[LB854 LB994 LB1076]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 5, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB854, LB1076, and LB994. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: None.

SENATOR CAMPBELL: Good afternoon, everyone, and welcome to the hearings of the Health and Human Services Committee. I'm Kathy Campbell and I represent District 25, which is east Lincoln and eastern Lancaster County. We are very pleased that you are here today. And we're going to go through a few housekeeping. I see a lot of familiar faces, so they can...they kind of know what's coming here. Please check your cell phone to make sure it is on...turned off or is on silent, and I would encourage you also to silence any tablet that you may be using because we do hear sounds from it occasionally. If you are planning to testify today, please complete one of the orange sheets on either side of the hearing room. Print as legibly as you can for the clerk. And if you come forward, you can give the orange sheet to the clerk. And if you have copies of your testimony, not required, but if you have copies we would like 15 of them. And the pages can help you if you need additional copies. As you come forward and sit down to testify, please state your name for the record and spell it. And, again, slowly because the transcribers are trying to pick this up. And I think that's all the housekeeping notices. Oh, we do use the lights here in the Health Committee. You have five minutes. You're in green for a long time; it goes to amber, and then you have one minute left and it will go to red and I'll be trying to get your attention. So with that, we'll do introductions and we'll start on my far right.

SENATOR WATERMEIER: Dan Watermeier from Syracuse, District 1, southeast Nebraska.

SENATOR HOWARD: Sara Howard, District 9, midtown Omaha.

SENATOR COOK: I'm Tanya Cook. I'm the state senator from District 13 in northeast Omaha and Douglas County.

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

SENATOR GLOOR: Mike Gloor, District 35, Grand Island.

SENATOR CRAWFORD: Sue Crawford, District 45, which is eastern Sarpy County, Bellevue, and Offutt.

BRENNEN MILLER: I'm Brennen Miller. I serve as committee clerk.

SENATOR CAMPBELL: Senator Krist, you want to introduce yourself?

SENATOR KRIST: Bob Krist, I represent District 10 in northwest Omaha and Bennington.

SENATOR CAMPBELL: Okay. And our pages today are Emily and Stuart. Emily and Stuart are at the University of Nebraska-Lincoln. Emily's hometown is Sioux Falls, South Dakota, and is a student in political science; and Stuart is studying English and his hometown is Lincoln. So with all of the introductions, we will proceed to open our hearings. And the first hearing this afternoon is LB854, Senator Krist's bill to prohibit issuance of a long-term care request for proposals before September 1, 2015. Senator Krist, go right ahead. [LB854]

SENATOR KRIST: Thank you, Chair, and thank you, colleagues. My name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th District that's northwest Omaha, unincorporated parts of Douglas County, and the city of Bennington. I refer you to the green copy which is a very short paragraph, and what it says is please take a deep breath and do this the right way because we've had instances in the past where contracts or privatization or things have not probably been thought out the way they should be. LB854 ensures the safety and well-being of the state's most vulnerable populations by allowing a more suitable time line for properly designing a Medicaid managed care system for long-term services and supports, MLTSS. The reason for the bill, HHS is actively pursuing MLTSS since last fall. To date, there have only been two stakeholder advisory council meetings. Nebraska's other managed care systems were developed over the course of several years, not months. In addition, there's been a lack of detailed information from HHS on the proposed changes and minimal opportunity for provider and consumer input. We want them to take their time and not put the RFP on the street until September of 2015. That's pretty much it in a nutshell. There's going to be some people behind me that are going to talk about managed care and how this may not work for managed care or how they may have some concerns about how it would work for managed care, so I'll let them speak for themselves. And then I want to apologize to this committee and to the people who came to testify, but I have a large bill in the Judiciary Committee that's coming up, and so I'm not going to stay around for closing. I just want you to know this is important. We need to make them stop, take a breath. The state needs to do this the right way, and I think this is an answer to get us to that point. With that, I'll take any questions. [LB854]

SENATOR CAMPBELL: Any questions for Senator Krist? Seeing none, good luck with your bill in Judiciary. [LB854]

SENATOR KRIST: I'm going to need it. Thank you, Chair. [LB854]

SENATOR CAMPBELL: Okay. Take care. Our first proponent. Good afternoon again. [LB854]

HEATH BODDY: (Exhibit 1) Good afternoon. Good afternoon, Chairwoman Campbell and members of the committee. I'm Heath Boddy, and that's spelled H-e-a-t-h B-o-d-d-y, and I'm the president and CEO of the Nebraska Health Care Association. NHCA is the parent association to a family of entities including the state's largest association for nursing facilities called the Nebraska Nursing Facility Association, the state's only association dedicated specifically to assisted living facilities, the Nebraska Assisted Living Association. And I'd just like to share that both NNFA and NALA represent nonproprietary, proprietary, and governmental long-term care facilities. On a side note, as Senator Campbell just alluded to, she did our introductory comments this afternoon, we have 80 of the NNFA and NALA members here today upstairs in the Warner Chamber for their annual legislative day. So we're glad to have them here and glad they braved this lovely weather that we're having. LB854 takes a big step towards ensuring the safety and well-being of the state's most vulnerable populations by allowing a more suitable time line for properly designing a Medicaid managed care system for long-term care services and supports. And you heard Senator Krist allude to that as MLTSS. The Department of Health and Human Services currently plans to release the request for proposals, or RFP, for the MLTSS project by later this summer. There are currently few details available from DHHS regarding this plan on how the MLTSS will operate in Nebraska or what the requirements for the managed care organizations, or referred to as MCOs, what they plan to include in the RFP. This means that the total amount of time taken to develop the RFP, which I want to just say serves as the contract between DHHS and the MCOs, has been less than ten months. This is quite an ambitious time line for what will be a massive overhaul for our sector of the healthcare delivery system. NHCA's members are extremely concerned that if the design and implementation of this managed care system is rushed or if there's not ample research on the outcome of similar projects in other states and input from stakeholders, Nebraska will experience the same setbacks that other states are experiencing right now. Our sister associations in other states report there have been facilities that have experienced reimbursement reductions, increased paperwork, and delays in payment by the MCO. In one case, a nursing facility in Kansas which just started January 1, 2013, the managed care just started then, was not paid, the facility was not paid for nearly six months. Clearly, this could have devastating effects on smaller, standalone facilities, especially those in the rural parts of Nebraska. While facilities with larger chains may be able to sustain this type of financial burden for a longer period of time, smaller facilities simply cannot. These facilities are often the sole healthcare provider in an area and sometimes the major employer in Nebraska's rural communities. More important than the uncertainty a hastily planned managed care system would present for the providers, NNFA and NALA are highly concerned with the effect it may have on the patients and residents themselves. While we're talking about Nebraskans who are elderly or adults and children with disabilities, some requiring a

hospital level of care on an ongoing basis, we must ensure that services remain in place and are easily accessible. Thank you for considering this important proposal. Converting the current Medicaid fee-for-service structure into a long-term...for long-term care into a managed care model will easily be the most significant challenge this sector of the state's healthcare delivery system has faced in 20 years. Due to the aggressiveness of the current MLTSS time line, we urge the members of this committee to consider prioritizing LB854 in some manner and advance the bill to General File. And if it would be helpful, I'd be glad to chat through a few questions if you have any. [LB854]

SENATOR CAMPBELL: Sure. Questions from the senators? Senator Gloor. [LB854]

SENATOR GLOOR: Thank you, Senator Campbell. Heath, has the association made a recommendation one way or another on managed care and long-term care itself, forgetting the time frame we're talking about here, how about the actual movement towards managed care? [LB854]

