[LB245 LB326 LB484 CONFIRMATION]

The Committee on Health and Human Services met at 1:30 p.m. on Friday, February 1, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB245, LB484, LB326, and gubernatorial appointments. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: None.

SENATOR KRIST: Okay, it's start time. Senator Campbell is going to be a tad bit late, she's participating in a conference across town at the mayor's office. So I'm Senator Bob Krist, and I'll be standing in for her until she comes back. As is our custom, we'll go around the room and introduce ourself. I'm Bob Krist from District 10 in northwest Omaha, north central Douglas County, and Bennington. And to my right...

SENATOR HOWARD: I'm Senator Sara Howard, I represent District 9 in midtown Omaha.

MICHELLE CHAFFEE: I'm Michelle Chaffee, I serve as legal counsel.

SENATOR GLOOR: Mike Gloor, District 35, that's Grand Island.

SENATOR CRAWFORD: Sue Crawford in District 45 and that's Bellevue, Offutt, Sarpy County.

DIANE JOHNSON: And I'm Diane Johnson, the committee clerk.

SENATOR KRIST: Thank you all. Please turn off your cell phones or at least silence them. Although handouts are not required, if you bring them forward, make sure we have 15 copies. If you don't have those copies, one of our pages will do so. I don't have...do I have the names written down for the pages? I don't think so. Why don't you guys just stand up and introduce yourself and tell us where you're from.

DEVEN MARKLEY: I'm Deven, I'm from Nevada, Iowa.

KAITLYN EVANKO-DOUGLAS: I'm Kaitlyn, I'm from Montrose, Colorado.

SENATOR KRIST: Thank you very much. We'll not as a rule make the copies, but they should be able to help you out if you absolutely need to. If you will be testifying, each witness appearing before the committee must sign in using the fluorescent orange sign-in sheets that are on the side. Sign-in on the orange sheet only if you're going to testify. An orange sheet is required each time you testify today, if you plan to speak on more than one issue. Your form must be given to the committee clerk before you begin,

and Diane will remind you if you forget to do that. Please print and provide all the requested information. Give the clerk all pages of your handouts, if any, along with the testifier's sheet at the beginning of your testimony. We are using the light system. The light comes on green when you start; it signifies you start five minutes. Yellow will give you one minute left. And then red, you should be wrapping it up or as Senator Campbell says, I'll be reminding you to wrap it up. Spell your name when you begin, both first and last name--and again, why do you do that because you've already written it down--well, the sheet goes one place. When you spell it out loud, that's for the people who are transcribing so that we can make a good copy. We don't ask you to spell your name for the clerk. You will have the orange sheet in front of you, so you can read that. If you're not testifying...if you will not be testifying at the microphone but you want to go on record, you can always use a white sheet to say that you were here and you have something to say. And I think that's it. Have I missed anything, counsel? Oh, yeah. It's cell phones off or silent. So with that, we will start today's testimony with our gubernatorial appointments. Mr. Gary Randy Boldt, are you here?

RANDY BOLDT: Yes, sir. How are you? [CONFIRMATION]

SENATOR KRIST: I'm good. [CONFIRMATION]

RANDY BOLDT: (Exhibit 1) Good afternoon, Senators. My name is Randy, I go by Randy Boldt, it's B-o-l-d-t. And I'm...I was appointed on March 16 by the Governor to the Nebraska State Emergency Services' board of directors. I'd be glad to give you any information you want about my background. I think my bio is probably in front of you so I won't take a lot of your time rehashing that kind of information. I am a current practicing EMT for the American Red Cross here in the Lincoln area. Any questions, please. [CONFIRMATION]

SENATOR KRIST: Questions? Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Senator Krist. Mr. Boldt, I think you and I used to interact together... [CONFIRMATION]

RANDY BOLDT: Yes, sir. [CONFIRMATION]

SENATOR GLOOR: ...back in our day. But I'm interested why you're interested in this particular appointment other than your corpsman days back in the Navy. What is it about EMS, with your distinguished background, with third-party payers and whatnot, that has you interested in this? [CONFIRMATION]

RANDY BOLDT: My interest really comes...became more acute when I went back and recertified as a licensed EMT for the American Red Cross here, and I'm interested in making sure that Nebraska maintains and continues to promote terrific EMS services.

I'm most interested in those services that go beyond Omaha and Lincoln, quite frankly, or even I would say Grand Island who is another metropolitan area. We have a real challenge to provide the appropriate service, the level of service, the kind of pharmaceuticals that are necessary in out-of-hospital care and also to...the training. So it's just...it's kind of a fit for me, Senator Gloor, just to do that. [CONFIRMATION]

SENATOR GLOOR: Good. Thank you. Good to see you again. [CONFIRMATION]

RANDY BOLDT: Thank you. [CONFIRMATION]

SENATOR KRIST: Any other questions? Yes, Senator Cook. [CONFIRMATION]

SENATOR COOK: Thank you, Senator Krist. I noticed that you graduated from Omaha North High School. [CONFIRMATION]

RANDY BOLDT: Go Vikings. [CONFIRMATION]

SENATOR COOK: Go Vikings. And I represent the part of town that feeds into that North High School, so congratulations. [CONFIRMATION]

RANDY BOLDT: Thank you. I know of you well. Your service is admirable. Thank you. [CONFIRMATION]

SENATOR COOK: Thank you. [CONFIRMATION]

SENATOR KRIST: And again, I want to thank you in our past life in crossing paths at Madonna School for our kids, and you did a wonderful job there. Thank you very much. I'm not sure you're going to have any problem, but we'll let you know. [CONFIRMATION]

RANDY BOLDT: Thank you very much, Senators. You have a good day. [CONFIRMATION]

SENATOR KRIST: Any other questions? Thank you, sir. Thanks for coming down. Okay, our next appointee also to the Emergency Medical Services, Mr. Michael Miller. Welcome. [CONFIRMATION]

MICHAEL MILLER: (Exhibit 2) Good afternoon, Senators. It's a pleasure to be with you, thank you for having me. My name is Michael Miller. As mentioned, the Governor has suggested or recommended me for appointment to the Emergency Medical Services board here in Nebraska. I am currently... [CONFIRMATION]

SENATOR KRIST: I'm sorry, Michael. Can I stop you for just a second? Can you spell

your name? [CONFIRMATION]

MICHAEL MILLER: I'm sorry. [CONFIRMATION]

SENATOR KRIST: That's okay. [CONFIRMATION]

MICHAEL MILLER: First name Michael, M-i-c-h-a-e-l, last name Miller, M-i-l-l-e-r. [CONFIRMATION]

SENATOR KRIST: Thank you. Sorry to interrupt. [CONFIRMATION]

MICHAEL MILLER: Not a problem. I currently work at Creighton University in Omaha, Nebraska, where I've been for a little over ten years as assistant professor and associate director of the EMS Education program there. I have just shy of about 30 years in emergency medical services as a paramedic. I've also worked in hospital environments as a registered nurse in emergency and trauma care and for about the past ten years as a full-time educator in emergency services. I look forward to working with the EMS board and everybody else that's involved with making sure that the citizens of Nebraska receive the highest care possible in the out-of-hospital area. If you have any questions, I'll be happy to take those. [CONFIRMATION]

SENATOR KRIST: Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Senator Krist. And thank you for your interest in serving the state with your background and experience. Let me ask you...and Mr. Boldt referenced issues related to trying to make sure that we have training services to outstate Nebraska. What do you see as the biggest challenge for outstate Nebraska, more rural Nebraska, when it comes to EMS services, first responders? What do you see as the biggest challenge they're going to be facing? [CONFIRMATION]

MICHAEL MILLER: Quite honestly, a lot of the people that are providing care in those areas are volunteers, so they are giving back in a way to their communities that is beyond noble. Access to education for them is, of course, always a challenge, and educational and training programs throughout the state need to be able to step up and come up with creative ways to meet those needs. With the advent of technology, I think that there are increasing avenues for us to be able to meet those training and education needs. There are so many issues that are going to confront anybody that's involved in the healthcare arena, including emergency services. There are diminishing reimbursements, so financing those operations continues to be an issue. So there's a lot of things that need to happen. I think that we do a pretty darned good job actually in the time that I've been here in Nebraska meeting those needs. There's a lot of people that come together to make that all possible. [CONFIRMATION]

SENATOR GLOOR: Great. And you may or may not know this, but my commercial break here is that I am carrying a bill that would allow first responders, volunteers specifically, a $500 tax credit for their service. [CONFIRMATION]

MICHAEL MILLER: Outstanding. [CONFIRMATION]

SENATOR GLOOR: I can see the need to provide some degree of incentive. With dwindling populations in those rural areas, obviously, I think we also have dwindling populations of volunteers. And so, just a little added incentive for those first responders to want to serve in that capacity. [CONFIRMATION]

MICHAEL MILLER: You bet. And they do it without any...largely without any recognition. [CONFIRMATION]

SENATOR GLOOR: Yeah. [CONFIRMATION]

MICHAEL MILLER: And I would also note that those are the people that need the care that we provide the most. They're the ones who have the significant, lengthy transport times to be able to get to other emergency services at a hospital environment, and their service is vital. [CONFIRMATION]

SENATOR GLOOR: Good point. [CONFIRMATION]

SENATOR KRIST: Any other questions? Senator Crawford, how are you? [CONFIRMATION]

SENATOR CRAWFORD: All right. Thank you, Senator Krist. And thank you so much for your willingness to serve and your work at Creighton and other places. I just wondered if you'd speak a little bit about how you see bringing that Creighton experience into this role. [CONFIRMATION]

MICHAEL MILLER: Wow. Well, one of the benefits I have at being at Creighton is...in my role there is that I do participate with a lot of current organizations on a national level, and I think bringing that...bringing those ideas and thoughts that are happening on a national level back to the state of Nebraska and also outsourcing some of the great ideas that we have here in Nebraska throughout the country helps a lot. And being in academia, there's a great opportunity to collaborate with other professionals and other people that are involved in emergency services, and we certainly do a lot of that there. [CONFIRMATION]

SENATOR CRAWFORD: Excellent. Yes, you do. Thank you. [CONFIRMATION]

MICHAEL MILLER: Thank you. [CONFIRMATION]

SENATOR KRIST: Any other questions? [CONFIRMATION]

SENATOR COOK: One brief question. Thank you, Senator. [CONFIRMATION]

SENATOR KRIST: Yes, ma'am. [CONFIRMATION]

SENATOR COOK: Thank you. What would you see as the top issue facing those working in your field or in your academic role, what are you talking to your students about? [CONFIRMATION]

MICHAEL MILLER: Wow. Honestly, I think emergency services has grown tremendously in the short time that it has existed. I think one of the big struggles and challenges that we are facing as the profession continues to mature is where do we see ourselves professionally in the grander scheme of healthcare delivery? I think we have a lot of untapped resources and skills that sometimes are not always used to their full advantage. But convincing other healthcare professionals and the general public that we have greater value and can do more than what we are currently doing I think is probably one of the big things. I also think that our education needs to catch up to be commensurate with the degree and level of responsibility that we have in caring for patients. There are professions out there that do significantly less invasive skills for patient care that are required to have an associate's degree. And emergency medical services and being a paramedic does not require that currently in most places in the United States and certainly not in Nebraska. So we have a lot to do maturing as a profession. Earlier in this year, January 1, for the very first time, paramedic education programs throughout the country have been required to become accredited to even provide that education in order to be eligible for our credentialing examinations. So we're making steps in the right direction, but there's still much to be done. [CONFIRMATION]

SENATOR COOK: Thank you. [CONFIRMATION]

SENATOR KRIST: I know Randy well enough that I didn't have to ask him this question. I don't...you don't have any military background, do you? [CONFIRMATION]

MICHAEL MILLER: I do not. [CONFIRMATION]

