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Health and Human Services Committee
January 20, 2010

[LB701 LB702 LB706 LB726 LB766]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 20, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB706, LB701, LB726, LB702, and LB766. 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. We'll get started. Thank you for joining the Health and Human Services Committee today. We've got five bills and we're going to start out with LB706, Senator Haar's bill. Just some quick introductions and some housekeeping duties. This is our first hearing of the year, but we always like the phones shut off, so hopefully our members have their phones or don't have them or they're shut off because that's happened before. But if you could, you know, silence your phones out of respect for the process. This is video or web recorded, so you're on the web, and audio recorded. If you are going to testify on a bill, you know, just come on up, work your way up, and wait in line after the senator introduces, we'll do that. Other things, if you want to just hand in...you don't want to come up and testify verbally and you have something written down you want to give to members because many people have already sent us things and we do put those in the record, too, and we read those, so if you have comments you'd like to publicly put on the record, give those to the clerk. We have two pages. I think we have one or two pages, but they're busy making copies now. But if you just hold the copies up, they will get us the copies. If you're going to hand out copies to members, usually we request ten for the clerk and our legislative staff as well, so we'll do that. I'm going to...

SENATOR PANKONIN: Testifier sheets over there in the corners.

SENATOR LANGEMEIER: Oh, yes. Thank you. Thank you, Senator Pankonin. There's testifier sheets over there. And what we'd like you to do, too, when you come up, state your name and please spell it out because Denise recording that, sometimes, you know, we just don't understand, so if you spell it out it sure helps a lot when they're transcribing these tapes because they all get transcribed and then put into the record. So we will start out. I'll introduce myself. I'm Senator Tim Gay, and then we'll start over on the right with our legal counsel, Michelle.

MICHELLE CHAFFEE: I'm Michelle Chaffee.

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

SENATOR CAMPBELL: I'm Senator Kathy Campbell of District 25, Lincoln.

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SENATOR PANKONIN: Senator Dave Pankonin, District 2, and I live in Louisville.

SENATOR STUTHMAN: Senator Arnie Stuthman, District 22 from Platte Center.

SENATOR HOWARD: Senator Gwen Howard, District 9 in Omaha.

SENATOR WALLMAN: Senator Wallman, District 30, Cortland, Nebraska.

DENISE LEONARD: And I'm Denise Leonard. I'm the committee clerk for several committees. (Laughter)

SENATOR GAY: Yeah, yeah. Anyway, one thing I did want to mention too. We do have light system here because many times we have a lot of bills that we cover out throughout a year. But the introducer will get as much time as they want to open and to close, but if you're going to testify we have a five-minute light. So when that light turns red, you're at your five minutes. But green up to four minutes, yellow is...green up to three, yellow at four, and then when your five is up the red light comes on. So we try to enforce that best we can. The reason why: If we're here until 5:30 tonight and you've testified first, the person waiting until 5:30 needs the same respect as the person at 1:30. So that's why we do that, not to be hard. We do appreciate what you have to say, but if you're not repetitive that certainly makes everybody...it makes for a better experience for us, too, because then we truly can pay attention to what you're doing. Throughout the day, especially early in the session, people will be coming and going probably. I don't know if anyone is going to testify on other bills that they may have introduced in other committees. So if a senator gets up and leaves, no disrespect, but they're probably going to go testify in a different committee. If I would have to go, and I don't think I do today, but Senator Pankonin is our Vice Chair and he will take over. So with that, all the housekeeping, thank you. Senator Haar, go ahead.

SENATOR HAAR: Senator Gay and members of the committee, just first off the record to let you know that with cell phones and things, you know, old dogs can learn new tricks. Both Senator Wallman and I, we Twitter, we tweet, we've got Facebook, that whole thing, (laughter) so. My bill today is very brief and won't take too much time. LB706 is really a cleanup in the statutes. It gives the Commission on Deaf and Hard of Hearing explicit statutory authority to establish and charge fees for initial competency assessments for sign language interpreters. This is the current practice, and the State Auditor has recommended that they have this authority in statute. And with that, I believe we'll have somebody testifying from the commission, but I'd also waive my closing, so. [LB706]

SENATOR GAY: Okay. Thank you, Senator Haar. Any questions for Senator Haar? I don't see any. Oh, Arnie has one already. Wow! [LB706]

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SENATOR STUTHMAN: (Laugh) Thank you, Senator Gay. Senator Haar. [LB706]

SENATOR HAAR: Yes. [LB706]

SENATOR STUTHMAN: You just mentioned assessed fees... [LB706]

SENATOR HAAR: Uh-huh. [LB706]

SENATOR STUTHMAN: ...for this competency assessment. Who's going to be paying those fees, the individual, or is it going to come from the agency or? Explain that part of it to me. [LB706]

SENATOR HAAR: Okay. I would like to defer that to the next person to testify. [LB706]

SENATOR STUTHMAN: Okay, okay. [LB706]

SENATOR HAAR: Okay. [LB706]

SENATOR STUTHMAN: Okay. Thank you, Senator. [LB706]

SENATOR HAAR: Um-hum. [LB706]

SENATOR GAY: Thank you, Senator Haar. [LB706]

SENATOR HAAR: Thank you very much. [LB706]

SENATOR GAY: You bet. Hear from proponents, LB706. [LB706]

PETER SEILER: (Exhibit 1) Senator Gay, members of the committee, thank you for allowing me to come today. My name is Pete S-e-i-l-e-r, Seiler, Pete Seiler. I'm the Executive Director for the Nebraska Commission for the Deaf and Hard of Hearing, and I would like to talk about LB706. As Senator Haar had explained, it's a very simple bill. We're just correcting an oversight when the bill was first passed for the interpreter licensure. What we overlooked was the permission given to the commission to charge the interpreters a fee for taking the initial assessment exam. It was brought to our attention by the State Auditor, Mike Foley, F-o-l-e-y. He gave me a letter describing what we had overlooked, so I've included that in your copies. Really, there's no financial impact on our budget. We're not asking for any increases in funding. It's just a correction of what we've overlooked and giving us permission to charge a fee. We have authority to charge a fee for other things, but not for the initial testing that the interpreters are taking. If I can answer any of your questions, I'd be happy to. [LB706]

SENATOR GAY: Thank you. Are there any questions? Senator Stuthman has a

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question. [LB706]

SENATOR STUTHMAN: Thank you, Senator Gay. Mr. Seiler, thank you for your testimony and that explains...that gives me the answer on the charging that I had asked before, so I appreciate that. [LB706]

PETER SEILER: You're welcome. [LB706]

SENATOR GAY: All right. Any other questions from the committee? I don't see any other questions. All right. Thank you. [LB706]

PETER SEILER: Thank you. [LB706]

SENATOR GAY: Are there any other proponents who would like to speak on this issue? Any opponents? Anybody in the neutral capacity? I don't see any. And Senator Haar waived his close, so with that we will close the public hearing on LB706. And is Senator Hadley here? [LB706]

SENATOR GLOOR: His LA just went out to grab him.

SENATOR GAY: Oh. Well, let's...that went probably quicker than he thought. We'll just wait a few seconds. Oh, Senator Hadley, we're waiting for you. That got done quicker than we thought.

SENATOR HADLEY: I apologize. It was riveting on some Medicare tax that we were dealing with, so.

SENATOR GAY: That's all right. You here to introduce LB701?

SENATOR HADLEY: Yes. Chairman Gay, members of the committee, my name is Galen Hadley, H-a-d-l-e-y. I represent the 37th District in the Legislature and I appreciate the opportunity to appear before you. I'm here for LB701. This is an ICF/MR Reimbursement Protection Act. It was introduced at the behest of the nongovernment ICF/MRs--ICF/MRs are Intermediate Care Facilities for the Mentally Retarded--in the 2004 Legislature for the purpose of instituting a provider tax on ICF/MRs. Presently, there are three ICF/MRs in Nebraska in addition to the Beatrice State Developmental Center. They are in Axtell, Grand Island, and Beatrice and they're run by Mosaic. Reimbursement to the nongovernment facilities has lagged significantly behind monies expended at BSDC. And it was...though in 2004, that implementation of an ICF/MR to level the playing field and meet vital needs. A word about provider taxes. This is a means of maximizing federal Medicaid reimbursement that may at first seem to be sort of a fast shuffle but, in fact, it is entirely legitimate and used by many of the states as a means of capturing additional federal financial participation for their Medicaid programs.

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It works like this: Nebraska levies a tax on all ICF/MRs. It is fairly applied because every resident of the nongovernment ICF/MRs in Nebraska is a Medicaid patient, 100 percent of them. The facility pays the tax which is a legitimately reimbursed expenditure of the Medicaid program. The facilities are reimbursed the cost of the tax with federal Medicaid matching funds making up about 60 percent of the reimbursement. This is the federal government match, gives 60 percent of the reimbursement that comes back. The federal funds that remained after the tax had been reimbursed are the legitimate province of the state government. At the time of introduction of the original legislation, the ICF/MRs went to the then Department of Finance and Support proposing to enact a provider tax. The department concurred. Former Senator Dennis Byars, the sponsor of the legislation, wanted a certain amount of the proceeds to be devoted to reducing the developmental disabilities waiting list. The then leadership of the Finance and Support agency felt that the funds remaining would amount to a reimbursement windfall for the ICF/MRs and proposed limiting their share of the proceeds to \$300,000 with the remaining balance going to the General Fund. The sponsors of the legislation agreed to this diversion. But after the first year of the distributions and after a change in leadership at the Department of Finance and Support, there has been no further distribution of funds to the nongovernment ICF/MRs which initiated the process in the first place. Over the past several years, the ICF/MR Reimbursement Protection Act has each year contributed some \$1.5 million to the General Fund and nothing to the nongovernment ICF/MRs. Now, this is in the past. Right now, this number has gone down considerably because we are no longer getting Medicare funds for Beatrice, so there's no federal match anymore because we're not getting Medicaid funds for Beatrice. They desperately need this money. Because their Medicaid reimbursement has, over the years, fallen so far behind, they have experienced increases in personnel costs. The facilities are now finding themselves unable to recruit and retain the numbers and quality of the staff which is needed to provide adequate care and services to their residents. An example of this is right now in...I found an ad last March for Beatrice, Beatrice State Developmental Center: direct-care worker, which is one of the lowest level worker, starting at \$11.12 an hour. Mosaic's starting wage now--now--is up to \$9 an hour with the money we gave them last year. So there's over a \$2 difference between what Mosaic can pay and what Beatrice paid, and Beatrice had problems finding qualified people. I looked...you could go to work for the census for \$11.50 an hour, basically going door to door to take the census. Helping people in a healthcare facility gets you \$9 an hour. It is a very difficult situation. We're all familiar with the recent history of the Beatrice State Developmental Center. Since coming to the Legislature last year, I found that the most frequently asked question about the situation at BSDC is: How did it get so bad without anyone coming to the Legislature and, in effect, saying we're in trouble and unless some additional resources are made available to use, some bad things are going to happen here? I don't know why that never occurred. But I'm telling you today that the nongovernment ICF/MRs are, without being scaremongers or attempting to sound like Chicken Little here, say to you that our situation of having adequate resources to effectively perform the functions the families,

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the public, and the Nebraska state government appropriately expects of us, we are in the same trouble and the situation continues to grow more urgent. With that, I would urge your voting out LB701, and I would be happy to answer any questions that I can, and there are people from Mosaic here that will probably answer the more technical questions. [LB701]

SENATOR GAY: All right. Any questions for Senator Hadley? I don't see any right now. Are you going to stay around for closing and just listen? [LB701]

SENATOR HADLEY: I will stay to close, yes. Thank you, Senator Gay. [LB701]

SENATOR GAY: Okay. Thank you, Senator. All right. Any proponents on LB701? [LB701]

SCOTT HOFFMAN: (Exhibits 2 and 3) Chairman Gay and members of the Health and Human Services Committee, good afternoon. My name is Scott Hoffman, H-o-f-f-m-a-n. I'm the finance director for Mosaic. What I passed around was my prepared testimony. Senator Hadley has addressed a lot of what's in my testimony, so I'm going to focus on kind of walking you through in regards to how the provider tax works for Mosaic. The second handout, the one that has the figures, currently Mosaic pays in approximately about \$1 million. That \$1 million generates about \$644,000 in an additional federal match. So \$1.6 million is going into the ICF/MR Protection Act Fund each year. Right off the bat, that \$1 million comes back to Mosaic so there's a remaining balance of \$644,000 in there. And then currently, the department takes \$55,000 of that to administer that fund and \$312,000 goes to address the waiting list on the community-based side. That leaves over \$277,000 in the fund based on what Mosaic is contributing. Now, like Senator Hadley mentioned, Beatrice was currently paying into the fund but when they lost their certification they no longer get the federal match. What I've listed below there is for fiscal year '10 and '11. As you can see, our ICF facilities received a 2.5 percent increase. We only received \$173,000 from the state, and the federal portion was \$313,000. So currently the statute requires \$300,000 to be passed to the nongovernmental ICF/MRs. What I'm trying to point out is, is that is not being passed to us currently. The other thing that I'd like to point out is just to talk about the fairness. Back in 2004, Mosaic went to the department--this was when the state was kind of in a financial crisis and we were facing some rate reductions. Well, we went to the department and proposed the provider tax and they worked with us to create the provider tax. At that point in time, it eliminated the rate reduction that was proposed. I believe it was around a 10 percent rate reduction. We worked with the department to create this fund. Since the fund has been created, over \$10 million is being transferred to the state General Fund, almost \$1.5 million each fiscal year. We believe, in all fairness, that the ICF/MRs are the ones that are creating the additional federal match dollars; it should be reallocated back to address the critical needs at these facilities. And so it's pretty much a fairness issue that I just don't know how...in all fairness, this money

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should be coming back to the ICF/MRs instead of going into and balancing the state General Fund. One thing that...reviewing the fiscal note that was released this morning or late yesterday afternoon, our intention with the amendment to this is really just to recapture the federal matching dollars, the additional federal matching dollars. We will work with Senator Hadley's office to amend the bill in regards to...the concern in regards to the money. How we originally wrote it was, is that the additional funds would be used to increase salaries and benefits at our facilities. We will amend the bill just to say that simply the federal matching dollars needs to go back to the ICF/MRs to increase their funding. Our intention is not to ever make this fund go into a negative balance by any means. Our fund was just to recapture the additional federal matching dollars. And I'd be happy to answer any questions. [LB701]

SENATOR GAY: Thank you, Scott. Any questions from the committee? I don't see any. I've got a quick question. 2001, you said this was when it was... [LB701]

SCOTT HOFFMAN: 2004... [LB701]

SENATOR GAY: 2004. [LB701]

SCOTT HOFFMAN: ...was the session that it was first passed. [LB701]

SENATOR GAY: Okay. [LB701]

SCOTT HOFFMAN: So we've been using it for about six years now. [LB701]

SENATOR GAY: All right. Okay. Any questions? I don't see any. Thank you. Any other proponents? Any opponents? Anyone neutral on LB701? I don't see anyone. Senator Hadley, you want to close? [LB701]

SENATOR HADLEY: Just a couple of quick comments. Thank you again. I got the fiscal note this morning about a quarter to nine, so we were kind of scrambling to get that. It is our intention to amend it to make sure that we capture what the fiscal note is saying. Our goal is not to end up in a deficit position. We're not going to ask for anymore money at this point in time. We can only expend what the tax is. You can't...we're not asking for more than the tax that is sent in, which is the \$1 million. Secondly, eventually we're going to get Beatrice straightened out. I think that's going to happen. And at that time we have to make sure we take a look at these other ICF/MRs, the nonstate ones, to see that we're fair with them because if we get Beatrice straightened out, we can't put the burden back on Mosaic to be doing things that we straightened out at Beatrice. We've got to give them...if we're going to give Beatrice funding to keep going and doing it correctly, we've got to do the same thing for Mosaic. And I think this a way, a potential way down the line, that we can do this using this method. So there will...I have to be honest with you, at some later date there will be a discussion of where the dollars are

