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Health and Human Services Committee
February 20, 2009

[LB407 LB408 LB463 LB586]

The Committee on Health and Human Services met at 1:30 p.m. on Friday, February 20, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB407, LB408, LB463, and LB586. Senators present: Tim Gay, Chairperson; Dave Pankonin, Vice Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: None.

SENATOR GAY: All right. Well, welcome to the Health and Human Services Committee. We'll get started; we got four bills to cover today. Senator Tim Gay from District 14, and we'll have introductions starting to my right.

JEFF SANTEMA: My name is Jeff Santema and I serve as legal counsel to the committee.

SENATOR GLOOR: I'm Mike Gloor. I'm the senator from District 35, which is Grand Island.

SENATOR CAMPBELL: I'm Kathy Campbell, the senator from District 25, which is Lincoln.

SENATOR PANKONIN: I'm Dave Pankonin, District 2. I live in Louisville.

SENATOR STUTHMAN: Arnie Stuthman, District 22, from Platte County and north half of Colfax County. My home is Platte Center.

SENATOR HOWARD: Gwen Howard, District 9 in Omaha. That's the heart of Omaha; best way to remember it. Thank you.

SENATOR WALLMAN: Norm Wallman, District 30, which is Beatrice area.

ERIN MACK: I'm Erin Mack, the committee clerk.

SENATOR GAY: Our pages, Justin and Blair, are here to help in any way as well, so I'll get started. What we do, we have a...if you're going to be testifying, they have testifier sheets over in the corner. If you could print your name out and then give it to the clerk. And then when you come up to testify, if you can spell that out, too, because it helps when we transcribe all these hearings. That would be appreciative (sic). If you have a cell phone, if you could silence that; certainly appreciate that for everyone else's convenience. We have a timer here in Health and Human Services Committee, a five-minute time limit. And introducers get as long as they need to introduce the bill and to close. But if you're testifying, it's green until four minutes, then the yellow light goes on at four minutes, and when the red light is on it's five minutes; we won't cut you off,

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you know, mid-sentence or anything like that, but it's time to wrap it up, so. And the reason we do that, today, all these bills are, you know, kind of go together. But a lot of times if you're the person who's starting their testimony at 4:30 or 5:00 in the afternoon, you know, it's not quite fair. So we try to move things along. So if you could be concise and nonrepetitive and bring new information, that always helps. If senators are asking you questions after you're done testifying, stay around and we'll see if there's any questions. Take as much time as you need on the questions, if there are any. You know, you're not timed on there. So it just helps run a little quicker hearing for everybody, quite honestly, because we've had a few complaints of people who had to sit all day, until 5:30, to have their bill heard, so this has been helpful. With that, Senator Dierks, we're ready to get started on LB407.

SENATOR DIERKS: Thank you, Senator Gay, members of the Health and Human Services Committee. My name is Cap Dierks, and that's spelled C-a-p D-i-e-r-k-s. And I represent Legislative District 40. I am here today to introduce LB407 to the committee. LB407 would allow for civil penalties to be assessed if an unauthorized person is practicing veterinary medicine without a license or authorization. Currently, such a person would receive a cease-and-desist order. If the person does not stop the illegal action, he or she would be referred to the Attorney General for action. Violating a cease-and-desist order could result in a Class III felony if action is taken. There are also administrative penalties that may be assessed against people who practice without a credential if evidence exists prior to the license being issued, renewal after expiration, or reinstatement of a credential to practice a profession and operate a business. This administrative penalty is \$10 a day, not to exceed \$1,000. The civil penalties allowed under LB407 are meant to stop the unauthorized practice of veterinary medicine. Fines ranging from \$1,000 to \$5,000 shall be assessed for the first offense; the penalties increase to \$5,000 to \$10,000 for a second and subsequent offenses. A person will receive a cease-and-desist order before these civil penalties may be assessed, so the process of notification will continue before such serious penalties are assessed. Under Section 38-1,124, the department shall enforce the Uniform Credentialing Act and shall make the necessary investigations of such violations. I believe LB407 will give the department, and specifically the Board of Veterinary Medicine and Surgery, the power to better carry out their duties under the law. Thank you, and I will try to answer any questions you may have. [LB407]

SENATOR GAY: Thank you, Senator Dierks. Are there any questions from the committee? Senator Wallman. [LB407]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you for testifying, my friend Cap... [LB407]

SENATOR DIERKS: You're welcome. [LB407]

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SENATOR WALLMAN: ...and Senator Dierks. And does this mean...is castration surgery considered by a farmer or rancher? [LB407]

SENATOR DIERKS: No. [LB407]

SENATOR WALLMAN: Okay. [LB407]

SENATOR DIERKS: No, these are...there are certain practices that farmers and ranchers do on their own that are not considered violation. It would be a violation if they went to a neighbor's place and did it and charged them for it. [LB407]

SENATOR WALLMAN: Okay, thank you. [LB407]

SENATOR DIERKS: Yep. [LB407]

SENATOR GAY: Senator Howard. [LB407]

SENATOR HOWARD: Thank you. Thank you, Chairman Gay. And thank you for being here. It's always good to see you; you should come more often. And pretty much that's what I was going to ask: What does constitute acting as a veterinarian without a license? What would be considered...if you took money for doing this? [LB407]

SENATOR DIERKS: Well, I can tell you two examples that were investigated in our state. One was a person who was practicing equine dentistry and he was not a veterinarian and he had no studies as far as any kind of medicine was concerned. But he was good at doing horse dentistry work. He even wrote textbooks and he invented instruments that they could use. But he had to leave the state if he wanted to continue that stuff. And he did; I think he went out to Idaho and did it out there. Another case was where there was a young man from South Dakota coming in here and spaying heifers, and he was not a veterinarian. I think his practice was going to be fairly limited because he had lots of problems with infections; he didn't have clean surgical techniques and so it turned out to be...he did them in a hurry and he did them for very little money, but I think in the long run it cost them more to have him, so. But the Attorney General got involved with that and they made him stop; he was from South Dakota. Those are two examples that I can think of and I'm sure there are probably others. Well, actually, we found out that there's been an average of six to seven unauthorized practice cases per year that's been investigated by the Department of Health, so. [LB407]

SENATOR HOWARD: Wow, thank you. [LB407]

SENATOR GAY: Senator Dierks, are those like self-policing--somebody turns it over to licensure and then it goes up the chain, or...is that how they get caught usually? [LB407]

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SENATOR DIERKS: It has to be something like that, yeah. We've known some of these things that take place and veterinarians are reluctant to ask for an investigation because maybe it's happening on a client of theirs and they don't want to get the client in trouble, so sometimes they just don't press charges. But yeah, it's mostly something that...if I saw it happening in my district, in my area, I would refer it to the Board of Veterinary Examiners and let them take it from there. [LB407]

SENATOR GAY: So we're not actively out...there's no active...we're not actively out there looking for this; it's just usually self-report...reported by somebody and then we know that. [LB407]

SENATOR DIERKS: No, no. [LB407]

SENATOR GAY: Okay. [LB407]

SENATOR DIERKS: I think this is just something that happens and we try to take care of it as it happens. [LB407]

SENATOR GAY: All right. Any other questions? Don't see any. Thank you. [LB407]

SENATOR DIERKS: Thank you. [LB407]

SENATOR GAY: Thank you, Senator Dierks. [LB407]

SENATOR DIERKS: I will plan on closing... [LB407]

SENATOR GAY: Okay. [LB407]

SENATOR DIERKS: ...because I'll have to be up here to open on the next one anyway. (Laughter) [LB407]

SENATOR GAY: Makes sense to me. All right. Any proponents who want to speak on LB407? [LB407]

DAVID YLANDER: Good afternoon, Senators. My name is David Ylander; it's spelled Y-l-a-n-d-e-r. I am a veterinarian, and I currently serve as chairman of the Board of Veterinary Medicine and Surgery in the state of Nebraska. And I am here on behalf of the board to ask you to consider the bill that Senator Dierks has introduced for us for the civil penalties. The field of veterinary medicine is unlike our human counterparts where if unlicensed activities occur it seems that those are dealt with very quickly. And in our aspect of medicine we run into numerous situations of probably well-meaning individuals, but they do not have the education and the background, the knowledge of the medicines, the drugs, the animal physiology to adequately take care of the animal,

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the patient, and we're seeing situations of animals being injured, humans being injured. And we look at this as an additional tool to help protect the citizens of the state of Nebraska by having, in addition to a cease and desist, the ability to have a civil fine to get the attention of these individuals that continue to step across bounds. We are having issues where individuals are trying to come into the state--perform ear crops on dogs--that are not veterinarians, that do not have proper surgical technique, not using a surgical suite. We're seeing situations of nonveterinary individuals that are trying to address dental situations in horses, potentially in dogs and cats. We're running into situations of people that are trying to do pregnancy diagnosis, doing fertility evaluations on bulls, stallions, and essentially trying to make diagnoses which is to the detriment of the state. And so we are asking that you would consider favorably to give us this additional tool to help the state of Nebraska. [LB407]

SENATOR GAY: Thank you. Any questions? I don't see any. [LB407]

SENATOR GLOOR: Senator. Senator Gay. [LB407]

SENATOR GAY: Oh, I'm sorry, Senator Gloor. [LB407]

SENATOR GLOOR: Thank you, Chairman Gay. Dr. Ylander, we already have some degree of recourse as relates to current statutes, and I think you made mention of that or Senator Dierks did, remedies authorized, engaged in the practice without veterinary medicine. [LB407]

DAVID YLANDER: Yes, sir. [LB407]

SENATOR GLOOR: Apparently people don't seem to be paying any attention to that, so I'm just wondering if civil penalties are really going to catch the attention of people who already seem to be committed to winking at the penalties that are out there. [LB407]

DAVID YLANDER: We would hope that it will, sir. We are seeing other states that are now having this for veterinary medicine, of having civil penalties to address the unlicensed practice. We're fully aware of the cease-and-desist order. Our challenge is that a lot of these individuals will receive a cease and desist and move to the next county, step out of the state for a period of time and come back in, and we're not able to get the county attorney to prosecute. [LB407]

SENATOR GLOOR: Okay, thank you. [LB407]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB407]

DAVID YLANDER: Thank you. [LB407]