SENATOR KRIST: Okay. I know he's gone through part of this as has Senator Gloor and I have as well. I think one of the things that we have to be cognizant of--and we heard the bill today on PTSD--obviously, if you're a volunteer fireman or rescue worker across Nebraska, the chances that you are going to come across someone in your community that you know who's been in that horrific accident, etcetera, is going to take an effect on you. And I'm concerned...I've always been concerned that PTSD gets the

kind of treatment, as soon as it can within the process, because that's the first step in identifying the process. So I...you're welcome to comment on that, but I think that both of you need to be well aware that this Legislature is very serious about making sure that we support the volunteer force as well as the hired force because there's no differentiation on how a human being can be affected when they go through those kinds of processes. So... [CONFIRMATION]

MICHAEL MILLER: And Senator, we're grateful for your support. I would add that many years ago when I first got into emergency services at the ripe old age of 19, the average career for a paramedic that was working and receiving a salary was 5 years. There are now people that make an entire career out of the profession. So we have learned that we needed to take care of our first and foremost prime asset, and that is ourselves and the people that are involved. And we've done that, we've come a long ways. One of the great things here in Nebraska that the Department of Health and Human Services supports through the EMS section is something called Critical Incident Stress Management, how to deal with those circumstances and keep our assets in place and not leaving due to the stresses that are involved. [CONFIRMATION]

SENATOR KRIST: Super. Thank you very much, thanks for your service. [CONFIRMATION]

MICHAEL MILLER: Thank you. [CONFIRMATION]

SENATOR KRIST: And we'll let you know if there's a problem. [CONFIRMATION]

MICHAEL MILLER: Thank you very much, it's been a pleasure. [CONFIRMATION]

SENATOR CRAWFORD: Thank you. [CONFIRMATION]

SENATOR KRIST: Okay, Ms. Sheree Keely. And you've been appointed to the Foster Care Advisory Committee. Welcome. [CONFIRMATION]

SHEREE KEELY: (Exhibit 3) Sheree Keely, S-h-e-r-e-e K-e-e-l-y, and I'll give you a little bit of background. I am a Master leveled social worker. I have been practicing probably for a little over 30 years. I am currently serving as the vice president of the behavioral service line at Alegent Creighton Health, and I am glad to be a part of this committee. [CONFIRMATION]

SENATOR KRIST: Excellent. And sorry for the mispronunciation of your first name, I apologize. [CONFIRMATION]

SHEREE KEELY: That's okay. [CONFIRMATION]

SENATOR KRIST: Any questions for Sheree? I have one. In terms of the new structure and obviously where we are all trying to get to, there is an incredible amount of data that's available, some of it unpredictably coming from different places and some of it conflicting. In the short time that you've been over there and tried to come through this, has that been apparent? And are you taking some steps, hopefully, to make sure that those databases that are available are coming together? Is that something you're looking at? [CONFIRMATION]

SHEREE KEELY: Yes, the committee is looking at that. Our first task, obviously, was get an executive director in place, so we spent most of our time so far on that. But we actually have been looking at the data and looking at what opportunities we have to streamline that. [CONFIRMATION]

SENATOR KRIST: Excellent. And you made a good choice for executive director. [CONFIRMATION]

SHEREE KEELY: We think so. [CONFIRMATION]

SENATOR KRIST: Any other questions? Thank you. Oh, I'm sorry. Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: That's okay. [CONFIRMATION]

SENATOR KRIST: You sure? [CONFIRMATION]

SENATOR GLOOR: Yep. Thank you. [CONFIRMATION]

SENATOR KRIST: Anybody else? No? Okay. Thank you very much. And then Mr. Craig Timm, also Foster Care Advisory Committee. Welcome. [CONFIRMATION]

CRAIG TIMM: (Exhibit 4) Thank you. Afternoon. My name is Craig Timm, C-r-a-i-g T-i-m-m. [CONFIRMATION]

SENATOR KRIST: Would you like to tell us a little bit about yourself, why you're interested or why you wanted to get into this? [CONFIRMATION]

CRAIG TIMM: Sure. I've been volunteering on the local board in Omaha, in Douglas County, for a little over six years now. And I'm very interested in meeting the needs of these kids that get taken out of the homes and how we can do things better in preventing them, first of all, from getting taken out. And then second of all, once they're in the system, to expedite the permanency objectives as quickly as possible to get them back out. I'm also a trained CASA, but I'm not active right now, and a couple of other credentials that I went about to acquire myself to get more and more involved to learn

how the system really operates and how to prevent it more so than anything else. [CONFIRMATION]

SENATOR KRIST: Excellent. Any questions for Mr. Timm? Same question. [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR KRIST: I know that the data systems--and we've kind of touched on this before... [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR KRIST: ...are the issue. And I think that when this committee tried to put together the right mix of people, we tried to make sure that the right specialties were represented there. Have you seen something that we missed? Is there a specialty yet that you could see that you would like to put on the committee? [CONFIRMATION]

CRAIG TIMM: As Sheree just shared, we've only been together a few short months and the first objective was the executive director. I think what has...the Governor has brought together is a wonderful mix that we all bring expertise and heartfelt desire for this to improve in the Foster Care Review Office to be really dominant in what they bring to the table for data in helping to improve the system and what it is since Nebraska is not very good right now. [CONFIRMATION]

SENATOR KRIST: Well, and I echo my--great choice for your executive director. I think you guys are on the right path and going forward. But from me personally and I know from this committee, if there is an issue, lack of power, lack of people... [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR KRIST: ...power, lack of expertise, come and talk to us and we'll certainly do everything... [CONFIRMATION]

CRAIG TIMM: Oh, absolutely. Yeah. [CONFIRMATION]

SENATOR KRIST: ...we can. [CONFIRMATION]

SENATOR CAMPBELL: I do have a question. [CONFIRMATION]

SENATOR KRIST: Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Mr. Timm... [CONFIRMATION]

CRAIG TIMM: Yes, ma'am. [CONFIRMATION]

SENATOR CAMPBELL: ...and thank you for serving. We are much impressed with the work of the committee so far... [CONFIRMATION]

CRAIG TIMM: Thank you. [CONFIRMATION]

SENATOR CAMPBELL: ...so appreciate that. I noted in your application that you had been CASA trained, currently not active. [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR CAMPBELL: How long did you serve as a CASA volunteer? [CONFIRMATION]

CRAIG TIMM: Two years. [CONFIRMATION]

SENATOR CAMPBELL: Interesting. And did you work with just one young person, or... [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR CAMPBELL: Aah. During that time. [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR CAMPBELL: Has that training been helpful to you as you've served on the Foster Care Review Office Advisory Committee? [CONFIRMATION]

CRAIG TIMM: Yes. I think it's given me quite the insight to the one-on-one needs of these children. Unfortunately that there are not enough CASA volunteers. I know when I went through the training and the program is set up for the most severe cases of kids being in the longest. I wish...I would like to see--of course, that's not my role right now--but every one of them really need a CASA to help expedite it. That's my personal opinion and that's separate from my position right now. [CONFIRMATION]

SENATOR CAMPBELL: When we traveled around the state for LR37... [CONFIRMATION]

CRAIG TIMM: Uh-huh. [CONFIRMATION]

SENATOR CAMPBELL: ...we always tried to get a CASA volunteer... [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR CAMPBELL: ...from those communities to testify. [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR CAMPBELL: And oftentimes I think we felt we got some of the most vivid pictures... [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR CAMPBELL: ...of the state of child welfare from the CASA volunteers because they were coming at it from a very different perspective. So while that training may not be instrumental, I bet you that this helped with your focus also. [CONFIRMATION]

CRAIG TIMM: Yes, absolutely. It gives a whole different perspective versus in the Foster Care Review Board when you're just reading text and we're trying to make decisions for these children for the next six months of their life in the system. And being a constant and being a one-on-one, I could bring to the table when I went to the court proceedings and so forth and shared with that the real insight and the eyes of what's really happening with the frequency of seeing the youth that I was working with. And it was very enlightening and at the same time frustrating and disturbing to see how long they had to labor in the system. And so my...one of my real ideas is to advise and be part of this new advisory committee and to help the executive director that we can make inroads to expedite the kids out, whether it's adoption, return to the bio parents, guardianship, whatever it may be, the permanency objective. And use the data then to show if we did these kind of services on the front end they wouldn't be in as long or once they're in, what services can we do right now to get them out as quickly as possible. [CONFIRMATION]

SENATOR CAMPBELL: We're really fortunate because I think that when we framed the new way--and Senator Krist, of course, did all the heavy lifting on that one--but I think a lot of the senators hoped that we would have people just like yourself... [CONFIRMATION]

CRAIG TIMM: Thank you. [CONFIRMATION]

SENATOR CAMPBELL: ...who really have seen a different perspective of the system... [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR CAMPBELL: ...and bring a perspective...there's nothing like working with a youth in the system... [CONFIRMATION]

CRAIG TIMM: Yes. Thank you. [CONFIRMATION]

SENATOR CAMPBELL: ...I think to give you a whole different view of that. [CONFIRMATION]

CRAIG TIMM: It really does. [CONFIRMATION]

SENATOR CAMPBELL: So thank you for your service. [CONFIRMATION]

CRAIG TIMM: Yes, thank you very much. [CONFIRMATION]

SENATOR CAMPBELL: I don't have anything else. [CONFIRMATION]

SENATOR KRIST: Just to wrap up, I'd like to thank Mr. Boldt, Mr. Miller, Ms. Keely, and Mr. Timm for coming down. It's one thing to be appointed. It's another thing for us to get an opportunity to meet you and talk to you and ask you questions before we confirm, so thank you very much for coming down all. [CONFIRMATION]

CRAIG TIMM: Yes. [CONFIRMATION]

SENATOR KRIST: With that, that wraps up the gubernatorial appointments and I...back to the Chair. [CONFIRMATION]

CRAIG TIMM: Okay. Very good. Thank you. [CONFIRMATION]

SENATOR GLOOR: Thank you. [CONFIRMATION]

SENATOR CAMPBELL: All right. Thank you. Okay. If you are leaving, we'd ask that you leave real quietly. Did you go through all of the introductions and all that stuff?

SENATOR KRIST: Yes, ma'am.

SENATOR CAMPBELL: Good, good, good. All right.

SENATOR KRIST: You might want to introduce yourself.

SENATOR CAMPBELL: I should, shouldn't I? Yes, absolutely. I'm Kathy Campbell and I

serve the 25th Legislative District which is east Lincoln and eastern Lancaster County. So we are all glad you're here today and with...

SENATOR KRIST: Oh, I'm sorry. And Senator Cook didn't get a chance.

SENATOR CAMPBELL: Senator Cook, absolutely, introduce yourself.

SENATOR COOK: Thank you. I'm Tanya Cook from Legislative District 13 and that is northeast Douglas County and the city of Omaha. Thank you.

SENATOR CAMPBELL: Senator Watermeier, did you have a chance to introduce yourself?

SENATOR WATERMEIER: Senator Dan Watermeier from Syracuse, which is District 1 on the southeast corner.

