[LB827 LB855 LB866 LB930]

The Committee on Health and Human Services met at 1:30 on Wednesday, January 27, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB930, LB866, LB827, and LB855. 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. Let's get going. Let's move on. We're here to discuss four bills, LB930, LB866, LB827, and LB855. Welcome to the committee. Those four bills we heard, if you're going to testify, there's testifier sheets...they're out in front now too, but on the side. If you're going to testify and you could fill that out before you come up, we'd appreciate it. We run a timer here. You've got introducers who get as much time as they want but if you're a testifier, proponent, opponent, or neutral, you get five minutes. The clock starts ticking the minute you sit in the chair, so if you want to fill out your form while you're in the chair that's fine but you're probably taking into your own time. When we ask you questions, though, it's shut off and we'll have exchanges if there are any questions for you. But the reason we do that, you know, we'll hear four to six bills a day and many times we're here until 6:30 at night, so it's just fair to those people at the end of the day as it is in the front. It kind of keeps everyone's attention. And if you have any just written testimony you want to hand in too, and you don't want to testify, you can give that to the clerk, Denise, over here or one of the pages and we'll make sure that gets in. We have received some on several of these bills and that gets put in the record as well, pro...or proponent or opponent. With that, we're going to start out. I'm Senator Tim Gay from Papillion-LaVista. We'll introduce starting to my right, committee counsel. []

MICHELLE CHAFFEE: I'm Michelle Chaffee. []

SENATOR GLOOR: Senator Mike Gloor, District 35, Grand Island. []

SENATOR CAMPBELL: Kathy Campbell, District 25, Lincoln and Lancaster County. []

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

SENATOR GAY: And Senator Stuthman will be coming soon. []

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

SENATOR WALLMAN: Senator Norm Wallman, District 30, south of Lincoln. []

DENISE LEONARD: And I'm Denise Leonard. I'm the committee clerk. []

SENATOR GAY: Yeah, thank you. And our pages are here to help out in any way as well. They're working hard now, but...with that, cell phones, if you could silence those, we'd appreciate it. We always got to put that in there. We'll get started, LB930, Senator Gloor. [LB930]

SENATOR GLOOR: Thank you, Chairman Gay, fellow committee members. My name is Mike Gloor, G-l-o-o-r. I'm here on a bill today that is somewhat technical in nature and has come about as a result of some work that was done last year on a bill that Senator Howard carried. My bill, 8...excuse me, LB930, does two things. It brings the Wholesale Drug Distributor Licensing Act into conformity with current law by recognizing the exemption from the practice of pharmacy. And that's an important key word here, the practice of pharmacy for businesses with proper accreditation that provide medical oxygen to home health patients. And it amends the Pharmacy Practice Act to provide that the federal simplification of FDA, that's the Food and Drug Administration, device labeling will not in and of itself result in a requirement of a pharmacy license for those selling such devices if they have proper accreditation. Last year through LB604, introduced by Senator Howard, we amended the Pharmacy Practice Act to provide that businesses that supply medical oxygen to home health patients and who are properly accredited by the type of accrediting organizations that are approved by our federal centers for Medicare and Medicaid services, those organizations are not required to have a pharmacy license to do so. They're not pharmacies. They're not writing scrips. Section 6 of my proposed legislation, LB930, amends the Wholesale Drug Distributor Licensing Act to recognize the amended provisions of the Pharmacy Practice Act that LB604 addressed. This brings the two measures into accord with each other. LB630, Sections 1 through 5 address other provisions of the Pharmacy Practice Act that because of a change in federal regulation has the potential to negatively impact the public's access to such life support devices as home ventilators, other important devices, comfort devices such as CPAPS, TENS Units, and many other medical devices. Most medical devices, and I think you can all relate to this, sold or leased by durable medical equipment providers, are labeled with a tag that we've probably all seen that says, caution, federal law restricts this device to sale by or on the order of a licensed healthcare practitioner. For many years this was the sole device legend approved by the FDA. This legend is not within the definition of a prescription device or a legend device in state statute. Recently, the FDA approved a simplified legend and it was encouraging to me to learn that the FDA decided to simplify things. A simplified legend for these medical devices, the simple "Rx Only". And as stated in it's official guidance that this conveys essentially the same message as the more detailed wording and is simpler. Under state law, however, under state law, the label of "Rx Only" will require a seller to have a pharmacy license because "Rx Only" now brings the device back to within the Nebraska definition of a prescription device or a legend device. Overnight a provider of durable medical equipment would not be able to provide or sell a device without a pharmacy license even though the device was available the previous day from the same provider without a pharmacy license. All that would have changed is

that the old label went out and the supplier was now, the wholesale supplier was now bringing in a new device with a new little label. The ability to access medical devices would hinge on the labeling whims of a manufacturer. This bill is intended to avoid that circumstance and to recognize an accredited provider may continue to sell such devices without a pharmacy license as long as the federally required legend is found by the FDA to convey, essentially, the same message as the longer caution. LB930 will assure access to necessary durable medical equipment to users, patients. It will enhance public health, preserve the standards of the Pharmacy Practice Act and it is very important issue here, revenue neutral, for the state of Nebraska. Be glad to answer any questions and there are some testifiers who are in the DME business who might be able to also answer questions. [LB930]

SENATOR GAY: Thank you, Senator Gloor. Are there any questions for Senator Gloor. I don't see any. Thank you. And I had forgot to mention, we all know Senator Gloor, of course, but if you come up and testify, please state your name and spell it out. I forgot to mention that. Thank you. We are for proponents. [LB930]

PATRICIA ZIEG: (Exhibits 1-3) Chairman Gay and committee members, my name is Patricia Zieg, Z-i-e-g. I'm here representing Apria Healthcare and Durable Medical Equipment Stakeholders of Nebraska. The latter is an unincorporated association of home medical equipment providers from across the state and I've passed a little roster around along with a couple of documents that I think will simplify, hopefully, this rather technical discussion. Senator Gloor has covered virtually every point in his introduction that I have in my notes, so I think the important thing to emphasize, the two important things to emphasize here are, is first this bill is in a sense a cleanup bill in terms of bringing the Wholesale Drug Distributor Licensing Act into accord or conformity with the exemption that was enacted last year in LB604. But I think the more important purpose of the bill is to make sure that the Pharmacy Practice Act is amended so that there isn't an unintended, inadvertent situation that arises. Because as Senator Gloor mentioned, this is sort of, maybe, in the category of no good deed goes unpunished in an attempt to simplify labeling. Because of the interaction between the federal regulations and the state statute, we could have a situation where persons, particularly in rural areas, do not have access to home medical devices on Tuesday that they could buy on Monday. We believe that LB930 will assure continued access. We're not making things that are now prescription devices, nonprescription devices. The intent is to preserve the status quo. And I've had discussions today and on Monday with the Executive Director of the Nebraska Pharmacy Association and she's indicated that that association will not oppose LB930. Thank you for your time and we have two representatives here from...one from the Stakeholders and one from Apria Healthcare to address other issues here. [LB930]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. [LB930]

PATRICIA ZIEG: Thank you. [LB930]

SENATOR GAY: Just for the record, Senator Arnie Stuthman has joined us, a member of the committee. [LB930]

GERALD CULVER: (Exhibit 4) Good afternoon, Mr. Chairman and members of the committee. My name is Gerald Culver, C-u-l-v-e-r. I'm the general manager of Central Nebraska Home Care, a durable medical equipment supplier with locations in Kearney and Grand Island. I am also a licensed respiratory therapist and have been practicing respiratory care for over 30 years. For the last 17 years I've been working in the field of durable medical equipment. I am a member of the stakeholders group who worked with the Board of Pharmacy, the Department of Health, and this committee to bring about successful passage of LB604 this past spring. My appearance here today is to ask the committee's help in bringing resolution to a problem that has the potential to put at risk thousands of Nebraskans currently receiving services from durable medical providers such as ours and the others represented here today. Durable medical equipment suppliers provide medical equipment designed for use in the home. We supply everything from bathroom safety products to life support, such as ventilators. For many patients we are the first stop they make on their way home from the hospital. Most of the products that we sell or rent carry this FDA cautionary label, statement that Senator Gloor has already talked about. Federal law restricts the device to sale on or by the order of a physician. This label does not refer to prescription or dispensing and has in some instances it adds, in addition to on the order of a physician or a registered dietician, registered nurse or other licensed practitioner. Recently, the FDA has amended the requirement for cautionary labels to include a shortened version and include the terminology "Rx Only" as a label as an alternative to the traditional legend language, not to change any intent, but to simplify this for the manufacturers. The department has notified Nebraska DME Stakeholders in writing that it considers "Rx Only" to mean prescription requiring a pharmacist to dispense. If manufacturers begin to replace the traditional legend device statements with "Rx Only", overnight the DME suppliers would potentially be required to stop providing legend devices, which would include life support systems such as home ventilators. Access to care would be critically limited especially in the rural areas. If manufacturers start to use "Rx Only" statements, the only means for a durable medical equipment company in Nebraska to stay in business is to obtain a pharmacy license or enter into a delegated dispensing agreement. In light of these reasons presented here today, I urge the committee to support LB930 as a means to protect the public and preserve access to care for citizens of the great state of Nebraska. [LB930]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB930]

GERALD CULVER: Thank you. [LB930]

CHRISTINE BARTLETT: Hello. [LB930]

SENATOR GAY: Hello. [LB930]

CHRISTINE BARTLETT: (Exhibit 5) My name is Christine Bartlett. I am the branch manager for two Apria Healthcare branches in the state of Nebraska, and I've been with Apria Healthcare for 25 years. I would like to request your support of LB930 pertaining to the Wholesale Drug Distributor Licensing Act, as well as the new device labeling amendments. Over the past few years, our industry continues and has continued to face challenges in maintaining ready access of oxygen and medical devices. LB930 was proposed to prevent an unintended consequence that could severely challenge our ability to provide medical devices to patients in our communities. Such devices would include home ventilators, positive airway pressure machines, nebulizer compressors, and all the supplies that are necessary to operate with these devices. These devices have contained the legend statement as we talked about, the caution, federal law restricts this device to sale by or on the order of a physician, or lists another type of licensed practitioner. This equipment is provided on a physician's medical order most typically as a result of a hospitalization or physician office visit. A home care company is selected to arrange for the patient education and set up of these devices. LB930 would allow home medical equipment providers like Apria Healthcare to continue to service those clients, as we always have, without interruption in service. If manufacturers change their labeling practices to reflect "Rx Only", which likely will happen, the same devices suddenly would be considered prescription devices, and the only providers that can provide this equipment would be those that possess a pharmacy license. We want to preserve the current practice as it is, so that we do not jeopardize the health, well-being, and access to our existing patients. We also do not want to place future patients at risk due to the fact that many home medical equipment companies will not be able to provide these devices, because they do not employ a pharmacist, nor do they hold a pharmacy license or delegated dispensing permit. Patients may have to go without life sustaining equipment due to a lack of provider availability. This would inevitably increase patient health complications and may very well increase hospitalizations. It is our sincere hope that quality home medical equipment providers can continue to provide very high level care to our customers without any interruption in service. Thank you very much. [LB930]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB930]

CHRISTINE BARTLETT: Thank you. [LB930]

SENATOR GAY: Any other proponents? Any opponents? Anyone neutral on this bill? Senator Gloor, you want to close? [LB930]

SENATOR GLOOR: (Exhibits 6-8) I'll do so very briefly. And I'll try and give you what somebody gave me as sort of the Sesame Street approach towards sorting this out and that is, Senator Howard's bill made it possible for medical equipment companies to give out oxygen that didn't require prescription. In the process of going through that it was discovered that the federal Food and Drug Administration, FDA, has now changed the labels that go on some of these devices to now say "Rx Only". What that means under current statute is "Rx Only" now requires prescription. We're now making the change to make sure that it's clear that it will...that's not the intent and it doesn't require prescription. We're getting back to where we had hoped to have been when we passed LB604, Senator Howard's law. Thank you, and I'd be glad to answer any last questions. [LB930]

SENATOR GAY: Any questions? Don't see any. Thank you. [LB930]

SENATOR GLOOR: Thank you. [LB930]

SENATOR GAY: All right. Senator Howard, on LB866, provide for a dispensing practitioner permit and change other provisions relating to pharmacy. [LB866]