HEATH BODDY: To be very honest, Senator, we don't have enough information at this point to know if we would be for or against the program. There's plenty of things that are happening in other states that give us great concern, but our whole approach with the department to this point has been let's take the time and get the input that it takes to do this right. And in fact we've had multiple meetings with different levels of people at the department asking them to take that time. So we...I don't know that we have a formal stance at this point. We realize that we have to be good stewards of Nebraska's resources as providers here, but we...I think Senator Krist said let's take a breath and do this right. [LB854]

SENATOR GLOOR: Okay. [LB854]

HEATH BODDY: Let's make sure we get it done well. [LB854]

SENATOR GLOOR: Thank you. [LB854]

SENATOR CAMPBELL: Senator Crawford. [LB854]

SENATOR CRAWFORD: Thank you, Chairman Campbell, and thank you, Heath. When Senator Krist opened on the bill, he mentioned something about two meetings. Have you been engaged in any stakeholder meetings thus far? [LB854]

HEATH BODDY: Thank you, Senator Crawford. I have been. I'm one of the members of the MLTSS advisory council. It's a mouthful. The first meeting I believe was in October, and then we had one more meeting in December. And I do believe there's now a meeting scheduled for later February. But there has been two meetings to date. The

first meeting...this group is made of up providers and consumers and all sorts of folks. So the first meeting was a whole bunch of just trying to get people to understand what this concept even means just globally. And then the second meeting was just a little more into the weeds. Frankly, a lot of the questions that we dealt with, with the folks from DHHS at those meetings couldn't go answered at the meetings because they didn't have the answers yet either. They weren't deep enough into the process to have the answers. And, again, just raising the concern level, thinking this is going to be a big deal and we better make sure we get it right. [LB854]

SENATOR CRAWFORD: Thank you. [LB854]

SENATOR CAMPBELL: Other questions for comments? Thank you, Mr. Boddy, for your testimony. Our next proponent. Good afternoon. [LB854]

TOPHER HANSEN: (Exhibits 2 and 3) Good afternoon, Senator Campbell. Thank you for allowing this testimony. I gave you 14 copies of my testimony, this being the 15th. I'll share it as soon as I'm done. (Laugh) [LB854]

SENATOR CAMPBELL: Perfect. [LB854]

TOPHER HANSEN: So, Senator Campbell, members of the Health and Human Services Committee, my name is Topher Hansen. I serve as president of the Nebraska Association of Behavioral Health Organizations known as NABHO, and I am also president and CEO of CenterPointe. I'm here today to provide information to the committee about the process NABHO went through with the state to bring at-risk, capitated managed care to behavioral health services covered by Medicaid. The lessons learned are valuable to this process at issue today and why we support LB854. When an at-risk, capitated managed care system was being discussed by HHS in 2008, NABHO members became quite concerned about the lack of advance planning, inability of anyone at HHS to articulate the goals, objectives, or other details of the system, and the short time frame available to develop the document, which is a highly technical and very sophisticated document. In 2009, NABHO hired Dr. Ken Minkoff, a nationally recognized consultant in treatment services and service systems, to help us understand what process would be advised to move from the system we had to an improved system that would help people get better, be responsible to costs, and be accountable. Dr. Minkoff thoroughly reviewed the Nebraska system and produced a report that concludes with 20 recommendations to follow to develop a system that is beneficial to all the stakeholders. In the report, he addresses the issue of hurrying through the process due to outside pressures, like saving money, and advises: The financial pressure of diminished resources often creates a sense of urgency to get something in place in a hurry in order to save money in the next budget cycle. This rush to savings is invariably a recipe for more costly problems down the line than would have been the case with a more thoughtfully planned approach, in which cost savings are successfully

implemented along with system changes that can actually improve care over time. Dr. Minkoff concluded his report with a list of 20 commitments or recommendations he advises stakeholders to employ to plan, develop, and implement a successful managed care system. This report is attached to this testimony. Among the recommendations or 20 commitments is adequate time, transparency, inclusiveness, level funding for the first year, stakeholder input, and stakeholder oversight. Subsequent to the Minkoff report being produced and distributed, the proposal to develop an at-risk, capitated system for Medicaid behavioral health services was indefinitely postponed. In 2011, NABHO saw the need for development of an at-risk, capitated managed care system for behavioral health services paid by Medicaid. NABHO does not view managed care as a negative development, but as an organized delivery system designed to help people get better and is responsible for improving health in the most efficient manner, in the cost-efficient manner. Efficiency and effectiveness that allows access and produces high satisfaction in those being served. Viewing managed care as a tool to a great system in Nebraska, we hired a consultant to help us identify what that system would look like in Nebraska. We employed Dr. Andy Keller to assist us. We doubled our dues, raised money across the state, and spent hundreds of hours working with Dr. Keller to develop a prototype. We involved consumers, family members of consumers, providers, subject matter experts, and regional governing authorities to help identify the qualities of a successful plan and the details that would govern that plan. Initially NABHO invited the state to join us as a partner in this process, but because of legal issues related to procurement of contracts NABHO proceeded on its own. NABHO delivered its product to the state in response to their request for information that asked, in essence: What details would a managed care contract for Medicaid behavioral health services include in Nebraska? NABHO spent over one year developing our response to this RFI. Not only did we receive input across Nebraska and from a variety of constituencies, we also compiled a matrix of managed care models around the country that met our goals and were proving to be successful. We compiled all the information and developed a plan that took the best of the best that matched the values, principles, and goals we established in Nebraska. The document delivered in response to the RFI was fully developed to also present as the RFP and convert to the contract with the managed care organization that would be identified in the process. Most of the plan submitted by NABHO was used in the FRP and the contract. While NABHO reflects on this process as successful and consistent with Dr. Minkoff's commitments, we were not able to protect against what Minkoff warned against in his 20 commitments, that is cutting the level of funding to an amount below the prior year funding level. Last year, Dr. Keller testified in front of the Appropriations Committee on the loss of almost $16 million in the system compared to the prior year. In Nebraska, we know well of what Dr. Minkoff warns against when a system is underfunded when we look at the difficulties at the Beatrice State Developmental Center and the in the child and family...children and family service system. When all is boiled down, what we hear from those that know this process the best is haste makes waste. This is complicated work with multiple interests. It should be addressed in a thoughtful, deliberate manner that produces the highest value for those

being served and for our state. [LB854]

SENATOR CAMPBELL: Thank you, Mr. Hansen. Questions from the senators or comments? Thank you much. Our next proponent. Good to see you again, Senator. [LB854]

KENT ROGERT: Good afternoon, Senator Campbell, members of the HHS Committee. My name is Kent Rogert, R-o-g-e-r-t, and I'm here today representing LeadingAge Nebraska, a group of about 45 nonprofit and government-owned nursing homes and assisted living facilities. Our executive director would have come here today but the weather has delayed travel in and out of the state, so she couldn't make it to tell you better stories than I can. But she is also one of those that attends those stakeholder meetings and has been involved in some of the planning process. Senator Krist said it actually very, very well and simple. Slow down, take a deep breath. There are tens or hundreds of millions of dollars in 3...250-plus providers and thousands of lives at stake. We should do this correctly. [LB854]

SENATOR CAMPBELL: Thank you. Questions from the senators? Thanks a lot. [LB854]

KENT ROGERT: Thanks. [LB854]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB854]