SENATOR CAMPBELL: I should note for the audience, I was so struck when I walked into this room this afternoon. All of us literally froze yesterday, and I walk in and it's very warm today. Okay, this is like night and day for the committee, that's for sure. Well, we will go ahead and open on our first public hearing, LB245, Senator Nordquist's bill to change Preferred Drug List provisions under the Medical Assistance Act. Welcome, Senator Nordquist. [LB245]

SENATOR NORDQUIST: Thank you, Madam Chair and members of the committee. For the record, my name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent District 7 which covers downtown and south Omaha. LB245 is an effort to ensure timely and appropriate pharmaceutical care for Medicaid recipients diagnosed with a very rare and severe form of epilepsy, Lennox-Gastaut syndrome or LGS. LB245 makes a targeted amendment to the prescription drug list adding that benzodiazepine may be prescribed as an anticonvulsant specifically for the treatment of epilepsy without prior authorization. The problem this bill seeks to address is that the Medicaid State Plan states that only generic forms of "benzos" may be provided to Medicaid recipients which makes the medication necessary for LGS called ONFI difficult, if not impossible, to access. Nebraska Medicaid has approved this medication for children following a very onerous preauthorization process, but we have the lowest approval rate of this medication in the country at 48 percent; the national average is an approval rate of 82 percent. The prior authorization process makes children with this very rare and severe form of epilepsy fail their way up to the most appropriate medication. Due to the generic-only language in the state plan, Nebraska Medicaid refuses to cover ONFI at all for anyone over the age of 21. So for those under 21, they have a very onerous, fail-their-way-up system and for anyone over 21, it's pretty much nonexistent. Advocates following me in testimony today have asked the department to address this administratively as nearly all other states have. The department has been either unwilling or unable to address this issue. And so

I would like to add clarity to the statute that a nongeneric "benzo" used specifically as an anticonvulsant for treatment of epilepsy may be available to Medicaid patients in a timely and appropriate manner. Testifiers after me can provide greater detail regarding LGS and the onerous nature of the prior authorization process. I will tell you that I brought this bill because I believe it is in keeping with the purpose of the Medicaid Prescription Drug Act which says "to provide appropriate pharmaceutical care to Medicaid patients in a cost-effective manner." I don't believe--it is inappropriate or I don't believe it is or--it is appropriate, cost-effective, or humane for that matter, to have children with such a rare and serious disease fail their way up to the appropriate treatment. Thank you, Madam Chair. [LB245]

SENATOR CAMPBELL: Questions from the senators? Senator Gloor. [LB245]

SENATOR GLOOR: Thank you, Senator Campbell. Senator Nordquist, could you repeat something you'd said which I want to make sure I heard right? And that is that it is on the Preferred Drug List up till age 18. Say that again for us. [LB245]

SENATOR NORDQUIST: Yeah. So there is a...they can obtain it, but they have to fail their way up through a preauthorization process and they have to try the generic versions... [LB245]

SENATOR GLOOR: Okay. [LB245]

SENATOR NORDQUIST: ...until they ultimately get there. For anyone over 21, it's not an option. Yeah. [LB245]

SENATOR GLOOR: Optional. [LB245]

SENATOR NORDQUIST: Yeah. And the Preferred Drug List statute specifically says that...has an exception for antidepressants, antipsychotics, and anticonvulsants, prescription medications shall not be subject to consideration for inclusion. So we shouldn't be limiting it because of the Preferred Drug List, it should be an option, the best treatment should be an option immediately. [LB245]

SENATOR GLOOR: Okay. Thank you. [LB245]

SENATOR CAMPBELL: Senator Nordquist, am I correct that we are the only state in the Union that does not allow this? [LB245]

SENATOR NORDQUIST: That is what I've been told, yeah. And I think folks behind me... [LB245]

SENATOR CAMPBELL: Okay. [LB245]

SENATOR NORDQUIST: ...can specify and clarify that exactly, but that's my understanding. [LB245]

SENATOR CAMPBELL: Senator Krist, did you have a question? [LB245]

SENATOR KRIST: Yeah. I'm following up with Senator Gloor, but I'm a pilot so you've got to speak English. If you...you're telling me that a person could be...fail up until they're a certain age and then they are not eligible for the drug after that age? [LB245]

SENATOR NORDQUIST: That's what I've been told, yeah. [LB245]

SENATOR KRIST: So if they fail up and they're on it and it's working, then we're saying we don't care what works, you're done at a particular age? [LB245]

SENATOR NORDQUIST: We can get clarification from testifiers, but that is...if you're on it up to that point, I don't know if Medicaid does create an exception there. I don't know. I should probably get clarification on that. But I... [LB245]

SENATOR KRIST: Sure. I'll reask it. I just...a point of clarity here. It doesn't seem humane at all. Thank you. [LB245]

SENATOR NORDQUIST: Yeah, yeah, yeah. Yup. [LB245]

SENATOR CAMPBELL: And it's my understanding that a number of states have done this administratively... [LB245]

SENATOR NORDQUIST: I think most of them have, yeah. [LB245]

SENATOR CAMPBELL: ...without legislative action. [LB245]

SENATOR NORDQUIST: That's right. [LB245]

SENATOR CAMPBELL: Senator Nordquist, will you be able to stay? [LB245]

SENATOR NORDQUIST: Yes, I'll be here for the whole hearing. Yeah. [LB245]

SENATOR CAMPBELL: Okay. Oh, I'm sorry. Senator Crawford, did you have a question? [LB245]

SENATOR CRAWFORD: That's all right. That's all right. Sure, thank you. Thank you, Senator Campbell. You had mentioned something about generics... [LB245]

SENATOR NORDQUIST: Yeah. [LB245]

SENATOR CRAWFORD: ...and I was just curious how...I didn't see anything about generics in the language, so how the bill addresses that concern with the language. [LB245]

SENATOR NORDQUIST: And after looking at the fiscal note, we may need to go back and make sure our intent to the department is perfectly clear here, because they said there's no fiscal impact. After us talking to the Legislative Fiscal Office, we believe that there potentially could be a fiscal impact because we know the department is not allowing this as often as people need it. So there would be some fiscal impact, and I think the highest possible amount that our...we came up with based on, you know, a very limited number of people here. We're talking maybe about 30 individuals a year at a cost of about $3,000 a person, so $90,000 total if every one of them used the brand-name drug and it would be on a 50/50 federal/state split. So the cost to the state would be less than about $50,000 a year. So it's my belief that maybe the department isn't reading the intent of this language the way it should be. We're basically saying that we want these covered. Now maybe we need to say that nongenerics...and be crystal clear and use the word nongeneric in the statute. But that is an amendment that we may have to consider. So I think we're going to have to have some conversation between your committee's legal counsel and Health and Human Services about their understanding of what we're trying to accomplish. [LB245]

SENATOR CRAWFORD: That was my concern. I didn't see anything about brand-name or generics, so I just wanted to make sure we were being clear about that. [LB245]

SENATOR NORDQUIST: Yeah, yeah, yeah, yeah. It sounds like...it seems to me like the department is maybe putting the state plan ahead of what statute is saying here. But, yeah. [LB245]

SENATOR CAMPBELL: Senator Gloor, you want to follow up? [LB245]

SENATOR GLOOR: Yes. Thank you, Senator Campbell. But the only issue here is taking name-brand benzodiazepine... [LB245]

SENATOR NORDQUIST: Uh-huh. Benzos, you can call them benzos for the rest of the time. [LB245]

SENATOR GLOOR: Yeah, benzo. But they can take, I mean, the generic is, in fact, not a question here. [LB245]

SENATOR NORDQUIST: Yeah. [LB245]

SENATOR GLOOR: It's going to the name brand. [LB245]

SENATOR NORDQUIST: That's right. [LB245]

SENATOR GLOOR: I mean there is a slim to none possibility that there is hardly any price differentiation, but I'm guessing that usually when you go to a name brand there is a price difference. I mean, that's what I...that's kind of what I was wondering is... [LB245]

SENATOR NORDQUIST: And I did have some of that data here, and maybe someone after me can talk about the difference in cost. The cost for the name brand ONFI is about $15 a day or in the neighborhood of about...and then there would be a 15 percent discount for Medicaid pricing which put it at about $9 a day times 365 days a year is about $3,200 a year for the name brand. But when you consider if kids are failing their way up, what are the costs associated with all the healthcare that they're requiring to get to the appropriate medication to treat their...yeah. [LB245]

SENATOR GLOOR: Yeah. I just wanted to make sure that I was reading that correctly. Thank you. [LB245]

SENATOR NORDQUIST: Uh-huh. Thank you. [LB245]

SENATOR CAMPBELL: And I really do want to thank Senator Nordquist for bringing this forward and let the committee know that I met with some folks this summer probably who are here to testify, hopefully. And we tried administratively, and the answer was no. [LB245]

SENATOR NORDQUIST: Yeah. [LB245]

SENATOR CAMPBELL: So we really appreciate Senator Nordquist bringing the bill forward so that the committee can look at the issue. [LB245]

SENATOR NORDQUIST: Thank you. [LB245]

SENATOR CAMPBELL: Thank you. With that, we'll go with our first proponent. Good afternoon. [LB245]

LUCINDA THORNTON: (Exhibit 5) Good afternoon, Senators. My name is Lucinda Thornton, L-u-c-i-n-d-a T-h-o-r-n-t-o-n. I am a mother and I have my daughter Elizabeth here, and she has Lennox-Gastaut syndrome and she's been on ONFI. Do I read this or do you guys want to ask me questions or... [LB245]

SENATOR CAMPBELL: No, you go ahead and tell us whatever you would like. [LB245]

LUCINDA THORNTON: Well, okay. I'll just tell you how Lennox-Gestaut syndrome and ONFI have impacted my family's life. Elizabeth is my only daughter, I have four other boys. She is four in that group. And when she was born she was perfect, she had APGARed at 9,10,10 so it shows you how healthy she was. And then at three and a half she walked outside--and I can tell you the date and everything that she was...down to the time--at what time she walked out our front door and fell into a grand mal seizure. It lasted ten minutes, she turned blue. We rushed her to the hospital, and from there we were sent to Children's Hospital in Omaha. And they said...the neurologist there said she had a 50/50 chance of ever having a seizure again, and we were sent home. And exactly a month later, she had another grand mal seizure, again lasting ten minutes, turning blue. Rushed her to the hospital again and she was diagnosed with epilepsy, started on her first of many seizure meds. So lots of seizure meds added, more seizure types started, more ER visits, and then in May of 2004 she had a 40 minute status of epileptus (phonetic) where she was continually seizing for 40 minutes. And her neurologist in Omaha said that she was...her case was getting too rough for him, he referred us on to--or her seizures were too tough for him to control--so he sent us on to Minnesota Epilepsy Group in St. Paul, Minnesota. And from there, in June and September of 2005 we had surgeries to separate her lobes, and that stopped her grand mal seizures and her drop seizures. One time she had an EEG show that she was having seizures every 1.5 seconds, so she was constantly seizing when we weren't seeing them. We did the vegal (phonetic) nerve stimulator in September of 2006, and even with that set on rapid fire--it goes off every 66 seconds for 30 seconds--she still had over 100 seizures a day. And in the summer of 2011, we were told that her quality of life was very much deteriorating and that we should go ahead and have surgery to remove her right frontal lobe because it showed that the majority of her seizures were coming from her right side. They said that she would not be seizure free, but it would eliminate a lot of her seizures so she would have a better quality of life. So this really impacts me because this was exactly a year ago. We were in St. Paul, Minnesota. They did surgery on January 19 of 2012. They opened her up and put a grid on her brain--directly on her brain--and that stayed on, and on February 1 of last year her doctor and neurosurgeon came in and they told us that all the testing that they did with the grid showed that all her seizures were coming from her motor strip; and if they removed any of her brain that she would be paralyzed on her left side, and that there was nothing we could do. They said our only hope was to wait until they invented something new to safely remove the seizures. And so here we went from them telling us that her quality of life was deteriorating to now they can't do anything. We were very devastated, we didn't know what we were going to do. And the next day--which you guys have that picture--on February 2 they went ahead and removed her grid. And then February 3 her doctor came in and he said, you know, there's a new drug out, it's called ONFI. Let's go ahead and try that while we wait for something to be invented and let's just see how it does. This is her the morning before she started ONFI, and this is her the next morning after being on ONFI. And that is Elizabeth today, she has been seizure

free since February 4 of last year. But then our problems started when we got home and I took her prescription up to get it filled and I was told that Medicaid would not cover it, that it was not a necessary drug to be covered. And I'd called Minnesota and they got me in contact with a starter kit through Lundbeck that they gave us a two-week free sample or a Lundbeck sample to get it until Medicaid would cover it. Medicaid still wouldn't cover it, so I ended up going directly through Lundbeck to get our medicine. They had a program there that they sent it to us free of charge if we qualified until Medicaid would pay for it. Medicaid finally did approve it, but it was like a short-term approval. We were only approved for up to a year--which her year is running out--that they will cover it. And you guys can see it's worked. She went from over 100 seizures to none, and I just don't want it to be taken away from her. She's tried multiple seizure medicines, she's been on over I think close to 20. And my time is about running out. [LB245]