SENATOR HOWARD: (Exhibit 8) Good afternoon, Senator Gay and members of the committee. For the record, I am Senator Gwen Howard and I represent District 9. I appreciate the opportunity to present LB866 for your consideration. I introduced LB866 at the request of the Nebraska Pharmacists Association in order to address concerns over healthcare practitioners being exempt from pharmacy practice requirements when they dispense medication in a manner that is described as incident to practice. Because we do not have a clear definition of what it means to dispense medication incident to practice or what this exemption really is, it may be helpful to understand what the pharmacy practice requirements asks a pharmacist. When a pharmacist dispenses medication, he or she is required to offer counsel to the patient, and in some cases, provide medication guides. The pharmacist must keep records, label the drugs, and perform a utilization review to check for interactions as well as follow all state and federal laws. These are necessary protections for individuals who take prescription drugs. LB866 is not intended to disallow physicians and other practitioners from providing medication to their patients. Instead, it is intended to ensure that when a drug is given to a patient, that drug is properly prepared in the same fashion, no matter who hands that drug to the patient. To that end, LB866 removes the incident to practice language and implements requirement for practitioners to obtain a dispensing practitioner permit from Health and Human Services and sets out obligations required per that permit. LB866 also allows Health and Human Services to formulate rules and regulations and set fees for the dispensing practitioner permit to bring in revenue to cover any additional cost associated with the permit. Recognizing the need for drug samples, LB866 adds a definition of drug samples allowing providers to give samples to patients without the additional requirements that pharmacists must follow when they

dispense medication incident to a prescription. However, it should be noted that it's just good sense to offer counseling, labeling, etcetera, when a patient is given a medication. LB866 also contains provisions that simply clean up and clarify existing law. The bill removes obsolete language and updates exceptions through veterinarians and ophthalmologists. It deletes language pertaining to hospital licensure and moves that language to the hospital licensures statute. The pharmacist association will discuss the technical and medical aspects of this bill in more detail. I want to stress that the pharmacist association is very willing to work with all the parties involved in this to make this the best possible bill. Joni Cover and I have had conversation after conversation about this and she is very open to suggestions and wants to work well with others. Thank you for your time and attention to LB866. [LB930]

SENATOR GAY: Thank you, Senator Howard. Are there any questions for Senator Howard from the committee? I don't see any right now. [LB866]

SENATOR HOWARD: I see I still have the green light. (Laughter) [LB866]

SENATOR GAY: You did good. Well, you've got as much time as you want, so no rush. (Laughter) Thank you, Senator Howard. [LB866]

SENATOR HOWARD: Thank you. [LB866]

SENATOR GAY: Now, we'll hear from proponents. [LB866]

KEVIN BORCHER: (Exhibit 9) Good afternoon, Senators. My name is Kevin Borcher, B-o-r-c-h-e-r, and I'm a member of the Nebraska Board of Pharmacy. I want to thank Senator Gay and the Health and Human Services Committee today for giving me the opportunity to speak and on behalf of the Board of Pharmacy to present the general support for LB866. LB866 involves the many expectations to the practice of pharmacy, I'm sorry, of many exceptions to the practice of pharmacy in Nebraska. Over time, these exceptions have been added to the Pharmacy Practice Act, not necessarily for the betterment of citizens, and definitely not for the protection of the public. One section in particular the Board of Pharmacy strongly supports pertains to the dispensing of prescription medication by nonpharmacists. The current statute allows for practitioners to dispense incident to practice. This statute is ambiguous and is being abused by some practitioners who sell drugs to consumers, at times without a valid patient-practitioner relationship, and with minimal, if any, patient counseling. To adequately protect the public, dispensing of medications should be performed by the medication experts, pharmacists. For those nonpharmacists who are allowed to dispense, they should be held to the same standard and the same regulations as dispensing as pharmacists. A second section that the Board of Pharmacy agrees to in concept is the removal of hospitals from the exceptions to the practice of pharmacy. In 1998, the Institute of Medicine had published statistics that nearly 100,000 deaths annually are attributable to

medical errors, of which about 7,000 are related to medications specifically. With the seriousness and acuity of those hospitalized patients, it's important for hospitals to be regulated for patient safety. This section is somewhat problematic in that some hospitals may be under the misconception that they are allowed to dispense medications or prescriptions to their employees. This is not allowed under current statute, and will probably raise more questions than answers on how hospitals will fit into the practice of pharmacy statutes. The Board feels that additional language should be added to provide for the proper regulation and public protection relating to hospitals. The Board of Pharmacy supports the general provisions of LB866 and encourages the Health and Human Services committee to advance that bill if such amendments are introduced to assure the proper regulations of hospitals within that practice of pharmacy. As a disclaimer, the position as stated in this testimony represents the position of the Board of Pharmacy and does not necessarily represent the position of the Department of Health and Human Services or the Division of Public Health. I wish to thank the committee today for hearing my testimony and I'm open to any questions that you may have for me. [LB866]

SENATOR GAY: Thank you. Any questions? I don't see any. Thanks. [LB866]

KEVIN BORCHER: Thank you. [LB866]

SENATOR GAY: Thank you. [LB866]

RON HOSPODKA: (Exhibit 10) Good afternoon, Chairman Gay and members of the Health and Human Services Committee. My name is Ron Hospodka, that's H-o-s-p-o-d-k-a. I'm a licensed pharmacist in Nebraska and special assistant to the Dean for Professional Affairs at the Creighton University School of Pharmacy and Health Professions. One of my responsibilities at the school is to educate pharmacy students about the federal and Nebraska statutes and regulations which a licensed pharmacist must comply with in the practice of pharmacy in Nebraska. I am also a member of the Nebraska Pharmacists Association Legislative Committee. I appear before you today in support of LB866 which, number one, updates and clarifies the definition of a drug sample; secondly, updates and clarifies the exceptions to the practice of pharmacy; thirdly, requires a practitioner to obtain a dispensing practitioner permit in order to engage in the practice of pharmacy; and lastly, requires a hospital that compounds and dispenses drugs, essentially to outpatients, not inpatients, that they obtain a pharmacy license and be subject to all statutes, rules and regulations pertaining to the practice of pharmacy. Removing practitioners, other than veterinarians, certified nurse midwives, certified registered nurse anesthetists, and nurse practitioners, who dispense drugs or devices as an incident to the practice of their profession may be a controversial provision in LB866. This provision was removed for several reasons. First, there has been confusion as to its meaning. Second, the dispensing of all prescription drugs or legend drugs, i.e., dangerous drugs, to patients should be

regulated with very few exceptions. It is important to note that a pharmacist cannot dispense a single prescription drug or legend drug to a patient unless such dispensing occurs in a licensed pharmacy and the statutes, rules, and regulations pertaining to practice of pharmacy is followed. I, as a pharmacist, cannot dispense a single legend drug to a patient without being in a licensed pharmacy and following all statutes, rules, and regulations, federally and state. Therefore, I believe any practitioner dispensing a single prescription drug or legend drug to a patient, with very few exceptions, and I believe we've outlined those exceptions in LB866, should be required to have a dispensing practitioner permit and be subject to the same statutes, rules, and regulations that a pharmacist must follow. In closing, I want to assure you that my support for LB866 and the concerns I have expressed here today are not based on the economic interests of pharmacists or upon what might be called professional protectionism. I am here today because I think it is essential that all patients receive the same level of protection provided by statutes and regulations that govern the practice of pharmacy in Nebraska. To remove that layer of protection from patients who receive medications from nonpharmacists is to do them a disservice. I believe that pharmacists are willing to work with prescribers on this bill to do what is in the best interest of all of patients that we serve. Thank you for allowing me to provide this testimony today and I'd be happy to answer any questions that you may have. [LB866]

SENATOR GAY: Thank you. Senator Stuthman. [LB866]

SENATOR STUTHMAN: Thank you, Senator Gay. Can you tell me what are the regulations to acquire a dispensing practitioners permit? What does it take to accomplish that? [LB866]

RON HOSPODKA: Well, currently, the current language that we have in that Section 38-2850 are the exceptions, it says that they have to obtain a pharmacy license. So they would obtain that license just like another pharmacy would that wants to open a pharmacy. We're proposing that that be changed to a dispensing practitioner permit and I believe that would have to be...that those requirements would have to be developed. [LB866]

SENATOR STUTHMAN: It would have to be developed then by initially permitting that practitioner permit. [LB866]

RON HOSPODKA: Right. [LB866]

SENATOR STUTHMAN: Okay. Thank you. [LB866]

RON HOSPODKA: That would be my understanding. [LB866]

SENATOR STUTHMAN: Okay. Thank you. [LB866]

SENATOR GAY: Senator Gloor. [LB866]

SENATOR GLOOR: Thank you, Chairman Gay. Mr. Hospodka, or Dr. Hospodka, help me understand what we're looking at here when we talk about changing or updating and clarifying the definition of drug sample. I think we all have a preconceived notion of what a drug sample is, but, obviously, our preconceived notion might not be quite clear. [LB866]

RON HOSPODKA: The reason that was in the...we added additional language to clarify that definition was that there was some...had the perception that as long as something is given free, it's a sample. And that's far from the truth. And a sample over the years, over the 40 years that I've been a practicing pharmacist, I've seen abuses with regards to samples and those samples are labeled specifically. Either they're a drug sample for professional use only or a professional sample for not for sale or language similar to that and we just wanted to clarify to make sure that it's intended usually to initiate drug therapy, not to continue drug therapy. In other words, on and on and that's the intent. I believe I'm correct in saying that. That that's the intent of a sample. Now samples are important, you know, to help those people that cannot provide or have the resources to pay for some of their prescriptions drugs, but I want to bring your attention to a study. This was reported on...this came from Harvard, Harvard researchers. And this was reported in July 16, 2008, and the lead sentence was that most free drug samples go to the wealthy and insured patients, not to the poor and uninsured, who may need them most. In other words, the sample is not meeting the intent of them being provided. So...but we just wanted to clarify that so it was clear as to what a sample is. Does that address your question, or...? [LB866]

SENATOR GLOOR: Well, but nothing in this legislation as I read through it really helps us make sure that those patients who might be needy are the ones that get it. We really are talking about a definition change, not anything that will really, as best I can tell, translate into limiting the ability of it to go to the most needy or improving the chances it will go to the most needy. Isn't that a correct assumption? [LB866]

RON HOSPODKA: I believe that's correct. [LB866]

SENATOR GLOOR: And it' a technical change, not a change in process. [LB866]

RON HOSPODKA: Right. It's a change in definition, not a change in the process. [LB866]

SENATOR GLOOR: Okay. Thank you. [LB866]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB866]

RON HOSPODKA: Thanks. [LB866]

SENATOR GAY: Are there other proponents on this bill? Any opponents? [LB866]

DALE MICHELS: (Exhibit 11) Senator Gay and members of the Health and Human Services Committee. I'm Dr. Dale Michels, M-i-c-h-e-l-s, and I'm a family physician from Lincoln representing the Nebraska Medical Association or NMA and the Nebraska Academy of Family Physicians or NAFP. I'm testifying in opposition to LB866 as introduced by Senator Howard. I'm a family physician in practice. During the past 35 years have been privileged to serve as family physician of the day, past president of the Lancaster County Medical Society, the NMA and the NAFP. I'm also a member of the Board of Health of the state of Nebraska but want to make it clear that I am not testifying on behalf of the Board of Health which has taken no official position on LB866. My opposition relates to the changes proposed by LB866 particularly in relationship to incidents to practice. It appears that this would eliminate the incident to practice dispensing, which although not frequently used, is very important in many cases and seems to substitute language that would be much more complicated. This would cause additional paperwork for those physicians who do dispense and require them to have control both of the Board of Pharmacy and the Board of Medicine. In addition...and there's a typo here. I apologize. In addition and certainly in rural situations, especially where a physician or physician extender is in a smaller community only part time, and there isn't really enough business even for what's being proposed in one of the other bills that I believe you'll hear, the current situation provides some real advantages and a service to patients, especially the frail and the elderly who can't travel to a pharmacist. I'm really unaware that there's a problem in this that needs a solution but rather this seems to make it a much more complicated process. In fact, I'm a little confused as a practicing physician after reading this bill what my requirements might be to maintain injectable medications which I "sell", i.e. charge for to the patient when I administer them. My personal experience, office experience, can relate a little bit to the process of obtaining a pharmacy license. A few years ago one of my partners at the time thought it would be a great idea to provide this service to our patients. Thought it's just wonderful, we could...it's one stop they could come to our office, if we wrote a prescription, we could obtain a pharmacy license, obtain some of these medications and dispense them. And there's actually an organization that provides prepackaged. It's all available. You just pull it off the shelf. It's very carefully done. So we did that. We thought, okay, we'll give it a chance. We'll give it a try. We put locks on the cupboards. We obtained the pharmacy license. We did all of the things we did and we lost about $3,000. At which point we said, no, we can't keep doing this. This just doesn't make sense. It may be a great service but it isn't really helping the patients. And in smaller communities, different situations, it might be different, but in Lincoln, Nebraska, it was really, honestly, a disaster. But we did obtain the pharmacy license. We did follow through all of the regulations. We were inspected, everything was done. And so I think it's a problem that

can be done, can be dealt with, isn't broke, I'm not sure it needs to be fixed. So we as physicians and both the NMA and the NAFP are certainly willing to work with Senator Howard, the Health and Human Services Committee, the pharmacists, to try and solve the problem, if indeed there is a problem, as far as incident to prescribing. But do not feel that this bill is beneficial to patient care and therefore I would encourage you to either kill or hold LB866. Would be happy to answer questions. [LB866]