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going to come from but it will be at the same time we're going to be discussing the Beatrice when we finally get back the Medicaid and Medicare certification there. [LB701]

SENATOR GAY: Senator Wallman. [LB701]

SENATOR WALLMAN: Yes, honorable Senator Hadley. Glad to have you here today. [LB701]

SENATOR HADLEY: Oh, it's always a pleasure to be before this august group. (Laughter) [LB701]

SENATOR WALLMAN: In regards to personnel, you know, differential in cost, that is atrocious. But leaving that aside moneywise, do you feel like BSDC personnel, especially professionals, you know, psychologists, psychiatrists, some of those, we should pay for as a state instead of putting more budget issues on there, on Mosaic? Is that...would that work do you think? [LB701]

SENATOR HADLEY: I think that would be a possibility to look at, Senator Wallman. But I think what we're saying for Mosaic, that there is almost a structural problem there that's across most of the employees at Mosaic. And the reason I say that is I had a chance to tour Mosaic. And, you know, they have people there that are very dedicated, which I'm sure Beatrice has also, and these people are working at very low-paying jobs but they're very dedicated to it. So I want to make sure that we not only take care of the psychiatrists and psychologists, but we also take care of the person who's helping the patient in bed, helping them bathe, and such as that. And when you're competing with McDonald's paywise and when gas prices got up to \$4.50 a gallon, it was difficult to get help from UNK, for example, to come down to Axtell even though it's only 20-25 miles away because of the driving involved. So I'd like...you know, we can't continually have Mosaic behind Beatrice. And we want...and I think it's the goal of the Legislature to make sure Beatrice is successful in what they're doing. [LB701]

SENATOR GAY: Any other questions? Senator Stuthman. [LB701]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Hadley, would you be willing to share the fiscal note with us or is that such a shock that we don't want to go into it? [LB701]

SENATOR HADLEY: We don't have one, Senator Stuthman. [LB701]

SENATOR STUTHMAN: You don't have one yet. [LB701]

SENATOR HADLEY: We don't have one. [LB701]

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SENATOR STUTHMAN: Okay. [LB701]

SENATOR HADLEY: Basically, we were told we won't know until Beatrice gets back to being Medicare/Medicaid certified. [LB701]

SENATOR STUTHMAN: Okay. [LB701]

SENATOR HADLEY: Or I guess it's Medicare certified is what they lost, correct? [LB701]

SENATOR STUTHMAN: Yeah. Um-hum. [LB701]

SENATOR GAY: Yeah. [LB701]

SENATOR STUTHMAN: Okay. Thank you. [LB701]

SENATOR HADLEY: Um-hum. [LB701]

SENATOR GAY: I glanced at the fiscal note that we were looking at right here. [LB701]

SENATOR HADLEY: Um-hum. [LB701]

SENATOR GAY: I kind of glanced through it. That's what it says basically is what you're telling us. Okay. Any other questions for Senator Hadley? [LB701]

SENATOR CAMPBELL: Is this the fiscal note? [LB701]

SENATOR GAY: Yeah, the one in here, the one I got is... [LB701]

SENATOR HADLEY: So my understanding, there will not...that is the fiscal note right now. So if this bill is passed out of committee and were to be passed on the floor, there would be no impact right now on the General Fund. [LB701]

SENATOR GAY: But since we're not receiving those federal funds, they can't give you an accurate indication. [LB701]

SENATOR HADLEY: That's right. Down the line whenever Beatrice gets back. [LB701]

SENATOR GAY: Yeah. And, you know, I've had that conversation actually just about an hour ago with somebody and you probably have, too, but when the money...and we will be relicensed in BSDC I'm sure. When, we don't know but we will do that. When those dollars come in, I guess there's a certain point...you know, Senator Wallman talked about psychiatrists, and are you talking a certain level of a technician because you've

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talked many times about the daily technician, psychiatrist, psychologist, all these others. Would you...how would you do that? Convene this group together again and work something out with them or would you go clear from top down? [LB701]

SENATOR HADLEY: Yes, and we would look at, you know, what it would take. We did this last year. I actually carried a bill last year and took it to the Appropriations Committee where we did look at basically all the employees for Mosaic and what it would take to be...what we thought would be, you know, an appropriate amount. And then we were asking for at that time that then the raises would be...that they would get would be determined by the same raises that you give in Beatrice. [LB701]

SENATOR GAY: Right. So, well, I guess I'm looking at this technically when it's done. This was done in 2004 before any of us were around probably. [LB701]

SENATOR HADLEY: Were around. [LB701]

SENATOR GAY: So what I'm saying, you got that, wouldn't you have to get these people together again and say, this is what we're going to use the money for because obviously the agreement fell apart, what we did have, otherwise you wouldn't be here doing this. [LB701]

SENATOR HADLEY: That's right. I think, Senator Gay, what you're saying is, yes, we would have to sit down because obviously what's happening before Beatrice had the problems, the money was going to the General Fund. The money was going to the General Fund. So, again, you're right, you know it's being used someplace. [LB701]

SENATOR GAY: Well, it was placed in a cash account or something like that. [LB701]

SENATOR HADLEY: That's right. Well, I think it's actually going into the General Fund, just into the General Fund. [LB701]

SENATOR GAY: Well, I guess one more question, or a statement I guess... [LB701]

SENATOR HADLEY: Okay. [LB701]

SENATOR GAY: ...is, you know, we look at these people, at least I do and I think most of these committee members, they are partners with us to provide the services, but also, you know, we don't run the day-to-day operations. So there's kind of a...it's a unique situation. But now we're working together across the whole field, and I think things are looking very good. When those monies do come back, though, I'm with you, I think we can't ignore the problem. But you know as well as I where we're at on the budget now. [LB701]

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SENATOR HADLEY: Sure. [LB701]

SENATOR GAY: And when that comes back, I'm sure you'll be back as well. [LB701]

SENATOR HADLEY: I'm sure we will...I would expect and be willing to make the case that this is, you know, appropriate we do this. But I want to be sure that it doesn't get, quote, lost in the shuffle when we're...that we get so concerned about Beatrice getting finally back. The last thing I want to see as a member of this body is to get Beatrice back and working well and all of a sudden that there's headlines in the paper that Mosaic... [LB701]

SENATOR GAY: Right. Not funded properly on all of it. [LB701]

SENATOR HADLEY: That's right. That's right. [LB701]

SENATOR GAY: Yeah. All right. Any other questions for Senator Hadley? [LB701]

SENATOR HADLEY: Thank you. [LB701]

SENATOR GAY: Don't see any. Thank you. [LB701]

SENATOR HADLEY: Appreciate it. [LB701]

SENATOR GAY: All right. Closes the hearing on LB701. I see Senator Karpisek is here to introduce LB726. We're rolling right along. [LB701]

SENATOR KARPISEK: (Exhibit 4) All right. (Laugh) Thank you, Senator Gay, members of the Health and Human Services Committee. My name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. I do have some handouts. I'm here today to introduce LB726 which amends the Alzheimer's Special Care Disclosure Act to require not less than four hours annually of dementia-specific training pursuant to a prescribed curriculum as approved by the Department of Health and Human Services. We're getting a handout circulated, and I gave them all away to her so I don't have mine. First bill of the year is kind of tough, isn't it, (laughter) to get back in the groove. [LB726]

SENATOR HOWARD: Do you need a copy of your own? [LB726]

SENATOR KARPISEK: I will need a copy. Thank you. I gave mine away to someone else, that's the problem. Handed out what is a proposed amendment to the bill. "Staff training and continuing education practices which shall include, but not be limited to, four hours annual of direct-care staff." Direct-care staff--the people that deal directly with the patients, the residents--meaning I don't intend this to have people in maintenance

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have to have four hours of related dementia-specific training. "Such training shall include topics pertaining to the form of care or treatment as set forth in this disclosure. This requirement shall not be construed as to increase the aggregate hourly training requirements of the special care unit." Right now, the special care units need 12 hours of annual training. My intent is for four of those hours to be dementia-specific only if they have an Alzheimer's or dementia ward. So I do not intend to...I don't want to create 16 hours of training; just that the 4 hours would be included in the 12 hours. This proposed language is offered in an attempt to further clarify the intent and purpose of LB726. It's further offered in an attempt to provide a fiscally neutral piece of legislation that will continue to strengthen training requirements as they pertain to the care and needs of the residents who are affected by the Alzheimer's Special Care Disclosure Act. We got an A bill on the bill that was at \$60,000-some. We all know how that's working out for us this year. So it takes out the part about the prescribed curriculum. And the surveyors would just have to do the same things as they do now when they come and survey a home, and I will let others behind me talk of that or I'll talk about that in closing. This bill is not intended to place a burden on facilities with regard to additional training hours or additional budget considerations. LB726 is, in fact, intended to work with the training guidelines and regulations currently in place for staff and facilities as they pertain to the Alzheimer's Special Care Disclosure Act to better serve persons with Alzheimer's disease, dementia, or a related disorder. Again, I'd be happy to work with the committee as you see fit how we can make this tighter and not intrusive. This did come from the Alzheimer's Association and we have people behind me who will testify. We got a task force together over the interim and I just want to tell you quickly who was involved. Myself, and my LA, Alycia Tiemann. We had facilitators Clay Freeman and Teresa Stitcher Fritz who are both with the Alzheimer's Association, Midlands Chapter and Great Plains Chapter, a representative each. We had representatives of the Alzheimer's Association: Karen Noel, president, and Duane Gross, president/CEO, of Midlands and Great Plains again. We had a person with Alzheimer's; we had persons caring for persons with Alzheimer's. Mark Intermill with Nebraska AARP; June Pederson, Lincoln Area Agency on Aging; a person conducting Alzheimer's research, Dr. Bill Burke with UNMC; University of Nebraska Gerontology Department, Dr. Julie Masters. A representative of a nursing home facility were Heath Boddy of Adams and Amy Fish of Lincoln; a representative of an assisted-living industry, Marsha Stork, Emerald Care in Lincoln; a representative of adult day-care services, Jeannette Denson from Broken Bow; a representative of healthcare industry, Michaela Myers from Omaha; and a licensed healthcare provider specializing in the practice of gerontology, Mary Rauner of Lincoln. So we had a very good group, a wide-ranging group that we thought we could come together and try to do something with Alzheimer's care. Truthfully, a bill that I would have had probably would have stretched a lot farther. But I think this is a good first start trying to make sure that people who are in adult-care facilities and they're advertised or they're in an adult-care facility with an Alzheimer's wing, that they are Alzheimer's, that there is a difference with them than just a regular one--what do you do different with the Alzheimer's residents. There is also some concern about overlapping

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of these hours, those 12 hours. In my thought about this, I wouldn't mind if it's overlapping. If you're having a tornado drill, a fire drill, something like that, and one hour of that is how we take care of the Alzheimer's residents if we would have to evacuate, to me that's fine. If another hour or two hours was the entire group, just those people with direct care, how are they going to do it for the Alzheimer's patients, to me that's fine. I think that we just need to make sure that the people that have Alzheimer's are...the people who take care of them need to know very well what is expected because it is a whole different group of people. I have no doubt that most of the care facilities in the state are already doing this in much more than four hours. But I think that we need to set a level that they have to do to say that they are Alzheimer's approved, if you will. That is the intent of this legislation, and if you have any other questions, I'd be glad to...or any questions, I'd be glad to take them. [LB726]

SENATOR GAY: Thank you, Senator Karpisek. Senator Wallman. [LB726]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Senator Karpisek, for coming. I know this an emotional issue for a lot of people. And do you feel that there is adequate rooms for people with Alzheimer's or dementia in the state? [LB726]

SENATOR KARPISEK: That's a good question. I don't know if there is adequate. I guess...I don't think for what's coming as the baby boomers get older, but I think that we're moving down that path and more are getting to be that way. I think that we have a lot...we know a lot more about it now, how to handle it: early recognition, I think. And as I talked about it, I would have a different, more wide-ranging bill. Early recognition would be something that I would like to focus on. But I think that there will be more and I think that the health industry is doing a good job, and I think that it will expand, unfortunately. I wish we didn't have any of these. [LB726]

SENATOR WALLMAN: Yeah. [LB726]

SENATOR KARPISEK: But unfortunately we do, so hopefully there will be enough for you and I. [LB726]

SENATOR WALLMAN: Yeah, we had a family member with...and the only place we could get her assessed was really in Kansas. Marysville, Kansas, has a mental health hospital. [LB726]

SENATOR KARPISEK: Well, and it's hard to diagnose this. [LB726]

SENATOR WALLMAN: Yeah. [LB726]

SENATOR KARPISEK: And maybe it's changed now. It was only upon autopsy to know if it was really Alzheimer's. [LB726]

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SENATOR WALLMAN: Yeah. [LB726]

SENATOR KARPISEK: But there are many different kinds of dementia that it doesn't really matter to me what they have... [LB726]

SENATOR WALLMAN: Yeah. [LB726]

SENATOR KARPISEK: ...it acts the same way. I just want to make sure that they're safe and that they're cared for the way we want them to be. And, again, I don't see this as a huge problem. I think most of the places are already doing this, but I want to make sure that when they say that they are an Alzheimer's facility that it means something. [LB726]

SENATOR WALLMAN: And they are reimbursed at a different rate for Medicare, right? [LB726]

SENATOR KARPISEK: As I understand it, Senator. Anyone on this committee would know more about that than I would. [LB726]

SENATOR WALLMAN: Thank you, Senator Gay. Thank you, Senator Karpisek. [LB726]

SENATOR GAY: All right. Any other questions? Senator Gloor. [LB726]

SENATOR GLOOR: Thank you. Thank you, Chairman Gay. Senator Karpisek, I have just a couple of questions. Am I correct that we're trying to address what is a marketing issue here? In other words, people are marketing themselves as having an Alzheimer's unit and, in fact, they don't really do anything different than the rest of their long-term care patients? [LB726]

SENATOR KARPISEK: A little bit that way. I think maybe that's my afterthought, maybe even as I sat down. (Laugh) But mainly to make sure that if they are...do have Alzheimer's dementia patients, that we're caring for them the right way; that people who do care for them know, to recognize, to know how to respond with them because you may tell them 20 times in an hour, you know, to do something, and they'll be not doing it. And it can be very frustrating. Again, if you'd have to do a fire drill or if there was an evacuation, I think you need a different plan. I'm not saying they don't have them and maybe other people will be able to speak to that, but just to realize that it is a completely different group of people and that it needs to be addressed as such. [LB726]

SENATOR GLOOR: Okay. Thank you. [LB726]

SENATOR KARPISEK: Thank you. [LB726]

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SENATOR GAY: Any other questions? I don't see any. Are you going to stay around? [LB726]

SENATOR KARPISEK: I will. [LB726]

SENATOR GAY: All right. Thank you, Senator Karpisek. [LB726]

SENATOR KARPISEK: Thank you. [LB726]

SENATOR GAY: How many proponents would like to speak? Start to come on up. Any opponents to this today? Anyone neutral want to talk? All right. All right. [LB726]