SENATOR CAMPBELL: Questions for Mrs. Thornton? Senator Krist. [LB245]

SENATOR KRIST: What is the cost of the drug? Not that that is a deciding factor, but do you know how much it would cost you? [LB245]

LUCINDA THORNTON: I think our pharmacist said it was over $200 to get filled up for one month. [LB245]

SENATOR KRIST: For one month. [LB245]

LUCINDA THORNTON: Uh-huh. And I have two kids with seizures so it would be a lot, but she's my severe one, but... [LB245]

SENATOR KRIST: And how old is she? [LB245]

LUCINDA THORNTON: She is...will be 14 in March, and she is now starting to read. I mean, she's only reading at a kindergarten, first-grade level but she's now starting to read. [LB245]

SENATOR KRIST: If we don't do something, this is going to be turned off for her, even if it is approved, when she is 24 years old. Is that the right number? [LB245]

LUCINDA THORNTON: Yeah, because she was ahead of her milestones before she started having seizures. And then even if I look at her writing in kindergarten, her writing in kindergarten looks better than what it does now. But she's now starting to write a little bit better. She had what my sister classifies as the 50 first-date syndrome. You'd tell her something, next day you were repeating it over again. And even in school, she's in resource, she's in...at a first-grade level, kindergarten, first-grade level now. She's finally getting to read a little bit more. [LB245]

SENATOR KRIST: Thank you. Thanks for your courage. [LB245]

LUCINDA THORNTON: Thank you. [LB245]

SENATOR CAMPBELL: Any...thank you, Mrs. Thornton. Our next proponent? Good afternoon. [LB245]

LAURA NEECE-BALTARO: (Exhibit 6) Good afternoon. My name is Laura Neece-Baltaro, L-a-u-r-a N-e-e-c-e hyphen B-a-l-t-a-r-o, and I am an educator with the Epilepsy Foundation. For more than 18 years I have educated and counseled families and individuals who struggle with epilepsy. Perhaps the most important thing I have learned in all those years is that each case of epilepsy is unique. Each of our brains is unique and each person with epilepsy has it for their own unique reason. Epilepsy is not a disease where a handful of medications suit everyone. There are generalizations about which medications might work best for certain types of seizures. However, I have met many patients whose seizures did not respond to the usual medication of choice for their type of seizure. I have also seen the opposite where a patient's seizures would respond to a medication that was totally unexpected. This past December, I attended the American Epilepsy Society's annual meeting, and I was overwhelmed by all the research that is being done into the genetics of epilepsy and the genetics of why different treatments work for different patients. Progress is being made, but there is so much more that needs to be done. And despite all of the research that's being done currently and that has been completed, 20 to 30 percent of epilepsy patients still remain uncontrolled on all the currently available epilepsy treatments. There are currently over 20 medications for epilepsy, and I think Elizabeth's mother told you she tried most of those. In 1992, my own daughter, Elizabeth, was diagnosed with epilepsy. At that time there were just five seizure medications, and we could only consider three of these. One of them was addictive and severely sedating, and we did not want to use it for my daughter. And the other one out of the five was for absence seizures only, so it was not appropriate for her. We tried all the three drugs that she could try, and yet she continued to have seizures. In 1993 when the second generation of epilepsy medications came out, we started trying those with my daughter. She experienced really serious side effects, and we had to remove her from those. We continued to try medications singly, in combination, different schedules for taking them, and we ended up also trying diet therapies. She will soon be 32 and still has lasting side effects from the epilepsy medications she took then, and the one that I think of is bone loss. She has less bone mass than I do. The two newest epilepsy drugs provide better treatment options for some of the most severely affected patients. One of them is the drug we're talking about today, ONFI. It is a benzodiazepine, but it has a different chemical structure that makes it more effective long term, and it is not replaceable by generics. There is no generic that has its chemical formulation, and I did research on-line. The chemical structure of ONFI is different from any generic benzodiazepine, it is not the

same. The thing about generic benzodiazepines, they are currently used as rescue epilepsy medications because their effectiveness is lost over time. If you continue to use those other benzodiazepines, over time they don't work at all for seizures. So they are currently reserved as rescue medicines. LB245 would allow doctors to prescribe the antiseizure medications that they deem medically necessary for their patient's epilepsy. Seizure control reduces falls, injuries, trips to the ER, and the high medical costs associated with these consequences. It also reduces the likelihood of future brain damage, regression, and early death from epilepsy which is referred to in the epilepsy researchers as SUDEP, Sudden Unexpected Death in Epilepsy. And it is a very real problem. There are three really important reasons why epilepsy patients need access to all of the antiseizure medications. First, continued and prolonged seizures can and do lead to damage to the neurons and the brain and to worse and more frequent seizures in the future. Second, continued seizures put the patient at much greater risk for injury with all the costs that that brings with it. And perhaps most importantly, having seizures and continuing to have seizures interrupts a person's life. It causes gaps in employment, gaps in school, and regression. All of this is cost to the rest of society. People with epilepsy who continue to have seizures are also at higher risk of death. All people with epilepsy want is to be contributing members of our society. They want to work, to pay taxes, to have homes and families. When a person with epilepsy continues to have seizures, they are unable to continue to work, to learn, to contribute; and they are unable to pay taxes. They are much more likely to be a burden and expense to all of us. This bill would ensure access to the medication that these patients and doctors deem necessary given their individual situations. In order for people with epilepsy to lead normal lives and be productive members of society, they must have medication that works for them. Thank you for introducing this bill. [LB245]

SENATOR CAMPBELL: Questions? Senator Gloor. [LB245]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you for your testimony and coming today. So would it be safe to say that OMNI (phonetic) is a third generation medication? [LB245]

LAURA NEECE-BALTARO: ONFI? I haven't...well, they've continued to come out kind of at a continuous rate, so I don't think there's been a gap in the way they've been introduced. I haven't heard them referred to as third generation. I don't know. Maybe that's a question for the doctor who is going to follow me. Okay? [LB245]

SENATOR GLOOR: Yeah. Might be my...and I'll ask the question so that he has a chance to prepare an answer, but I'll ask it of you. And that is, it sounds like this is a leap of some kind, that this particular medication more so than the others seems to be a great medication. And so I'm just wondering why. You know, this seems to be special in ways that the others aren't. And you've mentioned the fact that I'll call the body's resistance or there's a short-term...yeah. [LB245]

LAURA NEECE-BALTARO: That's a question also for the physician who will follow me. My knowledge of chemistry and medicine is not... [LB245]

SENATOR GLOOR: Yeah, but you scared me to death. I took organic chemistry and you flashed those diagrams, and I had flashbacks. I remember lab. Thank you very much. [LB245]

SENATOR CAMPBELL: Any other questions from the senators? Thank you for very much for your testimony today... [LB245]

LAURA NEECE-BALTARO: Thank you. [LB245]

SENATOR CAMPBELL: ...and your research. Our next proponent? Good afternoon. [LB245]

DR. FRED J. KADER: (Exhibit 7) Good afternoon. Thank you very much for your kindness in allowing me to join you at this committee meeting. Madam Chairman, members of the Health and Human Services Committee, my name is Dr. Fred Kader, Fred, F-r-e-d, Kader, K-a-d-e-r. And I am a pediatric neurologist having completed my training back in 1971. I am now in private practice here in Omaha, Nebraska. I came to Omaha in 1974 from an academic practice at the University of British Columbia in Vancouver, Canada, and I joined an academic practice here at University of Nebraska Medical Center and Creighton University in both the departments of neurology and pediatrics. I have continued in these academic appointments since even going into private practice in 1978 in Omaha, Nebraska. I am here in support of LB245 specifically so that the best possible care may at all times be available to all children with epilepsy. And I found out they're also for adults in the future. I trust from this bill that the best possible care available will no longer be denied to selected-out children because they require Medicaid help and support for their needed epilepsy medication. In the present program specific medication is restricted, as you all have heard, from use by Medicaid as the medication is not on an arbitrary decided Preferred Drug List. This denial of coverage for the best possible medication for a specific epilepsy condition is seen regarding what you have already heard, the treatment medication ONFI--clobazam--is a very different and specific benzodiazepine not matched by anything else in the benzo group. It is a most effective treatment. Eighty to 100 percent of the seizures of the Lennox-Gastaut syndrome respond, as you have already seen and witnessed from Elizabeth. The present program denies the most proper care to Nebraska children with this most severe seizure disability. Also it most specifically, unfortunately, inhibits my ability to practice to the best of my abilities and to provide the best care to all children with epilepsy which is what I pledged myself to do when I became a physician. Uncontrolled seizures, as you well know and have also heard again, are most harmful. They can and do result in more brain damage as they continue. They lead to worse

disabilities and they lead to development of even a worsening of the seizures. Children also fall which result in injuries and this is especially so on the drop attack seizures seen in the severe seizure syndromes. This results in costly visits, as you are well aware of, to emergency rooms and even more costly hospitalizations. Besides the detrimental effect on a child's health, it is even more distressing to know that children have a higher risk factor for death on ongoing, uncontrolled seizures. Newer seizure medications such as ONFI have been specifically validated for efficacy and show even less side effects than older, used antiepilepsy medication which we, unfortunately, still need to use. The use of these newer agents would directly impact and provide improved basic healthcare and improve the quality of life of the patients. It is unfortunately most disturbing to think that the motivation for the above denial of the best possible medical care is to balance the budget, I suspect. This is being done, unfortunately, at the expense of sacrificing those children who are least able to speak up in protest of discriminatory treatment rendered to them. To make decisions, I know, about the use of limited Medicaid resources is most difficult and especially in trying to use these resources to the greatest good for the greatest number of people. But to try to do this by limiting care for the disabled with epilepsy is morally wrong. It is actually a very slippery slope that history has already witnessed for the end result of this perverse morality is in mercy killing that really is extermination of the disabled as has been carried on in Nazi Germany. I can but all believe that this is not the kind of world we want to see here in Nebraska. If you may be so kind as to permit me a most personal moment--I am a survivor of the Holocaust in Belgium in 1942 at the age of 4. I missed the train to Auschwitz and death three times; I am the sole survivor of my family. This was a direct result from the kindness shown me and the help and care I received from individual people and persons doing the right and proper and just things while I was totally unable to fend for myself. It is not an accident, but a direct consequence of my past, that led me to become a physician to help people. And more specifically, a pediatric neurologist so that in turn I can prove of help to those who can least help themselves, those children with major neurological diseases and, unfortunately, with epilepsy very often difficult to control. Epilepsy involves more than 50 percent of my private practice. It is an impossible and unacceptable situation, and it really is a morally wrong position to find...that we find ourselves in in this day and age in Nebraska with the present program. It is on behalf not only of myself, but most importantly on the behalf of Nebraska children, that I ask you to please do your utmost to prevent this inequality that is present because it is the right and just and moral thing to do so that we can see a betterment of our children in Nebraska. Thank you very much for your kindness in allowing me to present today to you and to the committee and for your considering to remedy the wrongs that have evolved against our children. Thank you. [LB245]