SENATOR GAY: Thank you, Dr. Michels. Any questions? I don't see any. And thank you for your service too... [LB866]

DALE MICHELS: Okay. [LB866]

SENATOR GAY: ...as physician of the day. We appreciate that and the Board of Health service. Other opponents. [LB866]

JOANN SCHAEFER: (Exhibit 12) Good afternoon, Senator Gay and members of the Health and Human Service Committee. My name is Joann Schaefer, that's J-o-a-n-n S-c-h-a-e-f-e-r, M.D., and I'm the chief medical officer and director of the Public Health Division in the Department of Health and Human Services. Department of Health and Human Services has reviewed LB866 in regarding to dispensing practitioner provisions and I am here to testify in opposition. The basis for the Department's opposition in LB866 falls within two categories: the potential for limiting access to care and the potential for restricting healthcare professionals' ability to use professional judgment within their scope of practice. The complete elimination of the practitioner dispensing incident to practice may result in a decreased access to care for certain patients because some practitioners may choose to cease dispensing. Practitioners who have dispensed as part of their practice are accustomed to the requirements for recordkeeping, patient counseling, etcetera, in order to comply with the pharmacy dispensing requirements. However, when new practitioners learn what they will be required to do, many may choose not to pursue a dispensing practitioner permit. In addition, the requirement for facility inspection for these practitioners electing to dispense will require additional resources for the Department to conduct such inspections. Another concern is the restriction on the practitioner's ability to provide drug samples to patients for anything other than the initiation of drug therapy. This was touched on before and I just want to make a point of this that many times samples are used and they can be used for more than just the initiation of therapy. They can be for the complete course of, for instance, a urinary tract infection. We hear...just myself in my own practice, you know, we would use that frequently to, for a complete course of treatment. So it's just...we don't want to step into the patient-doctor relationship or interfere with the ability of the practitioner to decide if that sample and that complete course of treatment is warranted. In addition, there are many times when, you know, your patients are struggling and they can't meet the co-pay and it is within your scope, it is within you, you understand the drugs, you've had the training for the drug, you know

what the treatment of that disease is and you're going to go ahead and give the sample for the complete course of treatment to help the patient out. And sometimes, there are times when you are maintaining the person on the drug therapy because that is their only source of medication that they can get. And while the Harvard study was mentioned and yes, that's a notable study, and samples have been used that way in the upper middle class, for initiation of therapy, it is...there's no question that it's been used in many of our federally qualified health centers and many of our community health centers for complete treatment. And that is one of the areas that the Department is probably most concerned. Additionally, the Department has several technical concerns which I know we would work with Senator Howard on. And they are just language concerns and I've listed them here. I could read them for you but I think everyone is an agreement that they're just some minor technical issues about the way the bill is written and they're easily fixed in various subsections, so they're here for the record. [LB866]

SENATOR GAY: Thank you, Dr. Schaefer. [LB866]

JOANN SCHAEFER: Are there any questions? [LB866]

SENATOR GAY: Any questions from the committee? I've got one question for you. When you were in practice, those samples, do they have to be monitored, though? You can't just...is someone monitoring what you're giving out? [LB866]

JOANN SCHAEFER: Yeah, we had a log book in our sample cabinet. They're in a secured area. We would go in, write the patient's name down, the lot, the number that was given and, so that if anything happened, we could go back and see Norvasc was given, what lot number was there, how many were given and to what patient. So then we can locate the patient because frequently you'll hear that as the argument as to why, what if there's a drug recall? Well, you know, even though we had a complete paper record in my practice, we still had the ability to go back and keep track of the numbers. It is required that you keep a track, just for your samples. Nothing fancy in my practice and that was a typical practice throughout Nebraska that most family practitioners, most doctors have. We didn't do narcotics in my practice. We had a lot of standard treatment, you know, if someone came in vomiting, we had medications to treat vomiting there and IV medications and we had injectable. And I never once thought that I was breaking the law or doing anything that was unusual in practice of medicine. I consider all that incident to practice to treat somebody in my clinic that was very simple. And I guarantee you there are many physicians across the state would never think that that was a problem. But in your sample cabinets, you keep a log and you're familiar with how you have to track it. [LB866]

SENATOR GAY: Yeah, I thought they did. Senator Wallman. [LB866]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, doctor, for being here. It

has always intrigued me these free samples, who gets them, where they come from. They come directly from the pharmaceutical manufacturers or from wholesale houses? [LB866]

JOANN SCHAEFER: They come from drug reps that frequently come in to you. And quite honestly, you know, it's not always in your best interest to start somebody on a sample. It's an expensive drug. So, you know, the most expensive drug is not always the best thing to start your patient on, because then you're starting them down a trail of a very expensive drug. So when a patient asks for a sample to start, that might not be the best course. You might want that good old generic drug in there because that might be just as good, if not better. [LB866]

SENATOR WALLMAN: Thank you. [LB866]

SENATOR GAY: Senator Pankonin, [LB866]

SENATOR PANKONIN: Thanks, Senator Gay. Dr. Schaefer, I just had a question about the fiscal note that was in our file that it probably require at least a halftime equivalent to do the extra work in licensing and this sort of thing. Is that...do you agree with that? [LB866]

JOANN SCHAEFER: Yeah, we try really hard to do an honest review of the additional work. If there's some sort of mitigating information that we need to take into consideration, then we would. But we do feel that this would add an extra layer of work that the Department is not currently doing. We have a lot of prescribers out there that would probably have to fill out for this certificate. [LB866]

SENATOR PANKONIN: Okay. Thank you. [LB866]

SENATOR GAY: Any other questions? I don't see any, thank you, Dr. Schaefer. [LB866]

JOANN SCHAEFER: Great. Thank you. [LB866]

STEVE WOODEN: (Exhibit 13) Senator Gay and members of the committee, my name is Steve Wooden, W-o-o-d-e-n, and I'm a certified registered nurse anesthetist or a CRNA from Albion, Nebraska. And I currently serve on the Advanced Practice Nursing Board and I was chairman of the Nebraska State Board of Health from 1999 to 2003. And today, I'm representing the Nebraska Association of Nurse Anesthetists, and we are adamantly opposed to LB866 because LB866 would essentially eliminate our status as practitioners and would leave that up to the Division to make that determination. CRNAs are critical in providing healthcare in the state of Nebraska. And we practice as licensed independent practitioners prescribing, administering, and dispensing anesthetics and other medications in incidents to our performance of our practice. The

practice, license, and regulation of CRNAs in Nebraska is supposed to be overseen by the Advanced Practice Nursing Board. LB866 would essentially bypass this and give this responsibility to a division that may not be interested in our practice or as interested as we are. And I...as somebody earlier had said something about writing regulations for this after the law is passed and I want to tell you of our experience with the Division in writing regulations. About three years ago, CRNAs asked the Division to establish a mechanism for CRNAs to be able to use fluoroscopy in our practice. We went through about a year of jumping hoops to find out that the Division did indeed say that they thought that we should be able to use fluoroscopy but we still had to go to the Legislature to get a law passed and you did a very quick job of getting that legislation passed. It took almost a year after that for the Division to write regulations, and six months after that to review the educational programs that we presented to them. And here we are two years later and they still have not approved the educational program that we provided to them that would allow all CRNAs in the state to comply with the regulations. Quite frankly, considering our current experience with the Division in an area that doesn't have as much of an interest in advanced practice nursing as the Advanced Practice Nursing Board does, I don't have much confidence that this Division could establish a dispensing practitioner permit in a timely and effective manner that would not disrupt the practices of providers in this state and disrupt the care that we provide the patients in the state of Nebraska. [LB866]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB866]

STEVE WOODEN: Thank you. [LB866]

SENATOR GAY: Oh, sorry, Senator Gloor has a question. [LB866]

SENATOR GLOOR: I'm sorry, Mr. Wooden, just a quick question. Do you see any risk that CRNAs will find that this issue will come up with CMS for reimbursement for Medicare and Medicaid patients? In other words, might there be an inevitability here that because of the time frames involved, you're better crossing this bridge now rather than wait until some later date? [LB866]

STEVE WOODEN: Absolutely. I certainly understand what you're saying and anytime that we go into another area and develop a license like this and could disrupt our reimbursement either through the hospital or when we bill privately, and that would be a problem that I have not thought of and I appreciate you bringing that up. [LB866]

SENATOR GLOOR: Yeah, I think it's worth having, just faced that with the bill that I introduced. It might be worth giving some thought to. I'm empathetic with the times involved having been on the receiving end of that myself at times but maybe it's better to cross that bridge now rather than wait until it happens to you and then being faced with some challenges with timely reimbursement. [LB866]

STEVE WOODEN: Thank you for bringing that up. [LB866]

SENATOR GAY: All right. Any other questions? Thanks. [LB866]

STEVE WOODEN: Thank you. [LB866]

DON WESELY: (Exhibit 14) Mr. Chairman and members of the Health and Human Services Committee, I'm Don Wesely representing the Nebraska Nurses Association. We also oppose LB866. I have a letter that's being distributed to you from Kathy Hoebelheinrich who is a board certified, advanced diabetes management nurse practitioner. Just taking a few items from that letter, I think might be helpful to see how a nurse practitioner would currently utilize these samples if this legislation would not allow them to dispense. Let me begin. The Nebraska Nurses Association opposes this bill for the following reasons. A dispensing permit will impose a significant barrier for nurse practitioners with prescriptive authority caring for individuals with diabetes and other illnesses. She's writing this from the perspective as a diabetes board certified nurse practitioner. Effective chronic disease management, especially diabetes, necessarily relies on a multiplicity of ever-changing medications and supplies that nurse practitioners are qualified to prescribe and dispense currently. Manufacturer samples enable nurse practitioners to provide essential hands-on demonstrations and instructions for new and complex therapies and processes. And then let's skip down here a little here and then talk about an example of that. The diabetes management is a dynamic and time-consuming process with ongoing changes in medications and insulin regimens. Samples of new medications taken by mouth allow a trial period for efficacy and the occurrence of side effects before the patient must commit to a full month's prescription and the requisite and varying out-of-pocket expenses. For those relying on public-funded payers like Medicare and Medicaid, wasted prescriptions are at the taxpayers' expense, which is a good example of why they utilize these samples to make sure that they're going to work and not have side effects on their patients. For those individuals with Type 1 diabetes who are necessarily insulin dependent, the sample of insulin that the nurse practitioner can provide may be necessary to maintain life-sustaining therapy, because the patient's pharmacy in outstate Nebraska will be closed when they return to their home town that evening; or as a replacement for a broken or improperly stored and no longer potent vial; or the payer has imposed a dose-based limit on the number of vials or pens that the patient can obtain that month; or as a back up supply when needed for travel or as an adjunct to insulin pump therapy when infusion sets fail. And these are just a few of the very legitimate and real occurrences. So again, these are just examples of how a nurse practitioner utilizes this and I think it's a valid use, and would ask for your opposition to the bill. Thank you. [LB866]

SENATOR GAY: Okay. Thank you very much. Are there any questions? Don't see any.

