand Island for over 40 years of her dedication to that community.

**M. CAVANAUGH:** Thank you.

**HELEN GRACE:** So we're not new to the state of Nebraska or the history.

**HANSEN:** Thank you for-- it looks like no other questions, so thank you very much for your testimony. Appreciate it.

**HELEN GRACE:** Thank you, Chairman.

**HANSEN:** Anybody else wishing to testify in a neutral capacity? Welcome back.

**ALEX DWORAK:** Good afternoon, Chair Hansen and members of the HHS committee. It is-- my name is Dr. Alex Dworak, A-l-e-x D-w-o-r-a-k.

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[RECORDER MALFUNCTION] -and participatory democracy is once again my honor to come before you in testimony about the appointment of Dr. Tesmer as Chief Medical Officer. I'm a proud resident of Senator Riepe's 12th District; and as the HHS committee is aware, a board-certified and award-winning family physician and advocate. My practice includes care for the LGBTQ+ community, including trans people of all ages. And [INAUDIBLE] the drive to Lincoln for the tenth time this spring, coming out of clinic to speak for or against Dr. Tesmer but speak to him, I also thought he would be in the room. I do not know him. My only bases for forming an opinion about him or what I hear from Lincoln friends and colleagues who have nothing but good things to say about him as a practicing physician and surgeon, as well as a Board of Health statement and attendant issues, which I was well familiar with before today. I have been eager to see how Dr. Tesmer would demonstrate and exercise his oath as a fellow physician and show his commitment to the health of all Nebraskans in the event of his confirmation. Specifically, he's being directed to draft and promulgate regulations about puberty blockers and hormone therapy for people under 19, regardless of parent desire or patient desire or parental support by a full informed consent, which, as has been mentioned, is already the standard of care followed here in Nebraska. If he is willing to work with clinician experts on the care of these patients, we are already well familiar with the literature about it, distributed some of that now, and I have plenty more that I can get upon request. Besides those materials from the Nebraska Medical Association, the Nebraska Academy of Child and Adolescent Psychiatry, the American Society of Plastic Surgeons, the American Society for Reproductive Medicine, and the American Academy of Pediatrics. I had additional materials that I was hoping to give him that I didn't print because they were over 40 pages, and I already ran my printer pretty hard from the American Academy of Otolaryngology Head and Neck Surgery, his professional society, which are strongly in support of gender-affirming care. I also want to point out he mentioned making medicine more attractive. I have told every member of the HHS Committee multiple times that LB574 is already damaging this and that medical students and trainees have already left specifically because of it. They've told me that directly. Returning to his appointment, I would be honored to both to volunteer my time and work to make connections with Dr. Tesmer among the medical community, including the fairly small number of us who do serve the trans community. If he should prove himself a respectful ally of these marginalized patients whose mental health is significantly worsening due to the actions of the Legislature, and as Dr. Grace pointed out, it wasn't great before this, I would also speak to the trans community to highlight that he

was working to do good in a clearly very stressful situation. The Governor, at whose pleasure he would serve, has clearly signaled his goals. To the aforementioned groups in medicine and the trans community, the actions and interventions of Governor Pillen and the Legislature are less a dog whistle than a train whistle. They are part of a cacophony of daily reminders that young trans people are not free to be themselves in Nebraska. This law constrains and threatens those it does not protect. The Chief Medical Officer has a unique chance to restore the legitimacy of government in the eyes of many Nebraskans who, as has been mentioned, are hurting very badly right now. All that he would need to do is the exact same thing he has done his entire career: work collaboratively-- collaboratively with other physicians in other disciplines to promote best practices for the good of all patients. I wanted to thank Dr. Tesmer for his service thus far and volunteering for this position, and I also wish to thank you, the HHS Committee, for the opportunity to share my views and come before you once again. I will happily take any questions you might have.

**HANSEN:** Thank you for your testimony. Are there questions? Senator Walz.

**WALZ:** Thank you. Thank you for coming today. I appreciate it. I'm going to ask you the same question that I asked the testifier before about the recommendation regarding him being an ENT. Do you see any problems with that?

**ALEX DWORAK:** Inherently-- thank you for the question, Senator. Inherent in that, not necessarily, because, as Dr. Grace mentioned, no physician can know all in Nebraska nor can they know all of medicine. I think that it is more important that they are able to form a coalition and work with other physicians and other stakeholders, including nurses, as one of the other testifiers was, community groups and community members, as some of the other testifiers have been, and make sure that they are earning trust. And I think that based on the, the issues surrounding the Board of Health and I would also agree with what I have heard today, that that's an uphill climb at this point. I have no reason to believe that Dr. Tesmer is not up to it. But this is an extremely tense time for many reasons, and this is not an easy time to take that job. So I think that it is going to require a lot of dedicated effort, a lot of outreach, and a lot of humility and listening for him or anyone else who is in that position to successfully accomplish this and again, be regarded by the people he is serving in a positive and trusted light.

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**WALZ:** Thanks. And then you, follow-up, when I held this up, you were shaking your head like, yes, I do know that.

**ALEX DWORAK:** Yes. I did not print off the Endocrine Society or Pediatric Endocrine Society recommendations. I have access to and will be very happy to provide literature from them; from the American Academy of Pediatrics, the 200-plus page WPATH Eighth Edition Standards of Care, which I have reviewed. I can also be in touch with some of the people at Fenway and Harvard, as well as UCSF, where I have gotten my training over many years and on whose guidelines and publications and research I rely in this, just like I go to the literature for cardiology and hepatitis C treatment and all the other things I do. And so I would both in helping Dr. Tesmer or whoever the chief med-- the Chief Medical Officer in general, as well as any of you here in the HHS Committee, I would be honored to engage in civic service by providing you with that literature, again, with which I am quite familiar.