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HANK CERNY: Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Hank Cerny, C-e-r-n-y. I'm a licensed veterinarian in the state of Nebraska here in Lincoln, and I am testifying on behalf of the Nebraska Veterinary Medical Association in support of LB407. As you've heard from Dr. Ylander, the unauthorized practice of veterinary medicine is a problem in our state. While it may seem farfetched, there are actually individuals who perform procedures without a veterinary license. A lot of times these individuals do it because they are less expensive, even though they are not qualified. And currently, there are no teeth in the enforcement provisions of the law. But beyond the danger of the animals and even the danger to those performing these practices, we believe that there is another danger to the state and those in need of veterinary services. The issue is one of recruitment and retention of veterinarians. In the state of Nebraska, as you are aware, there is a shortage of large animal veterinarians in several areas of the state. If a new graduate from vet school wants to come back to Nebraska to practice, he also has to compete or she has to compete against unlicensed individuals who have little or no training but are performing the same procedures much cheaper. Our state does not have the tools to either prevent or stop this activity, and that new graduate has no great incentive to relocate or remain in the state of Nebraska. The Nebraska Veterinary Medical Association believes that LB407 is necessary to discourage and prevent the unlicensed practice of veterinary medicine. We thank Senator Dierks for introducing the bill and would ask the committee to support LB407 and advance the bill to the floor. Thank you for your time and I'd be happy to answer any questions. [LB407]

SENATOR GAY: Thank you. Are there any questions? Senator Stuthman. [LB407]

SENATOR STUTHMAN: Thank you, Senator Gay. Dr. Cerny, have you experienced the fact that...you have seen this happen? [LB407]

HANK CERNY: Yes, I have. Here in Lincoln there was a individual who practices, probably to this day, veterinary medicine without a license; deceives the clients in believing that she is a veterinarian when she is not. And I have seen some of the things she's misdiagnosed. [LB407]

SENATOR STUTHMAN: Okay, thank you. [LB407]

SENATOR GAY: Any other questions? Don't see any. Thank you. [LB407]

HANK CERNY: Thank you. [LB407]

SENATOR GAY: (Exhibits 1, 2) Other proponents who would like to speak? I don't see any others. We did receive a letter from Henry Doorly Zoo in support on...and I'm going to read this for all three, but it's LB407, LB408, and LB463. So that's...that will be noted. Also, the Department of Health and Human Services has a letter, neutral, on comments

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on LB407 that will be in there. Any more proponents? I don't see any. Any opponents? Any in the neutral that would like to speak? All right, Senator Dierks, you want to close on this one? [LB407]

SENATOR DIERKS: Believe will just waive closing,... [LB407]

SENATOR GAY: Okay, and then we'll... [LB407]

SENATOR DIERKS: ...Senator Gay. [LB407]

SENATOR GAY: All right, then we'll go to LB408. [LB408]

SENATOR DIERKS: Thank you, Chairman Gay, members of the Health and Human Services Committee. Again, my name is Cap Dierks, that's spelled C-a-p D-i-e-r-k-s, and I represent legislative district. Today I'm going to introduce to you LB408. LB408 would allow collaboration between licensed veterinarians and other credentialed healthcare professionals. Last year, an amendment was attached to LB928 allowing licensed veterinarians who have contracted or are employed by a zoological park or garden to collaborate with other credentialed healthcare professionals. This bill simply expands this collaboration to all licensed veterinarians. All healthcare tasks authorized by LB408 will be performed under the immediate supervision of the veterinarian. The veterinarian will be responsible for the results of such collaboration since the actions take place under his or her immediate supervision and are allowed by the Veterinary Medicine and Surgery Practice Act. There have been some questions raised about the effect of this bill on our accredited zoos. It is not my intent nor does this bill harm that collaboration in any way. It expands what I believe is a helpful tool only licensed zoological veterinarians can currently use to all licensed Nebraska veterinarians. Thank you for your attention. I will try to answer any questions at this time. [LB408]

SENATOR GAY: Any questions? I don't see any at this time. [LB408]

SENATOR DIERKS: I should tell you that these bills, three of them, were part of the legislation last year. We decided to split it up into different pieces to make it a little bit easier. And you recall, Senator Gay and Senator Pankonin and Senator Howard, the legislation last year that allowed the Henry Doorly Zoo people to go ahead and use medical professionals from the University of Nebraska Med Center and from Creighton to do things like heart procedures on gorillas without any infractions of the law. So this is an extension of that. [LB408]

SENATOR GAY: Okay, and there will be proponents on this? [LB408]

SENATOR DIERKS: What's that? [LB408]

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SENATOR GAY: There are going to be proponents explaining it? Otherwise, I'd ask you. [LB408]

SENATOR DIERKS: I think so. [LB408]

SENATOR GAY: Okay, I'll just wait then. Thank you, Senator Dierks. We'll hear from proponents on LB408. [LB408]

DAVID YLANDER: Again, I'm Dr. David Ylander, Y-l-a-n-d-e-r, chairman of the Board of Veterinary Medicine and Surgery, and I thank you for your time, Senators. LB408 is an expansion of what was passed last year. And the board and through Senator Dierks, we feel that all veterinarians in the state of Nebraska should have the opportunity to consult with and, if need be, have the services, under immediate supervision. In other words, this would be with the veterinarian right here, just like we are. I am in the room with the patient and having a delegated task performed by another licensed individual on the human side. At this time, for all of the rest of the veterinarians in the state of Nebraska, that is illegal. We cannot consult with our human colleagues. And I think to give you some examples or a primary example would be for a veterinarian that's dealing with some kind of a dental issue and would like to consult with their dentist or even an orthodontist--yes, orthodontics are done in dogs and to some extent in cats--but at this point, I could not have that individual come in and assist with me. This bill would allow us that opportunity to have an individual work directly with us. The veterinarian is still solely responsible, and it does not influence the human practitioner's scope of practice. [LB408]

SENATOR GAY: All right, any questions? Senator Stuthman? [LB408]

SENATOR STUTHMAN: Thank you, Senator Gay. Dr. Ylander, would this involve any telemedical or telehealth? [LB408]

DAVID YLANDER: No, sir. [LB408]

SENATOR STUTHMAN: It wouldn't? [LB408]

DAVID YLANDER: No, it would not. That's already available to veterinary medicine with our own experts in that. This would be immediately in the practice. [LB408]

SENATOR STUTHMAN: Oh, okay. Thank you. [LB408]

SENATOR GAY: Senator Gloor. [LB408]

SENATOR GLOOR: Thank you, Chairman Gay. And I want to make sure I understand that this could...let's say a vet from the Henry Doorly Zoo needed to take a gorilla to an

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MRI... [LB408]

DAVID YLANDER: Yes, sir. [LB408]

SENATOR GLOOR: ...someplace. That would cover both the technicians and well as the radiologist who may be... [LB408]

DAVID YLANDER: Right, the veterinarian, right. [LB408]

SENATOR GLOOR: ...100 miles away looking at this thing through teleradiology and whatnot. So that's all covered under this sort of statute. [LB408]

DAVID YLANDER: Yes, sir. Yes, sir. It's just an expansion of what the zoos were able to obtain for their veterinarians so allowing the rest of the veterinarians in the state the opportunity. [LB408]

SENATOR GLOOR: And it would be the vet's license... [LB408]

DAVID YLANDER: Yes, sir. [LB408]

SENATOR GLOOR: ...that covers all of those individuals. [LB408]

DAVID YLANDER: Yes, yes. [LB408]

SENATOR GLOOR: Thank you. [LB408]

SENATOR GAY: This comes from that zoo bill last...were other states doing this? I mean, do other states allow this? [LB408]

DAVID YLANDER: The wording as the way we are looking at this, no, I have not seen that specifically. Other states have opened up practice acts to allow other practitioners to perform services, so it's entirely different than what this is. [LB408]

SENATOR GAY: Okay. And then I got one more on liability. So let's say if you set something up and you needed the help from another medical professional to come in, their liability covers this? They'd obviously agree, yeah, I'll help you out here. Is there...do you have to have a signed agreement or is it...how do those things work when you have a...? [LB408]

DAVID YLANDER: All of the liability is on the veterinarian... [LB408]

SENATOR GAY: Okay. [LB408]

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DAVID YLANDER: ...under this, sir. [LB408]

SENATOR GAY: They'd be working for the veterinarian then. [LB408]

DAVID YLANDER: Yes, um-hum. [LB408]

SENATOR GAY: Okay, all right. Senator Pankonin. [LB408]

SENATOR PANKONIN: Thank you, Chairman Gay. Dr. Ylander, appreciate you coming today. And I think, having been through these hearings in the past when the zoo was talking about it, but...and Senator Gloor asked about a specific procedure, but...the zoos pretty understandably have animals that have high value, that are somewhat unusual, but what would be a practical way you think people might use this? What do you see this evolving into, maybe outside of the purview of the zoos? [LB408]

DAVID YLANDER: I think areas that I would look at, again, is the example I gave: assistance with some type of a dental type of procedure. If I were needing advice on helping to rehabilitate an animal I would be looking for that. And looking at the opportunity to have, if I made a diagnosis on an animal that I needed some type of a chiropractic technique or a massage that I'm not comfortable in doing, to have that individual come in and share some of their expertise with me so that we can provide an additional tool in treating our patients. [LB408]

SENATOR PANKONIN: But yet under the supervision of... [LB408]

DAVID YLANDER: Yes. [LB408]

SENATOR PANKONIN: ...a veterinarian. Okay, thank you. [LB408]

SENATOR GAY: (Exhibit 1) Any other questions? I don't see any. Thank you. [LB408]

DAVID YLANDER: Thank you. [LB408]

SENATOR GAY: Other proponents who would like to speak. While you're coming up, we do have a letter of support from the Department of Health and Human Services on LB408. Go ahead. [LB408]

HANK CERNY: Good afternoon again, Senator Gay. My name, again, is Dr. Hank Cerny, C-e-r-n-y, and I'm testifying on behalf of the Nebraska Veterinary Medical Association in support of LB408. And to add to what Dr. Ylander had said, some other examples would be, for instance, say, Senator Howard, your dog comes down with glaucoma which is a life-threatening eye disease which will result in blindness if not treated immediately. You may be out in a place like Alliance and your only option is a

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human ophthalmologist. The veterinarian could then consult with them, use their equipment to deflate the eye, as opposed to traveling three or four hours to Omaha and by then the animal has lost its sight and it's just a matter of cutting the eye out afterwards. The idea of this bill is to protect...well, I tried to put some teeth in it. [LB408]