SENATOR CAMPBELL: Thank you, Doctor, for sharing your personal story and devoting your life to helping children. [LB245]

DR. FRED J. KADER: Thank you. [LB245]

SENATOR CAMPBELL: Questions? Senator Krist. [LB245]

SENATOR KRIST: I'm sure given your background you are not quiet when it comes to advocating for those that need to be advocated for, so I'll put you in a slightly different position to help me make my mind up on this--although I think it is. If you were dealing with a fellow doctor, and you found out that he was requiring people to fail in order to succeed with what you know about epilepsy, would this be something that you would take to the board or to any other malpractice level and say it's wrong, it is morally wrong for you to treat the patient in that way? And I don't want to put words in your mouth, but you get my question. [LB245]

DR. FRED J. KADER: It is. It is repugnant. There is no other better word for it unfortunately, Senator Krist. [LB245]

SENATOR KRIST: Thank you. [LB245]

SENATOR CAMPBELL: Other questions? Senator Gloor, you're going to get your question answered here I think. [LB245]

SENATOR GLOOR: Thank you Senator Campbell. Perhaps. [LB245]

DR. FRED J. KADER: Yes. In regards to your question, actually we don't talk about first generation, second generation. And certainly ONFI, clobazam, is just a new...fortunately, a new medication that has come upon to help a most very specific, horrific problem. When I went into practice back in '74, we had very few medications to treat. And the side effects were worse than the control of the seizures very often. It wasn't until 1978 that a new drug came out called EpiCult, volproic acid, and that revolutionized pediatric neurology and epilepsy. We have had many, many more drugs. We have had the decade of the brain in the 1990s when new drugs have come out. None of them are significantly better than any other. None of them are significantly better than EpiCult; but some, fortunately, we have been able to have less side effects with, and so we're ahead of the game there. And now, again for the first time, there is a new generation of medications that turns out to be a variant of a benzodiazepine that has hit the nail on the head for a very specific, horrific problem and syndrome, Lennox-Gastaut syndrome with unimaginable grief caused by uncontrolled seizures, progressive developmental brain deterioration, as you've heard. And so we don't really talk about first generation, second generations. I've been fortunate to have seen the evolution of medicine improving the medications, the antiepilepsy medications that we use. We, unfortunately, still have a long ways to go. [LB245]

SENATOR GLOOR: Then is Lundbeck the manufacturer of all of these medications? [LB245]

DR. FRED J. KADER: Of ONFI. No. Lundbeck manufactures ONFI, clobazam. [LB245]

SENATOR GLOOR: But are...I guess my question is within that formulary of medications used to treat seizure disorders, are there very many manufacturers? I know one of the concerns across the world is from the standpoint of who's making what medications. Fewer and fewer manufacturers are participating in some of the research and development and manufacture of medications that may affect small subsets, diagnoses or the populations and whatnot. I'm just wondering if this may be the last of the medications developed for seizure disorders for some time. [LB245]

DR. FRED J. KADER: Hopefully not. [LB245]

SENATOR GLOOR: Certainly. [LB245]

DR. FRED J. KADER: But there are, unfortunately, these orphan medications as they are called, and the companies produce them and realize that they aren't going to make a living out of it. But they produce them because they know people are helped specifically with them. People have proven that they are useful, and these companies will continue to produce them and give them free to the people, to the patients who need them. And I think that may all be going on for a long time yet. I think, unfortunately, the body is a very different and unique individual and even though we come up with new medications--because there's always a percentage of people who develop seizures that are hard to control--there is always a percentage that we just, no matter what medication we have, does not work efficiently enough to control it. There will always be an attempt--I trust--by manufacturers to make...to try to make better agents so that we can whittle this percentage of uncontrolled seizures and people; make them smaller and smaller. [LB245]

SENATOR GLOOR: Thank you. [LB245]

SENATOR CAMPBELL: Any other questions from the senators? Dr. Crawford I started to say. Senator Crawford. [LB245]

SENATOR CRAWFORD: Is there any way to describe or clarify access to this drug in a way besides like giving its brand name? [LB245]

DR. FRED J. KADER: Oh, there is no generic formulation of this medication. [LB245]

SENATOR CRAWFORD: Yeah, so...uh-huh. [LB245]

DR. FRED J. KADER: And even after a trade-name does come out, it takes quite a while for a generic formulation to be put forth. The difficulty with the generic formulations

is not that the medications don't work, it's just that the medication works in different ways. And medication that is a generic medication has to fit within a certain percentage of efficacy from the trade-name medication. It could be stronger--25 percent stronger--or it could be 20 percent, 25 percent weaker. And if you're on a generic medication after you've been on a trade-name medication we, unfortunately, reap the rewards of that because you can drop 25 percent of the value of the medication that you have in you by switching from a trade-name drug to a generic. And people who have epilepsy respond within the very narrow limits of safety margins to the medication. And I've seen more than my share, unfortunately, of children who have been switched from trade-name medication to generic only to have seizures recur. And when seizures recur it becomes even harder to control them and it takes a lot of phone calls and certainly more than pleas that people are willing from the other end of the line at Medicaid to listen and to appreciate what has gone on and to have this situation reversed and remedied more often than not. The problem is that if you are already on a generic, you now exponentially increase the danger that you are in. One generic medication is 25 percent stronger, which is good because maybe you needed to take a little bit less medicine. But the next medication you get from your pharmacy may be a generic made by another company, and this one now is 25 percent weaker and you walk out with 50 percent less medicine in your pill box. A lot of people who have been able to get back to work all of a sudden lose their job, lose their fingers, destroy $100,000 machinery because they suddenly have a seizure on the job. Not a good thing to have. [LB245]

SENATOR CAMPBELL: Thank you. [LB245]

DR. FRED J. KADER: So I don't know if that answers your question. [LB245]

SENATOR CRAWFORD: That's very helpful, thank you. [LB245]

SENATOR CAMPBELL: Any other questions? Thank you, Doctor, for coming and for your testimony today. It was very helpful. [LB245]

DR. FRED J. KADER: Thank you again for your kindness. [LB245]

SENATOR CAMPBELL: Thank you. Our next proponent? Anyone in the hearing room who wishes to testify in opposition to the bill? Anyone in a neutral position on the bill? Senator Nordquist, we are to you, I believe, for your closing comments. [LB245]

SENATOR NORDQUIST: Great. Thank you. I just want to just be clear that I certainly am willing to work with the committee and legal counsel and with the department to put whatever language in the statute we need to do to make sure we're being crystal clear here. So the state plan says that we only cover generics, but we allow it in some cases for young kids with a preauthorization as long as they fail up. But our statute clearly says we shouldn't be doing preauthorization for anticonvulsant medications. That's

already in statute. So there's a lot of pieces here that aren't clear, and we're just trying to make it as clear as possible. So I look forward to working with you on that. [LB245]

SENATOR CAMPBELL: You know, and for my colleagues, I often talk about Andy Campbell and use Andy as an example. When Andy was 18 months old, he had a grand mal seizure and for us, Mrs. Thornton, he was in the 50 percent that never had another one. So I can understand. [LB245]

SENATOR NORDQUIST: Thank you. [LB245]

SENATOR CAMPBELL: Thank you. We'll close the public hearing, and we will proceed to the next. So if you are leaving, leave quietly, and we're to LB484. Is Senator Karpisek here? Senator Karpisek, you are right on time. (See also Exhibits 8, 9, 10, 11) [LB245]

SENATOR KARPISEK: My staff is right on the ball. [LB484]

SENATOR CAMPBELL: I thought we were having mental telepathy or something. All right, we will proceed to the next public hearing on our schedule today, LB484, Senator Karpisek's bill to change the dental hygienist training and authorized functions. Welcome. [LB484]

SENATOR KARPISEK: (Exhibit 12) Thank you, Senator Campbell and members of the HHS Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. In 2007, the Legislature enacted legislation allowing licensed dental hygienists to provide certain basic services to children--examination, cleaning, and the application of sealants--unsupervised by a dentist in certain public health and healthcare facility settings provided the hygienist had 3,000 hours of practice experience. LB484 would make it possible for a hygienist to provide these basic services without the necessity of completing the 3,000 hours. The rationale for this change is that the procedures authorized are the most basic components of dental hygiene practice and are thoroughly learned practice consequent to a dental hygienist's original education and supervised clinical practice. LB484 would authorize a licensed dental hygienist approved by DHS Division of Public Health to offer the same services presently provided to children, to adults in public health or certain licensed healthcare facilities with the 3,000 hours of practice experience. The former requirement that 3,000 hours of experience must be obtained in 4 of the last 5 years has, in LB484, been stricken because of confusion over exactly what it required and that it could be interpreted to mean that to be approved, a licensed dental hygienist had to complete the 3,000 hours--which is roughly a year and a half of full-time employment--over a period of 4 years. LB484 would charge the Health and Human Services Committee to, after a period of five years, report to the full Legislature on the operation of the program's services authorized by the legislation. In summary, LB484 will broaden and extend badly needed dental care to thousands of Nebraskans who do

not presently receive it on any kind of regular basis, and do so through the efficient use of an available professional resource and at a modest cost. My main driving force behind this bill is that I do work in a nursing facility, and I know what some of our residents go through when their teeth have problems. Many of them are hard to get out of the facility, maybe they're disabled, maybe they are heavy, there's just a lot of things. In the winter time, of course, it's hard to get them out. This bill in no way would let the hygienist do any type of work that a hygienist doesn't do. It just pretty much would say what they can do for the kids in some of the settings--that we've all heard about the good work that they do--that they could do in a nursing home or something set up like for the kids. And I'd be glad to take any questions. [LB484]

SENATOR CAMPBELL: Any questions from the senators? Senator Gloor. [LB484]

SENATOR GLOOR: Thank you, Senator Campbell. And thanks for introducing this bill, Senator Karpisek. But I am--and I say this somewhat tongue-in-cheek, maybe completely tongue-in-cheek--I'm shocked that with the reporting requirement, there's not a fiscal note attached to it. I think that's, I mean... [LB484]

SENATOR KARPISEK: Maybe they've heard me yell about fiscal notes before on the floor. I don't know. [LB484]

SENATOR GLOOR: That obviously...that would be a good enough reason. [LB484]

SENATOR KARPISEK: Yeah, I can't tell you the method behind that. But... [LB484]

SENATOR GLOOR: But there is a reporting requirement and for a form that goes along with it. And... [LB484]

SENATOR KARPISEK: Correct. [LB484]

SENATOR GLOOR: ...for all this to come back to us in five years. [LB484]

SENATOR KARPISEK: And maybe someone behind me will be able to shed a little more light on that. [LB484]

SENATOR CAMPBELL: Other questions? Senator Crawford. [LB484]

SENATOR CRAWFORD: Thank you. Do I understand correctly? It looks like the way things are struck that the hygienist serving the children then no longer has the 3,000 hours of clinical experience, but the 3,000 hours of clinical experience is a requirement for providing the care for adults? [LB484]

SENATOR KARPISEK: That is how it reads, Senator Crawford. And, again, this bill has

been around--or the idea--for a while and there's been some compromise maybe. And so, again, I think that those behind me can help with that. I don't want to misstate anything. [LB484]

SENATOR CRAWFORD: Thanks. [LB484]

SENATOR CAMPBELL: Any other questions? Senator Krist. [LB484]

SENATOR KRIST: Just a simple statement. I said today earlier when I spoke to some of the dentists and the professionals that I met, it's nice to see that we did the heavy lifting and you get to carry the bill when it's all figured out--typical Karpisek. [LB484]

SENATOR KARPISEK: Hey, you know I'm around to take the credit, whether it's good or bad though, Senator Krist. [LB484]

SENATOR KRIST: Thank you. [LB484]

SENATOR CAMPBELL: Any other comments or questions? Senator Karpisek, will you be staying? [LB484]

