[LB452 LB471 LB567]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 11, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB567, LB471, and LB452. Senators present: Sara Howard, Vice Chairperson; Roy Baker; Tanya Cook; Sue Crawford; Mark Kolterman; and Merv Riepe. Senators absent: Kathy Campbell, Chairperson.

SENATOR HOWARD: All right. Good afternoon. We'll get started. I'm Senator Sara Howard, and I serve as Vice Chair for the committee. Senator Campbell is gone today, so I will be covering for her. We usually start with introductions, so we'll start with my right.

SENATOR CRAWFORD: Thank you. Good afternoon. Senator Sue Crawford, District 45 which is eastern Bellevue and Sarpy County. Thank you.

JOSELYN LUEDTKE: Joselyn Luedtke, legal counsel.

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

SENATOR RIEPE: I'm Senator Merv Riepe. I'm from District 12, the wonderful district of Millard and Ralston.

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

SENATOR HOWARD: And we just have a few rules that we ask. We ask that you turn off your cell phones. And although handouts are not required for this committee, testifiers who do have handouts should have the appropriate number of copies with you which is 15 for this committee. We will not, as a rule, make copies. If you will be testifying, each witness appearing before the committee must sign in using the florescent orange forms provided at the entrances to the hearing room. Sign in on the orange sheet only if you are going to testify. And 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 presenting your testimony because he uses it for his recordkeeping as the hearing proceeds. Give the clerk your...or the pages your handouts, if any, along with your testifier sheet at the beginning of your testimony. We do use the light system in the Health and Human Services Committee. Each testifier is allotted five minutes. So you'll have four minutes with a green light, one minute with an amber light, and red indicates that it's time to stop your testimony. We ask that you start your testimony by stating your name

clearly into the microphone and please spell both your first and last name. And this is for the transcribers so that they know how to spell your name correctly. We do have two wonderful pages with us today: Jay from Dalton, Nebraska--he's at UNL and he's studying ag economics--and Brook, who has ducked out, is also from UNL...she's from Omaha and she's studying at UNL, studying advertising, public relations, and political science. So we will begin the hearing on LB567. Senator Johnson, you are welcome to open.

SENATOR JOHNSON: Thank you, Senator Howard and members of the committee. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n, District 23. The following constitutes the reasons for this bill, purposes which are being sought or accomplished thereby: According to the Nebraska Board of Pharmacy, Nebraska has 522 licensed pharmacists. These pharmacies, located across the state, afford patients access to healthcare, advice, and prescription drug services. Current statute, found in Section 28-414.01, stipulates that "Original prescription information for any controlled substance" must follow Schedules III, IV, and V of Section 28-405...may be transferred between pharmacies for prescriptions to fulfil dispensing pursuant to the law. Patients can request that their prescription be transferred for many reasons. What is not clear under the currently law is whether the transfer is permitted for the initial prescription issued or if it is only for refill...only addresses refills. While the law does not address such transfer in initial prescription, state pharmacy standards of practice appear to allow the transfer. LB567 seeks to establish legislative intent of the law and the clarity of this section. Some of the reasons that somebody might ask for a transfer...I'll...the reason I got interested in this issue...question was, this happened within our own family. When our son needed to have a prescription transferred while he was out of town and had to go through a couple hoops, I guess, in order to get that accomplished but...and it was through a national chain. So it did work out, but I know there was some things that had to be worked through. And this was not because of a change of location but a temporary situation where he was out of town. It could be because of a change of residence type of thing, change of benefit network, or even availability of a drug. The prescription maybe isn't needed immediately and so it sits at a pharmacy. The patient for some reason decides that he does not want the prescription filled at that time or maybe can't afford the prescription at that time which is basically...we hope that's not the case in case they really have to have it. In the pharmacy today, more specialty prescriptions, those that are most...extremely costly, are not readily available on the shelf. They are sent to another location for filling. This would technically be a transfer of an unfilled prescription or filling. This legislation seeks to clarify how the initial prescription is considered under the law. So it's a clarification of that. In visiting with the pharmacies and the people that brought this to me, they are working together. You will hear testimony behind me in support of this and also in opposition to this. And what they would like to do, they...we bring it forward to you, but I believe they will continue to work together and ask you to hold it and see if we can work this out without any further legislation. So I'd be willing to answer any questions, but...probably need to talk to the people behind me. [LB567]