MARK INTERMILL: (Exhibit 4) Good afternoon, Senator Campbell and members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP. As we have noted in a previous hearing on LB690, Nebraska will experience a significant increase in the number of people in the age group who will need...are likely to need long-term care and we need to prepare for that eventuality. We think managed care could be an appropriate step in providing that care. At its best, managed long-term care can integrate long-term care and acute care services, and sometimes those types of services need better integration. So we see some possibilities for managed care. But on the other hand, there are some...have been some challenges as other states have attempted to implement managed care. Those experiences have been that there's a need for a strong monitoring process. There's a lot of checks and balances that need to be implemented in terms of assuring that the services are provided appropriately and meet the needs of the population. And we have some concerns given the staffing reductions in the Department of Health and Human Services as to whether those...that monitoring process could be implemented appropriately. But our primary concern is about the process. We do believe that there needs to be a better planning process, as we mentioned during the testimony on LB690. It needs to be a comprehensive, open planning process, and arrive at a plan that consumers and providers can work with and not a predetermined conclusion. I would reiterate our

believe that we need to engage in a comprehensive planning process that takes into consideration the full array of issues that need to be addressed, one of which is the advisability of a capitated managed care system in our state. We do have a unique long-term care system, and we need to make sure that that particular system fits our state. I would recommend that the planning process in LB690 would be a good first step that would help get us to the point where we can make that determination as to whether a capitated managed care system is appropriate for Nebraska. [LB854]

SENATOR CAMPBELL: Thank you, Mr. Intermill. Questions from the senators? Thanks much. Our next proponent. Anyone else in the hearing...yes, sir. Good afternoon. [LB854]

RYAN BEETHE: Good afternoon. Ryan Beethe, B-e-e-t-h-e. Members of the committee, my name is Ryan Beethe and I'm the administrative officer for the Omaha branch of Maxim Healthcare Services. At maxim, we provide home healthcare services to pediatric and adult populations across the state who require home nursing care so they can remain safe in their homes and not have to be institutionalized. I'm here today on behalf of all of our patients in Maxim Healthcare to support LB854. As you are aware, several Medicaid-eligible groups have already transitioned to managed care organizations in the past two years, and all groups are scheduled to be managed by managed care organizations by July of 2015. Several of Maxim's patients were in the groups that already transitioned to these MCOs, and I'm here today to share the challenges with this transition. Prior to our client's transition to managed care, their services were authorized according to the Nebraska regulations and were paid under traditional fee-for-service Medicaid. Once a patient was deemed eligible to be on a Medicaid managed care organization, these services were then authorized and paid for by the MCO. The MCOs follow the state of Nebraska regulations as well as their own regulations when authorizing hours. The managed care organizations regulations are more stringent when authorizing these services than the state of Nebraska's regulations, resulting in many of our patient's services being reduced or totally cut. Providers are told by the Nebraska Department of Health and Human Services that the MCO should be following the same guidelines when reviewing the requests that straight Medicaid is, but this process isn't happening. Many of Maxim's patients services have been cut or eliminated during this transition resulting in many hours of appeals and wondering if their loved ones would be able to stay in their homes. Today, I'm here representing all Maxim's patients in support of LB854, delaying the request for proposal to the prospective Medicaid managed care providers until September of 2015 so the process for authorizing these hours can be fixed and all plans are consistent with the state regulations. [LB854]

SENATOR CAMPBELL: Thank you for your testimony. Questions? Okay. Thank you for coming. Our next proponent. Okay. Good afternoon. [LB854]

FRANK VELINSKY: Good afternoon, Senator Campbell, members of the committee. My name is Frank Velinsky, and that's spelled V-e-l-i-n-s-k-y. My main office or only office is located at 11904 Arbor Street, Suite 201, in Omaha. The name of my company is called Caretech, Incorporated. I also am president of the Nebraska chapter of the Home Care Association of America, and I'm a member of the national policy advisory committee of the Home Care Association of America. My organization has been in business for 15 years. We are not a franchise. We provide in-home care for the elderly and disabled primarily through the Medicaid waiver throughout the state of Nebraska. We also provide a similar service in western Iowa. I am also a member of the managed long-term services and supports advisory committee. I also sit on the Nebraska brain injury advisory council, and the aged and disabled resource center advisory council. I applied for only one and some of the others seemed to follow. (Laugh) One of the things that...one of the more important things to us because we deliver services right in the homes of the clients is that it's important to understand what our caregivers go through in many cases in order to deliver those services, what our organization goes through in order to deliver those services in an efficient way for both my own organization and the state of Nebraska. We participate also in the money follows the person program, which if you're not familiar with it you should be and should be very proud of it as members of the Legislature because it's saving the state a lot of money when you take someone from a nursing home and place them successfully in independent living. We see this on a daily basis when we go into homes, people living independently and on their own with just a little bit of help from the program that is provided by this state. It oftentimes is not easy to deliver them sometimes to clients, services and themselves are their own worst enemy in trying to keep individuals in their own homes. I can tell you that serving on all of these committees that I've talked to you about or mentioned earlier, perhaps one of the greatest difficulties in explaining to fellow members of councils and committees is what we deal with in terms of the details in making a successful case, in keeping people in their own homes. It is not easy. In some cases, our competitors just don't exist. They've gotten out of the business. I would have to reiterate what the other speakers have said. But I think in our case I'm talking from ground zero and what we need to make this successful. And we need people to listen to what we have to say because I think we can provide the kind of detail that will make it successful, and we want to make it successful. I appreciate your time and if you have any questions or wish to call me, I'd certainly invite it. Thank you, senators, very much. [LB854]

SENATOR CAMPBELL: Thank you, Mr. Velinsky. Questions from the senators? Senator Crawford. [LB854]

SENATOR CRAWFORD: Thank you, Senator Campbell. And more of a comment. I just appreciate coming to talk about what it looks like on the ground, that it's a very different kind of care provision and it's important that we keep that in mind as we move forward. So thank you for sharing that. [LB854]

FRANK VELINSKY: Thank you. Thank you very much. [LB854]

SENATOR CAMPBELL: (See also Exhibits 10-16) Any other questions? Thank you very much. Our next proponent. Okay. Anyone in the hearing room who wishes to testify in opposition? Okay. Anyone in a neutral position? Oh, I'm sorry. It's the next bill. I believe it might be the next bill. The next bill is LB1076. Okay. Thank you. Thank you, Tom. Anyone who wishes to provide neutral testimony? Okay. And Senator Krist has waived. The closing...and so that concludes our hearing on LB854. And I'll ask Senator Gloor if he'll conduct the next two hearings. [LB854]

SENATOR GLOOR: Thank you, Senator Campbell. Go ahead when you're ready, Senator Campbell. [LB1076]

SENATOR CAMPBELL: Thank you, Senator Gloor and members of the committee. My name is Kathy Campbell, K-a-t-h-y C-a-m-p-b-e-l-l, and I'm the senator representing the 25th Legislative District, and I'm here to open today on LB1076. This bill is intended to postpone changes in Medicaid authorization and payment from medically necessary home health services and reimbursement rates until the Department of Health and Human Services has had a chance to review the outcomes of 17 other state's Balancing Incentive Payments Program, which is intended to move more people to home healthcare rather than institutional care. The state's programs will conclude in 2015. And, committee members, we heard a lot about this federal program when Senator Bolz was here to introduce here bill encouraging and really requesting the state to apply for such grant. So we would certainly...I would certainly support that bill and feel that LB1076 is somewhat of a companion bill because we really want to know the results of that federal program which came about through the ACA. And if you remember, Senator Bolz talked about $3 billion had been set aside. The Legislature in this bill would find that, (a) the federal Patient Protection and Affordable Care Act, the ACA, provides for Medicaid reimbursement to permit disabled or elderly adults to live at home rather than in long-term care facilities; and the states may apply for federal funds to implement programs with that aim; and, thirdly, a number of states are already doing this--and that's the 17 states that I mentioned--and will publish the results of those efforts when their programs are completed, which would be of great help to us. Colleagues, I will intend to provide to the committee an amendment to the bill. And the amendment actually will be written as a white copy striking the original and replacing it, but it does not change the substance of the original bill that you would be reviewing. The white copy will be drafted simply because it's easier to read, and it will do five things. The amendment clarifies that the home health services are medically necessary. We need to make sure that is in the bill. (2), it will reference to kinds of nursing services are reworded. In the original green copy it's very specific, and what we're trying to do is fit more with what the Balancing Incentives Program would ask for. (3), the name of the federal program is incorrectly mentioned in the bill, and so we need to correct that. The amendment will clarify that the Department of Health and Human Services is to review