TERESA STITCHER FRITZ: (Exhibits 5 and 6) Good afternoon. I am Teresa Stitcher Fritz. My first name is T-e-r-e-s-a, then Stitcher, S-t-i-t-c-h-e-r--I'll fill this out--and Fritz, F-r-i-t-z. I'm program director for the Alzheimer's Association of the Great Plains. And we've had the pleasure of working with Senator Karpisek and his staff, and working over the summer with the task force that he helped bring together and we're very appreciative of that. The Alzheimer's Association of Nebraska, I...yesterday, late afternoon, and this morning we talked with Senator Karpisek's staff about the amendment, and we understand the need for this amendment in a time when the fiscal situation is what it is. Senator Gay, we appreciate you signing on as a cosponsor for our bill. And I know that you've already received some e-mails from family members who...Barb Sibley whose mother had Alzheimer's disease, Lela Shanks who cared for her husband Hughes and wrote the book about caring for him, and others. But I did want to read my testimony into the record. And then offer...I have a letter from Mr. Lee Sapp who couldn't be here today due to a medical appointment, but he does have a letter that he asked for me to put into the record for him. The Alzheimer's Association-Nebraska supports LB726 which provides for a minimum of four hours of dementia-specific training to be offered to staff in facilities that operate an Alzheimer's Special Care Unit as part of their services. For more than 25 years, the Alzheimer's Association has been committed to advancing Alzheimer's research and enhancing care, education, and support for individuals affected by the disease. In 2005, the association launched its Campaign for Quality Care, Foundations of Dementia Care. This education campaign specifically directs to train staff in residential facilities based on the best available evidence and, to date, more than 30 leading health and senior care organizations have expressed support for this education campaign. In order to ensure that Nebraska citizens with Alzheimer's disease and other dementias are given the best care possible, we ask that at least four hours of dementia-specific training be added to the Alzheimer's Special Care Disclosure Act. It may be said that education is already occurring and, in truth, some facilities do offer training, but not all. We need this minimum requirement in law to ensure compliance and to provide education to encourage facilities to tailor their care to the abilities of persons affected by Alzheimer's

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disease. I won't read the last part of my written testimony because as Senator...the amendment which we are in agreement with will take out the requirement for the Health Department to oversee the curriculum. I just wanted you to know that we do have...and we just have released phase four of the "Foundations of Dementia Care," so we stand ready to...and we do do training, we do work with many nursing homes and assisted livings, and we want to be at their aid as we move forward. As Senator Karpisek said, with the baby boomer population coming, there will be more individuals. And let me just share. And I don't know how I...excuse me just a minute here. I have Mrs. Sibley's letter, and I might have...I think I might have given that also, Mr. Sapp's letter. [LB726]

SENATOR GAY: Yeah, we have that. [LB726]

TERESA STITCHER FRITZ: Okay, okay. If that could be put into the record too. [LB726]

SENATOR GAY: You bet. We actually have several others that we put into the record as well. I'm not going to go through them all, but they're... [LB726]

TERESA STITCHER FRITZ: Yes, I know Lela and Rosalee Yeaworth. And we thank you for your interest, too, Senator Gay. [LB726]

SENATOR GAY: Yup. You bet. Anyway, they're in here. We've got them, so. [LB726]

TERESA STITCHER FRITZ: Okay. Thank you. If there's any questions, I'd be glad to answer them. [LB726]

SENATOR GAY: All right. [LB726]

TERESA STITCHER FRITZ: But we see this as...I guess both chapters really see this as a beginning. We appreciate Senator Karpisek coming to the forefront to work with us, and we look forward to continuing to work with him as we ensure that proper training is done, because as he said, people with Alzheimer's disease...I'll be doing training this week on how to communicate, how to work with behaviors. Those are two of the most important things that I do training on the most in facilities is communication skills, behavioral issues, redirecting people, working with them. And we stand ready to continue playing that role. [LB726]

SENATOR GAY: All right. I think Senator Campbell has a question. [LB726]

TERESA STITCHER FRITZ: Yes. [LB726]

SENATOR CAMPBELL: Yes. Thank you very much, Senator Gay. We were very fortunate on both sides of our family. My father had Alzheimer's and my mother-in-law

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did,... [LB726]

TERESA STITCHER FRITZ: Yes. [LB726]

SENATOR CAMPBELL: ...and we were able to keep them at home. So I don't really know the answer, and Senator Gloor and I were talking back and forth. Is there any state that requires special accreditation of units, care facilities that offer units like this, to your knowledge? [LB726]

TERESA STITCHER FRITZ: Not that I'm aware of at this time. That's something we could certainly look forward to in the future. [LB726]

SENATOR CAMPBELL: And maybe some of the people who will testify might know the answer to that. [LB726]

TERESA STITCHER FRITZ: Yeah. Under the disclosure act as it's currently written, there is to be...the people are to have...the facility is to have specific information as to how that unit differs from the other training. And that's what our goal is with this bill, is to try to make sure that people are getting specific training: dementia-specific training. [LB726]

SENATOR CAMPBELL: Thank you. [LB726]

TERESA STITCHER FRITZ: Thank you. [LB726]

SENATOR GAY: Senator Howard. [LB726]

SENATOR HOWARD: Thank you. Thank you, Chairman Gay. Well, that really is my question. Senator Campbell kind of hit on it. What makes the Alzheimer's facility different from a senior-care facility? Would it be an increase in staff or what do you see as...I know what you...I mean, I can guess what you'd envision should be in place, but what happens now, right now? [LB726]

TERESA STITCHER FRITZ: Right now, in the best possible situation, the people are given training. The nursing home, if they advertise themselves to have an Alzheimer's care unit, the Alzheimer's Special Care Disclosure Act, they are to make known to the public what services they offer. And this bill is a beginning to making sure that there is adequate training for that staff. [LB726]

SENATOR HOWARD: So there is a guideline as to what services. Is it a federal guideline regarding the...? [LB726]

TERESA STITCHER FRITZ: There is not a federal guideline, no. [LB726]

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SENATOR HOWARD: Where does the guideline come from then? [LB726]

TERESA STITCHER FRITZ: Well, in Nebraska it would be from the Alzheimer's Special Care Disclosure Act. [LB726]

SENATOR HOWARD: Okay. [LB726]

TERESA STITCHER FRITZ: They would disclose what practices they have in order to be considered an Alzheimer's unit. It's really up to the facility to explain what their services are and how they train their staff in order to meet the needs of those residents. And our interests, with Senator Karpisek's help this session, is to put into place some minimum training requirements. [LB726]

SENATOR HOWARD: Okay. [LB726]

TERESA STITCHER FRITZ: And we do have facilities that do call on us to do training and such, but we really wanted to see some uniformity across the state. [LB726]

SENATOR HOWARD: Thank you. [LB726]

TERESA STITCHER FRITZ: Thank you. [LB726]

SENATOR GAY: Senator Wallman. [LB726]

SENATOR WALLMAN: Thank you, Chairman Gay. Yeah, thanks for being here. [LB726]

TERESA STITCHER FRITZ: Thank you, sir. [LB726]

SENATOR WALLMAN: This is an emotional...it's a long goodbye for some people. [LB726]

TERESA STITCHER FRITZ: Yes, it is. [LB726]

SENATOR WALLMAN: And this sundowners thing is another terrible thing, you know. Some people don't sleep. [LB726]

TERESA STITCHER FRITZ: Yes, people having agitation. [LB726]

SENATOR WALLMAN: And I don't know what causes that necessarily, but we dealt with some of these issues. [LB726]

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TERESA STITCHER FRITZ: Yes. [LB726]

SENATOR WALLMAN: And so is this a problem just in the U.S.A.? [LB726]

TERESA STITCHER FRITZ: It is, which is one of the reasons that the National Alzheimer's Association, we're the leading proponent on behalf of people with Alzheimer's disease, and that's why in these...since 2005, we've developed and are still developing what we hope to have as the leading curriculum and training. And that's what we hope to be able to put into place in Nebraska because it is a problem nationwide. Our 2009 statistics and our 2010 statistics will be released in March at our public policy forum in Washington, D.C., but right now there is about 5.3 million people with Alzheimer's disease in the country and about 45,000 with Alzheimer's disease in Nebraska. And so as Senator Karpisek said, with the baby boom generation aging, we will see a larger number, and that's why it's so important for us to get trained staff in place. But you're right, this is an issue nationally. [LB726]

SENATOR WALLMAN: Thank you. [LB726]

TERESA STITCHER FRITZ: Thank you. [LB726]

SENATOR GAY: Senator Gloor. [LB726]

SENATOR GLOOR: Thank you, Chairman Gay. And thank you for taking the time to share this information with us. [LB726]

TERESA STITCHER FRITZ: Sure. [LB726]

SENATOR GLOOR: I still think this is a "truth in advertising" bill. That doesn't make it better or worse, it's just the way I kind of compartmentalize it.... [LB726]

TERESA STITCHER FRITZ: I can understand you seeing it that way, yeah. [LB726]

SENATOR GLOOR: And part of what I'm trying to understand on this is, if we're going to require four hours of training specific to Alzheimer's, we aren't defining the criteria, we aren't defining the curriculum. Am I correct in that assumption? [LB726]

TERESA STITCHER FRITZ: In the way the bill would be amended? [LB726]

SENATOR GLOOR: Yes. [LB726]

TERESA STITCHER FRITZ: Um-hum. [LB726]

SENATOR GLOOR: And the institution, then, would have great latitude in how it

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decided to address...how it calls itself an Alzheimer's unit. [LB726]

TERESA STITCHER FRITZ: Um-hum. [LB726]

SENATOR GLOOR: Is that correct also? [LB726]

TERESA STITCHER FRITZ: Yes. Yes, it is. [LB726]

SENATOR GLOOR: Then when licensure comes through to do its inspection, it would check to make sure that it had been done, but licensure has nothing to go by to look at that says this was appropriate. So if they decided watching the World Series was appropriate for Alzheimer's and defined it as such... [LB726]

TERESA STITCHER FRITZ: Um-hum. [LB726]

SENATOR GLOOR: ...nobody could call them on that, can they? [LB726]

TERESA STITCHER FRITZ: At this time, I would say, no. We really rely on the facilities to look at what the needs of their residents are and to have training that relates to those needs and, as amended, the training would continue in that fashion. And what we'll continue to do is work with the facilities to do the most current, up-to-date training that we can do. And we do. We offer a series of trainings with the community college system. I'll be teaching a class with another gerontologist in February through Southeast Community College. And we have staff come. We do it on a Saturday and it's for continuing ed hours, and we get large groups. We've been doing this the last five years. We get a lot of nurses. We get CNAs. We get social workers. We get nursing home administrators. So we're doing...we're trying our best to reach people and provide adequate training. And we see this bill as a step in the right direction. [LB726]

SENATOR GLOOR: And I would agree with that, but what I want to make sure I understand and have clear in my own mind is for all the programmatic aspects and training programs you offer, there's nothing in this bill that says an institution that advertises itself as having an Alzheimer's specialty unit has to avail itself of the programs you provide. [LB726]

TERESA STITCHER FRITZ: Not under the amendment that's... [LB726]

SENATOR GLOOR: Under the amendment. [LB726]

TERESA STITCHER FRITZ: Under the amendment. [LB726]

SENATOR GLOOR: Okay. Thank you. [LB726]

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TERESA STITCHER FRITZ: Unless maybe Senator Karpisek has...am I correct, Senator Karpisek? [LB726]

SENATOR GAY: Any other questions? I think...and I agree with Senator Gloor, what he's getting at. I don't think we can avoid a fiscal note because you have to almost clarify... [LB726]

TERESA STITCHER FRITZ: That's our problem. We had a high fiscal note. [LB726]

SENATOR GAY: ...what it is or me talking to Senator Gloor could work for your continuing ed. So it probably...I don't think we can avoid not having a fiscal note or having the department clarify this, so. [LB726]

TERESA STITCHER FRITZ: Okay. Well, we stand ready to work with you. [LB726]

SENATOR GAY: Because that was crossing my mind too. I think you heard...I think he said, well, we don't want the department to look at...well, sometimes you almost have to, so. But that can be worked out. [LB726]

TERESA STITCHER FRITZ: Yeah. And we see this as a beginning step. [LB726]

SENATOR GAY: Right. [LB726]

TERESA STITCHER FRITZ: And Senator Karpisek was willing to work with us, and we can certainly work with you throughout the session to work on this. [LB726]

SENATOR GAY: Yeah, yeah. You bet. All right. Thank you. [LB726]

TERESA STITCHER FRITZ: Thank you. [LB726]

SENATOR GAY: Other proponents? [LB726]

JANE PROCHASKA: Good afternoon, ladies and gentlemen. I'm Jane Prochaska. At least one person sitting here in the room probably knows me better as Judge Prochaska: Gwen Howard. [LB726]

SENATOR GAY: Judge, can you spell that out for us? [LB726]

JANE PROCHASKA: I'm sorry? [LB726]

SENATOR GAY: Could you spell that out, your last name? [LB726]

JANE PROCHASKA: I sure will. It looks like Prochaska. It's got a c-h in it.

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P-r-o-c-h-a-s-k-a. Jane, just like it sounds, J-a-n-e. For those of you who know anything about my background, I thought I was in it to be a judge for the rest of my life. I was sworn in, in 1985, and figured that I would die as a judge. And then September 11, 2001, happened. And do you all remember where you were on January 11...or excuse me, September 11, 2001? It's kind of like the day J.F.K. was shot. We all know where I was, where we were. My mom had a stroke that morning. I was in the emergency room at Nebraska Medical Center with her when the terrorists hit. She left the hospital over a month later with dementia. It brought on vascular dementia, which is very similar to Alzheimer's disease. Our family's lives were turned upsidedown that day, for more reasons than one. She couldn't go home. I was her POA and I had to figure out where to put her. I thought I knew everything. I was the chief probate judge for the state of Nebraska. I'd written the form book on guardianship forms for the state. I was the hotshot. I started touring facilities. I got so depressed and overwhelmed. I found dementia patients parked in dead-end hallways, sitting in wheelchairs drooling all over themselves, and that was the way they were going to spend the rest of their lives. I couldn't do that to my mother. So I made a decision that I could do better. I left the bench. December 31, 2006, was my last day as a judge. I founded Silver Memories which is an assisted-living business. I have two homes. These are ranch houses in residential neighborhoods--no signs, no parking lots--ranch houses. One is licensed for 13; one, licensed for 8. The caregivers come into the residence everyday. There's caregivers awake and on duty 24/7. The houses are equipped specifically for dementia. To get out of a door, you have to punch a code so that you don't get out and wander and be found frozen to death in weather like we've got out there today. I walked into one of my houses one day and 94-year-old Sheila (phonetic) was sitting at the dining room table and she was crying. And I said: Sheila, what's wrong? I've got to get home. My mom has dinner ready for me. I've got to get home; it's dinner time. I could have sat down and said, Sheila, your mom has been dead for 40 years. That wouldn't have helped. Five minutes later, she wouldn't have remembered what I'd said. She'd just know something awful happened. So I said, okay, Sheila, I'll get you home, but you know what? First, look, there's some chocolate chip cookies coming out of the oven. Let's have a bite to eat first. And she said, okay. Like that she was out of it. Walked her to the kitchen table, sat her down and had a snack. She was fine the rest of the afternoon and into the evening. When you deal with dementia patients, you have to know about that disease. You have to know about things like redirecting them. I tell you, as the daughter of a dementia patient, as a probate judge specializing in the elderly, and now as the owner of these facilities, this is my passion. This is what I'm going to die doing. This is my last career. And there are other things that I...I want to give you another example about why it's good to have staff trained. My mother, one day, looked like she was in terrible pain. She was clutching her stomach, and I said: Mom, do you have pain? She got a big smile on her face--"Yes." Was she having pain or not? You have to be trained. These people taking care of these folks need to have this training. And the difference between these little elderly folks going to bed happy at night and feeling secure, and the difference between them being scared and anxious and

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miserable, may be in those caregivers that are working with them having the kind of training and the insight to know how to deal with this kind of stuff. Thank you very much for hearing me, and if any of you have any questions, I'd be happy to try to answer them. [LB726]

SENATOR GAY: Senator Pankonin has a question. [LB726]