SENATOR HOWARD: Are there any questions for Senator Johnson? Are you staying to close? Senator Riepe. [LB567]

SENATOR RIEPE: I...Senator Johnson, thank you. One of the question I...this isn't dealing with the inappropriate receipt of controlled substances, is it? It's just any prescription that's within these schedules? [LB567]

SENATOR JOHNSON: I believe it's any. Well, there are certain ones that you can't, and I'm not sure. I think there are some that...you know, really high-powered maybe. [LB567]

SENATOR RIEPE: Like OxyContin or something like that? [LB567]

SENATOR JOHNSON: Something like that, yeah, and I'm not familiar with that terminology, but I think there are some boundaries. But I think these are general prescriptions more than anything. So, yeah. [LB567]

SENATOR RIEPE: Yeah, I was just trying to get a handle on... [LB567]

SENATOR JOHNSON: Yeah. Yeah. [LB567]

SENATOR RIEPE: Okay. Thank you. [LB567]

SENATOR JOHNSON: Yeah, I think they've got the rest of the handle back there. [LB567]

SENATOR RIEPE: Okay. [LB567]

SENATOR JOHNSON: So I probably will not stay for close... [LB567]

SENATOR HOWARD: Okay. [LB567]

SENATOR JOHNSON: ...since they'll probably ask to hold it over. [LB567]

SENATOR HOWARD: Okay. Thank you, Senator Johnson. [LB567]

SENATOR JOHNSON: But thank you. Thank you for your time. [LB567]

SENATOR HOWARD: Are there any proponent testifiers? Good afternoon. [LB567]

JIM OTTO: Good afternoon. Good afternoon, Senator Howard, members of the committee, my name is Jim Otto. That's J-i-m O-t-t-o. I'm president of the Nebraska Retail Federation, and I'm here to testify in favor of LB567 on behalf of the Nebraska Retail Federation. First of all, we want to thank Senator Johnson and his staff...sincerely thank them for introducing this. I think Senator Johnson has fairly...described it fairly well. I am neither a pharmacist or an attorney, so I'll attempt to tell you what I think this does. (Laugh) The way I understand it right now, the law says that you can transfer a refill but you can't transfer the initial prescription. Now, if you go to the doctor and you get a written prescription, you can take that written prescription anywhere you want to any pharmacy you want and get it filled. But less and less prescriptions are done that way. Usually the doctor asks you, what pharmacy would you like it filled at? And then if you choose to change that pharmacy, it's not clear if the initial prescription can be transferred. Now, as I understand it after talking to Ms. Cover with the Pharmacists Association, and she will explain her position, but it sounds like in the field of practice it may be being done. We have a member, a national member, who is concerned that if they were to transfer the initial prescription, they would not be following the law. And they want to follow the law, so they simply want clarification of that. So with that, exactly what Senator Johnson said, perhaps this doesn't need to move forward, perhaps it can just stay in committee. We would just ask that you don't indefinitely postpone it so that we can work it out together. [LB567]

SENATOR HOWARD: Thank you, Mr. Otto. Are there questions? Senator Riepe. [LB567]

SENATOR RIEPE: I have a quick question. I assume this is a downstream issue with electronic medical records, that... [LB567]

JIM OTTO: When you say downstream issue, I'm not sure... [LB567]

SENATOR RIEPE: Well, it's a result of...an unintended consequence of electronic medical records which is the way physicians are now filling prescriptions. [LB567]

JIM OTTO: I think so. The way I understand it, sometimes you'd actually have to call your doctor and have them change it to a different pharmacy if you actually went to a different pharmacy. I do have another...it...controlled substances cannot be transferred, just so that you... [LB567]

SENATOR RIEPE: Okay, okay. [LB567]

JIM OTTO: ...in answer to your previous question. [LB567]