SENATOR HOWARD: Poor Eddie! (Laughter) [LB408]

HANK CERNY: But, yeah. [LB408]

SENATOR CAMPBELL: She loves that dog. That's a bad example. [LB408]

SENATOR GAY: That's a good example, get her... [LB408]

SENATOR PANKONIN: She's going to want to vote right now. [LB408]

SENATOR CAMPBELL: She loves that dog. [LB408]

SENATOR HOWARD: I do. [LB408]

HANK CERNY: And my goal is to protect that dog. Another classic example is I know of a veterinarian who was working on a dog's tooth and accidentally entered the root canal. Well, instead of then having to travel a couple of hours, wake the dog up during the procedure, travel several hours to have a veterinary dentist take care of that, he was able to--though this was not legal--have a dentist go ahead and do that for him. But then you always ask, what is in the best interest of the animal? And so a lot of these things that happen today we're looking for the best possible care for our patients and sometimes you're in a location where you just don't have the veterinary specialties. And under LB408, that would allow for that type of collaboration and provide that type of care. And so if you have any questions, I'd be happy to answer them. [LB408]

SENATOR GAY: All right. Any questions? Senator Gloor. [LB408]

SENATOR GLOOR: Thank you, Chairman Gay. I'm going to turn that issue around a little bit. I have a hypothetical situation here of a individual who has a hunting dog that has a few pellets in it from pheasant hunting and were to take that dog into an imaging center, with the help of a radiologist, to find those pellets and remove those pellets, and none of those individuals are licensed as veterinarians. They may be licensed as, say, physicians, but they were actually breaking the law, aren't they? [LB408]

HANK CERNY: Yes. [LB408]

SENATOR GLOOR: Just a hypothetical situation. (Laughter) Thank you. [LB408]

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SENATOR HOWARD: No names. [LB408]

SENATOR PANKONIN: That didn't happen in Grand Island. [LB408]

SENATOR GAY: No, never has. Any other questions? I don't see any. Thank you. [LB408]

HANK CERNY: Thank you. [LB408]

SENATOR GAY: Other proponents who would like to speak on this? Any opponents? And anyone neutral? All right, we'll close on LB408 and, Cap, you want to close on this or do you want to...? Do you waive closing on that other one? [LB408]

SENATOR DIERKS: I do. [LB408]

SENATOR GAY: Okay. All right, we'll close the public hearing on LB408 and open on LB463. [LB463]

SENATOR DIERKS: Thank you, Senator Gay, members of the Health and Human Services Committee. My name is Cap Dierks, that's spelled C-a-p D-i-e-r-k-s, and I represent District 40. And I'm here today to introduce LB463 to the committee. LB463 defines healthcare therapy as "health care activities that require the exercise of judgment for which licensure is required under the Uniform Credentialing Act." The position of a licensed animal therapist is defined as 1) an individual who is already licensed by the Uniform Credentialing Act in a healthcare profession other than veterinary medicine and surgery; 2) has met standards for additional training on how to perform that healthcare profession on animals; and 3) is licensed as an animal therapist. Veterinarians are not required to work with animal therapists. Those who choose to, however, must follow these procedures: 1) the owner of an animal first brings that animal to the licensed veterinarian for a medical diagnosis; 2) within 90 days of such diagnosis or evaluation, the owner of the animal is authorized to take the animal to an animal therapist along with a letter of referral from the veterinarian; and 3) a report will be given to the referring veterinarian after each healthcare therapy session. LB463 is similar to the bill that we just heard, LB408, as they both allow different degrees of collaboration between veterinarians and other licensed healthcare professionals. LB463 creates a new category of licensed animal therapist under the Veterinary Medicine and Surgery Practice Act. The other bill, LB408, allows collaboration between professionals already licensed under the Uniform Credentialing Act. The two bills differ in the areas of supervision and liability. Under LB463, a licensed veterinarian will refer an animal to a licensed animal therapist and is not required to be physically present and supervising the treatment. The veterinarian is not responsible for any damages caused to the animal as a result of the healthcare therapy performed by the licensed animal therapist. Under LB408, the licensed veterinarian must be present and supervise the treatment. The

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veterinarian carries the liability for any damages caused to the animal. There are people who would like to take their animals to chiropractors, physical therapists, and other healthcare professionals. This bill would allow this collaboration between healthcare professionals if they were licensed as animal therapists. With that, Mr. Chairman, I will end my statement and try to answer any questions from the committee. [LB463]

SENATOR GAY: All right, any questions? I don't see any right now. [LB463]

SENATOR DIERKS: Thank you. [LB463]

SENATOR GAY: Hear from proponents on LB463. [LB463]

DAVID YLANDER: Senator Gay, members of the committee, again, I'm Dr. David Ylander, Y-I-a-n-d-e-r, chairman of the Board of Veterinary Medicine and Surgery. LB463 is a unique bill, and it has evolved with collaboration of our counterparts in the human boards in putting this together, and we have actually worked on this over many years to reach this point. But LB463 creates a new licensure. The initial and primary criteria is that for a individual to obtain a licensure as an animal therapist they already have to hold a valid credential in one of the human professions. Working with the other boards, the Board of Veterinary Medicine and Surgery, through regulation, would then establish additional education requirements that these individuals would have to meet that pertain to animals' neurology, anatomy, physiology, and how their particular profession would then fit into working in the field of veterinary medicine. It allows these licensees to work in the field of veterinary medicine using their skills from their human profession on a referral basis, so the individual would not be in our practice. We would have this as a tool to offer to our clients if we do not have the skills to provide, for instance, chiropractic, physical therapy, massage type of techniques that the patient may require. If the veterinarian already has those skills, nowhere are they absolutely required to refer. So we want to make that clear up front: the veterinarian, if they have the skills, does not have to look at referral. If they don't and they want to help their client, this would be an option. The referral has to be within 90 days; there has to be a veterinary diagnosis. The licensee, as far as the animal therapist, cannot make a diagnosis. They will not be able to do diagnostics such as radiographs, laboratory analysis. They will not be able to use anesthetics. They cannot prescribe drugs. All of that retains with the veterinarian. But it's an additional tool to potentially help all of our animal patients. We're not looking just at small animals. A lot of this is extensively in the area of horses, as far as the massage and spinal manipulation, the chiropractic-type adjustments that we are looking at. This bill is unique from the standpoint that, yes, a lot of states have something along this line, but it's generally the individual scopes of practice or practice acts were opened to allow a particular profession to work on animals. Most of the states do require a referral from a veterinarian. This would keep the licensure under the Board of Veterinary Medicine for its supervision. And I'd entertain questions. [LB463]

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SENATOR GAY: Any questions from the committee? I've got a question for you. [LB463]

DAVID YLANDER: Yes, sir. [LB463]

SENATOR GAY: You said we've been working on this for some time. Who has all been working on this to come to this point to draft the bill and...? [LB463]

DAVID YLANDER: The Board of Veterinary Medicine; the Board of Physical Therapy; we now, this year, 2008, the board for massage therapy; we have input from the chiropractic board; and we have had practitioners coming and presenting testimony to our board. [LB463]

SENATOR GAY: Okay. Senator Wallman. [LB463]

SENATOR WALLMAN: Thank you, Chairman Gay. Yes, thank you for coming. Do you see a lot of people applying for this license? Like dog...would that include dog groomers, do you think? [LB463]

DAVID YLANDER: No. [LB463]

SENATOR WALLMAN: No? [LB463]

DAVID YLANDER: No, because dog groomers are not...there is no licensure on the human...Health and Human... [LB463]

SENATOR WALLMAN: I mean, do you think they would want this license then, maybe? [LB463]

DAVID YLANDER: There is nothing available for them to obtain this type of a license with our criteria that you already have to hold a valid credential. [LB463]

SENATOR WALLMAN: Okay, thank you. [LB463]

SENATOR GAY: Any other questions? Senator Gloor. [LB463]

SENATOR GLOOR: Thank you, Chairman Gay. Doctor, I'm trying to decide what the impetus is for this particular bill. Are we trying to protect animals or are we trying to preserve the integrity of veterinary science? When I think of who's going to be the recipient of this, it's...there's an ownership component. [LB463]

DAVID YLANDER: Yes, sir. [LB463]

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SENATOR GLOOR: It's somebody's property. [LB463]

DAVID YLANDER: Yes. [LB463]

SENATOR GLOOR: And so I'm trying to work my way through thinking what the intent behind this legislation is, and I'm having a hard time connecting the dots. Can you help me? [LB463]

DAVID YLANDER: There is a nationwide tendency for animal owners to want additional care, and this is one opportunity or one way of providing a tool for veterinarians and for the animal owner to obtain that care where the veterinarian may not have the skills. So we're essentially looking at types of techniques that are not routinely taught in the average...or in the routine curriculum of the veterinary school. For a veterinarian to become certified, we all have to...we would have to take additional coursework, and for a lot of our practitioners that's not a viable option in a single person practice to go away and take anywhere from 200 to 1,000 hours of additional training. And so having the ability to refer the owner and the patient to someone that has the training and has taken the additional training would be a big benefit. [LB463]

SENATOR GLOOR: But if they're licensed to take care of humans,... [LB463]

DAVID YLANDER: Yes, sir. [LB463]

SENATOR GLOOR: ...at least as I see the level of importance on this, the licensure for humans, for me, would make me comfortable having them provide care for my dog. Let's say it's a physical therapist. I'm not too concerned that they then carry a dual approval that they can also provide that same service for my pet which I own and have a great degree of say over what happens. [LB463]

DAVID YLANDER: Yes, sir. There is a big difference between the human species and all the rest of the animals when we look at anatomy, how an animal moves versus a human, we talk about differences in number of ribs, number of vertebrae. Those individuals on your human training do not get any of that, and so the additional education requirements and having this licensure ensures that, yes, they now have that knowledge. [LB463]

SENATOR GLOOR: Do we have schools for dog physical therapy? [LB463]

DAVID YLANDER: Yes; not in Nebraska... [LB463]

SENATOR GLOOR: Oh, okay. [LB463]

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DAVID YLANDER: ...but, yes, we do. [LB463]

SENATOR GLOOR: How far do I have to go to get dog physical therapy? [LB463]

DAVID YLANDER: There is a course that is offered yearly at Fort Collins at the university. [LB463]

SENATOR GLOOR: CSU. [LB463]

DAVID YLANDER: The primary school, right now, in physical therapy is at the University of Tennessee through the veterinary school. It takes about two years to complete that particular course to become certified. [LB463]