SENATOR PANKONIN: Judge, thank you for coming today and for your passion for this topic, but you didn't tell us the rest of your story. Is your mother in one of your facilities then? [LB726]

JANE PROCHASKA: My mother passed away the Sunday after Thanksgiving in 2008. [LB726]

SENATOR PANKONIN: I'm sorry to hear that. [LB726]

JANE PROCHASKA: I didn't quite get my houses open in time for her. But you know what? She's up there in heaven and she's watching me and I'm going to make her proud. And I know that she can see me right now sitting here talking to you folks and I hope she's got a smile on her face right now. [LB726]

SENATOR PANKONIN: Thank you. [LB726]

JANE PROCHASKA: Everyone of my little residents is like a parent to me. [LB726]

SENATOR PANKONIN: (Laugh) Well, thanks for your passion and your testimony today. [LB726]

JANE PROCHASKA: Anybody else? [LB726]

SENATOR GAY: Senator Campbell. [LB726]

JANE PROCHASKA: Yes, Senator. [LB726]

SENATOR CAMPBELL: Thank you, Chairman Gay. Just a question. Judge, have you read the book Still Alice? [LB726]

JANE PROCHASKA: Still Alice? [LB726]

SENATOR CAMPBELL: Still Alice. [LB726]

JANE PROCHASKA: I have not and I thought I'd seen them all. [LB726]

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SENATOR CAMPBELL: Karen Noel would highly recommend it if she were here. It is written by a Harvard professor. It's a novel, but it's... [LB726]

JANE PROCHASKA: Do you know who the author is? [LB726]

SENATOR CAMPBELL: The minute I went to ask you the question, I don't remember her name. [LB726]

JANE PROCHASKA: Still Alice. I'll look it up. I'll get a copy and I'll read it. [LB726]

SENATOR CAMPBELL: It's just if you've ever had a relative with Alzheimer's, it's just a fabulous book. [LB726]

JANE PROCHASKA: I will read it. Thank you very much for referring me to it. [LB726]

SENATOR GAY: Senator Howard. [LB726]

SENATOR HOWARD: Thank you, Chairman Gay. It's so good to see you again. [LB726]

JANE PROCHASKA: It's good to see you. [LB726]

SENATOR HOWARD: Thank you. I'm glad you could come down and give us your insight on this issue. [LB726]

JANE PROCHASKA: Thank you. [LB726]

SENATOR HOWARD: And how many residents do you have in your two homes? [LB726]

JANE PROCHASKA: You know what? We are at a low census right now. My one house which has eight beds was totally full with a waiting list for almost the entire last three years. And unfortunately as...most of them had moved in from their own homes, and some of them from other facilities, on day one, and as these three years have passed, they've gone down and we've had a flurry of deaths just very recently, so I've got a couple of empty beds there. My other house was hit real hard by a hail storm that hit Omaha a year ago last June, and over \$100,000 damage. And that house though, thanks to Hartford Insurance Company, has got a new roof, new siding, new windows, and I do have a few beds open there as well. I didn't even show it for over a year. I was embarrassed with the hail damage. And the contractor finally finished up, so I want to get my beds filled. [LB726]

SENATOR HOWARD: How many beds did you say you usually have? Eight? [LB726]

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JANE PROCHASKA: I'm sorry? [LB726]

SENATOR HOWARD: The number of beds? [LB726]

JANE PROCHASKA: Eight at one house and 13 at the other. [LB726]

SENATOR HOWARD: Oh, okay. Are they shared rooms or individual or...? [LB726]

JANE PROCHASKA: We have some private rooms and some shared rooms. Surprisingly, Alzheimer's patients do much better in a shared bedroom. And so many...it's us adult kids of these folks that want Mom to have a private room because we think if we were going somewhere, we'd want our own room and our own bathroom. Not so with an Alzheimer's patient. Near the end, if my mom would wake up in the night and be a little anxious and she'd see that other lady lying there, it would bring her comfort. She'd relax and go back to sleep. I would ask her how she likes her roommate. And she'd say: Do I have a roommate? And, you know, with an Alzheimer's patient, you don't want them in a private bathroom either. It's much too dangerous. If an Alzheimer's patient is thirsty and they see a toilet full of what looks like nice, fresh water to them, they'll have them trying to drink it. Alzheimer's patients do much better in a double room. I always encourage people... [LB726]

SENATOR HOWARD: To look at that. [LB726]

JANE PROCHASKA: ...double rooms. We all want that, but we have to remember that our parent with the disease does not have the normal brain which we have. Well, my husband would debate whether I have a normal brain, but which I hope I have. (Laughter) [LB726]

SENATOR HOWARD: Don't take that to heart. [LB726]

JANE PROCHASKA: They do much better in a double room, they really do. [LB726]

SENATOR HOWARD: And at what ages...I'm just interested in knowing, in your experience, what ages have you worked with, the age span? [LB726]

JANE PROCHASKA: I have worked with everything from I think the youngest resident that I had was the wife of an Omaha District Court Judge and she's passed away now from her dementia. The oldest I've ever had, I had Charlie (phonetic), a little man who...I asked him one day if he'd been married in his lifetime. And he says, yeah, just once. And I said, only once? And he says, yeah, isn't that enough? (Laughter) And they keep their sense of humor, some of them, until the end. Charlie died about one month before his 99th birthday. [LB726]

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SENATOR HOWARD: Wow, wow. [LB726]

JANE PROCHASKA: And, in fact, it was shortly after that storm that hit the house that he was in. So I've had them from the sixties to the upper nineties. [LB726]

SENATOR HOWARD: Okay. [LB726]

JANE PROCHASKA: Typically, they're more in the seventies and eighties. [LB726]

SENATOR HOWARD: Thank you for the good work. [LB726]

JANE PROCHASKA: Well, it's helping me more than anybody because it's therapeutic for myself. [LB726]

SENATOR HOWARD: Thank you. [LB726]

SENATOR GAY: Any other questions? [LB726]

JANE PROCHASKA: Anyone else have any questions? [LB726]

SENATOR GAY: I've got one for you, Judge. [LB726]

JANE PROCHASKA: Yes, sir. [LB726]

SENATOR GAY: It sounds like you take great pride in what you do and your facilities and it's a great mission. How do you go about deciding training, what's available and what's best? How do you do that as an owner? [LB726]

JANE PROCHASKA: As far as training of my staff... [LB726]

SENATOR GAY: Well, yeah, training for dementia and Alzheimer's. [LB726]

JANE PROCHASKA: ...or of myself? [LB726]

SENATOR GAY: Staff training. [LB726]

JANE PROCHASKA: And by the way, I have one of my administrators with me today, Mary Warming in the front row here. Mary and I and my other administrator go to the Nebraska Assisted Living Association conferences and get more than the number of Zeus we need. I'm also a licensed administrator. I got that while I was still in my last year on the bench. I went back to school. That was hard, competing with a bunch of younger people, trying to get my degree while I was working full time. My caregivers, we

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have in-services every month in the homes, and we'll have people from different places come in from the outside. I have a registered nurse on my staff that will do in-services. We have some hospice companies that come. We have one coming in to do an in-service this week, in fact. We tap into a variety of sources for our training. A large percentage of our annual training is specifically dementia-related. I think it's very important to have our caregivers understand dementia, just like little Sheila that I used as an example. If a person didn't know how to handle a dementia patient and they felt, well, I can't lie to her, you know, and they'd said, Sheila, your mom has been dead for 40 years, she'd have gone to bed crying that night. And what purpose would it have served? You have to know. You have to be able to redirect them. You have to deal with them in an entirely different manner than you would deal with somebody without dementia. And training is very, very important to me for my staff and I want to make sure that other places that are marketing dementia care, make darn sure that their staff get at least a certain minimum amount of training. It's so important for quality of life of those residents. [LB726]

SENATOR GAY: Okay. Thank you. Any other questions? I don't see any. Thank you for coming today. [LB726]

JANE PROCHASKA: Thank you so much. I've noticed you all seem to be really interested in this bill and I'm so pleased and I'm so proud of all of you. I'm so glad we've got you guys here. [LB726]

SENATOR GAY: Thank you. Thank you. [LB726]

JANE PROCHASKA: Do I sign this? [LB726]

SENATOR GAY: Yeah. Fill that out and you can give it to Denise. Hi, Mark. [LB726]

MARK INTERMILL: (Exhibit 7) Good afternoon, Senator Gay and members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today to express AARP's support for LB726. There are two factors that have led us to conclude that we need to support this bill. Both of these have been alluded to, but I will repeat them. We do see that the incidence of dementia increases with age. I reference a study that was done by the University of Pittsburgh that indicates that people between the ages of 80 and 84 have a 14 times more...are 14 times more likely to have a dementia than those 65 to 69. The other thing that I will repeat on multiple occasions is that we're looking at the tremendous growth in the aged population in Nebraska. By 2040, we'll have twice as many people over the age of 80 as we do today, and it's time that we prepare for that eventuality. LB726 does provide some training requirements that we believe will be important to help us deal with a larger, older population. The second item alludes in reference to the marketing issue. We do believe that it's time to strengthen the protections for persons who provide care for residents in Alzheimer's special care

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units. The section of the statutes that LB726 amends is the Alzheimer's Special Care Disclosure Act. The section immediately preceding the section that's being amended states that "assisted-living facilities claim special care for persons who have Alzheimer's disease, dementia, or a related disorders," and that "it is in the public interest to provide for the protection of consumers regarding the accuracy and authenticity of such claims." That's the intent of the law is to try to determine that. But as I read the act, the definition of what constitutes special care is largely left to the facility seeking the designation. And I have noted the question about what other states are doing, and I will get back to the committee as soon as I can get that information. There is no indication of what Nebraska considers special care to be. This would be the first step in starting to develop that definition that there be at least four hours of training is part of what defines special care. So for those two reasons we do support this bill and we do encourage the committee to report it to General File. [LB726]

SENATOR GAY: Thank you, Mr. Intermill. Is there any questions from the committee? I've got a question for you. When you talk about a designation, I'm used to those, and Senator Pankonin and I think Senator Gloor in Banking and Insurance, there's designations you could use in the financial planning world that now really they say you can't hold yourself out to be X because it really didn't mean a whole lot, and they narrowed it down. Is there designations out there that mean more than others like...I mean, if they're getting a, quote, designation, who gives that then? [LB726]

MARK INTERMILL: The designation is...as I read the bill, as I read the statutes, and also look at who has been designated as an Alzheimer's special care unit, it is up to the facility to make that, that they need to provide information about what they do that makes them a special care unit. But there are no criteria for... [LB726]

SENATOR GAY: So it's not like, you know, a CPA. You can't just call yourself a CPA unless you've taken tests and done things. But there is no standard in the industry at this time anywhere? [LB726]

MARK INTERMILL: And I think Senator Campbell's question earlier about what do other states do to sort of outline what those special care units have to do, what are the criteria that are used, is something that I need to look into and I'll be sure to share that information once... [LB726]

SENATOR GAY: That's probably your best bet is what you're saying. Just look into that. [LB726]

MARK INTERMILL: Yeah. [LB726]

SENATOR GAY: Okay. Senator Wallman. [LB726]

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SENATOR WALLMAN: Thank you, Senator Gay. Yes, Mark, glad you're here. [LB726]

MARK INTERMILL: Thanks. [LB726]

SENATOR WALLMAN: In regards to assessments, we don't have any assessment tool either here? You know, it's kind of an iffy thing whether it's stroke, dementia, Alzheimer's and all this, I realize. But I know that Kansas, I think, they have mental health hospitals that you can...we took my family member there to get diagnosed. [LB726]

MARK INTERMILL: Um-hum. There's a geriatric assessment unit at the University of Nebraska Medical Center that is well-respected. [LB726]

SENATOR WALLMAN: Okay. [LB726]

MARK INTERMILL: And I think that's a place where a lot of folks in Nebraska rely on to have the assessments that can help them sort out what the issues are, the health issues are, and what care options would be best as well. [LB726]

SENATOR WALLMAN: I have a friend up there now, so that's good to know, so. I hope it isn't that, but we don't know. [LB726]

MARK INTERMILL: Yeah. [LB726]

SENATOR GAY: Well, actually did the Med Center...aren't they creating something? The Hogans, they created a gerontology center and all that. Has anyone spoken to them as far as them creating a designation or something, or have a, quote, you know, the Med Center is part of the state... [LB726]

MARK INTERMILL: Um-hum. If we were to move in that direction, they would be the first people that I would want to talk to. [LB726]

SENATOR GAY: They'd be a good candidate, yeah. Okay. All right. Any other questions? I don't see any. Thank you. [LB726]

MARK INTERMILL: Thank you. [LB726]

SENATOR GAY: Any other proponents? [LB726]

DON DAVIS: Good afternoon, committee. [LB726]

SENATOR GAY: Good afternoon. [LB726]

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DON DAVIS: Before I start, I want to thank Judge Prochaska for personalizing Alzheimer's patients for the committee. That was wonderful. My name is Don Davis, D-o-n D-a-v-i-s. My wife is Mabel (phonetic) and we're both lifetime residents of Lincoln. Mabel (phonetic) was diagnosed with Alzheimer's in 2003, and was in our home care supported by the Lincoln Area Agency on Aging and Medicaid. She fell on April 16, 2009, requiring ambulance to an emergency room. Thank goodness, no injuries. And since I could no longer handle her, it meant placement in a local nursing home. On September 9, in that home she had a sudden relapse, thankfully recovered, and is now under hospice care. Mabel is 90 years old. Having had six years in-home experience and consumed considerable literature, I was a little bit able to look at our new surroundings somewhat critically. It must be said that that has been, for me, a great training experience. And in that connection, after having been at the nursing home for a few months and my daughter having come from Colorado to help, it was apparent that there were some things that needed, shall I say, assistance. And for that end then, she and I went and had a long session with Mrs. Karen Noel of the Alzheimer's Association Great Plains Chapter. So at this point, I'm speaking particularly of the LB726 and it's more specifically paragraph 4, lines 1 through 5, and paragraph 6, line 9. Okay. Since I visit Mabel at lunchtime and suppertime and into the evening every day, these are the only times that I observe Mabel and other patients as to how they are cared for and how they respond to that care. In addition, I have had many conversations with many of the professional caregivers, which includes the CNAs, the LPNs, the RNs, social workers, and so forth. And those conversations in itself have been most enlightening. Here are some observations which for me raised an issue of more specific need of specific education. (1) Caregivers are very well-meaning people but they need more education and really knowing basic patient care; that is, how to deal with patients consistently, especially in areas of exercise, diet, play, and directed activities, and even at rest. (2) Stimulation of patients. They need training. The caregivers need training in what can be done with patients to help keep their chins up off the chest. (3) There needs to be a better understanding of medicines: names, uses, how medicines are administered, and the results of the administration. (4) Habits of patients. Sundowning: an increased care seems to be needed at that time of day. Another habit is wandering of patients into other patients' rooms and, to put it politely, removing things. Another thing that I noticed was laughing at patients, not with them. And believe me, my experience has been that the patients know. I was seated at a table with my wife at noontime for several months with a dear lady who was very much an Alzheimer's patient. And unfortunately she had actions that were not at all her fault because Alzheimer's patients are said to be, and definitely are not, that it's not their fault; that it's the disease which I refer to as "the beast." But this dear lady had weird actions that were not her fault. And she was not always laughed "with," at all, but she was laughed "at." And believe me, I could see in her eyes that she knew she was being laughed at. Another thing that needs attention is noises at rest time like doors banging, television going on, loud talking. And then, in general, caregivers must know that Alzheimer's is a disease of the deterioration of the brain. This affects memory, language, body function, thinking, and behavior. Working