SENATOR RIEPE: Thank you. [LB567]

SENATOR HOWARD: Are there any other questions for Mr. Otto? If not, thank you for your testimony today. [LB567]

JIM OTTO: Thank you. [LB567]

SENATOR HOWARD: Are there any other proponent testifiers? Seeing none, is there anyone wishing to testify in the opposition? Good afternoon. [LB567]

JONI COVER: Good afternoon. Senator Howard and members of the Health and Human Services Committee, for the record, my name is Joni Cover, J-o-n-i C-o-v-e-r, and I'm the executive vice president of the Nebraska Pharmacists Association. And I'm here to testify in opposition to LB567. I've had several discussions with Jim Otto about the bill. We've had some conversations with his client as well. And part of the reason that we are in opposition is because of how the bill is drafted. It is problematic because we cannot...per federal law and per state law, we cannot allow for initial transfers of controlled substances, electronic prescriptions, which is what you had alluded to, Senator Riepe. There are specific provisions in statute, federally and state statute, that talk about how that's supposed to work. As far as noncontrolled substances, it's sort of a standard of practice or a best practice. If you go to the pharmacy to pick up your prescription and it's not there, typically what happens is you say, well, I was just at my physician's office and they must have sent it here. So you call over to here, and they say, yes, we have the prescription for Joni Cover, and they say...the other pharmacy says, well, it's supposed to be at my pharmacy, and they'll just transfer it. So there's not really a formal process. It's just a best practice in pharmacy. I did ask for specifics as far as how other states handle this, because, honestly, I'm not aware that this is a problem anywhere. And so, like Jim said, we're working on the details to see if we do need to address something in state statute, if there are problems, and if it's happening elsewhere. So like I said, we're willing to work on it. But just as drafted, we had to come in in opposition, so. [LB567]

SENATOR HOWARD: All right. Thank you, Ms. Cover. [LB567]

JONI COVER: You're welcome. [LB567]

SENATOR HOWARD: Are there any questions? Seeing none, thank you for your testimony. [LB567]

JONI COVER: Thank you. [LB567]

SENATOR HOWARD: Is there anyone else wishing to testify in the opposition to LB567? Seeing none, are there any neutral testifiers? Seeing none, Senator Johnson has waived closing, and we will close... [LB567]

SENATOR CRAWFORD: Letters? [LB567]

SENATOR HOWARD: Oh, are there items for the record, Brennen? [LB567]

BRENNEN MILLER: (Exhibit 1) Thank you. A letter from The Nebraska Board of Pharmacy. That's all. Thank you. [LB567]

SENATOR HOWARD: Okay. Thank you. All right. With that, we will close the hearing on LB567, and I will turn the mike over to my colleague, Senator Cook, for LB471. [LB567]

SENATOR COOK: And welcome, Senator Howard. [LB471]

SENATOR HOWARD: Thank you, Senator Cook. [LB471]

SENATOR COOK: You may begin your opening when you're ready. [LB471]

SENATOR HOWARD: Thank you. All right. Good afternoon, Senator Cook and members of the Health and Human Services Committee. My name is Sara Howard, S-a-r-a H-o-w-a-r-d, and I represent District 9 in Omaha. Today I bring you LB471, a bill to establish implementation of the prescription drug monitoring program. The CDC tells us that in 2013, of the 43,982 drug overdose deaths in the United States, 22,767, over 50 percent, were related to pharmaceuticals. And of those 22,000-plus deaths, over 70 percent involved opioid analgesics, known to most of us as prescription painkillers. There are many factors in which providers agree might be driving up the use of prescription painkillers. Some of them include that healthcare providers in different parts of the country don't agree on when to use prescription painkillers and how much to prescribe. Some increased demand for prescription painkillers is from people who use them nonmedically or using them without a prescription or just for the high. Some people sell them or get them from multiple prescribers at the same time. Due to the lack of a fully implemented prescription drug monitoring program, or PDMP, in our state, Nebraska has become a hub of sorts where people from out of state come to fill prescriptions in order to sell them on the street. This is not the first time that we've talked about this issue. In 2011, my mother, Senator Gwen Howard, first began the conversation with her bill, LB237. [LB471]