SENATOR GLOOR: Okay. [LB463]

DAVID YLANDER: It's the same thing on the veterinary chiropractic side--there are special schools for veterinary chiropractic. [LB463]

SENATOR GLOOR: Okay. I'm just trying to think through the process of asking my physical therapist if he or she has an interest in doing some therapy on my dog and they're saying I don't feel qualified because, as you point out, it may be a mammal... [LB463]

DAVID YLANDER: Right. [LB463]

SENATOR GLOOR: ...but that's about as close as it comes to their being comfortable. Or saying, you know, a little muscle stimulation doesn't bother me on this particular pet, what you're saying is they couldn't and shouldn't be doing that if we pass this legislation. [LB463]

DAVID YLANDER: True. [LB463]

SENATOR GLOOR: Okay. Thank you; that helps. [LB463]

SENATOR GAY: I've got a question for you. So is this getting ahead of the game? This is to kind of follow up Senator Gloor's question. To me, so it's kind of consumer driven. You just feel there's... [LB463]

DAVID YLANDER: Yes, sir. [LB463]

SENATOR GAY: ...more and more consumers wanting to... [LB463]

DAVID YLANDER: Yes, sir, it's a... [LB463]

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SENATOR GAY: ...take care of their animals along that route and just so...it's quite a training. It sounds pretty extensive. [LB463]

DAVID YLANDER: Yes. [LB463]

SENATOR GAY: And you believe...is there any estimate of how many people then who have approached you in these conversations you had earlier? I guess that's just speculation, but you see this as a growing field, possibly,... [LB463]

DAVID YLANDER: Yes. Yes, we do. [LB463]

SENATOR GAY: ...to expand your business in a way. [LB463]

DAVID YLANDER: Yes. Again, it's a means of helping our clients, our animal owners. As far as number of people that would be interested, right now that's a very difficult question but we could foresee, you know, initially 50 to 150 across the profession. [LB463]

SENATOR GAY: Yeah, well, I remember last year we had some people interested. Senator Campbell. [LB463]

SENATOR CAMPBELL: Thank you, Senator Gay. Dr. Ylander, could you give a couple more examples? You talked about physical therapists and chiropractors. Are there any other disciplines? [LB463]

DAVID YLANDER: The massage... [LB463]

SENATOR CAMPBELL: Oh, the massage. [LB463]

DAVID YLANDER: ...would definitely be an area. One other area that potentially could have an area would be in acupuncture. There are veterinary acupuncture certification courses, and right now those courses you have to be a licensed veterinarian to take, so that's something that we would ultimately work through if there was a licensed acupuncturist on the human side who was interested. Again, it's the relevance of looking at anatomy. The points are called the same in acupuncture, but locations and how they transpose...so if you take a human that has five fingers and the horse that has one hoof, you have to be able to adjust and know how to work that through. [LB463]

SENATOR CAMPBELL: Thank you. [LB463]

SENATOR GAY: Senator Gloor. [LB463]

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SENATOR GLOOR: Thank you, Chairman Gay. That actually takes me back to my hypothetical MRI discussion (laugh). But radiologists are credentialed in the state. [LB463]

DAVID YLANDER: Um-hum. [LB463]

SENATOR GLOOR: And so if we're going to be involved in doing imaging, it would seem to me that they're going to have to be a subspecialty of pet radiologists to do the interpretation of these images that are done. Would that be a safe assumption? [LB463]

DAVID YLANDER: I could foresee that. [LB463]

SENATOR GLOOR: I wonder if people have thought through the ramifications of how many different...I mean, whether it's pathologists who get involved in looking at tissue samples and lab histotechs who end up treating the slides, and I wonder if we understand the extent to which the human and the animal kingdom crosses over with services that people are jointly using and don't see those as problematic, yet they exist day to day. Just a question. [LB463]

DAVID YLANDER: That's absolutely true. And I think also to look at that the American Veterinary Medical Association has also taken the approach of one medicine, one world, of...that there is an immense amount of overlap but recognizing that there are distinct differences between each of our patients that we work with. [LB463]

SENATOR GLOOR: Yeah, but my point is might this be creating problems for people running veterinary clinics who currently, if this were to go through, find themselves having to find whole new sources for services that they don't realize, as a result of this well-intentioned legislation, whether it's lab sciences, whether it's interpretation of images? When it comes to radioactivity, I know that there's credentialing that relates to... [LB463]

DAVID YLANDER: Oh, absolutely. [LB463]

SENATOR GLOOR: ...people who handle the radioisotopes, and... [LB463]

DAVID YLANDER: Um-hum. [LB463]

SENATOR GLOOR: ...my guess is those are used by either profession,... [LB463]

DAVID YLANDER: Yes. [LB463]

SENATOR GLOOR: ...whether it's... [LB463]

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DAVID YLANDER: Yes. [LB463]

SENATOR GLOOR: Okay. [LB463]

DAVID YLANDER: Yes. Those we refer to the veterinary schools... [LB463]

SENATOR GLOOR: Okay. [LB463]

DAVID YLANDER: ...for that type of situation. And again, when you get into some of that where it's already present, those type of techniques, definitely the first choice is to the specialist on the veterinary side. I think we're looking at helping the individuals in our communities where there's something that can be done rather than having to travel anywhere from 4 to 8 to 12 hours. [LB463]

SENATOR GLOOR: Okay. I'm just hoping that as this was put together it was thought through,... [LB463]

DAVID YLANDER: Yes. [LB463]

SENATOR GLOOR: ...the whole gamut of... [LB463]

DAVID YLANDER: Yes. [LB463]

SENATOR GLOOR: ...potential conflicts that might exist. Thank you. [LB463]

SENATOR GAY: Senator Stuthman. [LB463]

SENATOR STUTHMAN: Thank you, Senator Gay. Doctor, where do veterinarians learn about the embryo transfer process? [LB463]

DAVID YLANDER: That would be through their veterinary education, and I am aware, sir, that there is the potential of an amendment dealing with that. Unfortunately, the board has not seen that amendment and so, from the board's standpoint, I cannot comment on that. [LB463]

SENATOR STUTHMAN: Okay. And you have no idea what other states do, either, about the regulations as far as the embryo transfer process. [LB463]

DAVID YLANDER: Many states look at embryo transfer as the practice of veterinary medicine... [LB463]

SENATOR STUTHMAN: Okay. [LB463]

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DAVID YLANDER: ...and have that spelled out in their practice acts. There are other states that have looked at changing scope and allowing individuals to collect and then implant the embryo. [LB463]

SENATOR STUTHMAN: And you, as a veterinarian, and your associates, are willing to look at this. Because I think this is a practice, in my opinion, you know, that's going to escalate in the near future. [LB463]

DAVID YLANDER: Yes. Yes, we are. The big concern from us as far as veterinarians is not looking at what the individual is doing from that standpoint. We are concerned with, if drugs are being used, who has control over those. We definitely don't want a lot of these hormonal drugs getting out into the public. There are instances right now, if I can give an example, of young women obtaining prostaglandins--LUTALYSE is one of the products--applying it to themselves: putting it on their skin, allowing it to be absorbed and aborting pregnancy. As veterinarians, we definitely don't want that to go on, so. But, no, we are more than willing to work through and look at things so long as the citizens in Nebraska are protected. [LB463]

SENATOR STUTHMAN: Okay, thank you. [LB463]

DAVID YLANDER: Uh-huh. [LB463]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB463]

DAVID YLANDER: Um-hum. [LB463]

HANK CERNY: My name is Hank Cerny, C-e-r-n-y, and I am testifying on behalf of the Nebraska Veterinary Medical Association in support of LB463. To answer some of the questions that were brought up about issues concerning this bill, some of the legal cases that have come forth, in the state of North Carolina, the legal case of State of North Carolina v. Gail Galligan, doctor of chiropractic, in which a doctor of chiropractic, certified in animal chiropractic, was charged with practicing veterinary medicine without a license, was dismissed by the judge who stated that the law was so broadly written that a priest could not even bless an animal unless he were a veterinarian (laughter). The judge also commented on the Veterinary Practice Act. There is an organization called the Alliance for Animal Owners Rights, IAAOR. It's working throughout the nation to counteract the restrictive clauses inserted into many of the Veterinary Practice Acts. What we're trying to do is keep the veterinarian in the loop so that the animal receives the best possible care without harm so that we, as the NVMA, believe that we get more options for animal patients and still provide more safe care. As in the human interest, we can either decide to attack a problem, as a sore neck, with either ibuprofen or medication, or we may go to a massage therapist or a chiropractor to deal with the same condition. We'd like to make sure that our animal friends have the same ability to

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do that type of care. Any questions that I may answer? [LB463]

SENATOR GAY: Any questions? No. No, don't see any. Thank you. [LB463]

HANK CERNY: Thank you. [LB463]

SUZANNE BORDER: (Exhibit 1) Good afternoon, Senators. My name is Suzanne Border, and I'm here in support of LB463. I'm a licensed massage therapist and I've been a licensed massage therapist in Nebraska for ten years. I currently work at a pet care facility east of Lincoln where I've been employed for the last eight years. My employer asked me early in my career if I would be interested in becoming a canine massage therapist. I said yes, and we set out to find what we considered was the best school in the U.S. at the time. My employer is a registered nurse, and we felt, between the two of us, we could sort through the training that was offered and come up with the best training to serve our clients' dogs. We feel that we found that at a school in Boulder, Colorado, and this is where I took my training in 2002. After I got out of school, we set out to offer canine massage therapy in eastern Nebraska. I contacted veterinarians in our area about my services and got a good response. I modeled my canine massage therapy practice after my massage therapy training. I kept in contact with the veterinarians who referred to me and submitted monthly notes. I felt that these clients were first and foremost the referring veterinarians' clients and I had an obligation to keep them informed. Neither the veterinarians or myself or my employer were aware until February 2007 that we were perceived to have been breaking the law. I received a cease-and-desist order from the state and have since complied. Prior to 2007, I became aware of the need and demand for complementary therapies to be made available to owners of companion dogs, senior dogs, dogs recovering from surgery, service dogs, and competition dogs. My reputation grew among all of these groups and the veterinarians that see these dogs as clients. Many of my former clients, as well as clients that currently board their dogs with us, are requesting that these services be made available for their dogs. I think that you will find overwhelming support from the dog-loving public for LB463. The way the bill is presented, it makes it easy for veterinarians to use or not use these services as they see fit. Canines can benefit from massage therapy in many ways, just as humans do. Massage can help lengthen and loosen short and tight tissue, can help to promote circulation, help to heal, and can relax and calm, and can help relieve pain. I would consider it a privilege to be able to become a licensed animal therapist and appreciate the opportunity being afforded me from the Nebraska Board of Veterinary Medicine and Surgery should this come to pass. I am in favor of only existing licensed professionals being allowed to do this work with additional training. Thank you for your time. [LB463]