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with such patients is different--that's already been said here to the committee--requiring more understanding of the disease and more education on how to care for such patients. Initial education also gives a basis for standardization of accountability and it also becomes a basis for future training for advanced nurse training. Thank you for the committee. [LB726]

SENATOR GAY: Thank you. Are there any questions for Mr. Davis? I don't see any. [LB726]

DON DAVIS: Thank you. [LB726]

SENATOR GAY: Thank you for sharing that with us. Appreciate it. Is there any other proponents who would like to speak? I don't see any. Are there any opponents on this bill? I don't see any. Any neutral? We had one person. [LB726]

BRENDON POLT: (Exhibit 8) Good afternoon, Chairman Gay. My name is Brendon Polt, that's B-r-e-n-d-o-n P-o-l-t, representing the Nebraska Health Care Association and Nebraska Assisted Living Association. We have about 90 members with special care units out of about 115 total statewide. First of all, we want to thank Senator Karpisek for introducing the proposed amendment today and the bill itself. We did have some serious concerns with the bill as drafted for the very reasons he addressed. One, not clarifying to which staff the training would apply; the second being clarifying whether or not we're adding four hours. We really hope that you keep those two provisions in the amendment. But really our biggest concern was an issue that has come up and I'm really glad to be able to address that, and that is the issue of whether or not the state should be prescribing a curriculum and then administering that and enforcing it upon facilities. In my research of the Alzheimer's Special Care Act...Special Disclosure Act, rather, I've learned that the act was not intended ever to create a heightened level or special regulation of special care units. It was a consumer protection as Senator Gloor mentioned. It was intended to provide notice. There's very specific items which must be disclosed on that form, and then those are provided for file with the department and must be given, under the current law, to every prospective resident seeking placement in the facility. I'm happy to have someone with me today who has a special care unit, and she's brought an example of that disclosure form. And you'll see that the items that are requested, a good-faith answer of those eight items that are in the bill--you can see them in the bill as it is introduced--provide a sufficient notice to a resident of what special services are provided in that facility. Now, the question is whether or not without a certain set of criteria a facility can just put whatever garbage it wants to in each of the eight items and just train on baseball games. Existing licensure regulations for both nursing facilities and assisted-living facilities require that the facilities are providing training, and are staffing and developing plans of care and resident service agreements to meet the needs of residents. So when a surveyor comes in a facility, they take a look at this information and they look at the resident population and they make a

determination on whether or not the unique needs of each resident in that facility is being served. That's also the case with that disclosure statement. So a surveyor would come in. They'd take a look at the disclosure statement. They'd say: What are you doing? And I think in practice you see these disclosure statements are a sufficient indication to any consumer of what they're getting. And under current law they must be given to a prospective resident, and I'm looking forward to you being able to see one of those. So we believe that the law as it exists does provide teeth and we also really stress that the intent is a consumer notice. It's not to create a higher level facility, a newly regulated facility. And so I really hope that you can see to accept that proposed amendment from Senator Karpisek because we think it works. And about the training. In none of the discussions that have come out, I understand, in the summer sessions that Senator Karpisek called together, that representative group, no one ever said that the training courses out there offered by the Assisted Living Association, which I represent, and by the Alzheimer's Association or individual facilities, had any problems. So I urge you, if it ain't broke don't fix it. The programs are sound. And I guess I'd ask anyone to tell me about a program that they see a problem with. The problem is that people aren't training. But those that are, are giving good training. And so the four hours, that's why we're neutral. We think that most of the facilities, we hope that most facilities are doing that, but we do recognize that there are some out there that aren't. So this minimum requirement is good. But do we need to have the state pick apart the training programs when no one has yet suggested that there is a single problem with any program offered by the Alzheimer's Association, our association, whoever? So anyway, I leave you with that and I'm certainly available for questions. One more note. There is not an enhanced rate, Medicaid rate, for an Alzheimer's resident, which is a real challenge because our rates are based on the medical complexity of care; but sometimes the most difficult in terms of resources and staffing are those that have a dementia diagnosis. So, anyway, that was to address your question. [LB726]

SENATOR GAY: Thank you, Brendon. Senator Gloor. [LB726]

SENATOR GLOOR: Thank you, Chairman Gay. We've had quite a bit of discussion as a committee, I think, in questioning about what you can call yourself or how you can call yourself a treatment unit and, again, trying to describe that in terms that are more familiar. Would I be correct in saying that it would be somewhat similar if not exactly similar to the fact that in this state we have orthopedic hospitals and we have heart hospitals, but in reality they're all licensed as acute-care facilities, acute-care hospitals? There is no specific licensure to call yourself an orthopedic hospital. It's a marketing term. You may specialize in that but the state doesn't recognize that specialty anymore than the state doesn't recognize an Alzheimer's unit when it comes to licensure. [LB726]

BRENDON POLT: They are registered so you do have to have a registration as a special care unit. If you look through the roster of either assisted living or nursing homes, it does say "special care unit." So there is a registration. Now I apologize, I

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actually do not know the regulations for the two types of facilities that you've referenced and haven't studied those. But you are registered or not. So this disclosure does then indicate on your licensure that you do provide the service and you're held to a standard that you purport to offer, and you're also surveyed against it and enforced, so... [LB726]

SENATOR GLOOR: I think that is true in acute-care hospitals. But ultimately, the license is as, I would imagine, long-term care facility,... [LB726]

BRENDON POLT: You're correct. [LB726]

SENATOR GLOOR: ...assisted-living facility or acute care. [LB726]

BRENDON POLT: The license is. Yes, you're correct. [LB726]

SENATOR GLOOR: Okay, thank you. [LB726]

SENATOR GAY: Senator Howard. [LB726]

SENATOR HOWARD: Thank you, Chairman Gay. Gosh, I was getting whiplash listening to your neutral testimony. (Laugh) I wasn't quite sure where it was headed. But I didn't sense a dispute with you that four hours of training is excessive or unneeded. [LB726]

BRENDON POLT: No. [LB726]

SENATOR HOWARD: So you agree on those points. And from everything that I've heard, it sounds like the sensitivity area alone is a critical area to be addressed in dealing with people, with patients with this particular illness. So on that there's an agreement that the four hours, which is for a year, over a year's period of time, annually? [LB726]

BRENDON POLT: Annual, yes. [LB726]

SENATOR HOWARD: It doesn't sound like that's in any way excessive or an out of range request to have a facility do that. Am I correct in saying that you feel that way? [LB726]

BRENDON POLT: Yes, you're correct. [LB726]

SENATOR HOWARD: Okay. All right, thank you. [LB726]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB726]

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BRENDON POLT: Thanks. [LB726]

SENATOR GAY: Other neutral testifiers. [LB726]

HELEN CRUNK: (Exhibit 9) Good afternoon. My name is Helen Crunk, it's H-e-l-e-n C-r-u-n-k. I am the administrator of Victoria Gardens in Bellevue, Nebraska. We have facilities in Bellevue and Papillion, Nebraska. Victoria Gardens is a memory support assisted-living facility and only provides care for individuals with a dementia diagnosis. I'm a registered nurse and a certified dementia-care practitioner. My entire 15-year nursing career has been dedicated to caring for individuals with memory loss. I am responsible for the operations of my facility and the Alzheimer's and related dementia education for all 600 employees in our organization. I'm testifying neutral today because I believe that most Alzheimer's units are already providing at least four hours of training to their staff. I am concerned, however, about the initial statement about the department being involved in the approval of the curriculum. We have some fantastic training curriculums already developed and in use. I decided to testify because this bill makes me wonder if there wasn't a misperception initially about the facilities training practices and disclosure statements. I have a copy of my facility's disclosure statement for you. This statement is sent to the Department of Health and Human Services annually as part of my facility's license renewal and is given to each person that tours my facility. In addition, this statement is used as a model in the Nebraska Assisted Living Association's administrator-in-training program. I teach the special services portion of that curriculum and have given this statement to approximately 250 students who are becoming new administrators across the state. On page 2, you will see my staff training requirements. All staff education is done within the first two weeks of employment; however, all Alzheimer's and related dementia education is done first and before any new staff member is allowed to work alone with any of our residents in our facility. Within the Alzheimer's disease process curriculum that I use for my facility, we talk about the pathological changes that are happening in the brain and how that affects the individual's insight, judgment, and functional abilities. But most importantly, we educate our staff in how to support each individual resident through the struggles of this disease, some of the struggles that they have such as wandering, social withdrawal, agitation, aggression. But most importantly their training is focused on the factors that cause these responses and how we can help them through that. As with any disease process, each person is affected differently and responds to treatment differently. I am passionate about educating caregivers that provide hands-on care to individuals with a memory loss diagnosis but would like the content of that education to remain at the facility's discretion; not one curriculum that everyone has to adapt to. To meet the individual needs of our clients we need to be able to modify and adapt training to real life experiences. I just want to thank you for your time. I would be happy to answer any questions you may have. In response to Senator Campbell's question about Still Alice, if anybody is interested in that book it's a wonderful book. It's written by a Ph.D. professor, she has a Ph.D. in neuroscience from Harvard. Her name is Lisa Genova. I have read

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that book, as has each individual staff member in my facility read that book. [LB726]

SENATOR GAY: Senator Stuthman. [LB726]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you for your testimony, Helen. Do you have problems of finding enough staff to take care of your facility? [LB726]

HELEN CRUNK: I do not. [LB726]

SENATOR STUTHMAN: You do not. [LB726]

HELEN CRUNK: I do not. [LB726]

SENATOR STUTHMAN: That is not a problem then whatsoever? [LB726]

HELEN CRUNK: It is not. I'm probably a little bit more fortunate because I'm in the Omaha metro area versus the under...you know, outerlying, western parts of the state. But no. Typically, no, I don't have that problem. I run about a 26 percent staff turnover rate. Industry averages is up in the 90 percent. [LB726]

SENATOR STUTHMAN: Thank you. [LB726]

HELEN CRUNK: You're welcome. [LB726]

SENATOR GAY: Any other questions? I've got a question for you. Brendon talked about, what are the sanctions or when they come through and do a facility certification. You said facilities are rigorously held to these standards and are sanctioned if they're not doing so. So they look at your thing. What are the penalties if they were finding you, I guess, we're talking advertising or whatever but you're not doing what your plan is saying, what is the sanction? [LB726]

HELEN CRUNK: You know, it kind of depends on what they call, you know, scope and severity. You know, what was the negative outcome to the residents. It would depend. You know, they could do anything from fine the facilities clear up to, you know, prohibit us from admitting any new residents into our facilities. It just really depends on, you know, if they... [LB726]

SENATOR GAY: So it could be fairly stiff actually then... [LB726]

HELEN CRUNK: Yes. [LB726]

SENATOR GAY: ...is what you're saying. They could say no one else is coming. [LB726]

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HELEN CRUNK: Absolutely. You know, it could be a deficiency that you have to write a plan of correction that you have to follow, submit that plan of correction to the state. They would then come back out and resurvey our facilities to ensure we're following the plan of correction. And they could take it, you know, further with fines and prohibition of admissions and those sort of things. My facility has been deficiency free in the entire eight years we've been open. We've never received any sort of a state deficiency. [LB726]

SENATOR GAY: I guess one more thing then. So complaints have to arise. I mean in these facilities I know they do. We've all heard them and we've got letters from...but I guess on those complaints, I mean, is there a way? Everybody deals with this different because you're all running different businesses. But I guess when the complaints come in, you just can't avoid some of those things, but it's just kind of how you run your quality of your business, correct? [LB726]

HELEN CRUNK: Absolutely, absolutely. [LB726]

SENATOR GAY: Just like when the Judge was here, I'm sure these facilities are excellent. [LB726]

HELEN CRUNK: Yeah. [LB726]

SENATOR GAY: And you're here today. But there's probably, just like anything, there's some not so good. And how do we take care of that is the question. [LB726]

HELEN CRUNK: Absolutely. [LB726]

SENATOR GAY: Senator Pankonin. [LB726]

SENATOR PANKONIN: Thank you, Senator Gay. Thanks for coming today and the information. I am curious. Just in your facility, is it...how...the percentage of folks that are on Medicaid versus private pay? [LB726]

HELEN CRUNK: I have 32 residents in my facility. Four residents receive funding from the Medicaid program, Medicaid waiver program. [LB726]

SENATOR PANKONIN: And the rest are private pay? [LB726]

HELEN CRUNK: The rest are private pay. [LB726]

SENATOR PANKONIN: Which is a high percentage in my opinion. [LB726]

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HELEN CRUNK: Yes, um-hum. [LB726]

SENATOR PANKONIN: Okay. Thanks for what you do and thanks for coming today. [LB726]

HELEN CRUNK: You're welcome. [LB726]

SENATOR GAY: Any other questions? I don't see any. Thank you coming. [LB726]

HELEN CRUNK: Thank you. [LB726]

SENATOR GAY: Is there anyone else who would like to speak neutral? I don't see any. Senator Karpisek, would you like to close? [LB726]

SENATOR KARPISEK: Thank you, committee, for your attention and good questions. Judge Prochaska, and I would have known how to spell that and give her credit for saying her name correctly also, told a little about herself and why she's doing what she is. And, I guess, it got me to think that I should maybe too. The reason I am a little passionate about these bills is I had an 88-year-old grandmother that passed away with Alzheimer's. She wasn't in good health anyway, there were other things. But it didn't help. I talked a little bit about early recognition. I have my other grandma is in an assisted-living in Wilber now, and we could see that she was starting to seem a little more confused. She had a stroke a number of years ago, but she is doing fine. She either started taking Aricept or Namenda, one of them, I don't know. See a remarkable difference because I think it was caught early and she seems to be doing wonderfully. Probably the biggest reason is my mother-in-law lives with us. She's been with us for four years and she's 65 years old now. I don't think that she has Alzheimer's but it's some sort of...a memory loss is going on. She's got diabetes, she has a pump. We have to make sure that we check her blood sugar constantly. In the moment, she's wonderful and she's the best mother-in-law anyone could ask for, but it does hit home. And why the early detection to me is important--would be, will be someday important--we took her to the doctor and the doctor said he thought that she needed some vitamins. Maybe she did need some vitamins but I think she needed something else. We've tried the prescription. We've even done a cocktail of the two and haven't seen anything really different. So with that...sorry to take up your time. I thought I'd let you know why I'm after this. I would like to mention that part of the amendment of taking out the prescribed curriculum, why it was in the bill in the first place, I didn't realize that there is no prescribed curriculum regarding the 12 annual hours now. So, Senator Gay, when you still think that we're going to have a fiscal, an A bill, I don't know. Because I don't think that there is any prescribed curriculum now. I think as Mr. Polt said, the surveyor comes in. Does it meet this person's needs or does it not? Yeah, it does. A little bit of that worries me. And I think Senator Howard might have a bill that talks more toward that. Anyway, I couldn't get a real good answer when we did talk about that. So, Senator

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Gay, I'm sure that hopefully as we work through this maybe you'll get a better answer on how that really works. And that was through HHS. Also, the intent of the prescribed curriculum was not at all that the training wasn't a good quality but rather if it was done at all. I would think, and in my envision of this bill I thought HHS would probably use a curriculum already in place used by the Alzheimer's group or a current facility such as Victoria Gardens. I don't want anyone to think that I'm bringing this because I think that it's not...that they aren't doing a good job. But it's to make sure that everyone is doing a good job. I do want to thank Mr. Polt for working with us. I think we did come quite a ways. I just want to start somewhere and get this thing going. I don't want to make it harder on the care centers. I know it's a tough job. When we just heard about the turnover rate, I can absolutely believe that many of them are very high. I couldn't do the job I don't think. It is tough. And they are doing a good job and I appreciate that. I just think we need to make sure that everyone is doing it. And I would like them to--although I'm taking that out, we can look into that--know what they should do. Kind of like you said, well, we could sit here and talk about playing cards and it would count. I would like to check further into that to know that that already isn't that way. So with that, if there's any other questions... [LB726]