SENATOR KARPISEK: I will. Thank you. [LB484]

SENATOR CAMPBELL: Okay, that would be great. All right. We will start out on LB484 for their first proponent. Good afternoon. [LB484]

JANE BROEKEMEIER: Good afternoon, Senator Campbell and committee. My name is Jane Broekemeier, J-a-n-e, Broekemeier is B-r-o-e-k-e-m-e-i-e-r. I'm a practicing dental hygienist with considerable experience, I'm a public health permit holder, and I'm a past president of the Nebraska Dental Hygienists' Association. And I'm here representing NDHA today in support of LB484. As a longtime member of the NDHA legislative committee, I was around when this was a concept, and having the opportunity to see this public health permit to fruition. This bill was part of a 407 proposal reviewed several years ago and subsequently enacted in part by the Legislature to create this limited public health permit scope of practice which allowed hygienists to provide preventive services to children in public health settings and healthcare facilities without the supervision of a dentist. Currently, over 70 public health permit holders have successfully provided preventive care to children over the past few years. LB484 essentially completes that project by including the entire life span of the patient, and it was considered by the last Legislature. Unfortunately, while NDHA and NDA did eventually come to a compromise on the bill, it was too late in the session for the body to act on it and this bill, LB484, represents the compromise language. And the NDA is here today and we've been told that they will speak in favor of it but, obviously, we'll let them speak to it themselves. Like Senator Karpisek mentioned, LB484 does three

things. It removes the clinical experience requirement for a hygienist to see children, it expands the patient level to the entire life span if a hygienist has 3,000 hours of clinical experience, and it requires the reporting mechanism to DHHS, which would certainly help coordinate projects. Of course, hygienists can provide these services and more in the dental practice; but unfortunately, 50 percent of the population doesn't seek dental care and the most vulnerable populations frequently seek dental care in the emergency room. Community-based public health programs were created to reduce these disparities and outreach services done by hygienists and education by hygienists could certainly make a positive impact. Research shows that providing dental sealants through school-based programs is definitely a cost-effective way to reach low-income children who are at greater risk for dental decay. Most states are not doing enough to use a proven strategy for preventing tooth decay and it unnecessarily drives up costs to families and to taxpayers. In fact, a report by the Pew Center on the States that was just released in January reveals that 20 states, including Nebraska, received low marks when it comes to providing children with dental sealants--which are just clear coatings that help prevent decay on the chewing surface of molars--and at one-third the expense of filling a tooth. Expanding the pool of hygienists eligible to provide this safe, effective service by removing the experience requirement can only improve Nebraska's grade. By providing the prophylaxis procedure of cleaning teeth to adults in public health settings and healthcare facilities, hygienists can help patients prevent periodontitis. And the presence of periodontal disease is a low-grade infection which directly affects the systemic or the total health of an individual. A dental hygienist has that unique ability to improve the oral health as well as the systemic health of the patients they serve and the medical impact for adults may, in some cases, outweigh the dental benefits that they receive from the prophylaxis procedure. For example, periodontitis has been linked to poor pregnancy outcomes, low birth-weight babies, and premature, preterm birth. Periodontitis is a risk factor for heart disease and stroke, it's a complication for diabetes, and the dental hygienist can have a significant impact by providing the prophylaxis procedure to adults. All of these diseases are important, and they're common health concerns in vulnerable populations. The nursing home population is in great need for dental hygiene services. There is compelling scientific evidence that keeping the mouth clean is the most effective and least costly of all interventions that exist to prevent aspiration pneumonias and hospital readmissions in nursing home residents. Many of my elderly patients, our parents, and eventually you and I may need assistance in a nursing home. And unfortunately, the dental community isn't really all that well prepared to serve that population group. By allowing dental hygienists to provide some really simple preventive measures, I think that we really can maybe come up with some great alternatives and protocols and practices to improve the health of the nursing home resident. And I've just covered a few of the basic things that LB484 could do, and we ask for your support in expanding the dental hygiene scope of practice to include this public health permit expansion. Thank you. [LB484]

SENATOR CAMPBELL: Questions? Senator Howard. [LB484]

SENATOR HOWARD: You said there are 70 public health permit holders practicing right now. Do we have any indication of their outcomes? [LB484]

JANE BROEKEMEIER: Yes. And Deb Schardt, who will be following me, worked on a project that was implemented through the Oral Health department called Program in a Box. And I know that she worked with that and may have some information about how many children received procedures. And, of course, because it's new, you know, we don't have long-term data; but of course we know that providing prevention can really make cost savings in the long run. [LB484]

SENATOR HOWARD: Thank you. [LB484]

JANE BROEKEMEIER: Uh-huh. [LB484]

SENATOR CAMPBELL: Any other questions? Thanks. Thank you very much for your testimony. [LB484]

JANE BROEKEMEIER: Thank you. [LB484]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB484]

DEB SCHARDT: Senator Campbell, members of the committee, my name is Deb Schardt, D-e-b S-c-h-a-r-d-t. I've been a private-practice dental hygienist for 23 years and currently a public health permit holder as well as adjunct clinical faculty at Central Community College in Hasting. I am representing the Nebraska Dental Hygienists' Association in support of LB484. Lack of access to oral healthcare is a critical issue in the United States due to disparities in the healthcare delivery system. Dental hygienists must play a vital role in the solution to eliminate these disparities and assure quality of oral healthcare for all. Dental hygienists are licensed, oral healthcare professionals who have completed comprehensive educational and practical clinical preparation in preventive oral healthcare and hold a minimum of an associate degree. Dental hygienists are well prepared to deliver preventive oral healthcare services to all ages of the public safely and effectively. To obtain a license, dental hygienists must graduate from an accredited dental hygiene education program approved by the American Dental Association, pass a national dental hygiene board exam, pass a state regional clinical competency licensure exam, and verify they are in good standing relative to stated statutory ethical and moral requirements. Nebraska also requires continuing education of 30 hours every two years to maintain a dental hygiene license. While dental hygienists traditionally have been allowed to practice only under the supervision of a licensed dentist, the 2007 Legislature granted to Nebraska dental hygienists the authority to practice a limited scope of their professional practice in public health and healthcare facility settings with the approval of the Department of Health. The services

allowed under this public health permit essentially exam, cleaning, and application of sealants, are procedures that hygienists provide routinely every day. Service allowed have minimal risk to the patient and currently those dental cleanings can only be provided to children. Presently, hygienists to be approved to practice a limited segment of their profession in these settings must have accumulated 3,000 hours of experience in at least 4 of the last 5 calendar years. This legislation would allow hygienists by virtue of their license to be able to see children in public health settings as well as allowing hygienists with the 3,000 hours of clinical experience to provide much-needed preventive services to adults. There are currently 35 states who allow direct access to the services of a dental hygienist in a public health setting. Some states have been allowing this preventive service for over 25 years. New graduates of accredited programs have all the education and clinical experience needed to safely and successfully perform the limited scope of practice authorized by this statute. There's been a paradigm shift over the last 10 to 15 years of training students in public health settings. Our students are providing on-site care to children in schools and also offering preventive services to seniors in nursing homes. The Program in a Box referred to earlier that was supported by HRSA funding allowed public health hygienists to see nearly 14,000 children age 5 and under and to provide 23,000 fluoride varnish applications over an 18-month time frame. This program also allowed for earlier intervention and referrals to a licensed dentist to reduce the number of children that would be seen in a emergency room or require hospital dentistry. Nationally, in 2009 there were 830,000 emergency room visits that were the result of preventable dental problems, up 16 percent from 2006. This is one avenue of prevention that dental hygienists are educated and well equipped to safely deliver preventive measures to assist in keeping Nebraskans healthy. We ask for your support in advancing LB484. Thank you. [LB484]

SENATOR CAMPBELL: Any questions? Thank you. Any questions from the senators? Thanks for your testimony today. [LB484]

DEB SCHARDT: Uh-huh. [LB484]

SENATOR CAMPBELL: Our next proponent? [LB484]

DAVID O'DOHERTY: Good morning, Senators. Thank you, Senator Campbell and committee members. My name is David O'Doherty, O, apostrophy, D-o-h-e-r-t-y. I'm the executive director of the Nebraska Dental Association representing nearly 80 percent of the dentists in Nebraska. I'd like to thank the committee again on their carrying the load last year on, I think, it was LB330. And this bill is basically the amendment that came out of the committee last year, and we appreciate all your work; we are here to support it. One of the things I was going to mention to Senator Gloor on the reporting requirement and the fiscal note, the reporting requirement was in the bill...was in the statute change back in 2007. The only thing we want to make a clarification on is when

we asked for copies of the reports to see where the services were being provided, no reports had been submitted and the department said nobody made up a report. So Dr. Sorenson created a survey a couple of years ago to try to satisfy the reporting requirement. And in my testimony last year on LB330, I distributed to this committee an example form that a couple of other states that have a similar statute...a form that they use. And I distributed it to the Board of Dentistry last week just for their perusal to see so we can see where in the state services are being provided. That was very important to us seven years ago, and it's still important to us. Other than that, we support the bill and I'd be happy to take any questions. [LB484]

SENATOR CAMPBELL: So are we...we're not collecting it or we don't know where they are? [LB484]

DAVID O'DOHERTY: There's never been--to my knowledge, I mean, we've asked--any form, any official reporting of the services that was required under the statute, and so that's one of the reasons when this came up again. We wanted to make sure that was kind of clarified, and even gave an example. [LB484]

SENATOR CAMPBELL: Oh, absolutely. [LB484]

SENATOR KRIST: So, again, being a stupid pilot...we passed a bill in 2000? [LB484]

DAVID O'DOHERTY: We modified the statute in 2007 to allow... [LB484]

SENATOR KRIST: And we asked them to collect data then? [LB484]

DAVID O'DOHERTY: Right. To submit a report of the functions performed to the department. [LB484]

SENATOR KRIST: So there obviously would have been a fiscal note attached to that. [LB484]

DAVID O'DOHERTY: It may have been back then, but... [LB484]

SENATOR KRIST: So they haven't been doing it? [LB484]

DAVID O'DOHERTY: Well, no forms have been reported so they haven't had to do anything apparently. So that's why we wanted to get the...kind of like, who's going to develop the form? Well, no one did. So that's why we gave an example. Well, here's an example you could use or change, so they would have something to use. [LB484]

SENATOR CAMPBELL: So to follow up on Senator Krist's line of question here, the bill didn't designate who was supposed to develop the form or collect it? [LB484]

DAVID O'DOHERTY: No. [LB484]

SENATOR CAMPBELL: It just said there will be a form. [LB484]

DAVID O'DOHERTY: It said report...no, it didn't say...it just said report the duties performed. That's in the original language in the bill. And then the new language is on a form provided, so we wouldn't say, okay... [LB484]

SENATOR CAMPBELL: Oh, got it. [LB484]

DAVID O'DOHERTY: ...who's going to do the form? So now we know that we have a form. Kind of silly, but important. [LB484]

SENATOR CAMPBELL: Have to give us a little leeway. It's Friday. [LB484]

DAVID O'DOHERTY: Sorry. It is hot back there just to let you know. You have to turn down the heat. [LB484]

SENATOR CAMPBELL: I know. You should all... [LB484]

SENATOR COOK: Well, I'm officially the coldest person I think--in the world, yes. [LB484]

DAVID O'DOHERTY: It's toasty back there, so... [LB484]

SENATOR CAMPBELL: Yeah gentlemen, you know, remove your jackets. Don't get to the point where I look back and you're all asleep. I don't want that to happen either. [LB484]

SENATOR COOK: No, don't. [LB484]

SENATOR CAMPBELL: Don't do that. Okay. Any other questions? Senator Gloor, did you hear the response on the reporting? [LB484]