outcomes of the programs in other states so that the department can determine how its home health services can be improved. And (5), we will insert language to address the fiscal analyst's fiscal note regarding the limitation on Medicaid services. We left out some language which is what really jumped the fiscal note and thankfully the fiscal analyst, Liz found that and brought it to our attention. So we will be bringing an amendment to clarify all those points that have been brought to our attention. And with that, I'll conclude. I want to indicate to the committee that a number of people would have liked to have come to testify today. And I think you have a lot of letters in front of you and you've probably had some electronic. And I'm so sorry that the weather prohibited them from coming. But many of them have stopped in I'm sure at times over the past months to talk to you about their concern, and we really felt that their concerns were valid and that until we had an opportunity to see what other states had learned, it was too precipitous to make changes in this portion of the Medicaid program until we had an opportunity, because the ACA really is trying to say, you know, if we can safely keep people in their homes where they want to be, wouldn't we want to do that. So I hope that you will give close attention to the people who are testifying this afternoon and I much appreciate their effort to be here. It wasn't easy on a very wintery day. Thank you, Senator Gloor. [LB1076]

SENATOR GLOOR: Thank you, Senator Campbell. We'll now move to proponents. Or, excuse me, are there any questions for Senator Campbell? Seeing none... [LB1076]

SENATOR CAMPBELL: Thank you, Senator Gloor. [LB1076]

SENATOR GLOOR: ...thank you, Senator Campbell. We'll now move to proponents for this bill, LB1076. Good afternoon. [LB1076]

KENDALL R. NELSON: My name is Kendall Nelson, K-e-n-d-a-l-l, and my last name is Nelson. And I'm here to testify about this bill. Good afternoon (inaudible). My name is Kendall Nelson, K-e-n-d-a-l-l, and last name Nelson. I'm here to testify about this bill. (Inaudible) there would have been a lot more people that live (inaudible) and I (inaudible) myself, but here I am. Okay. Good deal. We really need home health because...because if we don't have it no more, you will have people going in nursing homes who don't belong in nursing homes. They belong at home. Also, one thing that you might want to know is that we have (inaudible) yet we do. Now I have four different volunteer (inaudible) that I do every week, and if it wasn't for home health, I would not be able (inaudible) my (inaudible). And thank God I have home health because I need it. And I also want to tell you that there are people besides myself that really...that really definitely need this home health. They really, really need it. It's not nothing that we just want to have just so we will have help. It's something that we really, definitely need. And I get in my home environment I will (inaudible). I hope that you will take this and really (inaudible) because we need the help. If it wasn't for home health, we may not be able to do what we do for the community. [LB1076]

SENATOR GLOOR: Is that your testimony for us? [LB1076]

KENDALL R. NELSON: Yeah, yeah. [LB1076]

SENATOR GLOOR: Is it Mr. Nelson? Did we get that correct? [LB1076]

KENDALL R. NELSON: Yeah. [LB1076]

SENATOR GLOOR: Have you received care most of your life? All your life? [LB1076]

KENDALL R. NELSON: I did not know that home health existed until 2003. In 2003, I got home health and I have had home health for...I have had home health for 11 years (inaudible) now. And thank God I do because they come in to help me get...get meals and put me to bed. And Medicaid also paid for my doctor, it paid for my dentist. They also pay for my home healthcare that I get. Now if you have any more questions, I'm here (inaudible). [LB1076]

SENATOR GLOOR: Are there any additional questions for Mr. Nelson? Seeing none, we want to thank you for making the effort to get in on obviously a challenging day for people to get around. And thank you for your testimony. [LB1076]

KENDALL R. NELSON: Thank you. [LB1076]

SENATOR GLOOR: And since Senator Krist as Vice Chair has returned, I'll pass the gavel back to him. But we are, Senator Krist, with proponents. We're just starting proponents for this bill. [LB1076]

SENATOR KRIST: Next proponent. Thank you, Senator Gloor. As is often the case in Judiciary, Senator Chambers has many questions, so the first two bills are being hung up so I'm back, so. Welcome. [LB1076]

JANET SEELHOFF: Thank you. [LB1076]

SENATOR KRIST: Go ahead when you're ready. [LB1076]

JANET SEELHOFF: (Exhibit 5) Good afternoon, Senator Campbell and fellow members of the Health and Human Services Committee. My name is Janet Seelhoff, J-a-n-e-t S-e-e-l-h-o-f-f. I serve as the executive director for the Nebraska Association of Home and Community Health Agencies. The association represents 56 home health agencies in Nebraska, and the association would like to testify in support of LB1076. Just to give you a little bit of an idea of the kind of care provided to constituents in your state, home health agencies do employ registered nurses, licensed practical nurses, and home

health aides, and therapists, and they are providing highly-skilled, quality medical care in the home currently to more than 43,000 constituents in Nebraska, and on average that equates to about 325,000 home health visits per year. The constituents that our agencies are serving are people who are recovering from a variety of health conditions, those that are disabled, those that have chronic complex medical conditions, and it's both adults and children who are in need of medical care. The agencies are serving both Medicaid, Medicare, and clients who pay privately for services. As stated in the Nebraska Medicaid's 2013 annual report: In general, home and community-based care is less expensive and offers greater independence for the consumer than facility-based care. And as you can see from the...by Mr. Nelson who just testified, it provides great independence and the opportunity for constituents like him to be able to stay in their home where they can feel comfortable, safe, and really enjoy that independent lifestyle that all of us want to have for as long as possible in our lives. Efforts to encourage home and community-based alternatives to facility-based care are resulting in a gradual rebalancing of long-term care expenditures. And that is stated directly in the Medicaid's annual report. NAHCHA members continue to support development and delivery of home and community-based services and alternatives in our state. Agencies both in urban and rural settings are willing and prepared to help support the state and the Legislature in achieving those goals. Currently, there are 125 Medicaid home health patients in our state who are able to receive skilled medical care at home by agencies. These individuals may be quadriplegic, paraplegic, many are on ventilators, respirators, trachs, and need that support for their daily living. During the past three years, the association has worked very closely with the Department of Health and Human Services' staff and maintain close contact with them to really try and offer recommendations that will continue to allow home health clients to maintain the independence that they want in their home and make sure that they continue to receive the essential medical services that they depend upon for that quality of life. The association established a Medicaid task group and requested meetings with the Department of Health and Human Services' staff and, at times, with the managed care organizations to offer recommendations that would help ensure that essential medical services would continue for home health clients around our state at a lower cost than institutional care or hospitalization. In spite of those efforts, the Department of Health and Human Services conducted a public hearing in August of last year regarding a proposal that would reduce the reimbursement rate by up to 50 percent for home health services provided to Medicaid beneficiaries who represent our state's most fragile, vulnerable, and disabled population. Currently, home health agencies are reimbursed at a flat rate of $52 per day for up to two hours of home health visits to provide medical care for these clients. Up to three additional daily intermittent visits may be reimbursed for up to $150 per day. Home health agencies have worked diligently these past few years to operate at a break-even status in order to serve Medicaid clients. If these proposed regulatory changes are approved by the Governor, the agencies would be unable to sustain these costs for serving Medicaid clients. The clients would then be at great risk for hospitalization, would likely face rehabilitation and long-term institutional

care, which in the long run would increase costs of healthcare for the state. HHS has suggested that the personal assistant service, the PAS program, would be a sufficient alternative to care for these home health clients. That's a great program for providing personal care like laundry and just housekeeping, meals, those kinds of supports. But these individuals need that highly-skilled care that is required by a nurse or someone who is trained to provide those medical services. You'll hear today from a few home health clients and providers who'd like to share some personal stories and examples of how the home health agency professionals in our state deliver that high quality skilled care that's necessary for Nebraskans to remain in their homes and maintain that quality of life. We respectfully ask for your support of LB1076. Our agencies are ready and willing to participate in pilot programs like the Balancing Incentives Program or other studies to show how we can help keep the cost down to keep people at home where they'd like to be. Thank you. [LB1076]