SENATOR GAY: Thank you, Senator Karpisek. I think if anything today everyone learned a lot about where we're at and what we even do. So that's very good. But, yeah, just reading this fiscal note it's hard to...but we can look into that a little more. But our own agencies, veterans homes and those things, we're not even sure...I know they have an Alzheimer's unit in the Bellevue one, I assume Grand Island. Do you know, Senator Gloor, does Grand Island have one? I assume they do too. So we're...I don't know what we do there, quite honestly. Any other questions? Thank you very much. That will close LB726, and we move onto Senator Gloor, LB702. Whenever you are ready, Senator. [LB726]

SENATOR GLOOR: (Exhibits 10-12) Thank you, Chairman Gay. Fellow members of the committee, my name is Mike Gloor, Senator Mike Gloor, District 35, that's G-I-o-o-r. My apologies for a ragged voice, but I do want to acknowledge the physician of the day, Dr. Michaels. They actually do serve as physicians of the day. And without his help pharmacologically, I'm not sure I could have presented very well today and may yet not do so. Nebraska Revised Statute 71-8403 gives guidance on how a patient may obtain a copy of or examine their medical records or authorize their release to a new doctor or other healthcare provider, family member, or their personal advocate, or whoever they determine for that matter. It sets out time frames, this is the current statute, on how many days a provider has to respond to a records request. It also sets a time limit of 180 days for a release of health information. The current limit of 180 days is more restrictive than current federal law. And that creates a barrier to the exchange of health information for specialist referrals and, as far as I'm concerned, more importantly, electronic health information exchange. This is where we're moving in the future in healthcare: electronic health information exchange. The 180-day limit requires an

individual to complete multiple authorizations if he or she wishes to have information disclosed for longer than the 180-day period. As we've just heard, in cases with geriatric patients, patients with chronic illness and confusion, they may often want their family members or other personal representatives to be involved in their care and assist in healthcare decision making. Currently, with the 180-day provision, patients must continually sign new authorizations to permit these individuals to have the necessary access to health information. If the 180-day provision were deleted, which is what this bill requires or asks for, HIPAA--we all have heard of HIPAA, the federal privacy rules--those requirements would apply. This is a good thing. The federal privacy rule permits the individual to state an expiration date or an event in the authorization. The individual could choose a much shorter period or a longer period than 180 days. They could also choose an expiration event instead, such as the end of a chemotherapy treatment regimen. Patients retain the right to revoke authorizations to release health information at any time. Eliminating the 180-day limit would assist the health information exchanges within Nebraska, including the Nebraska Health Information Initiative. Some of you may recognize the acronym NeHii--it's not a soft drink--which began exchanging patient data among providers in the Omaha area last April. It will also assist the Southeast Nebraska Behavioral Health Information Network, the Southeastern Nebraska Health Information Exchange in Thayer County, the Nebraska Information Technology Commission's eHealth Council, the Health Information Security and Privacy Committee--of it, have identified the 180-day limit on authorizations for the release of health information as a significant barrier to the exchange of health information to these groups, and many more in the future I am sure. Therefore, LB702 removes the 180-day limit; thereby, giving the patient more options in time frames and better facilitating the information exchange upon their authorization. There will be other testifiers who can speak to some of the more technical aspects of this, but at its very basic rule we're removing the 180-day limit in recognition of some of the new opportunities that electronic medical records give us. [LB702]

SENATOR GAY: Thank you, Senator Gloor. [LB702]

SENATOR GLOOR: Thank you. [LB702]

SENATOR GAY: Senator Wallman has a question. [LB702]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Senator Gloor. And maybe you can answer this and maybe you can't, but if I have an MRI or some of this stuff, aren't I really the owner of that information too? [LB702]

SENATOR GLOOR: Absolutely. [LB702]

SENATOR WALLMAN: I can take that material right out of there? [LB702]

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SENATOR GLOOR: Absolutely. There may be fees from the provider for it. But the issue here would be if you wish to share that with, say, another physician that you'd like to take a look at that, to release that would require you to sign a form that has an under...an 180-day provision. If we make this change, you may decide that you'd just as soon that that physician not have access to your medical records for 180 days. You could specify that you'd like them to only have authorization for ten days; in which case, at the end of ten days it would disappear, assuming that we have the system set up to be able to accomplish that within that particular institution. [LB702]

SENATOR WALLMAN: Thank you. [LB702]

SENATOR GAY: Senator Gloor, you said ten days. Let's say...wouldn't that make it more complex though if you had...it's kind of like you're in until you opt out, is what you're saying maybe. [LB702]

SENATOR GLOOR: Actually, I think where we're moving in this state is to an opt-out component. [LB702]

SENATOR GAY: Unless you want to put your name for...but if you had it so vague, 10 days or 15 or...instead of 30, 60, 90, wouldn't that create more confusion for the computer people who are trying to track this? Because then they'd have to keep track of yours and Senator Wallman's and mine? Or is that not a technological problem? Or is that not... [LB702]

SENATOR GLOOR: Well, as an opt-out state--I believe I'm correct in this and the people testifying behind me can correct my error on it--but I believe as an opt-out state what you basically put yourself in a position to do is limit those people that you don't want to have access to your record. I mean there would be people who could get access to that information if you were in a car accident, as an example. We're talking about sharing information. But what we'd like to get to, to an electronic medical record in this country eventually, is if you're in a car accident in the western part of the state, you being from the eastern part of the state, the providers of emergency care could access important information about you and be able to gather that information to take care of you. [LB702]

SENATOR GAY: But it would be to your benefit if, longer term, to have one record of everything that's happened in your life. [LB702]

SENATOR GLOOR: Yeah. Yup, exactly. [LB702]

SENATOR GAY: Thank you. Any other questions? Thank you, Senator Gloor. Proponents on LB702? How many people want to speak on this? Four or five. Come on up. Is there any opponents to this? One. Any neutral? All right. [LB702]

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BRENDA DECKER: (Exhibit 13) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Brenda Decker. I'm the Chief Information Officer for the state of Nebraska. My last name is spelled D-e-c-k-e-r. And I'm here representing the Nebraska Information Technology Commission, or the NITC. I'm testifying in support of LB702. Unfortunately, Lieutenant Governor Rick Sheehy, who is the chair of the NITC, could not be here, but he asked me to read his letter into the record. And I do have copies of his letter for the committee. And a lot of the information in the Lieutenant Governor's letter is...you've just heard Senator Gloor give you. So I'm probably going to skip around in his letter to save you all time. [LB702]

SENATOR GAY: Thank you. [LB702]

BRENDA DECKER: As chair of the Information Technology Committee, the Lieutenant Governor and also the State Health IT Coordinator, the Lieutenant Governor wants to voice his support for LB702. As was stated, the bill would eliminate the 180-day limit on authorizations for the release of health information. It is more restrictive than the federal guidelines and it does create a barrier that's been identified by the providers, the physicians, and the people that are involved in healthcare in this state to get information, especially across state borders. LB702 would facilitate that exchange of information through our existing state health information exchanges which, as you heard, were the Nebraska Health Information Initiative, Southeast Nebraska Behavioral Health Information Network, and the Southeast Nebraska Health Information Exchange. It does still preserve privacy rights, LB702. It is a patient opt-out situation. Without the 180-day limit on the authorizations, HIPAA rules would still apply. And it would permit the individuals to state an expiration date or an expiration event in order for their information to be withheld. The letter is obviously signed by Lieutenant Governor Rick Sheehy. And so on behalf of the NITC we'd like to thank you for considering this bill, and I'll be happy to answer any questions you may have. [LB702]

SENATOR GAY: Thank you. Any questions? Don't see any. Thank you. [LB702]

BRENDA DECKER: Thank you. [LB702]

SENATOR GAY: If you're going to be testifying, you can come on up and save a little time. [LB702]

WENDE BAKER: Good afternoon. My name is Wende Baker, it's W-e-n-d-e B-a-k-e-r, and I serve as the network director for the Southeast Nebraska Behavioral Health Information Network. We are called what is called a regional health information organization, and we are implementing a health information exchange among behavioral health providers in the southeast region of Nebraska. There is a higher standard of privacy for behavioral health records, specifically substance abuse records.

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CFR, the Code of Federal Regulations, Section 42, applies. And it also applies to patients who have AIDS. And this higher standard requires a release to be signed in order for patient information to be shared. And so among this network of providers it is an opt-in as required by these federal requirements. And so the 180-day restriction--we're speaking in...I'm speaking in support of the bill--and because the information is available via consent, the continuity of care will really be affected by the 180-day limit. And that is just because the way the system is designed, once the authorization expires it will no longer be visible to any other treatment provider. And that's just what the technology will make possible. So what happens, you'll have a gap in continuity of care until such time as there is a reauthorization of the record. And so having that restriction just helps to make their information more available all the time in the instance where consent has been provided. It's also just an administrative burden. The providers already have systems around getting authorizations for consent from their patients, but having to do so every 180 days just adds another administrative burden on those providers. So I'd be happy to answer any questions you might have, but that's the extent of my testimony. [LB702]

SENATOR GAY: Thank you. Any questions? Senator Wallman. [LB702]

SENATOR WALLMAN: Thank you, Chairman Gay. Thanks for being here. Privacy, you know, privacy issues and all this stuff, does an institution or a hospital or a doctor's office, say I have HIV or a communicable disease which is dangerous to nurses or doctors, am I required to tell providers this information? [LB702]

WENDE BAKER: I can't answer that question, sir. I'm sorry. [LB702]

SENATOR WALLMAN: Okay. [LB702]

SENATOR GAY: Any other questions? All right, I don't see any others. Thank you. [LB702]

WENDE BAKER: Thank you. [LB702]

TRAVIS PARKER: (Exhibit 14) Good afternoon, Chairman Gay and other senators of the Health and Human Services Committee. My name is Travis Parker, T-r-a-v-i-s P-a-r-k-e-r. And I'm the deputy director of the Community Mental Health Center of Lancaster County and I'm before you today to testify in support of LB702. The current legislation requires releases of information to be signed by consumers of our services every 180 days. It has proven to be burdensome to both the consumer as well as the staff of our agency who provide services to them. Last fiscal year, the Community Mental Health Center served 4,571 unduplicated persons in our county. The burden of both tracking and obtaining authorized releases from consumers is only growing larger and larger with each passing year for behavioral health as well as primary care

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agencies. Staff of the Mental Health Center strongly believe that a move to strike the 180-day requirement from the existing legislation will not harm the rights or the confidentiality of the persons we serve in any way. In fact, the striking of this language will only allow for less restraint in carrying out the beneficial clinical services to the persons we serve. If the 180-day provision were deleted, HIPAA privacy rule requirements will apply. The privacy rule permits the individual to state an expiration date or event in the authorization. The individual could choose a shorter or longer period than 180 days or could choose an expiration event. In the case of the Mental Health Center, a person might say at the end of my outpatient mental health treatment I would like for the authorization to expire. Or if my last name changes due to a change in marital status, I want the authorization to expire. Patients retain the right to revoke authorizations to release health information. Eliminating the 180-day limit, as you've also heard from others, will also be beneficial to the state's health information exchanges. And I bring up specifically the Southeast Nebraska Behavioral Health Information Network, or SNBHIN, specifically because behavioral health providers in southeast Nebraska, such as the Mental Health Center, are members of that organization. The current 180-day limit for the release of health information is a barrier to the exchange of information. And again, having this burden removed will only enhance the exchange amongst network providers, as well as offering us the opportunity to better clinically serve the consumer. Thank you for hearing my testimony and would invite any questions. [LB702]

SENATOR GAY: Thank you. Any questions? Don't see any. Thank you, Travis. Other proponents? [LB702]

SHEILA WROBEL: (Exhibit 15) Good afternoon, Senator Gloor and committee. I'm Sheila Wrobel, it's W-r-o-b-e-l, and I'm the privacy officer for the organizations on the Nebraska Medical Center campus, also University Dental Associates here in Lincoln, and then Bellevue Medical Center which is staged to open this spring. I'll supplement what the others have said. Currently, Nebraska law has a 180-day restriction on authorizations. And so if a patient wants someone else to have access to their health information, they have to have that signed every 180 days. At Nebraska Medical Center, we often find that patients have advocates or others who are more informed about healthcare who want to receive the information, especially patients with chronic diseases such as diabetes, elderly patients, or patients with serious conditions such as cancer or organ transplantation that require long-term care. And so these patients want to have the right to sign an authorization for a longer period of time, and taking out the 180 days would permit this. It would give that patient greater rights. Now, currently, the patient can put a time period less than 180 days, and with this change the patient could still do that. So it would provide the patient with greater rights. They would still have the same privacy over their health information. It would also assist our medical records departments because they wouldn't have to deny access when they don't have a current authorization on file. For health information exchanges, Nebraska Medical

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Center is a part of NeHII. NeHII is an opt-out exchange, which means that the patient is told about NeHII and is told their information will be in the exchange unless they decide to opt out. But for exchanges that have health information where authorization is required, they would have to be opt-in and they would have to have authorizations on file. So it's really administratively burdensome for them to have to get new authorizations every 180 days. At Nebraska Medical Center we don't see any real cost for implementation of this. We would just need to modify our forms and some of our policies. But it would save our medical records custodian the time and costs associated with obtaining new authorizations. I wanted to respond to your question, Senator Wallman, about HIV patients. They do not have any obligation to inform us of their HIV status. All healthcare providers should be using what we used to call universal precautions--gloving, gowning, etcetera--so that they are protected against any condition that the patient may have. So, in conclusion, I thank you for considering LB702 amendments to Nebraska Revised Statute 71-8403 which would eliminate one barrier to health information exchange. [LB702]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB702]

SHEILA WROBEL: Okay, thank you. [LB702]

DEBORAH BASS: (Exhibit 16) Good afternoon, Chairman Senator Gay and members of the committee. I am Deborah Bass, B-a-s-s. And we, too, are here or I am here to support LB702. I currently serve as the interim executive director for NeHII, the Nebraska health information exchange, and I would agree with everything that has been said. And because of that I'm going to keep my comments very brief other than just to remark that the removal of this restriction would be the first step in a number of steps in order to include all the protected health information data sets within the statewide health information exchange. But it is an important first step and we would appreciate your support. With that, I'm going to open it up for questions if you have any. [LB702]

SENATOR GAY: Any questions? Don't see any. Thank you. [LB702]

DEBORAH BASS: Thank you. [LB702]

SENATOR GAY: Other proponents. [LB702]

DAVID BUNTAIN: Senator Gay, members of the committee, my name is David Buntain. I'm the registered lobbyist for the Nebraska Medical Association. We have submitted a letter in support of this bill. I had not intended to testify, but I understand that there may be opposition expressed by the Nebraska Trial Attorneys Association. And I just wanted to indicate that we believe that this is a very important bill that is of benefit to the providers, to the various groups that have already testified. And I think it's also important

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to attorneys in that I've been told by the legal assistants in our office that this 180-day restriction is a real problem as far as obtaining medical records in cases. We represent both plaintiffs and defendants in personal injury cases, which often last over a period of time. You request medical records. There's ongoing treatment. The consent expires, you have to go through the process again. And I think it's really to everyone's advantage to go with the HIPAA rule, which wasn't in place at the time that we first enacted the medical records law. There wasn't a federal law that we had to work off of. And I think that the kinds of protections that are necessary to protect privacy, to protect process, to allow revocation of a consent are present under the HIPAA rule, and it just creates conflict to have both of these in place simultaneously. [LB702]

SENATOR GAY: Thank you, David. Any questions? I don't see any for you. Thank you. Any other proponents? Opponents? [LB702]