SENATOR GLOOR: No, I did not. [LB484]

DAVID O'DOHERTY: Well, the original statute change back in 2007 required reporting the functions that were performed under the statute. So there may have been...if you were looking for a fiscal note on reporting, there may have been one back then. But it didn't say who was going to, you know, create the report or who's going to tabulate the report. So... [LB484]

SENATOR GLOOR: It's already in there probably. [LB484]

DAVID O'DOHERTY: The original requirement to report is in there from seven years ago. This just says who's going to create the report and who is going to collect the data so that might trigger something. [LB484]

SENATOR GLOOR: Yeah. Our main reason for asking is it's pretty rare for us to have something that relates to reporting and not see a fiscal note, sometimes a pretty hefty fiscal note attached. So it was... [LB484]

DAVID O'DOHERTY: Well, there's like...I think the testimony was when this first was enacted seven years ago, I think there were 20 some permits, now there's 70. So I don't know how big of a reporting load it would be on somebody's...you know, there, you get to do these now. I don't know if it would even require a new position to handle that. [LB484]

SENATOR GLOOR: You would think that. [LB484]

DAVID O'DOHERTY: You would hope that. [LB484]

SENATOR CAMPBELL: Mr. O'Doherty, we can show you a bill that we just had last week. Senator Cook. Sorry. [LB484]

SENATOR COOK: Thank you, Madam Chair. And thank you, Dr. O'Doherty, for coming out again for this. It's exciting to see us make it this far. I want to make certain, though, the other 20 percent of the dentists who aren't necessarily feeling...aren't members of the association...that's a question that came up with me the last couple of years among my colleagues on the floor, will some of our colleagues get collared in their own hometowns about this bill proposal? [LB484]

DAVID O'DOHERTY: I don't think Dr. Samuels will call any of you. I mean, it's a lucky guess. No, I don't think this... [LB484]

SENATOR COOK: Okay. [LB484]

DAVID O'DOHERTY: We haven't heard from anyone. I'm sure I would have heard if this was a problem. [LB484]

SENATOR COOK: All right. [LB484]

DAVID O'DOHERTY: But we didn't think some other bills were problems either. So as far as I can say, it's all clear sailing. [LB484]

SENATOR COOK: All right. Thank you. [LB484]

SENATOR CAMPBELL: Mr. O'Doherty, at some point we shall...to have the new people, we shall tell them the story of how we didn't think that was going to be controversial. So we'll let that just lie for now, okay? [LB484]

DAVID O'DOHERTY: Okay. [LB484]

SENATOR GLOOR: Thank you. [LB484]

SENATOR CAMPBELL: Thanks a lot. Any other proponents? I didn't see anybody start up. There's a gentleman. Is there anyone else...did I miss...who wishes to speak in favor of the bill? Okay. So Mr. Faustman is the last, and then we'll go to the opponents. [LB484]

NICK FAUSTMAN: Good afternoon. [LB484]

SENATOR CAMPBELL: Good afternoon. [LB484]

NICK FAUSTMAN: (Exhibit 13) I'm Nick Faustman, that's N-i-c-k F-a-u-s-t-m-a-n. I'm with the Nebraska Health Care Association, the NHCA. We are a nonprofit trade association representing nonpropriety, propriety, and governmental long-term care facilities, both nursing facilities and assisted-living facilities. NHCA also represents the interest of individuals and businesses involved in the long-term care industry. The NHCA supports LB484. Permitting licensed dental hygienists to offer the basic services outlined in LB484 in certain facilities would greatly benefit nursing facilities within the state of Nebraska. Nursing facilities provide services for exceptionally frail and medically complex people. This population has exceptional challenges going to the medical and dental providers for diagnostic care, preventative care, and treatment. They can easily be expected to see up to six or eight healthcare professionals for their specific medical needs. By allowing dental hygienists to come to the nursing facility, it reduces an additional burden on the resident to be out of the home or environment in which they can receive optimal care. The majority of residents in nursing facilities and assisted living facilities have some level of cognitive impairment or dementia. The complexity of taking these people out of their comfort zone and into a clinical office can create unnecessary fear or trauma...anxiety. In short, the NHCA contends that LB484 would help provide critically needed dental care to the Nebraskans we care for. We urge the committee to advance LB484 to General File. Thank you very much. [LB484]

SENATOR CAMPBELL: Thank you, Mr. Faustman. Are there any questions? Seeing none, thank you. [LB484]

NICK FAUSTMAN: Thank you. [LB484]

SENATOR CAMPBELL: One last call for proponents. Okay. Those who are in opposition to the bill? Okay. Those who wish to testify in a neutral position? We're taking a picture of this today. Senator Karpisek, would you like to close on the bill? [LB484]

SENATOR KARPISEK: Very quickly. Thank you, Senator Campbell and members of the committee and Senator Cook and all of the committee that have worked on this issue. And it has not always been easy, and I know that I threw a wrench into it once or twice myself. But I appreciate the hygienists and the dentists and everyone coming together and what I feel like is, it's just something to really help our residents in the nursing homes and/or the residents of the state. So I really, really appreciate everyone's hard work and compromise on this, and thank you again. [LB484]

SENATOR CAMPBELL: (Exhibit 14) We should note for the record--and I always forget these so I'm going to try to remember--we have a letter of support from the State Board of Dentistry supporting. Thank you, Senator Karpisek, very much. And with that, that concludes the hearing on LB484, and we'll move to our last hearing of the day, LB326, Senator Howard's bill. Okay. Senator Howard, let's wait a minute until we get people kind of out of the room and then we'll make sure it's quiet for you. All right. Senator Howard is bringing us a bill this afternoon to change the provisions of the Pharmacy Practice Act and the Automated Medication Systems Act, LB326. Senator Howard, go right ahead and start. (See also Exhibit 15.) [LB484]

SENATOR HOWARD: Good afternoon, Chairwoman Campbell and members of the committee. I'm Senator Sara Howard, H-o-w-a-r-d, and I represent District 9, and this is my first bill up in committee. I'm very excited to be here. [LB326]

SENATOR CAMPBELL: And you always want to do those in your home committee, you know, where you've got a lot of friends here. [LB326]

SENATOR HOWARD: Yeah, exactly. Well, I'm also standing on the shoulders of Senator Gloor today, so I really appreciate him. I'm introducing LB326 on behalf of the Nebraska Pharmacists Association to allow pharmacies and long-term care facilities to more efficiently serve their patients that reside in those long-term care facilities. This bill is essentially a modernization bill. It's brought in response to a growing recognition that pharmacists serving long-term care facilities need to be able to store and dispense medication on site; most importantly, controlled substances by the DEA. Right now for patients at a long-term care facility to receive their medication prescriptions, it has to be filled at a pharmacy and then delivered to the facility. So they get a bag with a month's full of medication for that individual and it's taken to the facility and then sort of separated into day increments by the facility staff. And that practice will most likely continue in many long-term care facilities in Nebraska, but LB326 would allow an

automated medication system owned, monitored, and managed by a pharmacist and a pharmacy to be placed within the long-term care facility and operated there. These machines could automatically dispense a single dose of the medication to facility staff once approved by a pharmacist as prescribed. Under LB326, the pharmacy maintains the responsibility for the machines. Operation without a pharmacist's oversight...without pharmacist oversight is completely prohibited. The pharmacist in charge of the pharmacy is responsible for policies and procedures surrounding the medications and the machines, and must ensure that the process used is in compliance with the rules for operation of automated medication systems. LB326 would also allow pharmacists to supervise and verify tasks completed by the pharmacy technician via real-time audio and video communication technology rather than in-person monitoring. Others behind me will speak to the specifics, but I would be happy to answer any questions that I can. I understand that there is an amendment that is technical in nature that will be provided to the committee for consideration from groups working on and in support of this bill. Essentially, there are over 400 long-term care facilities in the state of Nebraska. And with this sort of method of getting a month's worth of medication, having a facility staff--most likely a nurse--separate it out and...it takes about four hours to do that. And this would allow them the opportunity to have essentially a robot in a room that's locked and be able to consult with a pharmacist in a computer in that room and then it will dispense the medication in day increments. So if they got a whole month's worth and maybe their medication was changed, we won't see medication thrown away because they're not using it. So thank you for your time and attention to LB326, and I'm happy to answer any questions. [LB326]

SENATOR CAMPBELL: Questions from the committee? Senator Gloor. [LB326]

SENATOR GLOOR: Thank you. And I would just add a continuation to Senator Howard's comment about our working together on this. I introduced a bill my first year here four years ago that began moving this in that direction, and it was a sort of a relay race. My predecessor, Senator Aguilar, had started doing some of the background work related to the Grand Island Veterans' Home; that came to me. The bill four years ago was predicated around trying to take a look at the practice of a pharmacy in a long-term care facility--I think I'm going to get this right--that was more around a retail model where scrips had to come in, had to be filled, the recordkeeping really treated it more like a retail pharmacy. We were trying to move it at that point in time to be more like a hospital pharmacy with the paperwork being more, I'll put it, patient centered and oriented and accessible more round-the-clock, and the automation piece. So Senator Howard now is taking that yet another step forward at this point in time. So it's been a continual journey, and I think is a good bill. [LB326]

SENATOR CAMPBELL: Okay. Any other comments or questions? Senator Crawford. [LB326]

SENATOR CRAWFORD: Thank you, Senator Campbell. Thank you for this bill and for your testimony. I just wanted to clarify for the record, you were talking about the use of the bill for long-term care and the automated pharmacy. Now is it also the case that the language to allow verification, supervision by video communication system also applies more broadly, that this bill also opens up pharmacy supervision of pharmacy techs more broadly in the practice? [LB326]

SENATOR HOWARD: I will let the pharmacists here coming behind me answer that question, but it's a good one. [LB326]

SENATOR CRAWFORD: Okay. [LB326]

SENATOR CAMPBELL: So Senator Crawford has to hold her question until we get to a pharmacist. Any other questions? Thank you, Senator Howard, and please do return, we invite you to. [LB326]

SENATOR HOWARD: Thank you. [LB326]

SENATOR CAMPBELL: (Exhibits 17, 18, 19) While the proponent is coming forward we have a letter of support for the bill from the Nebraska Grocery Industry Association and support for the bill from the Nebraska Board of Pharmacy and a general support from the Department of Health and Human Services with some, it would appear to me, suggestions that might make the bill a little bit stronger. So with that, welcome and go ahead and start. [LB326]

JONI COVER: Thank you, Senator Campbell. 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 am here in support of LB326. I would like to thank Senator Howard for introducing this bill on our behalf. I would say she did an outstanding job telling you what it's about, so I don't really have much more to say. I am not a pharmacist, but I can answer your question and I will do that first. We did, because of the way this...the automation and the technology is evolving, we found that we need to address the ability to supervise and verify what the technicians do remotely. So this...those changes that are in LB326 do apply across all pharmacy practice, not just specific to the automation piece. So that is going to impact everyone. Technology is changing so rapidly and especially in pharmacy. And Senator Gloor is right, we started this journey a while ago because we were having pharmacy groups coming to the Board of Pharmacy asking them, can we use this automation? Can we use that automation? And so we addressed hospital and retail in a bill years ago. Now the evolution is to long-term care. We're seeing that practice more and more like the hospital model, although sometimes it's still retail structured. And this bill...luckily the DEA now recognizes that long-term care facilities can become registrants so they can store controlled substances that are not labeled specifically for a patient, and we felt that the time was right. This is going to help in

those facilities that wish to use this. It's not a mandatory thing, but we think that it will help serve those patients in a more effective manner. We probably will cut down on waste, cost. The machines are expensive, so I think it's going to be a little bit of time before we have an uptake in a lot of pharmacies using them. We also didn't specifically say that they have to be this kind of machine because there's a lot of different kinds of machines out there. But we did try to make it so that it was broad enough that there's policies and procedures that are mandated. The machines have to be owned by a pharmacy, they have to be oversight by a pharmacist, there's very strict rules about that. And hopefully that will be able to best serve our residents in our nursing homes. Now there is an amendment that's going to be...it's actually at Bill Drafters, and I apologize that that didn't get to you before now. We met--we being the Pharmacists Association--met with Health Care Association, Hospital Association, Golden Living who will be testifying. They have several nursing homes in Nebraska and they are going to be utilizing this technology. We met...all of us met this morning--Health and Human Services. And we actually addressed the concerns of their letter. [LB326]