SENATOR COOK: Water. Water, tissues, all of the above, please. [LB471]

SENATOR HOWARD: LB237 established a system of prescription drug monitoring that the Department of Health and Human Services would create in collaboration--thank you, Brook, thank you, awesome, lots of help (laugh)--would create, in collaboration with the Nebraska Health Information Initiative, also known as NeHII. Implemented in 2009, NeHII is a statewide information exchange that allows users of its system to look at a complete health history of a patient including prescription drug history. LB237 was passed into law in 2011. What's great about NeHII is that your entire medical record is there, so if I get into a car accident in Kearney, my medical records from Omaha are available to that provider. It's kind of brilliant actually, and Nebraska is really on the cutting edge for this technology. Because of language in the original bill, in my mother's original bill, that restricted use of state funds to establish the prescription drug monitoring program and the continual rise in prescription drug abuse in our state, the issue was again brought to the table by Senator Steve Lathrop of Omaha both in 2013 and 2014. LB535 in 2013 was used as a conversation starter. He then introduced LB1072 in 2014 which originally had language for a task force component but, due to the potential fiscal impact, was stricken. As amended, LB1072 allowed Nebraska to accept outside sources of funding including grant dollars to assist with their efforts in creating a prescription drug monitoring program. Because of the importance of this issue, I have again brought the subject to the Legislature. I believe that the time is now to get this program fully implemented and working to prevent further tragedies from occurring in our state. LB471 establishes directives for the Department of Health and Human Services regarding the implementation of a more comprehensive prescription drug monitoring program. They are as follows: They have to implement the system within 24 months after the passage of this piece of legislation; they prohibit any patient from opting out of the system; they require all prescriptions of controlled substances to be entered into the system including those of cash pay patients or those not using a third-party payer such as insurance company. Many patients who are accessing multiple physicians and pharmacies will pay cash to avoid questions of why they're doing so. This is actually a really interesting piece. And just for the...my new colleagues, the history of this is that my sister passed away about six years ago. It will be six years ago in March. And she was really smart. You know, if you think I'm smart, you should have met Carrie Howard. (Laughter) She was smart and brilliant and funny and had red hair and this Irish temper that was also hilarious at the same time. But she was smart enough to know that you needed to connect a provider to a specific pharmacy so that they...because the pharmacies didn't talk to each other and neither did the providers. And so after she passed away, we sort of went through and we figured out which provider went with which pharmacy and which one she was using a cash pay, which one she was using an insurer for. So by including cash pay patients, this bill will really address that issue. This bill also allows all prescribers or dispensers of prescription drugs to access the system at no cost to them. They ensure that...it ensures that the system includes information from all payers including the Medical Assistance Program. And it appropriates $500,000 to the Department of Health and Human Services for the

Prescription Drug Monitoring Fund to carry out this system. There are states that have seen the positive effects of an active prescription drug monitoring system. Some of the success stories include New York, which saw a 75 percent drop in patients who were seeing multiple prescribers to obtain the same drugs which would put them at a higher risk of overdose. Florida saw more than a 50 percent decrease in overdose deaths from OxyContin, which is by far the most dangerous. While Nebraska is very different demographically from both New York and Florida, I find it hard to believe that we wouldn't see a positive result from being more stringent with our prescription drug monitoring program. Nebraska currently has a rate of 79 painkiller prescriptions per 100 people. Thank you for your time and consideration of this very important matter, and I would urge the committee to advance LB471 to General File. I have heard some concerns from testifiers today, so we'll hear some neutral testimony and I will work on it over the next few weeks to make sure we have a beautiful, clean bill that my sister and my mom would be proud of. I'm happy to answer any questions you may have. [LB471]

SENATOR COOK: Thank you, Senator Howard. Questions from the committee? Senator Crawford then Senator Riepe. [LB471]