DON WESELY: Mr. Chairman, members of the Health and Human Services Committee, my name is Don Wesely, W-e-s-e-l-y, representing the Nebraska Trial Attorneys. And we are here in opposition to the bill. But I've talked to Senator Gloor and we understand the desire to open up and allow for transfers, electronic transfers of information. But you've had previous discussions about the privacy issue. And medical records, there's nothing more private than your medical records and your own health. And so our concern is making sure that privacy is maintained and that access is truly a benefit to the patients involved. Question number one that we have deals with these options that are available. The 180 days was something that the Trial Attorneys were involved with in a negotiation years ago. And so we have a direct interest in this issue. And the feeling was 180 days made you focus on a particular need for the information so that there was a trial, a case, something up in the 180 days, you could take care of that. And then you wouldn't have an open-ended authorization. You take that away, how does the patient really know those options, that they can put a limit or a restriction on what access, who gets access, how long they have access? And it's not clear in this legislation exactly how that information is relayed to the patient, and that would be important. The second thing of our particular interest is in dealing with insurance companies and their access to this information. You talk about a patient having control of medical records. Well, not always. Sometimes they're involved with a complaint, a lawsuit, a malpractice issue, what have you. And now they're going to go to court or they're making a claim and the insurance company says, well, we need access to your medical records, and we won't, you know, work with you unless you give us that access. So they're authorized and here they come. Now this authorization is open-ended. It's not a limited 180 days. So the question, you know, for us is, how do you make sure that it's not unlimited? How do you make sure that it's focused on a particular purpose? And more than that, sometimes these dang insurance companies, they come in and you have a knee injury that you're filing a claim with, but they ask for all your medical records. And, you know, that can include anything imaginable, and that's of concern to us. And there are cases that I've heard about of unreasonable requests for medical information that has nothing to do

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with the case at hand. And so what we see is...you've heard some good testimony. The providers have got a legitimate concern; electronic transfer of information is important. We think that maybe a little more work on this legislation and addressing some of the concerns we have, which we think are legitimate, would make us comfortable with the bill. And so my offer is to work with the committee, the Trial Attorneys, and with Senator Gloor, and figure out if there's a way to deal with these particular items that I've mentioned to you. And with that, again we're opposed as drafted but would want to work on a solution. [LB702]

SENATOR GAY: Senator Howard. [LB702]

SENATOR HOWARD: Thank you, Chairman Gay. In listening to you, it kind of crosses my mind, what if something would come up after whatever the incident was, when you've signed the release and you're getting treatment for this, that would give them access also to any additional information? I mean, you may not be thinking that way and realize that that's pretty open. Is that part of the concern? [LB702]

DON WESELY: Yeah, yeah, absolutely. [LB702]

SENATOR HOWARD: Okay. Thank you. [LB702]

SENATOR GAY: Any other questions? I have one for you. I guess 180 days, if we're updating privacy records and financial services, those are done...you know, you may do them once and then they've got to opt out. And you explain, here's the privacy statement or investments, whatever you want to do. I mean, usually those are explained to the customer, or in this case it would be the patient. But I guess, why is this so much different than...your financial records are very personal, too, but those are done. Things can happen. But is the benefit of exchanging the information, doesn't that outweigh it a little bit? Privacy, I understand what you're saying. But isn't this being done kind of regularly in other industries? I got an e-mail just from, I think, a credit card company, "Here's your new privacy statement." You know--Delete. I don't know if anyone reads these that much. But, I mean, what's the difference between the two? [LB702]

DON WESELY: Well, I think financial records are also important to maintain privacy. And you're right, there are different provisions. And HIPAA is out there now and that does provide some protections that weren't there before it was enacted. But there's always...there's concern...and the attorneys I talked to talk about the great computer in the sky which exchanges all this information now, perhaps, and they just don't let everybody know about it. I don't know what's all happening with electronic exchange of information. It's a whole different world for us. But we are of a mind that we have seen some instances where abuses have occurred currently with the current law. And you open it up, and we think there will be more abuses and make it worse, so. But we also understand, as you said, there are some benefits. And I, for one, from my days sitting

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where you're sitting know that we need to move toward electronic health records. And we have to make them interchangeable so that people don't have to reinvent the wheel every time they go from one provider to another. We aren't opposed to that. We think that's wonderful. The provider side of it is fine. It's when you interject the legal system and the insurance companies and the lawyers, and you start authorizing things. I think there you got to be a little more careful, and that's what we're suggesting we can work with you on. [LB702]

SENATOR GAY: Thank you. Senator Wallman has a question. [LB702]

SENATOR WALLMAN: Thank you, Chairman Gay. Yeah, thanks for being here. In regard to HIPAA, what happens if I, you know, disobey the law with HIPAA? What is my punishment, do you know? [LB702]

DON WESELY: I don't know. [LB702]

SENATOR WALLMAN: I mean ministers are scared of it, counselors are scared of it. [LB702]

DON WESELY: Yeah. I was just going to say it must be pretty bad because everybody is afraid of it. [LB702]

SENATOR WALLMAN: Church secretaries are scared of it. You know, pharmacists are scared of it. And it kind of took the personal touch out of visiting hospitals. [LB702]

DON WESELY: Yeah, it is... [LB702]

SENATOR WALLMAN: What am I going to say? I visited my friend in the hospital, you know. [LB702]

DON WESELY: Yeah, that's...you're actually right. There was a negative effect to that as well as a positive in terms of protection of privacy. It also hurt some exchange of information. So... [LB702]

SENATOR WALLMAN: Yeah. Thanks, Don. [LB702]

SENATOR GAY: Thank you. I don't see any other questions. Thank you. [LB702]

DON WESELY: Okay, thank you. Appreciate it. [LB702]

SENATOR GAY: Any other opponents? I don't see any. Senator Gloor, you want to close? Oh, any neutral out there? No. Thank you. [LB702]

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SENATOR GLOOR: Thank you, Senator Gay. A personal reflection. I've lived through the installment of HIPAA guidelines within an institution. I was one of the institutions and CEOs involved during the initial phases of NeHII being established in this state. And I understand the concerns of the Trial Attorneys Association and we will be more than happy to work with them, although I think it will be a function of education rather than making any changes in the bill. We are simply removing the 180-day provision. That's all we're doing. And removing that removes a major impediment to implementing electronic medical records and exchange of information. What we are doing in our concerns at the state level is a flyswatter to HIPAA, which is an atom bomb when it comes to health information (laugh), concerns about sharing of information, penalties that go along with it. Penalties under HIPAA for sharing this information can include not only fines but jail time. I mean, it is a significant federal law that protects all of us and the exchange of our health information in great, great ways. Not everybody is going to have an open book when it comes to their health information. You have to be vetted. You have to be part of the provider network. There has to be a reason for you to have access to it. And being an insurance company is not enough; being the legal representative of an individual is not enough. There has to be a reason. And if you make that infraction, you can find yourself faced with serious fines and, as I said, jail time. I'm trying to put this in perspective and that we're talking about a very small change in our current statutes that can pave the way for something that ultimately has to happen in this state and country; and that is, we have to have freer and open exchange of information to providers who need that information to take care of patients and to give patients more control of their records so that they can decide who gets it, how long they've got it, or when they want somebody to no longer have access to it. And with that, thank you for listening. [LB702]

SENATOR GAY: Thank you, Senator Gloor. Any last questions of Senator Gloor on LB702? I don't see any. We'll close on LB702 and Senator Gloor will introduce LB766. [LB702]

SENATOR GLOOR: (Exhibit 17) Thank you very much, Senator Gay. My name is Senator Mike Gloor, G-I-o-o-r. I am very pleased to have been asked to introduce this bill, LB766, Center for Nursing. We're trying to remove the sunset provision on this particular bit of legislation that has its roots in the year 2000. The Center for Nursing was created in 2000 as an effort to address the nursing work force shortage concerns in the state of Nebraska. Although the Center for Nursing was originally funded, and this is an important part, it was originally funded through a General Fund appropriation. It is now funded through the Board of Nursing. It is funded...statutorily the board is directed to set the amount of funding at 15 percent or less of the biennial revenue from nursing licensure fees, so it's now paid for through fees. The fiscal note correctly lists the funding as Cash Funds with no General Funds. So I want to make sure you understand it's paid for by fees as opposed to the General Fund. The goal of the Center for Nursing is to gather and analyze nursing work force data and to develop and provide recruitment

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and retention efforts. The list of accomplishments over the past ten years: developed a strategic plan--and as you know, I love strategic plans--with annual goals for the center; conduct workshops and presentations regarding nursing work force issues to hospitals and other provider organizations across the state. It's participated with other centers nationwide to share problems and solutions on nursing work force issues. It's provided nursing work force annual reports each year. I believe if you've checked your mail today you would have seen this report, and this is their 2009 report. It came in the mail to me today; I'm assuming you got it also. Monitors and continues to monitor the yearly number of licensed RNs, LPNs, and nursing vacancies across the state; it developed a model to predict nurse work force needs to lessen the impact of shortages as we look to the future; maintains a Web site for work force issues and promotion of nursing available student loans and licensing information; it developed and implemented campaigns to recruit men and minorities into the nursing field, including a calendar of men in nursing--and they were in very professional attire, I assure you. (Laughter) I had a nurse who was on one of those calendars. Cosponsored recruitment expo related to nursing; cosponsored retention workshops with the hospital association; administered nursing student loan programs. They have awarded approximately 500 loans to nursing students. More importantly, as far as I am concerned, they've administered nursing faculty loan programs. We can't have nurses if we don't have faculty to train them, and there have been 20 of those loans. Sponsors nurses who make a difference, recognizing outstanding nurses across the state. It has distributed nursing recruitment book covers to elementary schools; and is currently working with the deans and directors of nursing programs and the Nebraska Hospital Association to develop a student passport project to reduce the hours of orientation and to recover more time for nursing students to have clinical experiences. Nursing work force shortage issues along with, name it, any other healthcare professions in this state, requires ongoing attention to track, analyze, and deal with new developing issues, shortages, anything having to do with the ever-shifting landscape of healthcare in this country and in this state. The Center for Nursing has made a difference I believe. The job is not yet done. There are changes and we need to continue to be diligent towards addressing these. The testifiers from the Center of Nursing that will follow me will expand on their work and the work yet to be done. The sunset date on this act is this year. We wish to remove it and, therefore, there is an emergency clause on the bill. In fact, it's set to sunset in July of this year. Thank you. I'd be glad to answer any questions, although future testifiers I think will do an even better job. [LB766]

SENATOR GAY: Thank you, Senator Gloor. Senator Campbell. [LB766]

SENATOR CAMPBELL: Thank you, Senator Gay. Senator Gloor, just a very quick question here. When did it move, the funding move from the General Fund to the Board of Nursing? Do you know that? [LB766]

SENATOR GLOOR: It moved in 2005. There was a five-year sunset on it. And a certain

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senator by the name of Stuthman was wise in saying and questioning and questioning. Do you think five years is long enough was the question he asked five years ago. And the answer was, no, it wasn't, and that's why we're back here again trying to get it extended. [LB766]

SENATOR CAMPBELL: Thank you. It's a good thing I asked for that history. [LB766]

SENATOR GLOOR: And we didn't compare notes. That wasn't set up for that question. (Laughter) [LB766]

SENATOR GAY: Oh, okay. We thought Arnie set her up to ask that. [LB766]

SENATOR CAMPBELL: I know. I get an extra cookie that way. [LB766]

SENATOR GAY: All right. Any other questions? I don't see any. Thank you, Senator Gloor. Proponents. How many people would like to speak on this? About a couple. Okay, good. Any opponents to this at all? Don't see any. Anyone neutral? Oh, okay. Come on up. [LB766]

LARRY RENNECKER: (Exhibits 18 and 19) Good afternoon, Senator Gay and members of the committee. I'm very pleased to be here today as a board member for the Center for Nursing to ask your support for LB766. [LB766]

SENATOR GAY: Could you state your name and spell it out? Could you state your name and spell it out? [LB766]

LARRY RENNECKER: Oh, I'm sorry. My name is Larry Rennecker, R-e-n-n-e-c-k-e-r, 7831 Viburnum Drive, Lincoln, Nebraska. I was...and I want to just spend a little time on history. You don't need to be bored with a lot of history. But I was one of the original board members and part of the task force that put together the Center for Nursing back in 2000. What we were faced with at that point in time was a noncomprehensive way to start dealing with the nursing shortage. Everybody was doing their own thing. Thankfully, a group of...from the universities, the colleges that teach these nurses and prepare them for a nursing career, the trade associations, of which I was an executive with the Nebraska Hospital Association, we all came together with the state of Nebraska Board of Nursing and said there's got to be a better way to do this; if we get together we can probably make something happen. Short on resources, but even at that, that gave us the opportunity to go in and do an in-depth look at what's going on around the country. Research dictated at that time there were several states that had centers for nursing, two to five years experience. You can't believe how much they had for funds. Well, quite honestly some of them aren't around today. So what we did was pick those programs that would really benefit this state. And as we started to look at our primary purpose, and the senator covered it well, was to create and implement a predictive

model that gave us what our supply and demand was, for years. And I've been in healthcare 43 years. Up until this time, we think we have a shortage or we've got a cycle of nursing shortage. So the model we came up with, we actually benefitted from all those who went before us in other states and were able to come up with a way that we could utilize inputs from, like, nursing licensure and from the different providers, the people who employ them, so employers of nurses. So, again, what we found was this is absolutely a model that is steadfast. We know right now we have about a 1,062 nursing shortages in the state of Nebraska. Now I kind of retired in 2000, but since then I've worked as an interim administrator in rural hospitals. I have worked most of my career in larger hospitals. But we know we still continue to have demands for working overtime, mandatory. We know that we have shortages throughout the state. This model depicts by geographic area where the shortage is at. So what we try to do...you know, we're able to work with those particular settings and with the manner in which we've been able to use technology today, we're training in actually the site where the individuals live or where they practice their work. We've had several meetings with stakeholders at the state and national level. I resigned from the Center for Nursing board when I left the Hospital Association to semiretire, because that's why I was there. Well, guess what? Five years after that, in looking at 2000, I could not believe by attending one of these meetings how far this center had moved. And the reason it did, it's a working board. This board is a board that anyone would be very proud to be on because we actually work and we get some things done. We've created a system, as I said earlier, that is phenomenal in terms of what its predictability is. And as we start to look at some of the issues we have to deal with, it's data-driven rather than soft information. We have sought and received some financial and technical assistance from the National Council of State Boards of Nursing, Nebraska Hospital Association, Center to Champion Nursing in America. Right now we're working with and continue to work with a minimal amount of budget dollars, but we try to make sure that we effectively use that for which we get through the statute, which is funded through the licensure for nursing. And the reason: Nurses really needed to get involved with this so they really support this, and we greatly appreciate that. We adopted the passport system, which Senator Gloor referred to, where we can actually work with the colleges and the students and the clinical providers in such a way to minimize the wasted hours, wasted dollars in terms of training, and making sure that, you know, we do the background checks and all that. So with this process, we looked at several states: Oregon Center for Nursing and Tennessee Nursing. So we're not going out there and spending money in terms of the research and development. We're just picking up where we see something is definitely a benefit to the state. We have a pretty much proven track record that we bring all the agencies that need to come together, the stakeholders. And we try to involve those that have a desire to be involved in terms of our strategic planning. One of the things we did was create a Web site and everything is as transparent as we can possibly make it. That concludes my testimony. Are there any other comments? [LB766]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB766]

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LARRY RENNECKER: Thank you. [LB766]

MARILYN VALERIO: (Exhibit 20) Good afternoon, Senator Gay, committee. I will try to be very brief. We've talked about the functions of the Center for Nursing. [LB766]

SENATOR GAY: State your name and spell it. [LB766]

MARILYN VALERIO: My name, sorry. Marilyn Valerio, V-a-l-e-r-i-o. I'm the associate dean of nursing at Nebraska Methodist College. I am here to represent the Nebraska Assembly of Nursing Deans and Directors. I'm also the immediate past chair of the Center for Nursing board and I was appointed to the board in 2003. I would like to say probably the most important thing that I've seen happen during my tenure on this board is the fact that we work with so many different groups and that it's really a very collaborative effort between, not just nursing, but with employers, with consumers, as well as both public and private entities. So I think it's been very effective in that way. We want to continue this because I think it's important not just for nursing but also for the citizens of Nebraska. And of the four goals that the center has identified in its strategic plan, increasing enrollment and capacity of nursing education most impacts the Nebraska Assembly of Deans and Directors. The center supports nursing education in several ways. One notable effort is in recruitment and graduation of nurses, both...through all levels, beginning with LPNs through graduate nursing. We monitor and report on trends in education and we have seen enrollments in all levels of nursing increase over the last seven years. In 2008, we had 4,320 nursing students enrolled in LPN and RN programs. And in nursing RN programs alone we had 1,400 new students, which was a 65 percent increase over the late '90s. Concurrently, our graduation rates have also increased, which is probably as or more important than simply enrolling students but actually get them to the point where they can practice. The second focus has been to sustain that enrollment and graduation. And what we see is that every program in the state is at capacity, and most have waiting lists. So what we're looking at is how do we identify new and innovative strategies to increase clinical experience and sites? And that's where the passport has come into effect. We're looking to decrease orientation time by prework and increased clinical experiences. And so we've looked at other models and have used other centers for nursing and work force development areas to do this rather than reinvent the wheel. So that's been very important. We're also looking at a Student Max system to pilot in the eastern part of the state to see whether we can use clinical sites even more effectively. Finally, a third area that's really been...is needing to be addressed is not only our practicing nurses aging, but nurse educators are aging. The terminal degree in nursing education is the doctorate. And if you look at the age of Nebraska educators, the average age of those holding that degree is 56. I'm not interested in working until I'm 80 or 90, but you know there may be some who are. I'm not. What I think we have to look at is increasing that pipeline and bringing younger nurses into the graduate level of education. So that has been a focus.