Thank you. [LB866]

DON WESELY: Thank you. [LB866]

RON JENSEN: Mr. Chairman and members of the Health and Human Services Committee, I'm Ron Jensen, J-e-n-s-e-n. I'm a registered lobbyist appearing before you this afternoon on behalf of the Nebraska Optometric Association in opposition to LB866. And we recognize what Senator Howard is attempting to do with the bill and I don't want this to seem like piling on, but the legislation as it's introduced would create very significant problems for my client by inserting the word nontherapeutic before contact lens allowing optometrists to prescribe and dispense only nontherapeutic contact lenses and we're not sure what those are. Contact lenses by correcting and improving vision are, it seems to me by definition, therapeutic. Plus there are medicated contact lenses that will be coming to market within the year that optometrists need the authority to prescribe and dispense. And in fact, Senator Gay has introduced legislation which would broaden their present authority so that they can do that and remove any question about it. Unfortunately, LB866 would take us further away from that goal rather than moving us closer to it, so. For that reason, we're opposed to legislation and ask you not to advance. And I'd be happy to try to answer questions. [LB866]

SENATOR GAY: All right, thank you. Any questions? Don't see any. Thank you. [LB866]

RON JENSEN: Thank you, Mr. Chairman. [LB866]

DAVID O'DOHORTY: Good afternoon, Senators. My name is David O'Dohorty, and I represent the Nebraska Dental Association and I would also like to not be piling on so I'll keep my comments limited. This summer I had a chance to contact Becky Wisell who supports the Board of Pharmacy because the question was, can a dentist sell prescription toothpaste to their patients? And Becky was explaining this statute to me and the clause incident to practice and I'd just like to read you a paragraph of that because I think it's applicable here. We, the Board of Pharmacy, have interpreted incident to practice to mean incidentally or occasionally. We have interpreted regular dispensing to mean more than half of their patients that are leaving the office with a dispensed prescription drug or device. However, in recent discussions with the Board of Pharmacy, it is apparent that there could be different interpretations of the term "incident to practice" and regularly dispensing. That seems to be the only issue that I've heard of today. And if that is the issue, we would be more than happy to work with Senator Howard to come up with a definition that's suitable to all the parties to incident to practice that would make everything workable for most of the objections that I think we've heard about today. Any questions? I'd be happy to answer them. [LB866]

SENATOR GAY: Okay. Any questions? Nope. Thank you. [LB866]

DAVID O'DOHORTY: Thank you. [LB866]

SENATOR GAY: Any other opponents? Anyone neutral? I don't see any neutral. Senator Howard, do you want to close? [LB866]

SENATOR HOWARD: I will just make this brief. We all understand the need for practitioners to provide drug samples to their patients to initiate therapy, to allow patients to try out medications prior to having a prescription filled at their pharmacy, and to provide medications to patients in rural communities where patients may have little access to pharmacy services. LB866 simply means that all of these things are done as safely as possible. And again, I have certainly received a lot of support from the Pharmacists Association that they want to work with everybody so I think that's very hopeful. (Laugh) [LB866]

SENATOR GAY: All right. Are there any questions for Senator Howard? I don't see any. With that we'll close the public hearing on LB866, and Senator Howard you're there to now introduce LB827. [LB866]

SENATOR HOWARD: All right. Thank you, Senator Gay and members of the committee. For the record, my name is Senator Gwen Howard and I represent District 9. I'm introducing LB827 to be, hopefully, one of the many steps in working toward curbing prescription drug abuse in Nebraska. LB827 would require that practitioners receive two hours of continuing medical education in prescribing controlled substances every two years. The goal of LB827 is to give medical professionals the tools that they need to ensure that controlled substances are used only by those who have legitimate medical needs. Prescription drug abuse is a growing and pervasive problem throughout the country. Although the issue receives quite a bit of media attention, especially after high profile celebrity deaths, I think that many people still are not aware of the very real danger of the misuse of prescription drugs and what that poises for our society. Prescription pain medication is the fastest growing addiction problem in the U.S. The only elicit drug used more frequently is marijuana. In most areas, controlled prescription medications are more frequently accessible than heroin. Teen abuse prescription medications more frequently than ecstasy, meth, crack cocaine, and heroin combined. Many individuals, especially teens, think that because a prescription is issued by a doctor, use of the medication is legitimate and harmless no matter what it is used for. But we know both statistically and anecdotally that this is not the case. In November, the AARP reported that researchers at John Hopkins University found a 230 percent increase in unintentional poisoning deaths of women over 45. Most of these were caused by prescription drug abuse. In 16 states drug related deaths are now more frequent than traffic fatalities. When I began examining ways that the Legislature could deal with prescription drug abuse, I spoke with doctors, pharmacists, law enforcement officers, and many others. In my discussion with doctors, the idea of continuing medical education came up time and time again. Dr. Schaefer, with Health and Human Services,

was particularly helpful and supportive of this idea. And I thank Dr. Schaefer and the Department for their assistance in crafting this legislation. One of the most common ways that drug abusers get a supply of drugs is doctor shopping. Prescription drug abusers go to several doctors or even dentists and then to different pharmacies to prevent medical professionals from becoming suspicious about their activities. However, given the correct tools, practitioners can identify some patients who intend to misuse controlled substances. Moreover, medical professionals are uniquely positioned to channel these individuals to resources and to programs that can help them, if providers have the right information. Many practitioners know when it's ill-advised to fill or issue a prescription but education can make them comfortable in that knowledge and in their choices. With these substances, refusing to give someone a drug actually can save that individual's life and potentially the lives of others. LB827 is intentionally broad in describing what kind of CMEs are required. We wanted to require training in this area but we also wanted to allow practitioners to tailor their continuing education toward what will be the most effective in their practice. The important tool the professionals have to combat abuse of controlled substance is the right information. LB827 seeks to ensure that medical professionals have that information before someone walks out of their office with the potential to abuse prescription medication. Thank you. [LB827]

SENATOR GAY: Thank you, Senator Howard. Any questions from the committee? Senator Gloor. [LB827]

SENATOR GLOOR: Senator Howard, would you remind repeating the statistic for me related to deaths and traffic. [LB827]

SENATOR HOWARD: Which one? [LB827]

SENATOR GLOOR: Traffic deaths. [LB827]

SENATOR HOWARD: Oh, I can find that again for you. Sixteen states. In 16 states drug related deaths are now more frequent than traffic fatalities. [LB827]

SENATOR GLOOR: Thank you. [LB827]

SENATOR GAY: Are there any other questions for Senator Howard? I don't see any. [LB827]

SENATOR HOWARD: Thank you. [LB827]

SENATOR GAY: Yeah, thank you, Senator. Proponents. [LB827]

JOANN SCHAEFER: (Exhibit 15) Good afternoon, again. My name is Joann Schaefer, J-o-a-n-n S-c-h-a-e-f-e-r, M.D. I'm the chief medical officer and the director of the

Division of Public Health in the Department of Health and Human Services. I'm here testifying on behalf of the Department in support of LB827 which would require healthcare providers the prescriptive authority and pharmacists to obtain two hours in training in prescribing controlled substances as a condition of licensure renewal. And right from the get go, I'd like to note that we do recognize that there's a technical issue with how we listed pharmacists in the bill and we'd have to work with that because they're not prescribers, they're the dispensers, and we would work with that. The basis of the Department's support of this bill is as follows: since all healthcare providers must meet continuing competence requirements, these two hours of education on controlled substances prescribing could be included within these existing requirements, and information about controlled substances, including tactics that drug abusers use in obtaining prescriptions for such drugs, could be considered a standard part of ongoing education of healthcare professionals with prescriptive authority and dispensing authority for that matter. Although there might be some concern about the availability of controlled substance prescribing continuing education programs or offerings, we believe that those would be made available. And I just might add that in part of our discussions with us on the bill, you know, we acknowledge that there is an issue out there and I also want to say that in my time in serving in this job, I also want to acknowledge that we, as a group of professionals, have issues with personal use of narcotics and personal use of alcohol. And I just pulled our statistics of this last year and we had 1,024 cases of alcohol and drug related...I'm sorry, 1,024 discipline cases of which 128 were alcohol and drug related. And, you know, it just...I think it's a good...these CME courses would not only be an opportunity to remind folks of the issues around prescribing and dispensing narcotics, it's also a good time to remind us of our requirements to report those that we believe who are impaired, and it's also a good time to remind each other of our risks of abuse of ourselves. You know, we have a high degree of access to narcotics as professionals. And a little tune-up on that I don't think is necessarily a bad idea given the number of cases that I receive and that I deal with on a daily basis. So it's not meant any slant to...I'm part of the profession myself, healthcare practitioners. I just think in looking at the situation as a whole, I thought this was a very good solution to multiple issues that we deal with. And Senator Howard, I praise her for dealing...trying to find a workable solution to this besides, you know, other ways that we could have come about this, so. I'd be happy to answer any questions. [LB827]

SENATOR GAY: Thank you. Senator Stuthman. [LB827]

SENATOR STUTHMAN: Thank you, Senator Gay. Dr. Schaefer. [LB827]

JOANN SCHAEFER: Yes. [LB827]

SENATOR STUTHMAN: It is heartwarming for me to see that you are in support of this bill because the majority of the time you're in the opposition. (Laughter) [LB827]

JOANN SCHAEFER: It's heartwarming for me to be in support of a bill. (Laughter) [LB827]

SENATOR STUTHMAN: And that was more or less a comment that... [LB827]

JOANN SCHAEFER: Just wait until tomorrow. No, I'm just kidding. (Laughter) [LB827]

SENATOR STUTHMAN: ...that I really appreciate that you support this, so thank you. [LB827]

SENATOR GAY: Senator Gloor. [LB827]

SENATOR GLOOR: Thank you, Chairman Gay. Dr. Schaefer, how many CEU hours would a physician require for relicensure? [LB827]

JOANN SCHAEFER: There's 50 every two years and this is two of them. [LB827]

SENATOR GLOOR: So this would just be two. [LB827]

JOANN SCHAEFER: Just two. [LB827]

SENATOR GLOOR: Would it be a reasonable expectation that some of those 50 hours on a fairly regular basis might include this field or this study in this area of competency anyway? [LB827]

JOANN SCHAEFER: It's possible. And the way the Department, just so you know, the way the Department checks on CEUs and CMEs when...you know, and this will come up in October, when we fill out our license on line, I'll use myself as an example, I don't fill out that license on line until I know I have all my CMEs done. When you put in your credit card to renew, you hit the button, and then it will automatically put you through the system and then it randomly selects you and then you have to turn in your CME. And then, if you don't have it and if you can't prove up that you have it, then, you know, we take action. So you are randomly selected to prove that. This would just be just one of those things that you would be randomly selected to prove up. That's how we would enforce that portion of it. [LB827]

SENATOR GLOOR: You think there will be any refereeing that goes on as a result of deciding as to whether the CEUs that are offered fit the description of (inaudible)? [LB827]

JOANN SCHAEFER: No, I don't think the Department would be, you know...I don't think that we would be in the position to say, gee, this drug course was not as good as...you know, I mean, we'd look at, you know, a pretty broad definition of what...you know, I

don't think the law prescribes that we have to approve the course. [LB827]

SENATOR GLOOR: Well, would...you mean you've been down this road so many years...well, your young enough so that not so many years, obviously, but... [LB827]

JOANN SCHAEFER: Bless you. [LB827]

SENATOR GLOOR: ...the organizations have put on these, know what the intent is, and will, I'm sure, be looking to make sure they're curriculums include what (inaudible). [LB827]

JOANN SCHAEFER: Oh, yeah, in generals, I mean, it's not easy to get CME credit. There are very specific objectives, enough to be met, in order to even qualify for CMEs and CEUs. So not just any presentation counts as something that gives CME or CEU credit. There's a very lengthy process. For instance, when I'm doing something that is qualified, I just turned in power points and a lecture that I'm giving in June that is required and that's how far ahead of time with the educational objectives and what I plan to go through for the presentation in June so they can send it through the process to get, I think this one is CEU, credit for the audience. [LB827]

SENATOR GLOOR: What's the difference between the CME and the CEU? [LB827]

JOANN SCHAEFER: CMEs are specifically for medicine and CEUs, continuing education units, are for a lot of other allied healthcare professionals. [LB827]

SENATOR GLOOR: Okay. Thank you. We are talking CMEs here, obviously. [LB827]

JOANN SCHAEFER: No, it would be both. [LB827]

SENATOR GLOOR: Both? Okay. [LB827]

SENATOR GAY: Any other questions? I've got a question for you. And I'm going to relate this to insurance licensing and credits. If you take, you've got 50 you have to get, but is the class that you get, to each or...there's other...do they come in chunks because I took one class and got 24 credits. It was a fairly complex deal but can you pick up 25 at a time, 5 at a time? [LB827]

JOANN SCHAEFER: Yeah, yeah. [LB827]

SENATOR GAY: So they vary basically. [LB827]