SENATOR GAY: Thank you. [LB463]

SUZANNE BORDER: Any questions? [LB463]

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SENATOR GAY: Don't see any. Thank you. You do have one? Senator Wallman. [LB463]

SENATOR WALLMAN: Thank you, Chairman Gay. Yes, thank you for testifying here. Now, this licensure fee, would you have any idea what the state would charge? [LB463]

SUZANNE BORDER: No, I do not, but I welcome the opportunity to be able to serve clients in this capacity. I also swim dogs for exercise and I have a lot of contact with these different groups and I know that they want these services. And it's a common tsunami. It's going to be big. (Laugh) [LB463]

SENATOR WALLMAN: Thank you. [LB463]

SUZANNE BORDER: Sure. [LB463]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you. [LB463]

SUZANNE BORDER: Thank you. [LB463]

SENATOR GAY: (Exhibit 2) Erin, did I read this letter of support in? Okay, we do have a letter of support from the Department of Health and Human Services as well. Still hearing for proponents who would like to speak. [LB463]

KIRK PECK: (Exhibit 3) Good afternoon, Senator Gay and members of the committee. My name is Kirk Peck, that's K-i-r-k, last name is Peck, P-e-c-k. And I appreciate the opportunity to address the committee today on a topic I also am very passionate about. I'm here to support LB463 and its intent to create a unique licensure option to treat animals for currently licensed healthcare professionals in Nebraska. I am a physical therapist and I have been practicing physical therapy in the state of Nebraska for 18 years. I enthusiastically welcome this opportunity to collaborate with veterinarians who recognize this benefit to include the science of animal rehabilitation as part of their professional practice. I've actively participated in direct negotiations with the Nebraska Board of Veterinary Medicine and Surgery for over the past two years--I think it's probably longer than that, actually, but at least two years--in anticipation of seeing LB463 finally come to fruition. My communications with members of the Board of Veterinary Medicine have been very productive and have contributed to statutory language that I believe will open the door to an emerging area of care for physical therapists and other healthcare professions with an interest in this area. I'd like to add that physical therapists have been working on animals for several years in other states, including Maryland, Nevada, Tennessee, and Colorado, to name a few. Previously, when I lived in Kansas, I had the pleasure of working in an emergency veterinary practice in Kansas City, and also at a zoo in Manhattan where I was privileged to work

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with several types of animals including dogs, cats, and even owls, eagles, and falcons. I also worked in direct collaboration with a veterinarian doing research on greyhound dogs who needed technical knowledge of a physical therapist to help complete data collection. Therefore, I'm excited to now see that veterinarians in the state of Nebraska have determined that collaboration with health professions might benefit the overall health and care of their clients. Currently, I serve as the Nebraska chapter liaison to the animal rehabilitation special interest group of the American Physical Therapy Association. This special interest group is active in promoting the collaboration between physical therapists and veterinarians across the country, and Nebraska is ready for the development of such relationships. As proof, I recently was contacted by two licensed veterinarians in the state, in Omaha, one in Lincoln, who believe such collaborations would impact their clinical services in a positive way. I have also received calls from a veterinarian in Colorado who was seeking to find a physical therapist capable of providing postoperative care for a dog who suffered a fractured femur. In all cases, I had to inform the soliciting veterinarians that, until a law such as LB463 is passed, such collaborations would be considered illegal. So I strongly encourage the members of this committee to support LB463 and what it has to offer by way of establishing a process for licensure to nonveterinarians who wish to practice on animals. I believe this bill will enhance the quality of care veterinarians are able to provide for their clients by allowing a referral option for animals to be treated by nonveterinarians who possess a unique body of knowledge and skills. I want to thank you for your time, and I'm open to entertaining any questions. [LB463]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB463]

KIRK PECK: Thank you. [LB463]

SENATOR GAY: Other proponents. [LB463]

KELI HUPKA: Hello, I'm Keli Hupka, K-e-l-i H-u-p-k-a, and I am here from the State Board of Massage Therapy, and we are all for this. We agree that people need to have education in quadrupeds and...these aren't my notes. I'm here for someone else that couldn't be here today, so bear with me for a moment. [LB463]

SENATOR GAY: That's okay. You're representing the board though. [LB463]

KELI HUPKA: Yeah, I'm representing the board. [LB463]

SENATOR GAY: That's fine. You're getting on record. That's okay. Don't worry; take your time. [LB463]

KELI HUPKA: (Laugh) Just in animal techniques, kinesiology, anatomy, physiology, and

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the behavioral patterns of animals, the only thing that we don't agree with is, as massage, is remedial and relaxation. We don't feel we need to have a referral for the relaxation techniques. You don't need to go and get one for yourself, and we do work with doctors when we have clients who have ailments and need to be in contact with, so. I think that's about it. [LB463]

SENATOR GAY: All right. Any questions? I don't see any. Thank you. [LB463]

KELI HUPKA: Okay, thanks. [LB463]

SENATOR GAY: Thank you. [LB463]

LORAN SCHMIT: (Exhibit 4) Good afternoon, Senator Gay and members of the committee of Health and Human Services. My name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I'm a registered lobbyist for the Nebraska Chiropractic Physicians Association. I want to thank Senator Dierks for introducing LB463. The Nebraska Chiropractic Physicians strongly support the bill. We are pleased that the Nebraska veterinarians and the veterinarian board kept our association informed and listened to our input as they worked on the drafting of the bill. LB463 is the result of several years of hard work, and we appreciate the work that Senator Dierks put in on this bill and his contact with the chiropractors. We feel this bill will allow chiropractors and various professionals to lend their expertise to the treatment of animals while doing so at the referral and/or supervision of a licensed veterinarian. The legally authorized blending of the skill and training of the two professions can provide a valuable service to the public. The Nebraska Chiropractic Physicians ask that LB463 be advanced to General File. I'll be glad to answer any questions. [LB463]

SENATOR GAY: Any questions? Senator Wallman. [LB463]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Senator Schmit, for showing up. Do they help animals as much as they help you and me? [LB463]

LORAN SCHMIT: Probably so. [LB463]

SENATOR WALLMAN: Okay. Thank you. (Laugh) [LB463]

LORAN SCHMIT: I know now, Senator, why my horses don't win at the racetrack. From now on, I'm going to have Senator Dierks place that horse. (Laughter) Thank you very much. [LB463]

SENATOR GAY: Thank you. [LB463]

BRUCE CRABTREE: (Exhibit 5) Good afternoon, Senators. I'm Dr. Bruce Crabtree,

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B-r-u-c-e C-r-a-b-t-r-e-e. I'm a chiropractor. I've been in practice 23 years, the last 20 in Columbus, Nebraska. I thought I'd give you a little background as to what has led me here today. While pursuing a degree in veterinary medicine at Iowa State University, a back injury introduced me to chiropractic. I was so amazed at how fast I recovered that I changed my direction and went to chiropractic school at Palmer Chiropractic College in Davenport, Iowa. In my transition, the summer before I got into chiropractic school, I worked for a company called Hawkeye Breeders, Incorporated out of Adel, Iowa, and they processed and collected bull semen--I was kind of a professional bull shipper. And I worked with these people and they have a good reputation and I learned a lot from them while I was there. While attending Palmer in the early eighties, I became aware of an animal adjusting club on campus; it was kind of intriguing to me. While some may be surprised to hear there are DCs who do nothing but adjust animals, this particular niche has always been part of the field. In fact, B.J. Palmer set up the first clinic devoted exclusively to animal chiropractic, and at one time Palmer College even awarded diplomas for animal adjusting. This was prior to 1950 and maybe in the forties. And in recent years, owners are becoming increasingly interested in having their animals receive chiropractic care, both for general wellness and to resolve physical problems. It is amazing; you can go to about any store right now and you can pick up all kinds of magazines around the country--here's an Equine Wellness, Animal Wellness, Natural Horse--and they're full of all kinds of alternative care, CAM--complementary and alternative medicine--for animal owners: horse, dog, cats, different things. So it is out there and these have been out here for quite a while. Many of the health problems deal with gait and lameness issues. Homeopathy, physical and massage therapy, acupuncture, other forms of health care have demonstrated success in patient outcomes at less cost to the owners. Animal owners want access to effective and safe, noninvasive techniques. As a result, there's a growing demand for this type of service. In 2003, I attended classes to become certified in specific animal adjusting technique. The animal adjusting works so well, hypothetically, that I soon had veterinarians referring cases to me. At the time, even the vets didn't know it was illegal to refer out to a chiropractor. They didn't know that the law is read that way, that it was illegal. Since 2005, I've endeavored to make animal adjusting a reality in Nebraska. I've enjoyed coworking with the veterinary board. I think I've missed one meeting in over two years so I've been there for pretty much all of that, and I think we're all excited to put together this LB463 that would allow nonanimal specialists to collaborate with veterinarians, ultimately benefitting the animal's health and well-being. We've all agreed that we want to have people who are properly trained; we want to make sure that the safety of the animal is foremost and it's the highest priority. I think LB463 will allow this to take place. Texas had similar laws on the books since 1994; Minnesota just passed theirs last year. It is becoming more of a trend; it's not going to go away. People are more willing to spend money on their pets than themselves, than their own health--as a chiropractor I know that, so. I think it's a great potential for vets: it increases your market. I hadn't thought about it increasing other specialties as well, so maybe we're creating our own stimulus package in Nebraska. So I think once Nebraskans realize this is legal, this is

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available, I think demand will increase. Thank you for your time and listening. Is there any questions I can answer? [LB463]

SENATOR GAY: Questions? Don't see any. Thank you. [LB463]

BRUCE CRABTREE: Okay, thank you for your time. [LB463]

SENATOR GAY: Other proponents who would like to speak. [LB463]