SENATOR CRAWFORD: Thank you, Senator Cook. And thank you, Senator Howard. This is really a critical issue and I appreciate you digging in and working hard on it and to bring...and bring this bill for us. I also appreciate that it's a pretty open bill in terms of allowing the department to figure out how to best meet those goals. And so I was just curious if you've had discussions yet with people in the department about what that might look like or if we were really laying a groundwork and planning to have those discussions in the future? [LB471]

SENATOR HOWARD: I hope to have those discussions with the Department of Health and Human Services. We did just receive a letter about 15 minutes before the hearing started with some technical concerns that they have. And so I'm happy to work with them over the next few weeks to make sure that this bill is exactly what they can work with. [LB471]

SENATOR CRAWFORD: Excellent. Thank you. [LB471]

SENATOR HOWARD: Thank you. [LB471]

SENATOR COOK: Okay. Senator Riepe. [LB471]

SENATOR RIEPE: Thank you. I know we have a letter, as least on the information that we received, from the optometrist...is there support also in terms of the Nebraska Medical Association and...because, you know, I look and say, most physicians aren't going to give...easily

give out a prescription for OxyContin or any controlled substance, not very easily or shouldn't. And so I'm just curious if they're going to come up behind you. If they are, I'll hold back a little. [LB471]

SENATOR HOWARD: Certainly. The Nebraska Medical Association is behind me. Unfortunately, physicians are only as good as the information they have in front of them. And so what I learned from my experience with my sister was that they may be willing to prescribe OxyContin if they think they are the only person doing that. But often, doctor shopping really prevents them from having all the information they would need to make a good judgment. [LB471]

SENATOR COOK: Any other questions from the committee? Seeing none, Senator Howard, will you be closing on this bill today? [LB471]

SENATOR HOWARD: I will try. [LB471]

SENATOR COOK: Good. Thank you. [LB471]

SENATOR HOWARD: Thank you. [LB471]

SENATOR COOK: Thank you very much. And if you plan to testify, would you please come forward? The first testifier in support of LB471, please? Thank you, sir. [LB471]

JOHN MASSEY: Thank you, ma'am. Thank you, Senators. [LB471]

SENATOR COOK: If you could state your name and spell it into the microphone for us. [LB471]

JOHN MASSEY: (Exhibit 2) My name is John Massey, J-o-h-n M-a-s-s-e-y. I'm a physician here in Lincoln. I represent the Nebraska Medical Association. I also represent the American Academy of Pain Medicine. I'm the state representative for that organization. I am a lifelong resident of the state of Nebraska. I currently practice in Lincoln, Omaha, Columbus, York, Seward, Auburn, a number of different locations. I practice pain medicine full time. This is an important issue. And obviously Senator Howard gives very compelling testimony. I'd like to flesh that out a little bit, give you more data and some statistics. Today in the United States of America, 113 people will die from prescription drug overdose. That number compares to just 91 people who will die from auto crashes. It compares to just 27 people who will die from drunk driving accidents. It's a greater problem than that by itself. For every 10 people who die from