JOANN SCHAEFER: Yes. And they vary profession and there are any number of free CEUs and CMEs on...you can literally google free CEUs and pick up little courses here

and there that have already been through the process and approved. And they're quite good. Some of them are quite good. You can get a tune-up that are available, on the latest in diabetic care, for instance that are put out on association Web site, for instance. [LB827]

SENATOR GAY: So is the average hours then a five-hour class or is it a fifteen, three, two? [LB827]

JOANN SCHAEFER: I would say the most common is one hour. [LB827]

SENATOR GAY: Oh, one at a time. [LB827]

JOANN SCHAEFER: One hour. [LB827]

SENATOR GAY: That's a lot... [LB827]

JOANN SCHAEFER: And it's a lot more common to get a one hour than it is anything else. And then you...the larger the number of hours you get, the more often those courses are charged for and they're more extensive. [LB827]

SENATOR GAY: Yeah, several...that's quite a bit throughout a year then. [LB827]

JOANN SCHAEFER: And it's almost hour for hour of... [LB827]

SENATOR GAY: And this is annually? It's 50... [LB827]

JOANN SCHAEFER: Fifty every two years. [LB827]

SENATOR GAY: But still, that's still a chunk. [LB827]

JOANN SCHAEFER: Yeah, that's for medicine. I'm not...I couldn't quote you all the other professions how many they are, but for medicine. [LB827]

SENATOR GAY: Very well. All right. Any other questions? I don't see any. Thank you, Dr. Schaefer. [LB827]

JOANN SCHAEFER: Okay. Great. Thank you. [LB827]

SENATOR GAY: Any other proponents? Are there any opponents? [LB827]

DALE MICHELS: (Exhibit 16) Senator Gay and members of the Health and Human Services Committee, I'm Dr. Dale Michels, M-i-c-h-e-l-s. And I'm not going to read who and what I've been and done again for you, except the record will show that I have done

several things and I also want to make sure that people recognize that I'm a member of the Board of Health of the state of Nebraska. But I want to make it clear that I'm not testifying on behalf of the Board of Health, which has taken no official position on LB827. I think it's important for you to know that my opposition is not to this overall concept, the concept of dealing with a drug shoppers, patient shoppers who shop for different physicians, people who try to get controlled substances under unique ways, I'm very much in favor of. And I understand those concerns. I think most physicians, honestly, and other practitioners try to prescribe appropriately, try to avoid being used to supply the streets with drugs, try to carefully monitor their patients who really do need controlled substances. And we tend to forget that there are some patients who really do need these drugs, and don't provide duplicate prescriptions. But there are...and there are unfortunately, however, those practitioners who still overprescribe and there are those patients who doctor shop to get what they think they need. So personally, having to deal with tracking control prescriptions, getting after hours calls, I probably...I'm not sure I've heard all of the excuses, but I've heard many of the excuses over the last 35 years as to why you need to refill my prescription. Communicating with other healthcare professionals, including consulting physicians, we often find out that two of us, two consultants are helping us care for a patient and all three of us are writing prescriptions for the same drug, which we have no way of knowing unless we just kind of have the sense that something is happening so we try to communicate with them and make a decision as to which one of us is going to be responsible for these drugs and the others will not be responsible. Some patients are smart enough to go to multiple pharmacies. They'll go to CVS for this drug and this practitioner, and they'll go to Walgreens for this drug and this practitioner, and they might drive out to Milford or Seward and go to a pharmacy that's a small community pharmacy out there for this practitioner's prescriptions. And they can get pretty sophisticated then sometimes. Honestly, I'm not sure that the extra education is necessary. I think that this is, albeit a concern, an issue, and I am concerned that placing such a specific requirement in the statute is a potential camel's nose in the tent, because in my experiences as a family physician, there are very well-intentioned people and organizations who would say, and perhaps rightfully so, that we as physicians don't know enough about obesity and nutrition. We don't know enough about palliative care and end of life care. We don't know enough about ethics and so their recommendation would be to come to you and say, we need to add continuing education hours for these particular disciplines that are in their area and their concern. I'm not sure that's good public policy that we start adding into the statute we have to do this. I fully agree with the 25 hours as a...per year. As a family physician, in all honestly, we have to get 150 hours every three years, or for that it would be 100 hours in two years. Ours just happens to be a three-year cycle. And Dr. Schaefer and I would very much agree, it's usually hour for hour, sometimes go to a three-day course, you may get 21 hours but it's not more than...you rarely get more than one hour per hour. So that's the way that process works. So our concern would be that this is not good public policy to do this. And for you all, it would be a lot of work. I'm concerned that LB827 won't help significantly with the concerns in that not...that healthcare

professionals don't know what to do and need further education. Now, our goal is to provide pain relief, heal where possible, comfort always, and unfortunately, sometimes, we get caught by the patients intent on doing themselves harm, feeding their addiction, or unfortunately, profiting from someone else's addiction. In an e-mail this past week I...Percocet, which is a fairly potent pain medicine that's worth $25 a pill on the street, so, you know, if I've prescribed 30 pills, I've given somebody a fairly good income if they can find a way to sell it. Even though I don't ever intend to do that, it's one of those things that does happen. I really, personally, have never encountered another professional who ignored or downplayed the communication about possible substance abuse. They're usually just not aware of it. We don't have a system that gives us a way to be aware of it. I left in your packet for you, a sample of a narcotic contract, which would give you an idea of some of the things that we as physicians have developed that is some of the things they can do, and in there you'll notice there's random drug testing. Interestingly enough, a number of physicians will sometimes find that somebody comes in and they'll ask them to leave a urine sample, which is the way the testing goes, and they'll find that the drug that they're requesting is not in their system. That tells you they're not using it because if it we're being used, it would be in their system. There are lots of things like that. Patients go...they steal prescriptions, they call in prescriptions. We've found that sometimes they'll call using my name and call you as a pharmacist and ask you for that information. So there are a number of things could do. I also brought along an envelope. There's no white powder in it. (Laughter) But I did bring you along an envelope. If you open it, you'll notice that it's signed on the back. We now provide this when we provide prescriptions so that if it's been altered, somebody knows it's been altered. Inside are a couple of prescriptions. They're not valid but they give you an example of what happens when you try to photocopy a prescription, what the prescriptions now look like, and ways to try to protect. So, the NAFP and the NMA are certainly willing to work on the problem. We just don't think that the continuing education is the way to address the issues. There are some states that use registries to track things. I've given you some Web sites for the National Conference on state Legislatures Web site, some sites that you can find some additional information that I actually found that was very beneficial. And as I say, we would like to work with Senator Howard and the committee to solve the problems. We recognize it's a problem. We just don't think this is the way. [LB827]

SENATOR GAY: Thank you Dr. Michels. Any questions from the committee? Senator Campbell. [LB827]

SENATOR CAMPBELL: Thank you, Chairman Gay. Dr. Michels, you talked about that you thought there were some good recommendations in the two sites. Could you just give us an example of what you found on those sites that would be a good recommendation? [LB827]

DALE MICHELS: Well, the Department and I probably wouldn't agree on this because

some of it does cost some money. But one of the best things that is probably done, or one of the things that's being looked at is a registry, so that when you prescribe I can with one or two clicks on my computer look in. I'm not going to look in on every patient that I have but if I have somebody who's on regular medicines are continuing to call, you just click on a registry and you find out what their use is through the entire system. In Lincoln, we're fortunate to have some of the pharmacies working together so that if I put a patient of mine on the drug seeking behavior list, all of the pharmacies know that and a red flag goes off if they go into any pharmacy in the community and say, I want this prescription refilled, or they call and say, I want this prescription or whatever, so we have a way. But that's just Lincoln. That doesn't, you know, nothing prohibits them from driving to Milford, driving to Seward, going to Ashland, wherever it might be from here. [LB827]

SENATOR CAMPBELL: Thank you. [LB827]

SENATOR GAY: Dr. Michels, you've been...it says 35 years you've been, watched a lot of things evolve. Has the continuing eds and these educational things evolved to the issues of the day? I'm sure this would be an issue now as these doctors bring this up. [LB827]

DALE MICHELS: You know, I think, we've talked about that there are a number of ways to give people little hints and subtle hints and programs or plans or specific things. For instance, the drug contract making it available so that people would have that. So, yes, and actually I've worked with the hospitals to provide continuing education. I've worked with the academy and the NMA to provide continuing education. Yes, there are ways to do this. When we see that there's a need, you know, I, as a family physician, if I feel like I'm not comfortable in orthopedics, I look at courses that are going to teach me better how to take care of an orthopedic patient. If we see that there are problems with controlled substances, if there are problems with ethics with end of life care, we try to separate or get into those courses to learn how to do that better. Our goal is best possible patient care. [LB827]

SENATOR GAY: So if there is a lot of continuing ed, which you've got to do, but is it up to you to choose I'm interested in this or that? How many...are there any mandated now, or do you get to choose? [LB827]

DALE MICHELS: There are...in Nebraska there are none mandated. The hours are mandated, but to my knowledge there are none. However, all continuing education providers are required to do some sort of survey or some sort of validation of why they're presenting the course. In other words, they can't present...well, they could, but most of us aren't going to a course that doesn't...isn't practical for us for what we do. So they will ask us, what do you think are your issues in your family medicine practice or in your practice of clinical medicine? What do you think are important? And then they will

try to tailor those courses so that when I go to their course, because in many cases I do pay to go to their course, I'm learning something more. [LB827]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you, Dr. Michels. [LB827]

DALE MICHELS: Okay. [LB827]

ROBERT HALLSTROM: Chairman Gay, members of the committee, my name is Robert J. Hallstrom. I appear before you today to testify on behalf of the Nebraska Pharmacists Association in opposition to LB827. For the record, the spelling is H-a-l-l-s-t-r-o-m. Further for the record, my testimony indicates that Joni Cover is presenting this testimony. She is not. (Laughter) From the pharmacists perspective our opposition is not stemmed in the objective of Senator Howard in introducing this legislation. We certainly believe that curbing fraud and abuse with regard to controlled substance prescriptions and the like is a valid objective. We have a technical objection which we have conveyed to Senator Howard, that being that pharmacists are not authorized to prescribe controlled substances. Therefore, we would rather not be subjected to additional continuing education on that particular prescribing activity. We have suggested in our testimony that Nebraska may well want to consider as an alternative to this, joining what I believe is to be approximately 40 states that have prescription drug monitoring programs and a properly structured program of that type might get at many of the issues and objectives that Senator Howard is looking at. One thing that I just mentioned to Senator Howard in sitting in the back of the room, I don't know whether this is appropriate, but the legal profession, for example, has just had continuing legal education requirements mandated. And within those hours, we have, I think, legal ethics, a certain number of hours that were required to take as part of our total package of required CE. Perhaps, that's a way to skin this cat and look at this type of activity, not adding to the continuing education hours but making it a component part of what needs to be taken by a practitioner. With that, I'd be happy to address any questions. [LB827]

SENATOR GAY: Thank you, Bob. Senator Gloor. [LB827]

SENATOR GLOOR: I would be remiss if I didn't ask, the legal ethics required is that a lot of hours or just a very few hours? (Laughter) [LB827]

ROBERT HALLSTROM: I believe out of 20 hours every two years we're obligated to take perhaps three hours and maybe three hours each year. [LB827]

SENATOR GLOOR: Thank you. [LB827]

SENATOR GAY: Any other questions? I don't think so. Thanks. [LB827]

ROBERT HALLSTROM: Thank you. [LB827]

KIM ROBAK: Senator Gay and members of the committee, my name is Kim Robak, R-o-b-a-k. I'm here today on behalf of both the Nebraska Dental Association and the Nebraska Veterinarian Medicine Association, and so I'll speak first on behalf of the NDA, the Nebraska Dental Association. First of all, the Nebraska Dental Association legislative committee has not yet met. They meet tonight but they...and their initial review of the bill had some concerns and I'm here to express those concerns knowing that we have not yet taken an official position on the bill. We agree with the goal. We think that the numbers are alarming that Senator Howard talked about. We agree with the Medical Association and the Pharmacy Association. The issues are very serious. And I personally commend Senator Howard for taking the lead on this subject because it's very important. We have a concern that this solution may not solve the problem. And so the question is, if this is a problem, which we all agree that it is, how do we set up a solution that actually solves the problem? The idea that Dr. Michels' suggestion with coordination is clearly a key in. From my years of being in the Capitol, we've talked about that for a long time and has not occurred because of the cost. We also are concerned about the slippery slope argument that if someone comes in today and says, now, sterilization is important, we take two hours in sterilization. We say that office practice management skills is important so we add two hours for office practice management skills. And so, at some point in time, we are not looking at the broad scope of what is continuing education but we've put it into little categories that may or may not cover all of the issues. So that is one of the concerns. I have personally talked with Senator Howard and expressed our willingness to work with her and she has indicated an appreciativeness to do that and so I simply suggest that we make sure that the bill does what we'd like it to do. With regard to the Nebraska Veterinarian Medicine Association we oppose the bill and ask that Section 17 and 18 be stricken from the bill. First of all, many veterinarians do not have dispensing permits, and secondly, they do not dispense to humans. And so I don't think we fit under the purpose of the bill. So with that, we would suggest that we be eliminated from the bill. And I'd be happy to answer any questions. [LB827]