RYAN LOSEKE: (Exhibit 6) Good afternoon, Chairman Gay, members of the committee. My name is Ryan Loseke, R-y-a-n L-o-s-e-k-e. I'm a veterinarian and member of Nebraska Cattlemen and serve on the board of directors as chairman of the Animal Health and Nutrition Committee. I'm here today representing the Nebraska Cattlemen in support of LB463, but more specifically I wish to address the proposed amendment before you that deals specifically with embryo transfer in cattle. I'd like to give you a little background on myself. I was raised in Columbus on the family operation that consists of a small feedyard and farming operation. My wife and I both received our undergraduate degrees from UNL, and we both graduated with degrees in veterinary medicine from Kansas State University. In addition to managing and operating our farming and feeding operation, we are both members of the Nebraska Veterinary Medical Association and have a private large animal vet practice serving clients in Platte and surrounding counties. Nebraska Cattlemen understands the importance of animal welfare not only for the beef industry but for our consumers. Our Beef Quality Assurance Program focuses on a voluntary, volunteer, produce-driven certification process that is the national leader in 15 states. Our BQA Program certifies producers by trainers of which 80 percent are veterinarians with the balance being extension educators and Ph.D. nutritionists. Nebraska Cattlemen has a full-time staff person devoted to this program. Nebraska Cattlemen realizes the tremendous need for veterinarians, especially food animal veterinarians. We were part of an effort last year to support Senator Dierks in the passage of LB1172, adopt the Food Animal Supply Veterinarian Incentive Program. The program provides for state funds to incent veterinarians to practice in Nebraska and address the severe need of food animal DVMS, especially in rural Nebraska. This is a problem across the entire country, not just Nebraska. Without Senator Dierks's leadership last year, LB1172 might not have passed. Nebraska Cattlemen is grateful for his efforts to address this need. Nebraska Cattlemen is here today with this friendly amendment to LB463 that will allow specialized technicians to perform embryo transfer services to cattle producers. There are a limited few within Nebraska that practice this specialty that are not veterinarians. Due to Nebraska's shortage of food animal veterinarians, embryo transfer technicians provide a valuable service that is a specialty within the state's beef industry, and we, as an organization, feel that this amendment will not be detrimental to the recruitment and retention of veterinarians in Nebraska because of that shortage. Nebraska Cattlemen recognizes the need to allow for veterinarians to be financially rewarded for their

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commitment and to being animal health professionals. It's the best interest of the industry and the public at large for veterinarians to be profitable so they can continue to provide valuable services to the state's largest industry. But due to the shortage of food animal veterinarians in the state, non-DVM embryo transfer technicians, even though extremely few within Nebraska, are highly needed. The amendment establishes a high standard for education and experiential knowledge for those persons providing embryo transfer services, but would not require a veterinary license. A master's degree with an emphasis on reproductive physiology gives embryo transfer technicians as much education as anyone performing this skill. The amendment requires the person performing the embryo transfer work to be in direct consultation with the veterinarian responsible for the owner's animals. This would include a valid veterinary-client-patient relationship as defined in Section 38-3316 of the Veterinary Practice Act, which would address the use of any drugs used in the embryo transfer process. If we, as a state, allow midwives to be the primary caregivers in the moment of human birth without a medical doctor present, how can we not allow for embryo transfer technician, with a high level of specialized education and proper oversight by a DVM, to begin the process of life in beef animals? Other surrounding states with equally high beef cow numbers have a much lower standard than this amendment creates. We understand that this bill is not perfect, but I guess we just pledge our willingness to work with the vet board and other groups to come up with a workable solution to this. I would strongly urge this committee to adopt this friendly amendment to LB463. Thank you, Chairman Gay and members of the committee, for the opportunity to testify today and I'd be happy to answer any questions. [LB463]

SENATOR GAY: Thank you. Senator Pankonin. [LB463]

SENATOR PANKONIN: Thank you, Chairman Gay. Doctor, I think you maybe were in the room when the veterinarians...we asked the question about this amendment and I think, as you well know, well, obviously we want them to take a look... [LB463]

RYAN LOSEKE: Sure. [LB463]

SENATOR PANKONIN: ...and their board needs to consider it. And I assume your group of Cattlemen are willing to, like you have stated, to see if something can be worked out as we move forward. [LB463]

RYAN LOSEKE: Sure, because I think in rules and regulations the terminology is so specific, and we realize that this bill isn't perfect. For instance, the levels of supervision, direct consultation isn't really in statutes but we would like to work...willing to work with the board to come up with a conclusion. We just have situations where there's people in the state that are highly qualified with Ph.D.s and master's degrees that have been doing this for 35 years and aren't able to do it anymore because of statute. And that's, I guess, our interest in it as a cattlemen organization, obviously. [LB463]

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SENATOR PANKONIN: Okay, thank you. [LB463]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you. Any other proponents who want to speak? [LB463]

MYRON DANNER: Good afternoon. Myron Danner, that's D-a-n-n-e-r, and I live at Burwell, Nebraska, and I am not a veterinarian, but I'm here in support of this amendment to LB463. My background, educationwise, I grew up in Iowa. I'm a native of Iowa; grew up on a livestock and grain farm. I got a bachelor's degree from Iowa State University in animal science in 1974. I went to Michigan State and got a master's degree in ruminant nutrition in 1977. And at that time, there was no nonsurgical method of doing embryo transfer, but that all changed in the late seventies because they came out with the technology to do the nonsurgical recovery of embryos. So then I went into the reproductive field for my Ph.D. thesis and, along with my committee, we designed experiments to study super ovulation in cattle, and what we did...I'm going to use an analogy with to the medical schools...but my sister went through med school. She told me that if you want to study the particular part of the anatomy--she used the example of brain surgery--she said why you use cadavers and you just repeatedly do your practice on your cadavers. So what I did for my Ph.D. was I used cadavers of cattle...cows' reproductive tracts. And in the time I got through, I'd done 61 of these procedures on reproductive tracts that were worked...we worked with in the laboratory. So I just thought I would bring it along but I did write a Ph.D. thesis. In 1981, I was awarded my Ph.D. So at that time there was no industry yet for embryo transfer. It was just struggling, it was fledgling, it was just the beginning of it. A number of things have come along since then to make it much more practical and it has become an industry of its own. I started out in 1981; I moved to Nebraska because I wanted to be in the heart of cattle country. Started working on my own cows, and then it proceeded to the neighbors' cows, and then from there it just spread throughout Nebraska and it went to the surrounding states so that by the mid-1990s I was actually turning business down. And I want to point out that there was no advertising. I never did advertise my services and I'm just going to let that speak to my proficiency level. Okay, so from the mid-nineties until...we're going to fast-forward to 2008, our society seems to be bent on regulations, so the issues came up of who can do embryo transfer in the state of Nebraska--whether they need to be a licensed veterinarian or what this amendment proposes, is allowing nonveterinarians to do embryo transfer. I'm going to draw your attention to one more thing that has...to show what an industry this has become. We have an American Embryo Transfer Association that is the spokesperson for the ET industry in the United States. And we have a board of directors--we elect those people, they elect officers, they have committees. We have a number of committees, one of which would be our newsletter. They publish a newsletter four times a year. Some of the committees are fairly simple and straightforward. Another committee does the convention; we have a two-day annual convention. We bring in the latest speakers to address the technology.

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We have vendors there to show the latest in supplies, the latest technology that's coming on track as we go down the road. Another purpose of the American Embryo Transfer Association is they act as a liaison between all the regulatory agencies, not only in the U.S. but in the foreign countries. So, for example, if you want to sell embryos to China--say you have a herd of registered Holsteins, you're going to sell embryos to China--this would be the organization that probably made the regulations, at least in part, and they would also be the organization you would call to get your...to find out how you should go about doing that. And one other committee that they have is that they have a certification committee. And in their certification committee of this American Embryo Transfer Association, they allow nonveterinarians to do embryo transfer. And what this bill or what this amendment is doing is trying to get some consistency between the American Embryo Transfer Association and the state of Nebraska so that we can have people that aren't licensed veterinarians doing embryo transfer. And I was asked to help put my input into what education level was required and I, along with one of my colleagues who is also a large, long-time embryo transfer specialist, we decided that a master's level that was specific to...a master's degree that was specific to reproductive physiology would get you to the level you needed to be to do embryo transfer. And then that's the extent of my talk, and thank you and I'll take any questions. [LB463]

SENATOR GAY: Thanks for bringing that to us. Any questions from the committee? I don't see any. Thank you. Any other proponents who would like to speak? How many more proponents do we have? Any opponents? So the last proponent. Any opponents? Then there's no opponents. Anyone wants to talk neutral on this? No neutral, all right. Go ahead. [LB463]

ELDON STARR: Am I last? [LB463]

SENATOR GAY: You're last. (Laughter) We're saving the best for last, we hope, so. [LB463]

ELDON STARR: Maybe. I'm Eldon Starr, E-l-d-o-n, Starr with two Rs, S-t-a-r-r. I'm from north of North Platte, 50 miles. I live in the Sandhills. I'm a consumer. I represent the consumers of embryo transfer. I will start out saying that I'm not against a DVM doing embryo work, not at all. We just want the work done. We're excited in the beef industry, and I'm sure the dairy people are. We have found markers to find feed efficiency. We need feed efficiency in the beef and the dairy--they need more milk. We're all facing high feed prices, and how are we going to stay in it? We identify these females that are excellent. We identify, through EPDs, the bulls that will match and keep things going. We need it done. I'm not going to step on anybody's toes. And I have to apologize--I didn't have a handout. I've never been here to testify before but I'll be better prepared next time. (Laughter) We have a way of what I call certifying the good embryologist and I'll tell you just simply how it works. I'm at a female dispersion in December; a gentleman introduces himself from South Dakota. I should include my background first,

