

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 694**

Introduced by Conrad, 46.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Evidence Rules; to amend section  
2 27-1103, Revised Statutes Cumulative Supplement, 2010; to  
3 change provisions relating to certain medical evidence;  
4 to harmonize provisions; and to repeal the original  
5 section.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 27-1103, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           27-1103 These rules and sections 27-412 to 27-415 ~~may and~~  
4 section 2 of this act shall be known and may be cited as the Nebraska  
5 Evidence Rules.

6           Sec. 2. (1) With respect to medical evidence in trials  
7 before any court in this state in which the amount in controversy is  
8 less than twenty-five thousand dollars, written reports by a  
9 physician, surgeon, dentist, chiropractor, physical therapist, mental  
10 health provider, or vocational rehabilitation expert, duly signed by  
11 him, her, or them, and itemized bills may, at the discretion of the  
12 court, be received in evidence in lieu of or in addition to the  
13 personal testimony of such physician, surgeon, dentist, chiropractor,  
14 physical therapist, mental health provider, or vocational  
15 rehabilitation expert. For purposes of this section, a sworn  
16 statement or deposition transcribed by a person authorized to take  
17 depositions is a signed, written report.

18           (2) A signed narrative report by a physician, surgeon,  
19 dentist, chiropractor, physical therapist, mental health provider, or  
20 vocational rehabilitation expert setting forth history, diagnosis,  
21 prognosis, impairment, causation, and future treatment and costs of  
22 the physician, surgeon, dentist, chiropractor, physical therapist,  
23 mental health provider, or vocational rehabilitation expert and which  
24 is relevant to the case shall be considered evidence on which a  
25 reasonably prudent person is accustomed to rely.

1           (3) Any party against whom the report may be used has the  
2 right, at the party's own initial expense, of cross-examination of  
3 the physician, surgeon, dentist, chiropractor, physical therapist,  
4 mental health provider, or vocational rehabilitation expert.

5           (4) If the original of a deposition is not in the  
6 possession of a party who intends to offer it in evidence at trial,  
7 that party shall give notice to the party in possession of it that  
8 the deposition will be needed at trial. Upon receiving such notice,  
9 the party in possession of the deposition shall either make it  
10 available to the party who intends to offer it or produce it at  
11 trial.

12           (5) Nothing in this section shall prohibit or alter the  
13 admissibility of reports or billing statements that are otherwise  
14 admissible under the Nebraska Evidence Rules.

15           (6) A report or billing statement offered pursuant to  
16 this section shall not require supporting testimony to identify or  
17 authenticate it or to establish that it is a record of a regularly  
18 conducted business activity. A report or billing statement offered  
19 pursuant to this section is competent evidence (a) of the existence  
20 and treatment of a medical, dental, or other health condition, (b)  
21 that the treatment reflected therein was reasonable and necessary to  
22 treat the conditions stated, and (c) of the opinions of the  
23 physician, surgeon, dentist, chiropractor, physical therapist, mental  
24 health provider, or vocational rehabilitation expert as they relate  
25 to diagnosis, prognosis, impairment, causation, impairment, and

1 future treatment needs and cost, without supporting testimony.

2 (7) Nothing in this section shall be construed to change  
3 the timing of disclosure of expert opinions pursuant to court order  
4 or rule.

5 Sec. 3. Original section 27-1103, Revised Statutes  
6 Cumulative Supplement, 2010, is repealed.