SENATOR GAY: All right, thank you. Are there any questions? I don't see any. Thank you. [LB827]

KIM ROBAK: Thank you. [LB827]

SENATOR GAY: Any other opponents? Anyone neutral? Senator Howard, do you want to close? [LB827]

SENATOR HOWARD: Just a point of clarification. It's not the intent of the bill to add additional hours. It's the intent for two hours to be included in the 50 hours that physicians take for every two years. You've heard how pervasive and problematic

prescription drug abuse is. LB827 is a commonsense method of approaching this problem with no cost to the state. I personally would like to work toward prescription drug monitoring. Again, it has a cost. This bill simply seeks to put information in the hands of medical professionals before controlled substances are put into the hands of patients. Thank you. [LB827]

SENATOR GAY: Thank you. Any questions for Senator Howard? Senator Howard, I have one for you. Did you...on the monitoring, did check into that because that came across my... [LB827]

SENATOR HOWARD: We had a lot of conversations about it. [LB827]

SENATOR GAY: Is it...so the NCSL we can go visit that ourselves. Dr. Michels talked about that, and we've all seen some of those things, but cost at this point. You're trying to be realistic and... [LB827]

SENATOR HOWARD: Well, cost and...I have to say I really appreciated that Dr. Schaefer was so willing to work with me over the summer. I mean, we met, I'm thinking maybe three times to talk about this and to try to look at what would be effective, what it would cost, what the reality was of getting a bill passed that had a cost involved when there wasn't federal money right now that we had...Dr. Schaefer put in for a grant that didn't materialize, so that sort of tied our hands in that respect. This is an opening of the door. This is a first step. This is saying, this is something we can do right now, but in the next two years that I have down here, I hope to continue to work on this. [LB827]

SENATOR GAY: Okay, thank you, Senator Howard. Any other questions? I don't see any. Thank you. [LB827]

SENATOR HOWARD: Thank you. [LB827]

SENATOR GAY: All right. We'll close on LB827 and we're on Senator Fischer's here to introduce LB855. As Senator Fischer would say, is this your first time here? I don't see you too much in these parts, but... [LB827]

SENATOR FISCHER: No, you don't. []

SENATOR GAY: Welcome. []

SENATOR FISCHER: (Exhibit 18) Good afternoon, Senator Gay and members of the Health Committee. I believe the last time I was here was in 2005. Senator Howard was a member of the committee at that time and so was Senator Stuthman, so I hope you new folks now will be very kind to me (laughter) as I come before you again. Like to have a page, please. Good afternoon. My name is Deb Fischer, F-i-s-c-h-e-r, and I'm

the senator representing the 43rd District here in the Nebraska Unicameral. I appear before you today to introduce LB855. LB855 creates the Remote Pharmacy Act. This bill would allow a certified pharmacy technician to dispense medication while being supervised by a licensed pharmacist via a computer system with a real-time online data base and auditory video communications system. For example, a pharmacist in Valentine could open a pharmacy in Springview staffed only by a certified pharmacy technician and through the video link, supervise that technician as they dispense the medication. This bill was actually an idea of a constituent of mine who brought it to my attention. Dr. John Tubbs who is here today to testify contacted me about the difficulties many of his patients face getting their prescriptions filled because of the lack of pharmacies throughout our legislative district. If you refer to the map I provided, you will see this is not a problem unique to the 43rd district. Fourteen counties in Nebraska do not have either a pharmacy or a pharmacist; seven of those are located in my legislative district. To compound the problem, several of those counties are clustered together. This problem can be rectified in part by allowing pharmacists to operate remote pharmacies. With the assistance of the Nebraska Pharmacists Association, we crafted LB855. Several new terms are defined throughout the bill. Due to the increased responsibility placed on a pharmacy technician at a remote pharmacy, the bill requires that the pharmacy technician be licensed by the Pharmacy Technician Certification Board or another similar entity approved by the Board of Pharmacy. In other areas of statute, pharmacy technicians are not required to be licensed. A coordinating pharmacy is defined as a licensed pharmacy in the state of Nebraska which is electronically linked to remote pharmacies via computer system with a real-time online data base and an auditory video communications system. A remote pharmacy must also be located in Nebraska and be staffed by at least a certified pharmacy technician. The bill provides guidelines for ensuring that a certified pharmacy technician is adequately supervised as well as ensuring that patient counseling only be conducted by the pharmacist via the audio video system. Several other restrictions will be in place. A coordinating pharmacy shall not operate more than two remote pharmacies at one time. A remote pharmacy shall not have more than one certified pharmacy technician at each site. A coordinating pharmacy shall comply with the Uniform Controlled Substances Act as well as all federal and state laws, rules and regulations that other pharmacies comply with. If the computer link or audio video link is broken between the coordinating pharmacy and the remote pharmacy, all dispensing operations at the remote pharmacy must cease. The bill raises the number of technicians a pharmacist is allowed to supervise to three; to allow pharmacists to supervise a technician at each remote pharmacy and one on-site at the coordinating pharmacy. Finally, a remote pharmacy license will only be granted if there is not a licensed pharmacy within 15 miles of the proposed location. Remote pharmacies would provide a convenience for small towns that many residents of more populated areas take for granted. This would also provide an opportunity for economic development. For example, in North Dakota remote pharmacy has been extremely successful. According to an article published by the U.S. Department of Health and Human Services, Health Resources and Services Administration, remote pharmacies

have brought pharmacy services to more than 40,000 small town residences and created more than 60 jobs. Other states using this type of pharmacy include Alaska, Idaho, Illinois, Montana, South Dakota, Texas, Utah, Vermont, Wyoming, and even the District of Columbia. I'm excited about this bill and the difference it would make to communities in rural Nebraska, and I would encourage you to have a nice conversation with Dr. Tubbs who is here today. He has been an excellent resource for me personally on health matters, and I am very pleased to finally bring one of his ideas before this committee. And I am hopeful it will be successful, and in the future, I will be able to bring some more of his ideas before this committee. With that, I would be happy to try and answer any questions on this. [LB855]

SENATOR GAY: Thank you, Senator Fischer. Senator Pankonin. [LB855]

SENATOR PANKONIN: Thank you, Senator Gay and Senator Fischer, we do welcome you and you did a nice job of testimony as I knew you would. Today we had a letter from the Department of HHS from Dr. Schaefer specifically. I don't know if you're aware of this letter. [LB855]

SENATOR FISCHER: I have not seen it specifically. [LB855]

SENATOR PANKONIN: Okay. Let me just...I'm not going to read it or...but it's basically the Department of Health and Human Services has reviewed LB855 and supports the concepts with the following technical concerns, and it's the equivalent of half the page here, an entire page here, and a half a page here, so two pages of technical concerns. And I was under the understanding you probably hadn't seen that, so apparently the concept but they've got a lot of technical concerns, and I'm sure you'd be willing to work with and through these once you've had a chance to see what they are. [LB855]

SENATOR FISCHER: Of course, I'd be willing to...I would add a caveat there. I'm certainly not trying to go around any rules and regulations, but I think when you look at the challenges that we face in rural Nebraska we need to be practical on what can be applied in those areas as well, so that the medical and health needs of our residents can be met in a reasonable fashion. Safety is first and foremost, so, of course, I would be willing to work with the department, but I would also have to take into consideration Senator Tubbs...Senator...I'm demoting Dr. Tubbs (laughter). Dr. Tubbs' ideas on this and his concerns because he knows what's practical and what's going to work in the small communities that he practices in. [LB855]

SENATOR PANKONIN: Thank you. [LB855]

SENATOR GAY: Thank you, Senator Pankonin. Senator Howard. [LB855]

SENATOR HOWARD: Thank you, Chairman Gay. It always warms my heart to have

you come in (laugh) and branch out from concrete (laughter). [LB855]

SENATOR FISCHER: Thank you, Senator Howard. [LB855]

SENATOR HOWARD: Absolutely. But just so I understand it, can I have a vision of how this would work? Where would these actually be housed? Would it be like in the grocery store or where would they be located? How would, in real life, if I wanted to go to one of these, where would they be? [LB855]

SENATOR FISCHER: I believe Dr. Tubbs would be able to answer that easier, but I know that he practices in Stuart, Nebraska. He also has a clinic in Bassett, and I believe in Atkinson, but I think he would be able to provide you more information on that on where the technician would be located. I don't picture it in a grocery store. I picture it in a secure location. [LB855]

SENATOR HOWARD: Okay. Thank you. [LB855]

SENATOR GAY: Thank you, Senator. Senator Wallman. [LB855]

SENATOR WALLMAN: Thank you, Chairman Gay. Welcome to this committee also. [LB855]

SENATOR FISCHER: Thank you, Senator. [LB855]

SENATOR WALLMAN: And is this patterned after like North Dakota legislation a little bit then or is it separate for Nebraska? [LB855]

SENATOR FISCHER: I think it addresses the concerns we have here in Nebraska and in working with our pharmacists here in the state in reaching an agreement on what everyone can live with and still provide the service to the constituents out there. [LB855]

SENATOR WALLMAN: Thank you. [LB855]

SENATOR GAY: Any other questions? I don't see any. Thank you, Senator Fischer. [LB855]

SENATOR FISCHER: Thank you. [LB855]

SENATOR GAY: Are you staying around? [LB855]

SENATOR FISCHER: Yes. [LB855]

SENATOR GAY: All right. Hear from proponents. [LB855]

DR. JOHN TUBBS: Senator Gay, members of the community, good afternoon. You'll excuse me if I'm a little nervous. This is my first time testifying before a committee. My name is Dr. John Tubbs. I'm a family practice physician. I live in Stuart, Nebraska. I operate three rural health clinics. I have a clinic in Atkinson, Nebraska; Stuart, Nebraska; and Bassett, Nebraska. I employ three mid-level providers, two physician assistants, and one nurse practitioner. For those of you unfamiliar with the area of the state, it encompasses Holt and Rock County. Atkinson has about 2,000 people in the community. Stuart has about 600, and Bassett has about 550 to 600 people. Certainly, our goal is to provide our patients with as good a care as we possibly can, and that care sometimes involves home visits. That care sometimes involves, you know, obviously, emergency room visits and hospital care and nursing home care. However, there are some things that are more difficult that don't allow us to provide care that would be comparable to that in the city, and the main problem that we have out there is ease of access, not just with pharmacy, with numerous issues. Our patient base in the rural community, as such, typically tends to have at least on-state average Medicaid population. Certainly, I believe it to be a bit higher. Medicare population is actually higher than the state average. We don't have the use in the rural areas. Those older people certainly sometimes have trouble getting to our clinic let alone getting further down the road to a pharmacy. We do numerous home visits with people who aren't quite ill enough to be in the nursing home and want to retain their independence. Current situation we have when a patient presents to our clinic and has a prescription is as follows. One of the communities, Atkinson, does have a pharmacy, so they can go across town to the pharmacy. However, in the other two towns that we have pharmacies in Stuart and Bassett, we don't have that luxury. Options that the patients have at this point are either to drive to the nearest pharmacy, anywhere between 10 and 20 miles to the nearest pharmacy. Some of the pharmacies in the area will have a delivery service. However, in order to get prescriptions delivered the same day, you have to be fortunate enough to be into the physician or medical provider before noon before the pharmacy sends their courier out. Otherwise, you are out of luck for getting your medicine in that same business day. Certainly they can mail prescriptions which they do frequently. However, that is a delay of 24 hours to get the prescription. With these above three methods, if they're unable to get their prescriptions the same day, a lot of times that will involve us trying to find a way to temporize their condition. For instance, if somebody has a urinary tract infection, it may require us to give them an injection of antibiotic in the clinic which is not only more expensive for the patient because all injections are more expensive than oral medications. For instance, you're talking about a hundred dollar injection versus a four dollar complete prescription. However, they're painful; there's risk for infection and other complications. The current situation that we have is that you can, as a physician, obtain a dispensing license for your clinic and dispense limited medicines out of your clinic. The concern with this is that it's time-consuming for me as a physician and certainly, if I'm trying to get through 15 to 25 or 30 patients in a day, to take time out and try to dispense medicines for each one of those patients is

going to make it impossible to get a productive day in. The other situation that we have is a lot of the hospitals in the rural areas do have dispensing licenses at the hospital which is nice for those patients that are at the hospital. I'm a private practice physician, and certainly, my patients can't go to the hospital and get their prescriptions there because they weren't seen there. Currently, pharmacists have to fill about a hundred prescriptions a day to pay their wages and overhead. You're not going to get the volume of that...if we're lucky we'll have 30 prescriptions in a day that need to be filled at a local pharmacy. Certainly that wouldn't afford for hiring a full-time pharmacist to be present. I do feel that this bill is efficacious for patient care. I do feel it's in the beneficence of my patients, and it makes care more accessible to those patients who choose to live in a rural area to have a quality of healthcare that is both affordable and consistent with that which they would receive in a more urban area. Thank you very much. I'll be happy to answer any questions. [LB855]