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We mentioned before the scholarships that were awarded, the faculty loan that has been awarded. Very important to help us then to increase the numbers of students and, therefore, graduates who can take these places. I think the collaborative work of the center has been extremely important and that we need to continue because, you're right, this isn't going to change and it probably won't change much in the foreseeable future. I'm happy to entertain questions. [LB766]

SENATOR GAY: Thank you. Senator Wallman. [LB766]

SENATOR WALLMAN: Thank you, Chairman Gay. Yes, thank you for coming here today and testifying on healthcare. What is the basic age of an RN, you know, the practicing RN, do you know? [LB766]

MARILYN VALERIO: The average age in Nebraska there is about 46. [LB766]

SENATOR WALLMAN: That's the faculty. But I mean... [LB766]

MARILYN VALERIO: No, not the... [LB766]

SENATOR WALLMAN: Oh, that's total? [LB766]

MARILYN VALERIO: I'm talking practice. Those are practicing. [LB766]

SENATOR WALLMAN: Okay. [LB766]

MARILYN VALERIO: Faculty are even older. [LB766]

SENATOR WALLMAN: Older? [LB766]

MARILYN VALERIO: Yes. [LB766]

SENATOR WALLMAN: Okay. That should be right, you know. [LB766]

MARILYN VALERIO: Well, yes and no. It's nice to have a few younger people to support that. [LB766]

SENATOR GAY: All right, thank you. Senator Stuthman. [LB766]

SENATOR STUTHMAN: Thank you, Senator Gay. Marilyn, since we started this program, like, five years ago, what I was not aware of because I don't pay attention to what we did, you know, years ago...(laughter)...but because of that, you know, we have addressed part of the problem. And if we continue, hopefully, you know, there was a real shortage prior to that five years ago. And we're starting to gain by the increase in

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students and the awareness of the need of it. So I really think we need to continue until we get to the level where we can have enough to support the need. [LB766]

MARILYN VALERIO: I really agree with you. And with the recession, we've seen nurses either going back to full-time or not retiring. And the projections over the next ten years is that you are going to have a significant shortage in this state, but also nationally, so I absolutely agree. [LB766]

SENATOR STUTHMAN: Thank you. [LB766]

SENATOR GAY: So when the economy rebounds then, though, which it will, they will be looking at retirement more. [LB766]

MARILYN VALERIO: Absolutely. [LB766]

SENATOR GAY: Right now they probably put it off, but... [LB766]

MARILYN VALERIO: Or they may go back to a part-time and you will lose... [LB766]

SENATOR GAY: ...may look more attractive. [LB766]

MARILYN VALERIO: Yes. [LB766]

SENATOR GAY: So the numbers may be a little off right now is what you're saying. [LB766]

MARILYN VALERIO: Yes, and I think our shortage has probably lessened but I see it then again widening. [LB766]

SENATOR GAY: For a short-term. Any other questions? Senator Howard. [LB766]

SENATOR HOWARD: Thank you, Chairman Gay. Well, I just have to reflect. When I was at the visiting nurses office, earlier last summer, I was told there actually isn't the shortage of nurses now because so many hospitals...people aren't really inpatient like they used to be. And so the hospitals, you know, had to be fully staffed and have more nurses on board. So it's a different situation. I was surprised to learn that because I always assumed that we're always operating at a deficit number of nurses, but. [LB766]

MARILYN VALERIO: And I think...again I think the recession has made a difference. I think it's impacted the number of people that are being admitted, the lengths of time that they are staying in hospitals, and therefore it's impacted the number of staff nurses that are being used. I also think staff nurses who were part-time have gone to full-time because they've become the primary bread winner and insurance holders. So we've

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seen a change that isn't going to last. It is temporary. That's what we have to talk to our graduates about as well. [LB766]

SENATOR HOWARD: Well, my impression at that time, and I'm not going to belabor this, but was that the insurance companies had an impact. You know, people are just not staying inpatient like they were years ago. Really people are going home sooner, frankly. And this is what's caused the nursing community to be in a different situation than it was when we looked at this back in 2005. [LB766]

SENATOR GAY: So, I guess, kind of following up with what Senator Howard was, she's saying...but I agree. There are so many things you think of nursing in a hospital, the average person, but there's so many other things. [LB766]

MARILYN VALERIO: Right, right. [LB766]

SENATOR GAY: Just today, every single thing we covered you needed nurses around, I mean to do some of this stuff. But are...you're working with everybody out there, right? [LB766]

MARILYN VALERIO: Oh, absolutely. [LB766]

SENATOR GAY: From the senior centers to the... [LB766]

MARILYN VALERIO: Acute care is only... [LB766]

SENATOR GAY: It's just amazing how many... [LB766]

MARILYN VALERIO: I am involved with a PIN grant right now with the university, as well through Methodist, and we're looking at long-term care and how to raise the level of nursing practice in long-term care because it's so critical. I've worked primarily myself, my own practice, in public and community health. That's where I see the benefit of nursing also being used. We've seen a lot of movement of nurses out of hospital into community-based settings, which is good. That's where we need to be. And a lot of savings have been made with Medicare by having home health and having nurses who are going in and monitoring rather than having them readmitted. So there's lots of work for nursing to be doing. [LB766]

SENATOR GAY: Exactly. All right. Any other questions? I don't see any. Thank you very much. [LB766]

BRENDON POLT: (Exhibits 21 and 22) Hi again. For the record, my name is Brendon Polt, B-r-e-n-d-o-n P-o-l-t. I'm representing the Nebraska Health Care Association. I'm also on the board of directors for the Center for Nursing. I do have written testimony

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here. I also bring testimony from the Licensed Practical Nurse Association, a letter from Judy Wolverton in support of the act. The Nebraska Health Care Association administratively manages that organization. So anyway they would like to be on record in support of this bill too. My testimony is very brief. We employ about 10 percent of the nurses that are licensed in the state compared to some 45 percent in hospitals. But they are very vital to our operations. And as alluded to in the prior testimony, we're looking at about a 20 percent shortage for long-term care by 2020, so we're alarmed. What I have in my testimony for your reference, and I'm not going to go through it all, are some examples of the types of activities Nebraska Health Care Association and some of the provider corporations and individual members are doing to help to spur work force on their own. The reason they provide that is because I don't want you to feel like we're coming to you and saying solve our problem without trying to do something proactive by ourselves. So we are trying to address work force need. We have about 15,000 total employees. So nurses don't represent as large a percent of our staff, so some of our initiatives are aimed at the work force in general. But we do have a foundation that provides nursing scholarships as well. And then I list some other items there for your reference. It's something that we can't solve alone. Without the data provided by the center, our members and the association, just in our offices, don't know, don't have benchmarks where we're working from. We don't...the studies on vacancies, turnover, supply and demand, regional analysis throughout the state of where there are gaps, where the workplace preferences are for nurses, these are just critical pieces for us to be able to manage our organization. So we're not asking for General Funds but we are asking that you just sustain what we've created and we're having success with. [LB766]

SENATOR GAY: Thanks, Brendon. Any questions? Senator Wallman. [LB766]

SENATOR WALLMAN: Yes, thank you, Chairman Gay. Yeah, Brendon, thanks for being here. You know, the original legislation must have had a reason for putting a sunset on it. Do you think another five years added onto this instead of just forever, or what do you think? [LB766]

BRENDON POLT: Well, it seems like if we've learned something from the past, when we have a successful program if there's not a need for a sunset, I guess, I wouldn't suggest extended one at this point. It's a tough problem to solve. We don't know how long it will take to solve. I think the initial intent of the sunset was hopefully if we're addressing a problem, there's a time when we've solved the problem, but I don't know if it's five years. And I guess I wouldn't want to... [LB766]

SENATOR WALLMAN: Okay. Thanks. [LB766]

BRENDON POLT: ...get ourselves in a bind again. [LB766]

SENATOR GAY: But although on the sunset at least we're talking about it today and

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educating new senators with term limits. You know what I mean? So whatever, it's not a bad thing because now we can see it's been working and go from there. Any other questions? No. Any other proponents? Don't see any. Any opponents. Oh, two more? [LB766]

LINDA LAZURE: (Exhibit 23) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Dr. Linda Lazure, L-a-z-u-r-e, and I'm here to testify for LB766. I was appointed by then-Governor Mike Johanns to the Nebraska Center for Nursing to two three-year terms in 2000 and again in 2003. I represented the Board of Health. And I am just coming off of being the chair of the Board of Health for the last several years. I served as secretary for the Center for Nursing group. My day job is associate dean for student affairs at Creighton University School of Nursing. But today I speak for the Nebraska Nurses Association which, as you know, is the largest nursing organization in Nebraska. I have to tell you that I have never served on such a collaborative and hardworking board as the Center for Nursing. We saw results. It was a privilege to be on this board. Led by the vision of the late Charlene Kelly, a supply and demand model, as you've heard, was developed that could predict the shortage of RNs and LPNs in Nebraska. Now as I was preparing my testimony for you today, I tried to put myself into your place and what information would I want to have. What's the "so what" in all this stuff? Well, I came up with three things. Money is number one. I often told my Board of Health colleagues that the center was the biggest bargain the Nebraska taxpayers ever got. Nurses actually approved a tax, so to speak, on themselves via license fees to help support the important work of the center. What other government agency entity tries so hard to sustain itself without being a drain on the budget? The second point I came up with was clarity and usability of the data. You have the annual report. You can find a lot of data about the national nursing shortage. But where else can you find rich information about the strategies that Nebraska employers are using today to help retain the 62-year-old nurses and plus? And I'm kind of partial to them because I'm getting closer to that. What national numbers can you get can give you Nebraska responses to what do you see as your nursing work force challenges five years from now? The center delved into those answers and incorporated them into the strategic plan, one that was strategic and planned and revisited every meeting. Strategies to increase retention of nurses, for example, are based on challenging goals which guide our specific tactics. The third point I came up with was access to nurses when your constituents need them. Nebraska needs nurses. While the current recession, and as you mentioned, Senator Gay, has temporarily halted the nurse and nurse faculty shortages, demographics are going to catch up with us. According to the 2009 Nebraska Center for Nursing annual report, the average age of RNs working in Nebraska, as you mentioned, is 46.6 years. The most common age group is 51 to 55, and that's the nurses. Ironically, as aging occurs and the economy improves, more of those nurses will leave the work force. The Nebraska Center for Nursing will work hard to assure that when you need a nurse, one will be there. Any questions? [LB766]

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SENATOR GAY: Very good. Any questions? Senator Stuthman. [LB766]

SENATOR STUTHMAN: Thank you. Thank you, Senator Gay. Dr. Lazure, I would just like to inform you I've got a granddaughter that is a student at Creighton. [LB766]

LINDA LAZURE: Ah. And I can't...in privacy, I cannot divulge any...(laughter). I'm the keeper of the privacy thing. So we cannot speak. (Laugh) [LB766]

SENATOR STUTHMAN: But she's just a new student there. She graduated from high school last year and she's a freshman right now. [LB766]

LINDA LAZURE: We can talk later and I won't disclose a thing. Because, indeed, we do have an information form that does have an expiration date that we use very, very well with a release of information to even parents. [LB766]

SENATOR STUTHMAN: Thank you. [LB766]

SENATOR GAY: All right, any other questions? [LB766]

LINDA LAZURE: Thank you. We'll do well by her. [LB766]

SENATOR GAY: Okay. I don't see any other questions. Thank you. [LB766]

LINDA LAZURE: Thank you. [LB766]

SENATOR GAY: Okay, last call. Proponents, any more? Any opponents? No opponents. Any neutral? No neutral. Senator Gloor, you want to close? [LB766]

SENATOR GLOOR: Thank you and I'll be brief, although I wanted to address Senator Howard's comments about acute care staffing of nurses. Wouldn't you know? I'd retire and they don't have a problem anymore in hospitals. But I think that's episodic. I don't think that's true of most hospitals across the state. And I do think if you take a look at that report that I referenced, their annual report that came out, on page 18 you see a listing of...and this isn't obviously all-inclusive, but it's I think a great listing of the type of setting for nurses. And although hospitals may have 58 percent of nurses, that means we've got 32 percent...yeah, 42 percent, right. I was a biology major and I didn't have to worry about math. (Laughter) Forty-two percent who practice in a variety of settings, everything from hospice to dialysis to working for insurance companies, and so on and so forth, there are...and this doesn't even get into nurse practitioners. And as you recall from a discussion we had earlier in the session on public health, we have nurse practitioners who are also scattered across the state. I would sum up in three sentences. This bill does not change any of the current structure for the Center of

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Nursing or its board. The bill does not change the current funding mechanism which is fees. And it only removes the sunset provision. Thank you. [LB766]

SENATOR GAY: Thank you. Any last questions? Senator Howard has one. [LB766]

SENATOR HOWARD: Just one final comment. And I'm glad to see them not only in a hospital. The first bill I got passed, LB264, was to put the visiting nurses out in the community with early intervention, helping the young moms, and that's been a wonderful, wonderful program. So it's good to have them out there. [LB766]

SENATOR GLOOR: Yeah, I think the ideal healthcare system for this country, debate it as we will, is that we don't need acute-care facilities except in the extreme, and that we're providing care in the homes, which is interestingly enough the way our forefathers provided care. You stayed at home and were provided care in the home. And people seemed to get well, interestingly enough, in familiar surroundings. [LB766]

SENATOR HOWARD: Exactly. [LB766]

SENATOR GAY: (See also Exhibits 24, 25, and 26) All right. I don't see any other. We're going to have a five-minute Exec Session too. We'll close the hearing on LB766 and then a five-minute Exec Session. [LB766]