prescription opioid abuse, 10 patients will be treated for abuse, 32 people will have an emergency room visit, and there are 130 people who are abusing prescription medications, and there's also an additional 825 nonmedical users of prescription opioids. This is an epidemic. The state of Nebraska has, and people have stated in the past...the last data that's available is in 2008 and Nebraska has been credited with a relatively low rate of this, just 5.5 deaths per 100,000 residents per year. Of course that data is now at this point, well, several years old. And many other states have made steps to reduce their risk while Nebraska has not yet accomplished that. The risk, according to CDC data, is greater for Medicaid patients and greater for the rural population than the rest of the country itself. Thirty-six states have prescription drug monitoring programs in place. And Nebraska is one of the last states to get to that point. What does this mean for us? Currently in the U.S. there are 500,000 emergency department visits related to prescription opioid use. That means in the state of Nebraska each year we can predict there to be somewhere around 3,200 emergency department visits that are related to prescription medication issues and abuse. They...opioids, prescription opioids, count for 40 percent of all drug-related ED visits. Women alone had, in 2010, 943,000 ER visits related to this problem. Prescription opioids, and by that we mean the painkiller medications, the narcotics, as well as benzodiazepines and amphetamine prescription medication such as Adderall and Abilify, are more commonly involved in overdose than heroin and cocaine combined. We describe this in our literature as an iatrogenic epidemic. That means doctors are causing this. You can't get these medications without a prescription originally from a doctor. And the majority of patients who die from this are taking the medications that they were prescribed by a physician or a set of physicians. This is going to only get worse. The use of medications has increased triple in the last ten years, prescription opioid medications. And the aging of the population along with the diseases that require the use of these medications will increase over the next few years. I want to say, and I want to say clearly, I believe that the care providers in the state of Nebraska can solve this problem. We have a role in this, and what we need is the data necessary to do so. It is possible to make a distinction between appropriate use and inappropriate use. What we need to do that is the data that this program would provide. That is the only way we can do that, because that data is the base rock of what we need to make the decisions about appropriate versus inappropriate use of this. As a pain provider, I want to remind the committee that appropriate use of opioids and the need for medications that help people's lives does outweigh the inappropriate use of this. But we will also harm those who don't misuse this medication if we don't clearly define when it's appropriate and when it is not. The process for that is called universal prescribing of opioids. It's basically, without getting into too much detail, it's a way that we determine use patterns. Appropriate use patterns show one way and inappropriate use patterns show another way. If we had the information of how patients are actually using it rather than what they're claiming to be using it, we can make that distinction. The reasons to support this bill, LB471, again, the population aging, it's a problem that will increase going forward. It's a particular problem in the state of Nebraska because these patients are migrating into our area. The rural nature of medicine, the wide geographical area of our problem, and the Medicaid

population means this is going to be an increasing problem. All of the prevention measures begin with prescription drug monitoring programs. If you want to know about cost data, I have included in your packet--and it's on page 12 of the data from Tufts University--a study that shows what the costs associated with this problem are. The state of Florida did an analysis prior to their institution of the drug monitoring program, and they found out that Medicaid patients in the state of Florida who were abusing medications spent $15,500 more per patient per year than if they were not. Private pay patients spend even more, something above $20,000 additional per patient per year. [LB471]

SENATOR COOK: Okay. Doctor, I'm going to have to stop you because of the red light. [LB471]

JOHN MASSEY: Yes, ma'am. Okay. [LB471]

SENATOR COOK: But perhaps there will be a question from the committee... [LB471]

JOHN MASSEY: Excellent. [LB471]

SENATOR COOK: ...that could help you share some more testimony. Are there questions from the committee for doctor? [LB471]

SENATOR RIEPE: I have...does that surprise you? [LB471]

SENATOR COOK: Not, you know, not particularly, Senator Riepe, especially since you were concerned about this issue. Thank you. Senator Riepe. [LB471]

SENATOR RIEPE: Thank you, Senator Cook. You said that you're representing the Nebraska Medical Association? [LB471]

JOHN MASSEY: Yes, sir. [LB471]

SENATOR RIEPE: Do they do any profiling of physicians, because physicians notoriously...there are some that you know that are--may I use the term--easier to get a prescription written from than others? That would be my first question. Do you do any profiling? [LB471]

JOHN MASSEY: Well, I certainly do that profiling in my practice each day. [LB471]

SENATOR RIEPE: You know who they are. [LB471]

JOHN MASSEY: Absolutely. [LB471]

SENATOR RIEPE: Okay. But the organization doesn't do any? That might result in them being...a complaint being filed against them, an official complaint or maybe even the...how bold this would be, but the national databank which is pretty career limiting if that happens to you. [LB471]

JOHN MASSEY: When I'm teaching physicians in the residency program or talking with a colleague in a small rural location, the number one thing that I tell patients is that...or physicians is that you can't tell on an initial visit very often whether this is appropriate or inappropriate use. But with the appropriate data and understanding the meaning of that data, you can make that decision. This isn't a, gee, I like Mrs. Jones or I don't like her or she's bothering me. This is, this is a problem of substance abuse, we treat this medically one way, this is a problem that's responsive to opioids, we'll treat it a different way. If we don't give providers that data, then it's very difficult to determine who's actually doing it well and who is doing it poorly. [LB471]