SENATOR KRIST: Thank you. Any questions? Senator Gloor. [LB1076]

SENATOR GLOOR: Thank you, Senator Krist, and thank you, Ms. Seelhoff. Does your association represent not-for-profit, for-profit, or both types of institutions? [LB1076]

JANET SEELHOFF: It represents both. [LB1076]

SENATOR GLOOR: Okay. [LB1076]

JANET SEELHOFF: Currently, there are 36 agencies in the state that are hospital affiliated and just a handful that are nonprofit, and the remaining are self-standing. [LB1076]

SENATOR GLOOR: Okay. Is there a separate association that represents just the for-profit home care agencies? [LB1076]

JANET SEELHOFF: No. [LB1076]

SENATOR GLOOR: Okay. Thank you. [LB1076]

SENATOR KRIST: Senator Crawford. [LB1076]

SENATOR CRAWFORD: Thank you, Senator Krist, and thank you for your testimony. Your comments echoed something I had here in one of the e-mails about concerns about cares that someone in their home may need that weren't being considered medically necessary but were things like help in going to the bathroom and getting in and out of a bed. So would personal aid services workers have any ability or training in helping with getting in and out of bed? That's one thing I've heard from people in my district who have home health that it's very critical that someone is there at the morning

to get out of bed and then to get back in bed at the end of the day. (Laugh) [LB1076]

JANET SEELHOFF: Yes. [LB1076]

SENATOR CRAWFORD: And if you only have one of those, that isn't of much help. [LB1076]

JANET SEELHOFF: Right. Yes. [LB1076]

SENATOR CRAWFORD: So do you know if they have that training or do you have any personal aide "servicers" who work in your organization or is that really a different... [LB1076]

JANET SEELHOFF: The home health agencies do employ aides that are trained to provide those services, yes. [LB1076]

SENATOR CRAWFORD: And would a personal aide services worker have the training and ability to help someone who's disabled get out of bed and into bed? [LB1076]

JANET SEELHOFF: Yes. [LB1076]

SENATOR CRAWFORD: They would. [LB1076]

JANET SEELHOFF: Yes. [LB1076]

SENATOR CRAWFORD: Thank you. [LB1076]

SENATOR KRIST: Any other questions? Thank you, Ms. Seelhoff. Next proponent. Welcome. [LB1076]

STEPHANIE WIESE: (Exhibit 6) Thank you. My name is Stephanie Wiese, S-t-e-p-h-a-n-i-e, last name is W-i-e-s-e. I work for Elite Professionals Home Care Company here in Lincoln, Nebraska, and we are proponents for LB1076. There are proposed authorization changes with DHHS that would make for huge pay cuts to home healthcare services. These authorization changes by DHHS would be detrimental to home healthcare agencies as a whole. As most of you are probably unaware, Nebraska home healthcare agencies had been forced to comply with these exact regulations for a period of time consisting of September 2010 to January-February 2013. In January of 2013 is when home health agencies found out that this regulatory authorization change was done illegally and Nebraska home healthcare agencies should have never been made to switch to this new authorization process through a memo put out by DHHS. Our agency alone, which serves a smaller number of clients affected by this change when compared to larger home healthcare agencies in the area, lost between $300,000

to $400,000 per year for those two-plus years. While being forced to make these authorization and payment changes, agencies continued to be required to comply with Nebraska DHHS regulations in providing nonreimbursed services such as RN supervisions every other week of home health aide staff members as well as monthly RN supervisions of LPN staff members. In both the home health aide and LPN supervision regulations, it is stated in the Nebraska Department of Social Services manual that supervision visits may not be billed as a skilled nurse visit. The cost of supervision is included in the payment for the LPN or aide service. Other services required by DHHS to be a licensed home healthcare provider are as follows: home health aides and skilled nurse competency evaluations and testing, RN admit, recertification, and discharge OASIS assessments at a minimum of every 60 days and more often if a client was hospitalized, in-service training for home health aide staff members, orientations to policies and client regulations, training by an RN staff member to all cares provided hands on to clients by CNA and LPN staff members, maintaining a QI/QA program, RN on call 24/7, provide quality infection control programs. These services are regulated by DHHS as nonreimbursable but required. Agencies also have employment costs and costs related to running a business, as does any business. For example, we must pay drive time to employees as they drive between client visits; we must provide workmen's comp and liability insurance; we must pay overtime as it occurs; we are required to obtain criminal background checks on each employee or potential employee; reimburse gas mileage when necessary; and in order to be able to hire any employees and be competitive with any inpatient facility, we have to offer health insurance and benefit packages as well as retirement packages. These extra nonreimbursed expenditures cost our agency over $537,000 in any given year. There is no way for any agency to sustain this kind of cut for an extended period of time. When home healthcare agencies were made to conform with these changes over 2010 to 2013, many local agencies were questioning their abilities to sustain themselves for the long term and many were already beginning to discharge their Medicaid clients. Cuts were necessary so that our company would be able to continue providing appropriate cares to our Medicaid clients while also preventing layoffs of our employees. These authorization changes proposed by DHHS will create enormous problems for the most vulnerable of our Medicaid clients. The clients that require more frequent visits throughout any given day do so because they are unable to provide these cares for themselves. These are our paraplegic, quadriplegic, multiple sclerosis, cerebral palsy, muscular dystrophy, high-tech, complex clients. These persons made it clear in the hearing affecting Medicaid coverage for 2012 that they depend on agencies to provide their home healthcare services as they are able to then rely on quality care that is regulated, has back up when caregivers do not show up, has registered nurses to train, orient, and oversee their cares, and their health needs can be addressed before they become so ill that they require hospitalization. Clients being affected by this change are correct in assuming that they may have to resort to inpatient living. The higher number and increased amounts of hospitalizations alone will cost the state far more than providing home care services to these clients. With skilled nursing services involved,

multiple potential hospitalizations are prevented through communications with patient's physicians and the implementation of all orders. Many of these persons have been asked to use alternate providers, for example, a PAS provider. While this option may be appropriate in some patient populations, in this population with advance level of assistance and intervention that these persons require, it is not. Having a unskilled, untrained, unsupervised, nonlicensed person providing these higher skilled cares along with no backup staff has been detrimental in the past, and many who have utilized this program in the past do not wish to return to it. In Nebraska Medicaid DHHS's annual report for 2013, home healthcare services accounted for 1.8 percent of the total Medicaid expenditures and 4.3 percent of expenditures for long-term care services for the year. As home healthcare companies, we are looking to be fairly compensated and to be compensated in a fashion that allows us to comply with the multiple nonreimbursable DHHS regulations as well as multiple employer regulations. It is unreasonable to expect that any business can sustain being reimbursed 60 percent of their current reimbursement while that business continues to provide services in the same manner as prior to the proposed changes. Please consider all testimony given today with the negative effects that these regulatory changes will have on the medically fragile Medicaid clients that are currently served by home healthcare agencies. [LB1076]