SENATOR GAY: Thank you, Doctor. Senator Gloor. [LB855]

SENATOR GLOOR: Thank you, Chairman Gay. And you may have been nervous, but you did a great job. [LB855]

DR. JOHN TUBBS: Thank you very much, sir. [LB855]

SENATOR GLOOR: I would also compliment you. Senator Fischer has given you credit for helping sculpt this, but this is nicely done and answered almost every question I could come up with. [LB855]

DR. JOHN TUBBS: I'm fortunate to have a responsive state representative. She's been wonderful. [LB855]

SENATOR GLOOR: She's wise in a lot of way, one of which is she knows to go to people who know what they're talking about. So you did a nice job. But I've got three questions. [LB855]

DR. JOHN TUBBS: Yes, sir. [LB855]

SENATOR GLOOR: Is there some sophisticated Google map modeling you did on the 15 miles or, I mean, you pointed Stuart and Bassett out. Does it just fit nicely as you go down Highway 20? There's not a wrong answer here. [LB855]

DR. JOHN TUBBS: Oh, as far as the distance between the communities? [LB855]

SENATOR FLOOR: Yeah, the 15-mile... [LB855]

DR. JOHN TUBBS: I believe that had to deal with how far away you could get in a

horseback back in the day when the communities were created. (Laughter) [LB855]

SENATOR GLOOR: So, yeah, it does relate to the communities you actually have. [LB855]

DR. JOHN TUBBS: You know, you think ten miles on horseback in a day is a pretty good ride. (Laughter) [LB855]

SENATOR GLOOR: I thought perhaps if we sat down and looked at the state of Nebraska, that we could come up with communities that had pharmacists and within a 15-mile radius, but what you're telling me is this fits in your circumstance. There's really nothing magical about the 15 miles except it works for you. [LB855]

DR. JOHN TUBBS: No, actually, I'd prefer to have it to be ten miles. [LB855]

SENATOR GLOOR: Really. [LB855]

DR. JOHN TUBBS: I would. If you think about a ten-mile drive for somebody who's 75 years old to buy a $4 prescription, that brings the cost of that medicine up to $4 plus their time plus the cost, you know, two gallons of gas or a gallon of gas. I mean, that's a tremendous burden we're placing on those patients who are on limited incomes. [LB855]

SENATOR GLOOR: How did we get to 15 if you really (inaudible)...? [LB855]

DR. JOHN TUBBS: I believe it started at 20 miles, and I requested that it be made less than that, the 15 miles I don't know if you would meet with some resistance with the state pharmacists if you tried to go to ten miles, but certainly, I think ten miles would be a preferable number. [LB855]

SENATOR GLOOR: Okay, thank you. Am I correct, aren't pharm techs limited in terms of the controlled substances that they can dispense? [LB855]

DR. JOHN TUBBS: Pharm techs can dispense medicines, and I'm not a pharmacist...excuse me if I'm incorrect in this. My belief is that they can dispense medicines under the direct supervision of the pharmacist, not only controlled substances, but any new prescription to the patient. [LB855]

SENATOR GLOOR: Okay, and finally, what kind of intrigued me about this is whether there's a potential for this to have an institutional component to it, in other words, remote hospitals or long-term care facilities that might be able to use this in some capacity over weekends when they have a pharmacist that's difficult nearby. Was that explored at all? I see this is a retail model, but I wonder if they were an institution... [LB855]

DR. JOHN TUBBS: My understanding was that there's already a model in place for that. I may be incorrect, sir. I believe that there is some sort of a model in place for that. I know that I had spoken with Charles Korbat who's with University of Nebraska Medical Center, and he had stated that approximately, I believe, five years ago, there was a discussion held or a bill that had come through concerning pharmacists extending their license out to a facility giving them a limited number of medicines that they could use and allowing the nurses at that facility to dispense medicines under that limited list. However, I believe that there's been some difficulty with coming up with the wording that's acceptable for all parties involved in the matter to make it happen. But certainly, I think that any time you can do that it's better also. I believe that Telehealth is becoming more prevalent and predominant in the state, and the connections and the hookups that we have currently, you know, we can purchase a high-definition, secure, high-definition, real-time Telehealth connection $18,000 over three years. You know, you take that versus a pharmacist at whatever their wages would be is a significant difference and much more affordable. And the benefit also is that you could potentially...I don't know that it would be, but potentially you could use that Telehealth link for other things such as mental health services if the community had wanted to do so which is so rare in the state. [LB855]

SENATOR GLOOR: Thank you. And I may ask that institutional question of somebody who follows you to provide... [LB855]

DR. JOHN TUBBS: Please do. They might know more than I do (laugh). Thank you. [LB855]

SENATOR GAY: Senator Pankonin. [LB855]

SENATOR PANKONIN: Thank you, Chairman Gay. Doctor, I also want to welcome you and appreciate your work on this, and also want to tell you that as someone who does serve an area of the state that's probably underserved, we really appreciate that you do that. [LB855]

DR. JOHN TUBBS: Thank you, sir. [LB855]

SENATOR PANKONIN: And I'm going to go...refer the letter that I talked to, that I asked Senator Fischer about that's today's date. So, obviously, you wouldn't have seen it, and I just don't want to discourage you. But that's...I think you're finding out a little bit of how the process works when you had to negotiate between the 10 and 20 miles. I mean, you might be the next senator from that area if you're into that kind of stuff (laughter). But my question is, how long have you been thinking about this, and how long have you been working on this concept? [LB855]

DR. JOHN TUBBS: I tell you, I opened my clinics a little over two years ago? A little over two years ago. Up until that time, I was predominantly in one clinic. When I opened my own practice, not only did I find the difficulty with myself getting my charts back and forth and myself back and forth, but I increasingly found patients that would come in that you would say, you know, I'm sorry, but you're either going to have to drive 17 miles to go get this prescription filled or you're going to have to wait until tomorrow. We can certainly give you a shot, but it's going to cost you an extra $75 or $100 to get it, so it was almost immediately upon opening those clinics and starting to rotate between the three of my clinics that I noticed that. And it's become more acute as the last two years have come on. I've been thinking about this for probably about the last year and a half. I mean, I first noticed the problem about the last year and a half. I've been trying to find a way that we could come across doing it. I for a long time considered getting a dispensing license. The problem is is dispensing licenses are site specific, and I would have to take all that time out of my day in order to fill prescriptions which I don't feel is to the better care of my patients. [LB855]

SENATOR PANKONIN: It's just a follow-up question that's maybe not specific to this bill, but as some of the other policy issues that this committee considers, just a brief statement about your background, where you were from, your education, and why you decided to go to this area and practice in Stuart, live in Stuart. [LB855]

DR. JOHN TUBBS: Sure, sure. I'll give my name as John Tubbs, and I'm a family physician. I was born in Atkinson, raised in Stuart which is ten miles west by horse. I went to college at Wayne State, went to medical school at Ross University, did my residency at Creighton University, practiced in Omaha for two years to gain a bit of experience. I always had in the back of my mind that I'd like to move back to a rural area, and definitely back to the community of Stuart, if possible, or at least to the Holt County area. Reasons for this, obviously, are quality of life, and I believe my children get a better experience growing up in a rural area. The decision to do so wasn't difficult. The practicality of it is quite difficult. You know, certainly, student loans burdens are growing quite a bit. The opportunity to make more money is possible in the cities, and I initially took quite a pay cut to come back to the rural area. However, I felt quite strongly that that's where I belonged, and I tell you, it's...it's wonderful. I deal with patients that I...that are now patients that have been friends my whole entire life. And it's very uncomfortable sometimes because...to get in intimate physician-patient situations, but it's also very joyful, and it can be joyful in an ironic way. For instance, I had a lady who was like an aunt to me my entire life, who I recently had to tell that she had...that the chemotherapy she's been receiving for metastatic colon cancer was unsuccessful, and she was going to die. Two months later I pronounced her dead. So it's very bittersweet, but you also take quite a joy in being able to share not only the good times with your patients but the entirety of the life cycle with them, so I'm pleased that I moved out there. [LB855]

SENATOR PANKONIN: Well, it probably verifies something that I know Senator Stuthman has talked about before. For folks to come back, they usually have to come from those areas. You know, you don't grow up in New Jersey and want to go to Stuart, Nebraska, so we appreciate hearing that story and your service there, and the fact that you're looking at public policy to make it better for...you know, for you to be able to practice effectively and for the citizens you serve so...and patients, clients you serve. Thank you. [LB855]

DR. JOHN TUBBS: Thank you very much, sir. I appreciate it. [LB855]

SENATOR GAY: Thank you, Senator Pankonin. Senator Campbell. [LB855]

SENATOR CAMPBELL: Thank you, Chairman Gay. Doctor, and I apologize if Senator Fischer covered this, but in the area that you're talking about, are there other health professionals that could avail themselves of your idea? [LB855]

DR. JOHN TUBBS: Yes, ma'am. [LB855]

SENATOR CAMPBELL: Like dentists and... [LB855]

DR. JOHN TUBBS: Yes, ma'am. [LB855]

SENATOR CAMPBELL: Have you talked to any of them about your idea? [LB855]

DR. JOHN TUBBS: Not at all. [LB855]

SENATOR CAMPBELL: Okay. I have to tell you that I was sitting here (laugh) thinking, when you were talking about the distance and time to get pain medication, I was thinking about the time several years ago when I had a root canal, and I thought going ten minutes to the pharmacy was a long way (laughter). So I can identify, and I appreciate your creativity very much so. [LB855]

DR. JOHN TUBBS: Thank you very much, ma'am. [LB855]

SENATOR GAY: Senator Howard. [LB855]

SENATOR HOWARD: Thank you, Chairman Gay. We had some discussion earlier; this actually fits well with that regarding sample medication. Do you utilize giving out the sample drugs? Do you have those available to you and...? [LB855]

DR. JOHN TUBBS: I have a nurse who we call the sample queen that can get me samples of almost any medicine. [LB855]

SENATOR HOWARD: Oh. (Laughter) [LB855]

DR. JOHN TUBBS: I utilize them regularly. I utilize them predominantly in those people who I want to see if the medicine will be effective for them to give them a couple days' worth. We also utilize them in those patients who don't have the cash to afford the prescription we need to give them, and we have some patients that we...against the drug reps' wishes, actually supply those patients with months at a time of blood pressure medicines or something as we need to, you know, piecemeal. [LB855]

SENATOR HOWARD: So if someone came into you and had a kidney infection, and you had a medication...a sample that would be...is recommended to treat it, you could use that to tide them over to see if that's effective? [LB855]

DR. JOHN TUBBS: I'd be happy to use a sample. Concerns I have with that are as follows: Number one, antibiotics are not heavily sampled. Number two, typically, the medicines that are the sample medicines are not generic. Nobody will sample a generic medicine because they don't make money on it; the profit margin's not there. So the medicines that we have are the trade name medicines. So, for instance, if I have an antibiotic for somebody that I'm going to sample for them and then I'm going to give them a complete ten-day prescription for that, that prescription may end up costing them $150 in the same course the therapy could be accomplished with a $4 or $6 or $10 prescription. [LB855]

SENATOR HOWARD: And there isn't any way to...? [LB855]

DR. JOHN TUBBS: You'd be substituting from one class to the next if you'd do that and typically isn't recommended. [LB855]

