

SENATOR CLARK: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I understand that we are on the Landis amendment. Is that correct, Senator Landis? I would rise to oppose the Landis amendment and I do so because I believe that it is just imperative that there be an obligation in the statutes in the State of Nebraska that physicians be required to report abuse whether it be for elderly or whether it be for a child. And I don't think it is rational to distinguish between elderly abuse and child abuse in these particular circumstances and I oppose Senator Landis' attempt to do that. I think that you'll find that most of the cases which are actually reported are probably reported by physicians because they are the individuals that I think in the first instance in many cases, particularly in cases of severe child abuse or severe abuse of any type, are the individuals who are going to come in contact with that abuse or have the opportunity to discover it through examinations or through emergency room care which is required. I'm taking a course at Creighton University in Law School this year, a medical law course, and one of the cases which I recently read in this area, is a case about malpractice and it related to a case in the state, I believe it was California, where they have a requirement and there is a duty upon physicians to report any child abuse and if they do not report that child abuse, they are subject to a misdemeanor. In this particular case a physician saw a child who was badly abused, did not report it, sent the child back to the home situation and shortly thereafter, the mother killed this child which was less than two years old. And the basis of liability and the duty that the doctor owed his patient, the child, was taken from the statute which established a duty to report and I think that was important and I think that that case was one with which many physicians became aware of and I think that encouraged them to report similar circumstances. So I think the duty is important, not only as far as the criminal sanctions which are involved that being a misdemeanor, I think it is important because it sets a standard. It says that it is the policy of the State of Nebraska that physicians do report and I think that it is a reasonable obligation to impose upon physicians and I think it is terribly important if physicians don't have to report then any reporting law is really a very meaningless reporting law. So I have to oppose any change that would not require physicians to report, not only child abuse but abuse of those persons who are elderly and who may not no longer have the ability to communicate their problems to those who can assist them. So I think it is very unwise of us to in any way relieve the duty, the legal duty, of physicians to report in this area and I strongly oppose the Landis amendment.