SENATOR KRIST: Thank you for your testimony. [LB1076]

STEPHANIE WIESE: Thank you. [LB1076]

SENATOR KRIST: And thanks for consolidating a little bit. That five minutes goes by quick. [LB1076]

STEPHANIE WIESE: Yeah, it does. [LB1076]

SENATOR KRIST: Any questions? Senator Crawford. [LB1076]

SENATOR CRAWFORD: Thank you, Senator Krist, and thank you for your testimony. So are you aware of any regulations or clarifications that indicate that the care of, say, getting in and out of bed or helping someone in that way for someone who is more medically fragile should be treated differently than other home healthcare clients? [LB1076]

STEPHANIE WIESE: Like what do you mean? [LB1076]

SENATOR CRAWFORD: Well, I mean, you in your testimony you talked about the fact that several of the clients require a more advanced level of assistance. [LB1076]

STEPHANIE WIESE: Right. [LB1076]

SENATOR CRAWFORD: And I don't know. And that you're concerned about the use of PAS providers. [LB1076]

STEPHANIE WIESE: Right, because the PA providers are unsupervised. There's nobody, and a lot of them don't have to have medical training. So they're more...and so the patient has to hire the PAS worker themselves. They have to train them themselves. Then they have to rely on them. So they schedule them out and if the PAS worker does not show up, they do not have a backup plan. You know, it's not like they can call an agency and ask them, say, hey, my health aide did not show up. And then we send somebody out as soon as possible to go and do it because they cannot stay in bed all day. We've had stories of PAS people that have been on the PAS program in the past that have set for 24-hour-plus in their bed. And they can't...you know, and they've had bowel movements and stuff because nobody came and took care of them. And they're reliant on these people to get them up out of bed. The PAS program is a good program for cleaning, grocery shopping, services that Medicaid does not allow agencies to do. So...but it's not a good program for medical stuff. You need to have...they need to be supervised by an RN, which is what agencies do. And there's a lot of regulations that we have to follow, so. [LB1076]

SENATOR CRAWFORD: Okay. Thank you, thank you. So it's a different client. [LB1076]

STEPHANIE WIESE: Right, right. [LB1076]

SENATOR CRAWFORD: Thank you. [LB1076]

SENATOR KRIST: Thank you. [LB1076]

STEPHANIE WIESE: Thank you. [LB1076]

SENATOR KRIST: Any other questions? Thank you for your testimony. Thanks for coming. [LB1076]

STEPHANIE WIESE: Thank you. [LB1076]

SENATOR KRIST: Next proponent. Welcome. [LB1076]

RYAN BEETHE: Thank you. Ryan Beethe, R-y-a-n B-e-e-t-h-e. Members of the committee, my name is Ryan Beethe. I'm the administrative officer for Maxim Healthcare Services in Omaha. At Maxim, we provide home healthcare services to the pediatric and adult population across the state who require assistance with their activities of daily living in order to remain safe in their homes and not have to be

institutionalized. I'm here today on behalf of Maxim Healthcare Services and all of our home care patients in support of LB1076. At Maxim, some of our home care patients are in need of one, two, or even three home health aide visits per day to assist them with their activities of daily living. Currently, home care agencies are able to bill a flat visit rate for each of these visits to offset the cost associated with getting these staff to and from the shifts. With proposed reimbursement changes by the Department of Health and Human Services, providers would only be able to bill for one visit per day regardless of how many visits each patient required. These proposed reimbursement changes would impact the ability of healthcare providers to adequately provide these services to each patient needs in order for them to remain safe in their homes. Here's a real life example of how these proposed changes would impact one of Maxim's current patients if passed. Client A currently is authorized for an aide to assist her for an hour every morning to help her get out of bed, get dressed, and prepare her breakfast. Client A requires another hour visit at noon to get her lunch prepared, help with range of motion, and transferring to the rest room. Finally, Client A needs one more hour-long visit at 9:00 p.m. to help here get a snack, take a shower, and transfer into bed. Currently, an agency is able to bill a flat visit rate of $52.22 for each of the three visits, totaling $156.66 per day. Under the proposed plan by the Department of Health and Human Services, an agency would be required to bill an hourly rate of $21.36 for each of the hour-long shifts, totally $64.08 per day. On top of the salaries agencies have to pay their field staff, there are many hidden costs associated with running an effective home care agency, such as office rent, utility bills, licensure fees, workers' compensation insurance, health insurance for staff, and office supplies that have to be taken out of our already small margins. If these proposed changes were to be implemented, Maxim Healthcare Services would no longer be able to provide services, home care services to the patients we currently serve or any future patients because of the cost associated with providing the care versus the reimbursement structure. In short, we support LB1076 because these proposed reimbursement changes would drastically decrease the options for current and future home care patients...current and future home care patients would have when it comes to their healthcare and overall quality of care delivered. [LB1076]

SENATOR KRIST: Thanks, Ryan. Thanks for coming. Ballpark figure of in your experience let's just take your Patient A, Client A, without this kind of care, where does she go? [LB1076]

RYAN BEETHE: She'll be...well, I mean, it would either be the past system which you've heard about or in a skilled nursing facility. [LB1076]

SENATOR KRIST: So roughly $150 a day to do what needs to happen. What does a skilled nursing facility or unskilled nursing facility, what does that cost? [LB1076]

RYAN BEETHE: It really does depend on the level of care they need and there's a lot of

components to it. I don't have that exact number, but it...there's a lot...it would definitely be more than what we're asking here and it's shown that patients...like you've heard before, patients do better in their own home. So cost-saving measure as well as that. [LB1076]

SENATOR KRIST: Ballpark, what do you think the number of people that you serve, how many of those folks would be forced into that kind of a facility? [LB1076]

RYAN BEETHE: All 20. [LB1076]

SENATOR KRIST: 20. Okay. Thank you so much. Any other questions? Thanks, Ryan. [LB1076]

RYAN BEETHE: Thanks. [LB1076]

SENATOR KRIST: Next proponent. Next person in favor. Hi. Welcome. [LB1076]

ROBERT RIECK: All right. My name is Robert Rieck, R-i-e-c-k. And I guess there's a lot of things I kind of wanted to bring out, but first of all with my home healthcare agency, FirstCare here in Lincoln, it's just a local company, I chose them because I was with a national company before, Gentiva, but I didn't get as good cares as I did. But my cares was so good that I don't even realize these things are going on, that we're talking about possibly moving me into like a nursing home or using PAS services. Because I'm just too busy. I mean, I have gotten to it...I've graduated from college twice. I got my business and associate's degree. And I just recently became an alcohol and drug counsellor. I'm going to start an internship at Matt Talbot Kitchen and Outreach working with Clarence Grendahl. And I'm doing 300 internship hours. And once I'm done with that, I'm going to start working full time. And while I'm doing that I'm not even thinking about all this stuff that's going on that, you know, they're thinking about putting me in a nursing home or getting me on PAS plan. I've been in my chair for 18 years and when I first came out into society, I went home. I never went to a nursing home. I don't have any desire to go to a nursing home. I did use PAS plan and I hated it. I hated it because they don't educate clients on how to use it good. And then you have to put ads in newspapers, you have to look for all these names, interview people, and it's like I've had people stealing from me all the time. And then when it came to stealing, you're stuck in a vulnerable position because you're like, it's not like I can just say you're fired. Who's going to take care of me? And usually I just have like one or two people and...to try to do my cares. My cares are very simple. I pretty much direct all my cares, but a lot of things I do myself, like I just taught myself to do it, you know, watching You Tube videos of other people in chairs jury-rigging crap and how do they do the other stuff. I mean, I do my own laundry. I clean my own house. I do my own dishes. I do everything. All I need is someone to get me up in the morning. And I need...you know, I need that for a job, too, when I start my internship. So when I came down here today, my friend told me