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shouldn't I? I graduated from the University of Nebraska. I've been ranching 41 years. I've been using artificial breeding for 44 years. I've been with the embryo 17 years. I also have another job, and my wife that's with me today is a big part of that. We have a large semen distribution. We do distribute a lot of semen to the embryo people and to AI-ers. But back to the dispersion sale that was going on with the gentleman from South Dakota that I met. Many times we'll be in these groups and we'll start talking, who are you using for your embryo work; what lab are you at; and so forth. We exchange ideas. We also exchange results. And it doesn't...we never, to my knowledge, have ever come a time that we...where did he go to school? What degree does he have? It's never come up. We base it upon the percent that we get transferred successfully: pregnancies. I'm going to give you an example. I will not use the names. We put 65 embryos in, in one day, same technician. We had the females ready; we sorted out the embryos we wanted to put in. We did not want all these to come from one entity. Fourteen were from a lab in Oklahoma; Myron Danner, the previous person, had some in there; Trans Ova had several in there; and there's one or two others I don't recall at that time. It's been just a few years ago. When we got the results, and I like to get my results at calving time so I know what was the result, I had 1 take out of 14 from Oklahoma, and the rest of them were well above 50 percent. So that is how we go about certifying the people that we work with. I'm sure that Cap Dierks probably knows Jerry Thompson at North Platte. He went to embryo school, and here's what his school was. He went to Fort Collins. Jerry said he was so far ahead of the competition that was out there to get schooled that he didn't need to go through anatomy, he just went with the doctor and went over and transferred for three days and went home, set up practice. I don't want to say Jerry didn't succeed--he went out to the university station there at North Platte and transferred some successfully. But he said when you got to the eighth day of the pregnancy and need to flush, sometimes you had to do other jobs at the clinic. So he just chose not to continue. Craig Dethlefs at North Platte I know real well. He chose, just here a couple of years ago after doing it commercially, to just do embryo work for the family only. And I'm going to say that probably he just thought the results weren't not up to par. And then I can name you several that don't have DVM credentials that have no luck at all. I've got some concerns. I see a yellow light is one minute? We have a shortage of the large practitioners and I'd hate to take some of them away for embryo work. We need them; we're short. Where is this going to lead? I hope you don't take away myself and many others that do AI work. Several years ago I'd gone through over 100,000 head that I'd bred and I'd hate to think that I'm not capable of breeding. DNA testing has brought us a long ways here in the last few years, and you're going to see a lot of work in the embryo world. I think that concludes what I'm going to say, if there's any question. I thank you, Senator Gay. [LB463]

SENATOR GAY: You bet, thank you. Let's see if there's any questions. Senator Pankonin. [LB463]

SENATOR PANKONIN: Thank you, Chairman Gay. And you did fine, so come testify

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again. [LB463]

ELDON STARR: I'll come back. (Laughter) [LB463]

SENATOR PANKONIN: A question then: Have you seen the amendment from Nebraska Cattlemen? [LB463]

ELDON STARR: I really haven't. I just had a bull sale Tuesday; I was in Oklahoma Wednesday; I just...no time. [LB463]

SENATOR PANKONIN: Okay. Well, I think the committee will... [LB463]

ELDON STARR: Okay. [LB463]

SENATOR PANKONIN: ...consider...how this usually works is the groups that have your interests at heart, and you may have the chance to visit with them this afternoon, the folks from Cattlemen are on that side, but make sure you have a chance to take a look at what they're proposing. Obviously, they get with the veterinary board and we'll try to come to some conclusion, compromise if possible, and that's how that works. My second question is do you know our Senator Hansen then from north of North Platte? [LB463]

ELDON STARR: Know him well; we were in college together. [LB463]

SENATOR PANKONIN: Oh, all right. [LB463]

ELDON STARR: I hoped he was on this committee. He was last year. [LB463]

SENATOR PANKONIN: He was, yep. [LB463]

ELDON STARR: Uh-huh. [LB463]

SENATOR PANKONIN: Thank you. [LB463]

ELDON STARR: Thank you. Any other questions? [LB463]

SENATOR GAY: Don't see any. Thank you. All right, there's no other proponents. Any opponents, again? Anyone neutral? All right, we'll close on this. Senator Dierks, do you want to close on LB463? You want to close on LB463? [LB463]

SENATOR DIERKS: I think I will close on this one, Senator Gay,... [LB463]

SENATOR GAY: You bet. [LB463]

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SENATOR DIERKS: ...and maybe talk a little bit about all three of the bills. In answer to some of Senator Gloor's questions about radiology work, they would be legal to do this anyway with the bill we talked about before this one. And should tell the committee we spent several years working with these groups that have come here--the massage therapists, the chiropractors, the physical therapists. We've met with them in conjunction with the state board of examiners of medical...veterinary examiners, and we have done this over a period of several years. As a result of that we had the bill last year that I asked not to proceed with. After a certain length of time, we found we still had some difficulties. But this year I think we've met the objective and we're ready to go with it. I want to take the opportunity, at this point at least, to thank all these groups that came and testified today. They were very good about coming to these meetings. They've attended many meetings, spent lots of time, lots of miles, and they've been very helpful in our deliberations and helped us with this legislation. So my thanks to them. And, oh dear, let's see...I think maybe with that, I will go to the next bill. [LB463]

SENATOR GAY: All right. Is there any final questions on LB463 for Senator Dierks? Nope. Okay, we'll close the hearing on LB463. And LB586. [LB586]

SENATOR DIERKS: (Exhibit 1) Thank you, Chairman Gay and members of the Health and Human Services Committee. My name is Cap Dierks, that's spelled C-a-p D-i-e-r-k-s, and I represent Legislative District 40. I'm here today to introduce LB586 to the committee. LB586 is a cleanup bill for a bill passed by the Legislature last year--LB1022. It has two major provisions: Veterinarians are excluded from the definition of veterinary drug distributors if they are acting within the scope of their practice; and two, it makes clear that veterinary drug order expires and becomes void 180 days after the date it was issued. The law defines veterinary drug distributors as any person or entity other than a pharmacy that engages in the distribution of veterinary legend drugs in the state of Nebraska. This bill ensures that veterinarians are not held liable for federal requirements regarding actual label drug use, withdrawals, and cautionary statements being transferred to the producer receiving the product. Veterinarian drug orders must comply with federal law and should not be written without an expiration date. Under LB586, the veterinary drug order will now have an expiration date of 180 days after it's issued. I think that a member of the Board of Veterinary Medicine and Surgery is here and will testify on the need for these changes. I should tell you, I'll pass out an amendment that clarifies this bill a little bit. It requires that...it eliminates....excluding veterinarians. The bill does it twice; it only needs to be done once, so that's what we do. And then we also expand on the 180 days reference for prescriptions. I think that takes care of LB586 for me. [LB586]

SENATOR GAY: All right. Any questions? Don't see any. All right, thank you, Senator Dierks. [LB586]

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SENATOR DIERKS: You bet. [LB586]

SENATOR GAY: Proponents who would like to speak on LB586. Go ahead whenever you're ready. [LB586]

DON CAIN: (Exhibit 2) Okay. My name is Dr. Don Cain, C-a-i-n, from Broken Bow, Nebraska, and you're looking at an endangered species. I'm a food animal rural practitioner (laugh) of 25 years in central Nebraska, and I'm here to testify on behalf of the Board of Veterinary Medicine and Surgery in regards to LB586 and the amendment that Senator Dierks has just given. I also want to make it clear that there's a second part of my testimony that regards other items to the Veterinary Drug Distribution Act that you should have around, too, and it talks about completing the veterinary drug order, and that's what this packet of information is here. My job is to try to make this clear and nonconfusing for you. This it? Okay. And as Cap says, it is a cleanup legislation. I've learned one thing in my short time with legislative bills--there's this turtle and rabbit phenomenon. When you're watching it, it's going like a turtle, and when you turn your back it's like a rabbit, it jumps past you. And so we're trying to get everything together. And that's why my testimony is on behalf of the board and on behalf of me, individually. We've still got some things that we have to check in with the board on. Also, on my personal self, I was a cattle producer for 40 years. I know the gentleman that was here was doing it for 41--and there's my amendment, thank you--matter of fact, his cows are right across the road from mine on cornstalks right now. And also I was the last president of the Nebraska Stock Growers in area four, the first president of the Nebraska Cattlemen in area four, and from a pioneer family. I live in Broken Bow because that's where I want to live, basically. In general, the purpose of LB586 was to clean up the version that was actually passed. Prior to the end of the legislative session, the bill went back to the bill writers and the definition of a veterinary drug distributor was changed. The bill that the Board of Veterinary Medicine and Surgery signed onto, the Nebraska Veterinary Medical Association, everybody else, did not have that definition and, because of that, veterinarians were not defined as veterinary drug distributors, whereas FDA says that's part of the practice of veterinary medicine. Because of that change in definition, we felt like we had to include the words to be exempt from that. Also, we wanted to make sure that veterinarians were exempt from any of the requirements of a veterinary drug distributor. That's why originally it was put in there, and it's been since removed or we just have it in the one place, and we're all in harmony with that. Also, the expiration date was an oversight that we had all agreed on that needed to be added to it. The second part is in the harmonization of veterinary drug order, okay, to make it in harmony with federal, national, and state policies. And here we basically want to review the components of it, and I will...I think we now have this amendment here which has been passed around, okay. I don't have it in front of me, apologize for that, but I know what it's supposed to say and I will direct your comments to some of the things that are in it. [LB586]

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SENATOR GAY: Do you want a copy of it? [LB586]

DON CAIN: Yeah, that would be great if I could have a copy of it. [LB586]

SENATOR GAY: Are we talking AM401? Why don't you give them... [LB586]

SENATOR PANKONIN: Which one? Yeah. [LB586]

SENATOR GAY: We've got a couple. I'm getting confused here. Turn that light off too. I think he's the only one...then we'll...because I think you're covering a lot of territory here. [LB586]

SENATOR WALLMAN: Do you need my glasses too? (Laughter) [LB586]

DON CAIN: That shows my age, man. (Laugh) [LB586]

SENATOR GAY: So I think you're talking about AM401, on the top left-hand side. [LB586]

DON CAIN: That's right. [LB586]

SENATOR GAY: Is that the one you're looking at? [LB586]

DON CAIN: Right, exactly. [LB586]

SENATOR GAY: It says... [LB586]

DON CAIN: This one here clearly delineates that the information that's contained in that veterinary drug order gets passed on from the veterinary drug distributor to the layperson in charge of those animals--a big mistake that we don't want to see have happen, okay? That information has to get on to that person. The other thing has to do with the directions, the addition of some things to the drug order that goes: Directions for use of the drugs, including the species. Because in veterinary medicine we have one drug that can be used on multiple species. That has to clearly be delineated in that veterinary drug order. And then the other thing is number (vi), the cautionary statements was not included on there. That's clearly FDA policy and national policy. Now that addresses this--I'll go real quickly with this information. And since we haven't been able to have it all with the board, we thought we'd just present it to you guys. The very first one is labeled number one, it's called "FDA and the Veterinarian." It's from the FDA, and I'll take you to page 7 real quickly. In the highlighted part it says the information listed--this is from FDA--is supposed to have name, address, directions of use, any necessary cautionary statements including withdrawal times, okay? Those are not in our current legislation. That's from FDA, okay? I'll go on to example number two which is