SENATOR CAMPBELL: Good. [LB326]

JONI COVER: I just saw that through a tweet so I just...I know what the two concerns are in the amendment and that will be addressed. And Michelle had brought up a couple of...a concern about a technical provision of one of the definitions, and so we're going to make sure that that's covered too. So the other thing we're going to ask the committee to do in the amendment is to add an emergency clause. We would like to see this go into effect. We did not write rules and regulations...we didn't write the bill so there was rules and regulations that are needed. And I know that the department had put in a question about the fee, and so we are going to address that as well. But as long as the rules and regs process takes, we decided we would just put everything in statute and make it so that it's policy and procedure driven, state oversight, these machines have to be registered with the state, they have to be owned by a pharmacy, and I think this is going to be a real positive step for our nursing home care and pharmacy care in Nebraska. So I'm very excited. Other states are doing it. That doesn't necessarily mean we need to, but at least we won't be last. That's exciting. Yeah. So anyway, we're just seeing a lot more technology and lot of things changing in our industry, and so hopefully this is something that will be approved by the committee. [LB326]

SENATOR CAMPBELL: Questions for Ms. Cover? Senator Krist. [LB326]

SENATOR KRIST: Just paint me a picture. [LB326]

JONI COVER: Okay. [LB326]

SENATOR KRIST: There is a machine that sits in the facility. It's owned by a pharmacy, therefore, controlled. The right medications for the residents in a living facility are loaded

in place, and a qualified tech or a qualified person is punching in Betty Grable's name with an identification showing that they have the authority to do that. It pumps out the medication and they take it to Betty's room and give it to Betty. And if this is the same machine that I saw several times in the past year at the hospitals, they claim that this is upwards of 25 percent less waste in terms of dispensing and also in turning that drug around in the event that Betty no longer lives in that facility for any reason. Is all that okay? Is that picture pretty clear? [LB326]

JONI COVER: Yup. That is very clear. You know, one of the things that...since I've been at the Pharmacists Association, I've had multiple conversations with folks about the waste that we create. Medicare has allowed for a 30-day supply of medications, and they just recently changed that so now brand-name drugs for residents have to be 14 days or less. So that's going to be a very interesting thing. But if you send over a 30-day supply of somebody's medications and they pass on or they need to change them, you know, what do you do with those? And so there's a tremendous amount of waste that is created. And so this, hopefully, will take care of some of that because now--and not that the system is bad--but the drugs are sent over, like I said, in a 30-day supply. You often see them in a unit dose so they're in little cassettes or they're in blister packs where you pop out the medication. There's various types of ways that the medication gets from the pharmacy to the nursing home. And so, you know, this will just take instead of that packaging over here, carrying it to over here, all of that will be done here. It will come out more of a unit-of-use kind of thing. [LB326]

SENATOR KRIST: Thank you. [LB326]

SENATOR CAMPBELL: Senator Gloor. [LB326]

SENATOR GLOOR: Thank you, Senator Campbell. I'm going to ask you to continue on that line of... [LB326]

JONI COVER: Okay. [LB326]

SENATOR GLOOR: ...education of pointing out that not only is there a reduction in wastage; but in a lot of our smaller communities that don't have 24-hour pharmacies, there's also an access to certain medications that is a big benefit to a patient who a physician now decides they want to have a medication on a Friday night, as an example. Would you make mention of that? [LB326]

JONI COVER: Uh-huh, right. Yes. And that does happen. You know, we have in statute now the allowance of emergency boxes so drugs that are set aside and the pharmacist, the medical director, and the facility get to decide what belongs in those emergency boxes. And that's a good way to address some of that. But hopefully, the way these machines are going to be utilized, it will allow for more types of medications to be

stored. You know, it's going to be a use--what our medical directors like to prescribe--and it will also be a cost thing. So, but yes, you're exactly right. In some of our more rural communities, you know, I'll tell you that our pharmacist will often say, Medicare rules require 24/7 access to nursing homes. And when you're in a rural community, maybe you serve a nursing home that's 45 miles one way and, you know, 60 miles another. So you're the person that's going in all directions. You know, when the pharmacists decide to put this sort of system in place, it should cut down a lot of that, you know, ten o'clock at night on a Friday night needing something. Hopefully, the size of the machines--and they're all sizes--we'll be able to accommodate some of those, you know, emergency kinds of things. So and we have systems in place to deal with that now, but this might be a more efficient and safe approach for the nursing home and the pharmacy. So it's another option. It's another option. [LB326]

SENATOR GLOOR: Thank you. [LB326]

SENATOR CAMPBELL: Any other questions? Senator Watermeier. [LB326]

SENATOR WATERMEIER: Madam Campbell, a question about these fees, I don't quite follow it. On the fiscal note it says 20 percent of the regular pharmacy fee. [LB326]

JONI COVER: Correct. [LB326]

SENATOR WATERMEIER: Does that mean you'd have a pharmacy set up somewhere off site and so this will be 20 percent...you don't already have a pharmacy in the nursing home? [LB326]

JONI COVER: No. No. [LB326]

SENATOR WATERMEIER: So this will be brought in and it's just 20 percent, and this tags along with some other fee that's already being paid? [LB326]

JONI COVER: Right, except...the pharmacy is licensed and pays a fee to the state. And that was one of...I saw...one of their concerns. And when we were trying to figure out what the fee would be, I put in the number 20 percent. Actually, I put in $10 at the beginning, but the $10 thing I knew wouldn't fly. So in fairness to them--we had this discussion this morning--and we're going to put it so that it's the same fee as what you would have a fee to license a pharmacy, so I think that's $625. [LB326]

SENATOR WATERMEIER: Okay. [LB326]

JONI COVER: And we didn't...typically in our statutes we have that the department will set the fees. But if we did that now, we would have to wait for rules and regulations to be adopted. So we just said the fee is the same and it's...so they're going to pay

whatever the pharmacy fee is, that's what they'll pay for these registrations as well. So that was one of the amendments, and we addressed it. It will be in the technical amendment that you receive. So I kind of liked the $10 thing, but not so much. [LB326]

SENATOR CAMPBELL: Any other questions? Thank you, Ms. Cover, for your testimony. [LB326]

JONI COVER: You're welcome. And once the amendment is ready, I will get it to you. And if you have any questions, I'm happy to talk to you about it because it is just technical in nature. We did some moving around of things and tried to address, you know, some wordsmithing. But I would be happy to chat with you if you have questions. So thank you, Senator Howard. [LB326]

SENATOR HOWARD: Great. [LB326]

SENATOR CAMPBELL: Thank you for the offer. All right, our next proponent? Good afternoon. [LB326]

LARRY JOHNSON: Good afternoon, Senator. My name is Larry Johnson, L-a-r-r-y J-o-h-n-s-o-n, I'm the government relations director for Golden LivingCenters in the Midwest. We operate 21 skilled nursing facilities in the state of Nebraska. We care for almost 17,000 residents in our facilities in the state, and we have facilities as far west as Scottsbluff, as far east as Omaha, up to Norfolk, and down to Franklin. I'm here today in strong support of LB326. We operate facilities across the country, 302 to be specific, and we tested automated-dispensing technology in several of our facilities in Indiana, Maryland, and now we're actually operating with this technology in the state of Pennsylvania. The results were amazing. We saw results, as we've discussed already. Lower overall costs: due to the dispensing of drugs one med pass at a time rather than the 30-day supply, so you're only paying for that one medication at eight o'clock in the morning, at noon, what have you. You're paying for what you get rather than paying for the 30-day supply. Increased caregiver time with residents: as Senator Howard mentioned, our pilot program showed that it saves about four hours of nursing time. In the current situation the nurse in question would go document that she is removing the drugs, do popping the blister pack, putting the pills all together, and then documenting after the fact that she has...she/he...the nurse in question has to document after the fact that the drugs were passed or rejected or whatever the case is. That takes about an hour, hour and a half per med pass; and if you have 3 per day, that's about 4 hours in a 24-hour period. This cuts down on that significantly and actually gets the nurses back onto the floor meeting with the residents, talking, you know, having the one-on-one contact that they need to have a better outcome. We've...I'm sure you've heard testimony from others about the importance of personal contact with residents in facilities so you end up with better outcomes overall. And then with that, you see a decrease in rehospitalizations, and that's an additional cost savings in the entire system.

So and then finally, the use of this technology: as Senator Krist mentioned, it cuts down almost entirely on wasted drugs since you're having one med pass per day. Ultimately, you can't completely eliminate the waste. There are expirations of drugs, sometimes you'll have the dispense, the patient will reject the drug, refuse to take it, etcetera, and those still need to be disposed of. But 25 to 30 percent up to 50 percent, we're hoping, elimination in wasted drugs. So we want to thank you all for your consideration. We would appreciate your support. And a special thanks to Senator Howard for introducing the bill. I would like to also invite each of you to come visit one of our facilities once we're up and running, especially Senators Cook and Gloor. They represent our facilities. [LB326]

SENATOR COOK: My father lives in one, so I'm going to pass on an official...I'll pass on the executive tour. Maybe Senator Gloor can tell me about it. [LB326]

LARRY JOHNSON: Fair enough. And we just want to thank you for your time, and I'll close. I'll be happy to answer questions if you did have them. [LB326]

SENATOR CAMPBELL: Thank you, Mr. Johnson. Are there any questions from the senators? You were fairly clear about how that would operate, so thank you very much. [LB326]

LARRY JOHNSON: I appreciate it. Thank you. [LB326]

SENATOR CAMPBELL: Our next proponent? [LB326]

NICK FAUSTMAN: (Exhibit 16) Nick Faustman, N-i-c-k F-a-u-s-t-m-a-n. We...the Nebraska Health Care Association is in support of LB326. We support...strongly support the use of proper technology that would simplify and/or enhance the care provided to patients within our member facilities, particularly important in states...rural states like Nebraska. And so we're very pleased at the work that the pharmacists and Golden Living and others have done with this bill. [LB326]

SENATOR CAMPBELL: Excellent. Any questions from the senators or comments? Thank you, Mr. Faustman, very much. Our next proponent? Anyone in the hearing that wishes to testify in opposition? In a neutral position? Did you all just make the neutral people and the opponents stay outside? Is that what happened today? I don't know. Senator, would you like to close on your bill? [LB326]

SENATOR HOWARD: Sure. I just want to thank the committee for their consideration of LB326 and tell you my three favorite things about this is that it really does prevent the waste of throwing away medications when they're unused. Also, immediate dispensing can be critical when somebody arrives on site at a long-term care facility in an exigent circumstance, and they may have to wait up to two hours to get their prescriptions filled.

Whereas if there's a chart order or if the doctor can prescribe and the pharmacy can approve it, it can go directly through the robot. But also coming from a family that's been impacted by prescription drug abuse, I really appreciate the fact that this machine keeps track of who's utilizing it, who's taking the meds out, and really keeps track of where they're going. So I urge your support of LB326, and I look forward to speaking with you all about it in Exec Session. Thank you. [LB326]

SENATOR CAMPBELL: Thank you, Senator Howard. Are there any questions that you want to ask? Okay. With that, it concludes our public hearing today on LB326 and all hearings. [LB326]