that I need to come down here, this is going to be of interest to me. I had no desire to really speak until I'm listening to what people are saying and what's going on and how that's going to affect my agency. My agency is awesome. Because there's so many times that a caregiver will call in sick or not be able to make it. They got my back every time. I don't have to worry about that. I don't want to worry about that as part of my life. I want to keep getting educated, keep expanding my own education, going to work. I want to do what everyone else is doing. I don't want to have to worry about who the hell am I going to find, you know, and are they going to steal from me. How many security cameras do I have to set up? Am I going to get...receive physical threats? I remember one lady through PAS one time, I found out she was stealing hours. Actually I had 72 hours...79 hours a week of PAS plan hours. I dropped them all. And everything I dropped I do it myself because I don't even have to worry about someone cleaning my house and how crappy they're going to clean it. I can clean it myself. But this lady that I had hired, she was stealing hours from me. With the PAS plan, they don't have it set up good. They give you sheets that they fill out the hours that they worked. Sure, you can sign it. They take the sheet home. They put in hours. They steal from the system all the time. A lot of times actually when I'm doing interviews, people are like, so how many hours are you allowed? No, how many hours am I hiring you for. That's what I'm trying to tell them. I'm like, I'm only going to hire you on Tuesdays or Wednesdays, you know, certain times, 15 hours a week. All they're interested in how many hours I have because they want to know how many they can get from me or how many they can bill illegally from me. But this lady, I confronted her and she said, she threatened me that she was going to have her husband kick my ass because, you know, turning her in, you know. So, you know, there's always these issues. But as far as home healthcare, I love it. I don't abuse it. A lot of times I only take two hours to get up in the morning, Monday, Wednesdays, and Fridays. Tuesdays, Thursdays, and Saturdays it only takes me one hour. I use it with the very minimum. And then I just go to bed at night. That's all I need. They've got me covered, I'm happy. And that's just what I'm here to say, so if you want to ask me any questions, I could go on and on. [LB1076]

SENATOR KRIST: You're doing great. Thanks for talking, really. Any questions? Thank you so much. [LB1076]

ROBERT RIECK: No questions? [LB1076]

SENATOR KRIST: (Laughter) You said it all so well we don't have any questions. Next proponent. Welcome. [LB1076]

LANA WOOD: (Exhibit 7) Thank you, Senators. I'm Lana Wood, L-a-n-a W-o-o-d, and I'm the director of FirstCare Home Health here in Lincoln. I am going to go off script just a little bit because I feel like others have covered well the situation and why we are for this proposal. Just to reiterate the concerns with the PAS program that we've had many patients that have tried the program and it hasn't worked for them. Some people it works

well for, others it doesn't. I talked to Mr. Nelson just briefly and he has said I could share. Communication is difficult for him, and as an agency he'll communicate with us via e-mail or he knows when he calls on the phone there's certain people at the office he can talk to that will understand him and he can get his needs across. And there are certain people that may have difficulty with navigating the PAS program because of certain disabilities, whether it's communication or just their mental abilities don't allow them where they would have to have a friend, a parent, or someone else communicate and help them navigate the PAS program. And also the PAS program isn't supervised. There's no RNs overseeing, there's no RNs devising care plans and keeping track of them, and the people can have no medical background. They can be anyone off the street per se that is willing to help. An example of the proposal as it stands from Health and Human Services now I want to give out is the paying for one short visit a day. If we would go in and help a patient in the morning, say it's a quadriplegic and we're going to help them with bowel elimination, sending a nurse out in the morning. And then at 8:00 or 9:00 in the evening their urinary catheter plugs and is no longer draining, what we would normally do is send out a nurse for a PRN visit to go irrigate that catheter, change that catheter. Under what Health and Human Services is proposing is we would not be paid for that second visit. So as an agency, we would have a decision to make. Do we go and do it for free even though of course we're paying an after-hours nurse or do we send him to the emergency room to have something, a simple procedure done that could be done in the home cost-effectively. Also, we've seen in Lincoln the number of agencies, especially larger agencies, have declined to continue to provide services for multi-daily visit patients. Medicaid patients with more than one visit a day, agencies have been discharging them or transferring them to other agencies to the point where there's only a few agencies in Lincoln that are caring for these patients. And it's financial, you know, I can't say that I guess, but there's definitely been a trend where it's been the smaller agencies that have been picking up and trying to keep these patients in their homes safely. That's all. Is there any questions? [LB1076]

SENATOR KRIST: Any questions? Senator Gloor. [LB1076]

SENATOR GLOOR: Thank you, Senator Krist. Thank you, Ms. Woods, for your testimony. What's the justification for not paying for a repeat visit? Is it...I use the term repeat visit, is it because it's considered a repeat visit that items could have been taken care of on the first visit? Obviously a plugged up catheter late in the afternoon wasn't plugged up in the morning, but it gets caught up in that general rule. Are there waivers or appeals that could be made to try and get payment for those unusual occurrences? [LB1076]

LANA WOOD: Yes, possibly. The main...they're changing their definition of the way they're pay...they want to reimburse. Before, they would pay for the four visits a day, and now they're saying four visits a day, well, you're there five hours a day, so we'll pay you for five hours a day. Just like if you were there from 8:00 in the morning to 1:00,

they have an hourly rate. So they're proposing that they pay us for five hours a day even though we're in there five separate times. And the reimbursement rate isn't sufficient enough to cover a visit because of course we're paying for somebody to go in and do that visit, we have to pay drive time, time in between visits, we have to pay for the overhead supervision, so. [LB1076]

SENATOR GLOOR: Do you pay mileage? Do you have to pay mileage also? [LB1076]

LANA WOOD: We do. [LB1076]

SENATOR GLOOR: How about supplies? [LB1076]

LANA WOOD: We have to pay...depending on the patient's insurance source. [LB1076]

SENATOR GLOOR: Okay. [LB1076]

LANA WOOD: But, yeah, gloves, soap, paper towels, that's all things that have to be supplied. [LB1076]

SENATOR GLOOR: Part of the kit that the staff take along. [LB1076]

LANA WOOD: Um-hum. We have to pay an RN to be on call 24 hours a day whether they're needed or not. [LB1076]

SENATOR GLOOR: Thank you. [LB1076]

SENATOR KRIST: Any other questions? Thank you so much for your testimony. Thanks for coming. Next proponent. Next person in favor. How about opponents? Any opponents? How about neutral testimony? Thank you all for coming. Very educational. Would you like to close? I remembered today. [LB1076]

SENATOR CAMPBELL: You did. I was watching to see if you would. I'll be quick. Colleagues, all I wanted to add is that when the clients started stopping in my office and talking to us about this, I started paying attention to it because I can remember my mother-in-law had Alzheimer's and we had care for her in home and they would come. And I can remember how difficult it was if one of those caregivers couldn't come. And the agency would seamlessly, you know, bring someone there. If you were home by yourself and needed someone and you had to worry about whether they were going to come because you were hiring them yourself, I think to some extent we would begin to look at this situation as we should. And that is, the clients are very fearful that with this change a number of agencies will not be able to continue serving them and they would be left to either hire someone or to keep searching for an agency that would. And so it really caught my attention. And when we began looking at the federal Balancing

Incentives Payments Program which is trying to see what works in states with populations such as you've heard from today from people, it seemed to me that we ought to hold a program in place and say what can we learn from the other 17 states and how do we then put this together with Senator Bolz's plan which says we'll bring in a task force, start looking at the long term what should we be doing. And really I have to say that Senator Bolz, Senator Krist, and I began talking to each other because we could begin to see how the three of our bills somewhat fit together and more than somewhat, because really where are we going with this program. So each of us had a little different piece depending upon how we began to approach the problem. Does that make sense how they all...and so we will continue our discussion, but I felt it was important for you all to hear today how those pieces might fit together. So thank you, Senator Krist. [LB1076]

SENATOR KRIST: (See also Exhibits 17-26) Excellent. Thank you. That concludes the hearing on LB1076, and I'm going to turn it back over to the real Chair. Oh, are you doing this one too? [LB1076]

SENATOR CAMPBELL: I am.