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Wisconsin state statutes. Since Wisconsin is a dairy state, they have to deal with food animal medicine and regulations a lot. And I will take you to page...the third page on that one; I have it highlighted. And it says veterinary drug order, the prescription is to consist of name, address, species, strength, quantity, client, directions, prescription authorities. It's all right there. Number two, yeah, the one that is labeled number two, I'll try not to go too fast but my time is up. Okay, that's number one, Senator. [LB586]

SENATOR GAY: So these are just examples you want us to look at. [LB586]

DON CAIN: Yep, yep. [LB586]

SENATOR GAY: We can look at these on our own and then...I see what you're saying. [LB586]

DON CAIN: Okay, but just to show you, I've given you federal, state... [LB586]

SENATOR GAY: Yeah. Different examples of what others are doing. [LB586]

DON CAIN: ...AVMA guidelines, the Academy of Veterinary Consultants--which I'm a 24-year member of the Academy of Veterinary Consultants--and how they've addressed them. [LB586]

SENATOR GAY: All right. [LB586]

DON CAIN: And I final it up with number six and seven, which is the appendix to the National Cattleman's Beef Association and their guidelines, and number seven is the Nebraska Beef Quality Assurance deal. So quite a bit of time has been taken to put this information together for the committee so that you would have efficient use of your time in deliberating over this. I guess with that, I don't really have any other questions in my testimony unless you guys have any questions for me as a practicing veterinarian or the vice chairman of the Board of Veterinary Medicine and Surgery. [LB586]

SENATOR GAY: All right. Okay. All right, let's see if there's any. Any questions? I don't see any. All right, thanks for these references that we can look at. I don't see any. Thank you. Any other proponents? No other proponents. Any opponents? Anyone neutral who would like to talk on this? Cap, do you want to close on this? Oh, wait, wait--we have a neutral right here. Sorry. [LB586]

HANK CERNY: I apologize. [LB586]

SENATOR GAY: I was going quick; don't worry about it. Take your time. He's neutral. You're neutral, right? [LB586]

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HANK CERNY: I'm for. [LB586]

SENATOR GAY: Oh, a proponent? [LB586]

HANK CERNY: Yeah, proponent. [LB586]

SENATOR GAY: Oh, okay. That's fine. Go ahead. [LB586]

HANK CERNY: My name is Hank Cerny, C-e-r-n-y. I'm testifying on behalf of the Nebraska Veterinary Medical Association in support of LB586. We support the concept of the Veterinary Drug Distribution Licensing Act that was passed that year, but we believe the changes set forth in LB586 and the amendment passed out by Senator Dierks are necessary clarifications. We also believe that in Section 2 of the amendment, language is necessary to protect the animals by limiting a veterinary drug order to 180 days. We have worked closely with the Cattlemen Association to come to a consensus on this issue and believe we have found a good balance between the safety of the animals and safety of the consumer with the need of the producers who may not be able to have constant contact with their veterinarians. Thank you for all your time and I would be glad to answer any questions. [LB586]

SENATOR GAY: All right, thank you. Any questions? I don't see any. Thank you. [LB586]

HANK CERNY: Thank you. [LB586]

SENATOR GAY: Okay. Any more proponents? No more proponents. Any opponents that want to speak? Anyone neutral that wants to speak? [LB586]

DUANE GANGWISH: Good afternoon, Chairman Gay and members of the committee. My name is Duane Gangwish, that's D-u-a-n-e G-a-n-g-w-i-s-h, and I appear before you this afternoon as a registered lobbyist for Nebraska Cattlemen, representing the members who include farmers, ranchers, feeders, and veterinary drug distributors. My testimony is in a neutral position on LB586 because I wish to address some technical issues within that particular bill and possibly on some of the amendments proposed by Dr. Cain. A brief history of the matter is important. At the request of our members who are distributors of veterinary legend drugs, Nebraska Cattlemen brought this committee LB550 in 2007. It was the first attempt to create a licensure program for the purchase, possession, and sale of veterinary legend drugs. A veterinary legend drug is a drug under which federal law is required...as defined as a drug under federal law, is required, prior to being distributed, to be labelled with the following cautionary statement: Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian. I personally crafted LB550--poorly, I might add--and at the hearing requested that the bill be killed. (Laughter) Over the next year, we worked with stakeholders, including the

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Veterinary Licensing Board, the Department of Health and Human Services Licensure Division, Nebraska Veterinary Medical Association, senators, drug manufacturers, and distributors to craft a better solution which was the result of LB1022 introduced last session and amended by the committee and then amended twice on the floor. And the Veterinary Drug Distribution Licensing Act became law. We have worked closely with NVMA's representatives and have come to conclusions and support the amendment introduced by Senator Dierks. Section 1 of the bill emphasized the original intent, that veterinarians were not to be included in this. Section 2 of the bill creates a sunset date on the veterinary drug order, and after consultation with stakeholders we have no objection to this. What we do have some concern with is some of the proposals submitted in the AM401 before you. The number of refills was a portion of it that was described earlier to me. The word "refills" is listed in the pharmacy drug laws as a function provided by a pharmacist only. Virtually every state that has their Pharmacy Practice Act, the expiration date of prescription and nonprescription controlled substances is one year within the date written. This is a maximum time limit. Prescriptions can also be issued for a shorter period of time, such as 30 days or six months, at the discretion of the prescriber. Refills are authorized and/or quantities determined by the prescribers, not the pharmacist or the pharmacy. The PRN abbreviation is pretty commonly referred to as "as needed." It's commonly used and accepted in pharmacy and allows for refills of an indicated quantity as needed until the prescription expires. However, some states the quantity being filled cannot be identified as PRN, therefore requiring an actual quantity. If the vet does not want the producer to get unlimited quantities, they can easily indicate that on the VDO--for example, 12 bottles. We would support writing the veterinary drug order so as to identify the total quantity prescribed for a client because the client doesn't necessarily know, at the time the VDO is issued, what quantity they might need. I might get in 1,000 head of high-risk cattle tonight or tomorrow and I don't know, particularly, how many I'm going need. This would allow the distributor to offer quantity price breaks and the flexibility to accommodate customers with financial allowances, for instance, 250 ml bottles versus 500. Directions for drug and including species--this is a part of the federal labeling; it's on the container. The act requires that products be sold and unbroken, manufacturer's label. That is part of some veterinary's practice to put those precautionary statements on the VDO. I have with me one that--I am personally a partner in a feedlot--our consulting veterinarian does put those on our VDO so I think it should be at that discretion. In regards to the VDO being passed on to the layperson, we believe this is also required in the act today because it has to be. Drugs cannot be sold by the distributor without a VDO and then with a VCPR, valid client-patient relationship. Subordinate to the requirements of the act, it's still the responsibility of the prescribing veterinarian to educate and instruct the layperson in the control of an animal and in the proper use and handling of the drugs and the treatment. Thank you, Senator Gay, for the opportunity to visit with you. [LB586]

SENATOR GAY: Thank you. Any questions? Senator Pankonin. [LB586]

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SENATOR PANKONIN: Thank you, Chairman Gay. Mr. Gangwish, obviously, then you think the bill needs some more work. I'm just curious about why you folks weren't working with Senator Dierks, or you have been, or...why are we...have these many issues when we're at this stage? [LB586]

DUANE GANGWISH: Just to the contrary, Senator Pankonin, we've worked closely with Senator Dierks on this. I and my counterparts have met with his office, I think, on two occasions. We've met with representatives from NVMA on the language in the amendment to LB586 as Senator Dierks presented to you. And we're completely in support of the language of those two additions dealing with the exclusion of the veterinarian and the pharmacy from the act, and the age limit on the VDO. [LB586]

SENATOR PANKONIN: But you still have some other issues. [LB586]

DUANE GANGWISH: My concerns, sir, and our objections have to do with the second amendment that you were presented with today. [LB586]

SENATOR PANKONIN: Okay, thank you. [LB586]

SENATOR GAY: All right. Questions? Any other questions? I don't see any. Thank you. [LB586]

DUANE GANGWISH: Thank you. Thank you very much. [LB586]

SENATOR GAY: Anyone else neutral? You want to close, Senator Dierks? [LB586]

SENATOR DIERKS: (Exhibit 3) Thank you, Senator Gay, I will take a moment to close. I'm handing out another letter that was received after the hearing started this afternoon, and if I'd had it earlier I'd have given it to you quicker. It's from a veterinarian over by Columbus; he has a letter he wants in the record. I want to thank the committee for their attention and for their questions and their interest in this process. It's very important to, I think, not only veterinarians in this state but to the animals we care for that we are able to do these things correctly and efficiently and with proper credentials. And with that, I would like to ask your perseverance with this because we want to work with you and try to find some way to make sure that everything...that everybody is going to be happy with what we do. And I think, if we can, we'd like to get this...even maybe put it into one bill if that's possible. Maybe three of them can go in one, whatever we can work out. We'd like to do that and then maybe I could find somebody that could prioritize it. Maybe I can get Senator Gloor to prioritize it. (Laughter) I'd like to have a hospital administrator get involved with this thing, guys. (Laughter) [LB586]

SENATOR GAY: He had some good questions though, you know. [LB586]

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SENATOR DIERKS: Yep. [LB586]

SENATOR GAY: Senator Pankonin has a question for you. [LB586]

SENATOR PANKONIN: Thank you, Chairman Gay. Senator Dierks, thanks for all your work on this, and knowing your background and, as we know, we both have a couple of veterinarians in northeast Nebraska I feel strongly about. You're one of the two. But I appreciate all the time you spent. I know your own lifetime of experience is so helpful. And appreciate the fact that you want to work with all groups to try to come up with the best possible legislation, so appreciate that. [LB586]

SENATOR DIERKS: Okay. Yeah, you know, to all of you, my office is always open. If you have some suggestions for us, why, come right over. Thank you. [LB586]

SENATOR GAY: Yeah, we will. [LB586]

SENATOR DIERKS: Thank you. [LB586]

SENATOR GAY: All right. Thank you. With that, thank you. Have a good weekend, and see you Monday. [LB586]

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Disposition of Bills:

LB407 - Indefinitely postponed.

LB408 - Indefinitely postponed.

LB463 - Placed on General File with amendments.

LB586 - Indefinitely postponed.

Chairperson

Committee Clerk