SENATOR HOWARD: You're way out of my league of expertise (laugh), but that does make...really coincides with what Dr. Schaefer was talking about earlier too, so thank you. [LB855]

DR. JOHN TUBBS: Thank you. [LB855]

SENATOR GAY: Any other questions? I don't see any. You did a fine job. I'll tell you what... [LB855]

DR. JOHN TUBBS: Thank you very much, sir. It's been a pleasure. [LB855]

SENATOR GAY: Hey, Doctor, I got one question for you, though, (inaudible). Senator Fischer talked in her opening and said, you give her a lot of good ideas yet she just shows us one (laughter). What's...I'd keep on her because this sounds pretty good so far, but keep giving her good ideas. We need to see her more. [LB855]

DR. JOHN TUBBS: She's been a wonderful sounding board, and you know, there's a lot of practical matters that are not...in medicine that are not able to be addressed in the rural communities, and so often it seems like the policy gets made from the east side of the state, not from the west side of the state. And I think when it comes to matters such as rural healthcare, it's nice to be able to have the opportunity to have the input with you all to make a difference for my patients. [LB855]

SENATOR GAY: Yeah. Well, like I say, it helps us to hear this too as Senator Pankonin talked about, you know, where you're from and all that. That was going through probably everyone's mind just like what...it's because it's a unique situation. [LB855]

DR. JOHN TUBBS: Come visit me. I have all kinds of ideas. (Laughter) [LB855]

SENATOR GAY: Tell them to Senator Fischer. Thank you very much. [LB855]

DR. JOHN TUBBS: Thank you very much, sir. [LB855]

SENATOR GAY: Thank you very much. All right, other proponents on this. [LB855]

KEVIN BORCHER: (Exhibit 19) Good afternoon again. My name is Kevin Borcher, and I am a member of the Nebraska Board of Pharmacy. I wanted to thank Senator Gay and the committee again for giving me the opportunity to speak on the Nebraska Pharmacy Board's behalf of the general support of LB855. LB855 is seen as a significant benefit to rural Nebraska. The Remote Pharmacy Act is similar to legislation in several other states--Texas, North Dakota, Alaska, and Senator Fischer had also mentioned several other states as well. It will allow pharmacists at a coordinating pharmacy to remotely supervise a certified pharmacy technician at a remote pharmacy several miles away via the audio video and computer links to dispense prescriptions to patients in that community that would otherwise not be able to financially sustain a pharmacy. Although the number of communities that would take advantage of this opportunity may not be large, this bill does provide an option for pharmacies that have been contemplating going out of business, thus forcing patients to travel another...to another community for their prescriptions. If you imagine, and there were some examples...an elderly couple having to drive 20 miles, 50 miles away through a storm in the last month to get cardiac or antidiabetic medications because their pharmacy had closed in their community. The Board of Pharmacy does feel that amendments may be required or probably would be required. Remote pharmacies should be regulated similarly to existing community pharmacies in order to protect the public and to provide necessary services. This would require inspections, licensing, and fees to be set to mimic those of community pharmacies. The board encourages the Health and Human Services Committee to advance LB855 if such amendments are introduced. The position, as stated in this testimony, represents the position of the Board of Pharmacy and does not necessarily

represent the position of the Department of Health and Human Services or the Division of Public Health, and sometimes that's in very small print, but I'll still read it. I would like to thank the committee for allowing me to speak today on this, and would very willingly answer any questions you may have. [LB855]

SENATOR GAY: Thanks, Kevin. Any questions? Senator Gloor. [LB855]

SENATOR GLOOR: Thank you, Speaker Gay. Mr. Borcher, can you answer my question about the applicability of this for institutional use or have we, in fact, addressed that in another way or looking at doing it another way? [LB855]

KEVIN BORCHER: That is a very good question. Just in the last couple of weeks I've had hospital pharmacists asking if something could be done like that. This bill, in my opinion, won't really affect that or impact it as we would hope because this is dealing with retail pharmacies, community pharmacies, and hospital pharmacies aren't in that. I could see a big advantage for that as well. Even though I'm from Omaha, there are rural institutions, critical access hospitals that may benefit from something like this. [LB855]

SENATOR GLOOR: Okay. Thank you. [LB855]

KEVIN BORCHER: You're welcome. [LB855]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB855]

KEVIN BORCHER: Thank you. [LB855]

JONI COVER: (Exhibit 20) Good afternoon, Senator Gay and members of the Health and Human Services Committee. For the record, my name is Joni Cover. It's J-o-n-i C-o-v-e-r. I'm the executive vice president of the Nebraska Pharmacists Association, and I'm here today in support of LB855, and I would like to thank Senator Fischer and Dr. Tubbs for bringing this issue to me and to you. A couple of years ago, the NPA introduced LB308 which was our first delve into automation. There's been automations used in hospitals and pharmacies for many years, but there was never any codification in our statutes, so we passed that bill to recognize the fact that automation is occurring. Then last year we added to that list the allowance of long-term care facilities to have automation placed within them. So we've already sort of got something on the books as far as automation and telepharmacy, but we don't have anything that addresses the retail side of the practice of pharmacy. I think that LB855 is a great addition to the telemedicine model that we have in Nebraska. Nebraska has been, you know, way ahead in offering telemedicine services. Unfortunately, we can't hook into those great cables that are stretched all over the state, but we do feel like telepharmacy is an important step in the right direction. Since the inception of the Medicare Modernization Act or commonly known as Medicare Part D, we've started to see a slow decline of

independent community pharmacists across the state. And I think Senator Fischer brought up, and it was brought up earlier today, that we have currently 19 counties that do not have pharmacy services. And talking about rural providers going back to communities, you've heard over and over and over again in this committee how hard it is to attract young people to go into those communities if they're not from there, and, you know, pharmacy is no exception. We've got pharmacies, if you will, that have owners who are at the age where they'd kind of like to retire, and trying to convince young people to come out there and buy their stores and take over the practice is sometimes a bit challenging. So this type of a model of allowing a pharmacy to be open, staffed by a certified technician, supervised by a pharmacist off site, I think is a great idea and a great advancement in pharmacy services for the whole state. In all fairness, I grew up out in the middle of nowhere too. It was 30 miles one way for me to go to a doctor or a pharmacy, so I get the ruralness of that...of those challenges, and remember lots of times having to make a couple trips to town because the pharmacy was closed or, you know, the physician wasn't available. So I would appreciate the committee's support on this. We'd be willing to work with Senator Fischer and whomever to address the concerns of the department, whatever those may be. I wanted to point out one thing, though. Technicians cannot dispense medications. Technicians help the process of getting the medication ready to be dispensed to patients, but it's still the pharmacists that would need to be the...do the dispensing. So the pharmacist would be watching what the technician does...filling, labeling, you know, doing all the recordkeeping sorts of things, but it's still the pharmacist who has to do the check to make sure that there's no like interactions and allergies and those sorts of things, and then would actually be the one who would have to counsel and do the dispensing of the medications. That wouldn't change, and that's part of the reason for the auditory visual, on time, you know, real time online connection. So I will tell you that one of the things that...and I haven't really talked with Senator Fischer about this because this just came up. But I had a...one of our members asked me what happens if the transmission system is down but there happens to be a pharmacist in the pharmacy that day? And I think that maybe that's a little technical correction that we could address because if the pharmacist is there they can go ahead and dispense the medication, so that might be something we need to, in the list of...the litany of technical things we need to address, that might be one other thing that we need to look at so. I think that's all I have to say, and if you have any questions, I'd be happy to try to answer them. [LB855]

SENATOR GAY: Thanks, Joni. Senator Stuthman. [LB855]

SENATOR STUTHMAN: Thank you, Senator Gay. Ms. Cover, several years...and with this bill, it brought back to me memory of...several years ago, I had a bill with this dispensers... [LB855]

JONI COVER: Um-hum. [LB855]

SENATOR STUTHMAN: ...in senior centers and stuff like that. Where is that at now? [LB855]

JONI COVER: Well, we passed LB308. [LB855]

SENATOR STUTHMAN: Yeah. [LB855]

JONI COVER: And actually, this telepharmacy language was part of LB308 when we first started the process. LB308 allowed for machines, you know, the machines that count (inaudible) stick, if you will, or machines in the hospitals that spit out the unit dose. That's in statute now. [LB855]

SENATOR STUTHMAN: But is that in place? Is it working? [LB855]

JONI COVER: Oh, yeah, we have a lot of pharmacies and hospitals that utilize that kind of automation... [LB855]

SENATOR STUTHMAN: Use those dispensing machines. [LB855]

JONI COVER: Yes, yes, yes. [LB855]

SENATOR STUTHMAN: Okay. Okay. [LB855]

JONI COVER: So. [LB855]

SENATOR GAY: Any other questions? Senator Gloor. [LB855]

SENATOR GLOOR: Thank you, Chairman Gay. Joni, just so I understand, we really are talking about then the visualization, if this is a multi-dose vial of some kind. It's got to be held up to the camera. The definition on the...reception has to be clear enough, so that the pharmacist can see this and direct the pharm tech to draw up however much they need to draw up, shake out however many pills. And there is no...I mean, it can be a controlled substance. Probably not... [LB855]

JONI COVER: Um-hum, there's...we don't have any limit right now on what could be dispensed out of the pharmacy. I mean, it would make sense if you're going to have a pharmacy in a rural area that controlled substances would be part of that. And, of course, the DEA then tightly regulates that and each particular site would have to have its own DEA registration and those sorts of things so. [LB855]

SENATOR GLOOR: But you wouldn't get into areas of chemotherapies or anything that would...I mean... [LB855]

JONI COVER: Well, those are typically administered in a clinic or well, I was on chemotherapy, and it was in a pill form. And it could be if your practitioner prescribed it. I mean, I don't know how common that would be. I'd garner that there's probably people in rural areas (laugh) that are taking chemo medication, so it could be. It would just kind of...I mean, really, if it's a licensed pharmacy, it could have any drug in it that a licensed pharmacy would have. And really, economics is going to dictate, you know. Dr. Tubbs knows the hundred top drugs that he prescribes, and it would be in the best interests of the pharmacy and the patients to have those drugs available. Some of the specialty stuff, you know, you still may have to order that in. But generally, I mean, most pharmacies carry the most commonly dispensed or commonly prescribed drugs. [LB855]

SENATOR GLOOR: Okay. Thank you. [LB855]

JONI COVER: Does that make sense? I wanted to just clarify one other thing. Pharmacy technicians currently in Nebraska are required to be registered with the state of Nebraska, but this is an additional educational component, the certification. So just...I wanted to clarify that as well. [LB855]

SENATOR GAY: Okay. Joni, I've got a question for you and... [LB855]

JONI COVER: Okay. [LB855]

SENATOR GAY: ...if you can answer this. If not, I'll get it somewhere else. [LB855]

JONI COVER: Okay. [LB855]

SENATOR GAY: Mr. Borcher, on his thing it said he'd want some additions on here, inspections, licensing, and fees to be set to mimic those of the community pharmacy. He's talking about dispensing fees? [LB855]

JONI COVER: The fees...I think for a pharmacy license, the current cost is $600, $625 so the pharmacy has to have a license from the state... [LB855]

SENATOR GAY: Oh, the licensing...okay, that's what I wanted to know. [LB855]

JONI COVER: ...is subject to inspection and recordkeeping and all that sort of thing so. Okay? [LB855]

SENATOR GAY: Thank you. Any other questions? Don't see any. Thank you. [LB855]

JONI COVER: Thank you very much. [LB855]

SENATOR GAY: Proponents still? Are there any opponents? Anyone neutral on this? Senator Fischer, you want to close? [LB855]

SENATOR FISCHER: Thank you, Chairman Gay and members of the committee. My L.A. told me that we did receive the letter. I have not seen it yet from the department. She also told me that it's mostly technical items; they're very small, and there would just be a handful that we would have questions on and would need to work out. The rest of them I think we would be okay with, so even though it's a page and a half or two and a half pages, I don't think that's going to stand in the way, hopefully, of you advancing this bill to General File. [LB855]

SENATOR GAY: All right, thank you, Senator Fischer. Any last questions for Senator Fischer? Oh, we did get a Nebraska Hospital Association in support of this we'll put into the record. (See also Exhibits 21 and 22.) [LB855]

SENATOR FISCHER: Thank you very much. [LB855]

SENATOR GAY: All right, thank you, Senator Fischer. And with that, we're done for the day. [LB855]