SENATOR KRIST: Okay. Would you like to open on LB994? [LB994]

SENATOR CAMPBELL: Thank you, Senator Krist. [LB994]

SENATOR KRIST: Yeah, I was trying to figure out who Senator HHS Committee was. (Laughter) [LB994]

SENATOR CAMPBELL: Who would be doing that? [LB994]

SENATOR KRIST: Thank you all for coming. [LB994]

SENATOR CAMPBELL: We have certainly discussed LB994 because it was brought to us, but I'm going to read a statement into the record because I feel it's important for the record to know how we got to LB994. The purpose of this bill is to increase the amount in fees the Department of Health and Human Services may charge for issuing certified copies of abstracts of...or abstracts of marriage and for searches of death certificates. Under LB994, Nebraska Revised Statute 71-612(1) is amended to change the fee for issuing a certified copy or abstract of marriage from $11 to $16. (5) is amended to change the fee for a search of death certificates from no more than $2 to no more than $3. This bill was brought to us at the request of the Appropriations Committee, and the Department of Health and Human Services submitted a deficit request to that committee for $600,000 in FY '14 and FY '15 transfer from the Medicaid False Claims Act to vital records. Historically, vital records has been funded solely by fees. The Governor's recommendation is to continue to have the General Fund supplement the revenue. No

General Fund appropriation had ever been provided for this purpose. On further inquiry from the Legislative Fiscal Office to the department after the Governor made his recommendation, the department stated that an agency redirect the General Funds beginning in FY '11 when revenues fell short of expenditures and has continued to do so since. A $1 fee generates $138,000. To cover the $600,000 shortfall in the marriage certificates, the increase would need to be $4.35. If rounded up to the nearest dollar, $5 would generate $690,000. The current fee is $11 for certified copies; the bill will make it $16. The maximum fee for death certificates provided to the Nebraska Medical Association and any of its allied medical societies or hospital staff for death certificates is increased from $2 to $3. The current statutory requires the fee for each search or copy to be sufficient to cover its actual direct cost. This increase in the capital will allow the department to increase the fee if needed to cover actual costs. As few copies are requested, the amount generated is only projected to be $10 annually. Revenue has not kept pace with salary increases, benefit costs, and other inflationary increases. The additional funding is also needed for necessary security and IT upgrades and to meet baseline minimum compliance standards and provide for a one month cash reserve. The last time the fee was increased was 2006. The fee went from $7 to $11. And as you can tell from my testimony, we much appreciate all of this information that we have been able to glean from the Legislative Fiscal Office for the record with the bill. And that would conclude my opening, Mr... [LB994]

SENATOR KRIST: Any questions for Senator Campbell? Senator Gloor. [LB994]

SENATOR GLOOR: Thank you, Senator Krist. Senator Campbell, I'm guessing you've seen the letter from Media of Nebraska. [LB994]

SENATOR CAMPBELL: I have not had a chance to read it, Senator Gloor. [LB994]

SENATOR GLOOR: (Exhibit 27) I recall last year's debate that part of what they reference is, "the Legislature passed a bill that defines how costs for obtaining public records may be calculated and limits the amount governmental entities can charge for public records to those record's actual costs. Media of Nebraska does not believe that a one-third increase in price for obtaining marriage certificates bears any relationship to the actual cost of providing those documents to the public, hence also believes that LB994 is, at least in principle, inconsistent with the legislation passed last year." I'm not sure that I would agree that the cost has no bearing on what it costs to make a copy of marriage certificate because there's a lot that goes into it as opposed to grab it,... [LB994]

SENATOR CAMPBELL: Right. [LB994]

SENATOR GLOOR: ...make a copy, or microfilm or electronic record, however they do it. But I just wondered since we had this discussion last year and I know it related to...I

think it had to do with court records and the cost associated with making copies of court records. And that may not be accurate but it seems to me that it was in that genre. [LB994]

SENATOR CAMPBELL: Senator Gloor, we'll be glad to share that information in that letter with the Legislative Fiscal Office and Senator Mello and we'll try to get back to you on...and how it would fit with last year's bill. [LB994]

SENATOR KRIST: Okay. [LB994]

SENATOR CAMPBELL: To my knowledge, I mean, we've not talked about how it would fit with last year's bill, and I think it's only fair to them that we let them take a look at it. [LB994]

SENATOR GLOOR: Yeah. [LB994]

SENATOR CAMPBELL: But I appreciate you mentioning it into the record because we'll have to have it checked. [LB994]

SENATOR KRIST: Any other questions? Thank you, Senator Campbell. [LB994]

SENATOR CAMPBELL: Thank you. [LB994]

SENATOR KRIST: Any proponents? Welcome. [LB994]

CORI BEATTIE: Good afternoon. [LB994]

SENATOR KRIST: Good afternoon. [LB994]

CORI BEATTIE: (Exhibits 7 and 8) Members of the Health and Human Services Committee, my name is Cori Beattie, C-o-r-i B-e-a-t-t-i-e, and I serve as the Chief Deputy Lancaster County Clerk. I'm here today on behalf of the county clerk and the Lancaster County Board of Commissioners to support LB994. We would ask, however, that the committee consider the adoption of an amendment that would increase the counties' component by $5 as well. Currently, county clerks collect $5 for issuing a certified copy of a marriage license. The state, as you just heard from Senator Campbell, collects $11, and the bill proposes taking the state's fee to $16. Raising this fee an additional $5 at the county level would help minimize the ongoing disparity between the counties and the state and bring the certified copy fee more in line with what counties and neighboring states are charging, and I calculated to be an average of about $10.45 per certified copy. An increase would also help county clerks offset some of the expense associated with issuing these documents. We appreciate your consideration of the amendment that I have provided to you, and I will try to answer any

questions you might have. [LB994]

SENATOR KRIST: Thanks for coming. [LB994]

CORI BEATTIE: You're welcome. [LB994]

SENATOR KRIST: Didn't we pass an increase in clerks a few years ago with Senator Wightman's bill or am I thinking about a different subject matter? [LB994]

CORI BEATTIE: Different subject. [LB994]

SENATOR KRIST: Okay. [LB994]

CORI BEATTIE: Yeah. I know the $5 fee has been statutorily set for want to say even before 2006, I want to say like in the 1990s sometime. [LB994]

SENATOR KRIST: Okay. Good. Thank you. [LB994]

CORI BEATTIE: Sure. [LB994]

SENATOR KRIST: Any other questions for Ms. Beattie? Thank you so much for coming... [LB994]

CORI BEATTIE: You're welcome. [LB994]

SENATOR KRIST: ...and braving the weather. [LB994]

CORI BEATTIE: You're welcome. Thank you for your consideration. [LB994]

SENATOR KRIST: Next proponent. How about opponents? How about neutral? Well, there you go. Would you like to close? She waives. That will conclude the hearing on LB994 and the hearings for today. As I usually say, you don't have to go home but you can't stay here. Thank you so much for your help today above and beyond. Thank you. [LB994]