**WALZ:** All right. Thank you so much. I appreciate that. Thank you.

**HANSEN:** Yes. Senator Riepe.

**RIEPE:** Dr. Dworak, good to see you again. Thanks for being here.

**ALEX DWORAK:** Thank you, Senator.

**RIEPE:** Thanks for your persistence. You've been here ten times, as you said. I know if it took another ten, you'd be here ten more. My question would be is, is there one or two just overwhelming concerns that you want to share with us that-- about Dr. Tesmer?

**ALEX DWORAK:** Pursuant to the appointment or in general?

**RIEPE:** About the appointment, [INAUDIBLE] stay focused on that best we can.

**ALEX DWORAK:** Thank you, Senator. I will do my best. I think that my concerns with the appointment, again, inevitably lead back to the climate in which it was made because of LB574 and the unprecedented nature of the delegation of responsibilities for one specific area of practice in opposition to the consensus of literature and national and international experts and teaching, which I have again sought out. And I am also, I would be pleased to be corrected if I'm wrong, not aware of any other specific area of medicine, including ear, nose, and throat surgery, neurosurgery, cardiology, HIV treatment, or anything else where that area of care is singled out the way this is, or where

a specific group of patients such as obese white men in their 40s or anything else like that are singled out. So I think that that makes me concerned that the appointment is very fraught and politically loaded. And I did get to watch the, the signing ceremony, virtually. Some of the comments that were made, particularly as to whether or not I am a direct agent of the ontologic personification of evil with the government providing raise, they did not do anything to lower the temperature, I would say. And so the person who takes this job is stepping into a difficult position. It's on hard mode, as my kids might say, playing video games. And again, the Board of Health adds the issues around that, add a very high-- they add a lot to the uphill climb of getting members of the medical community and the queer community who have been concerned and who have raised their voices in civic participation and seeing the result be what it is they're going to-- he or whoever is in that position has an awful lot of work to do, I would say.

**RIEPE:** Thank you. I'm guessing that in your formal educational years, you're quite the researcher.

**ALEX DWORAK:** So I would actually-- thank you, Senator. I would actually describe myself, and I often do describe myself as a knuckleheaded front-line clinician. I'm very good at reading the literature. I'm actually going to be published for the first time this year with a former resident in the International Journal of Midwifery, as it happens, with an article about reproductive care for transgender people directed at midwives, because that's not an area of a lot of research. It turns out I'm the oldest person involved, so it's going to be Dworak et al. 2023, but I'm much more read the literature and enact it, again, in all the areas of medicine that I practice, not just trans care, rather than contribute to it myself, although perhaps like legislative advocacy, that's another new wrinkle in my career. We'll have to see.

**RIEPE:** Congratulations.

**ALEX DWORAK:** Thank you, Senator.

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

**HANSEN:** Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thank you for being here. Do you know how many times you've testified in front of this committee this year?

**ALEX DWORAK:** Thank you, Senator. Six.

**M. CAVANAUGH:** Six. OK. Well, I can't speak for the Governor, and I can't speak for my colleagues. I certainly can't speak for those that voted for the bill. But I personally do not view you as an agent of Lucifer, nor do I believe that you are diabolical. You've been in front of this committee six times and you have always presented a well thoughtful and obviously a caring medical practitioner. And I think it's worth saying that since it was publicly stated the opposite by the executive of this state. So thank you for your work. Thank you for your advocacy. Thank you for continuing to show up for the people that need you the most.

**RIEPE:** And he's from Legislative District 12.

**M. CAVANAUGH:** And they have an election in two to three years.

**RIEPE:** Ooh, that's cold.

**ALEX DWORAK:** Thank you, Senator.

**M. CAVANAUGH:** [INAUDIBLE]

**ALEX DWORAK:** It had-- I will say it has been a hard time for me this year. This has been stressful in a different way than COVID. But I know that anything I've been feeling is nothing compared to what my patients and their parents and their loved ones are going through. But I still appreciate you saying that.

**M. CAVANAUGH:** Thank you for being there for them.

**HANSEN:** Any other questions in the committee? Seeing none, thank you.

**ALEX DWORAK:** Thank you, Chair.

**HANSEN:** And hopefully for the last time this year, we'll see.

**ALEX DWORAK:** I-- thank you, Chair. It's always a pleasure.

**HANSEN:** Until next year. Thank you. Anybody else wishing to testify in a neutral capacity? All right. Seeing none, oh, yes. There were online and letter comments, 4 as proponents, 82 as opponents, and 7 in the neutral capacity. So with it--

**M. CAVANAUGH:** Did you do letters [INAUDIBLE] for the first one?

**HANSEN:** Oh, I believe there was--

**M. CAVANAUGH:** Five opponents, zero--

**HANSEN:** Five opponents and zero, no. Five-- for the previous. Sorry. Let me clarify for the record. This would be for the gubernatorial appointment of Dr. Noah, I know I'll butcher his last name again, Bernhard-- what? Bernhardson, he had for letters of the record, were zero in support and five in opposition, I believe zero in the neutral capacity, Yes. So now, with that, that will conclude the gubernatorial appointment hearing for today. Thank you.