SENATOR RIEPE: Okay. Second follow-up question would be, is...and they're talking and I don't know what the time line is on this with integration of electronic medical records systems. And I know everyone wants to tout how great they are, but quite frankly, one from Methodist can't talk to one at CHI. So when that day comes, though, if that day comes, then that will be a monitoring device anyway if physicians are aligned with any of those systems. So is this a short-term kind of approach until they get to that integration? [LB471]

JOHN MASSEY: I don't believe so, because the patients who are at greatest risk of dying from this and actively abusing or overdosing this medication that they're not attempting to misuse the medicine are oftentimes smart enough to know how to make the system not identify them as problematic users. If we don't have one single database that identifies what prescriptions are being given and from who, we won't be able to do that. If we're dividing this along some sort of business lines where one network talks to another maybe then these people will always fall...I use the term similar to...if you want to do that, that's like saying we're going to monitor for drunk driving but we're only going to monitor half the roads. Same with opt out: If you're going to let somebody opt out, it's like saying when you pull them over for misusing medicine that, if they want to say, I don't want to blow in to that Breathalyzer, it's okay. The state of Nebraska has a compelling interest in reducing the costs associated with this problem. You know, you can multiply 3,200 by $15,000 and you get a big number of amount of money that's saved by the state in the Medicaid population alone. [LB471]

SENATOR RIEPE: How does this program address, for example, nursing homes where you might have an elderly person who is on a controlled substance and yet they may be suffering from memory loss and so, quite frankly, their prescriptions might be more available than one might want to have them? [LB471]

JOHN MASSEY: Well, overdose of medications will remain a problem in many other instances. The universal precautions addresses that in entirety. The one data point about the universal precautions that this addresses is an understanding of what's being prescribed and by whom. It's...if you've got a demented patient who doesn't understand what they're taking, they're not at risk until Dr. Jones, Dr. Smith, and Dr. Jackson are all trying to get involved and they aren't speaking with one another through this kind of a program. [LB471]

SENATOR RIEPE: Okay. I have one more question, and I appreciate it. My other question gets to be...is what kind of recovery facilities or programs do you have? And my experience comes from other markets, mostly east Texas, if you will, where we couldn't get...someone that was on Medicaid, we couldn't find a program for them. Do you have programs and do you have programs that accept Medicaid? [LB471]

JOHN MASSEY: In my practice, are you asking, Senator? [LB471]

SENATOR RIEPE: Anybody's. I don't really care who runs the program. It's just their availability. They're not considered very profitable. [LB471]

JOHN MASSEY: Yeah. They're not very profitable. And that's a problem itself. My overall impression is that opioids are far less effective than we assume them to be in the medical community. And when we look at the data we're always underimpressed by what they provide. But it is possible to get these people off of these medications, first if we don't let them go as long with these medications as we do currently without identifying them early enough, but secondly, by maybe better understanding the limitations of these types of medications in any population rather than just people who are at highest risk for abuse. [LB471]

SENATOR RIEPE: But do you have a waiting list for people to get in that have abused and are now needing recovery treatment? [LB471]

JOHN MASSEY: I'm a pain provider, so these people come to me and they think they should be on medicine. So every day I get somebody who says, doctor so-and-so gave me enough medication to get to you. And the conversation I have to have is, this...okay, you're on these

medications. These opioids are actually causing your pain. You will never feel better until you're off of these medications. Now, how do you want to do that? [LB471]

SENATOR RIEPE: Okay. Okay. Thank you. [LB471]

SENATOR COOK: Thank you. Senator Crawford. [LB471]

SENATOR CRAWFORD: Thank you, Senator Cook. And thank you, Doctor. The page you referred us to talks about the societal costs of opiate abuse. I wondered if there's a compelling takeaway fact or maybe a table that you want to talk to us about, about the savings that would come from having a monitoring program. [LB471]

JOHN MASSEY: Absolutely. [LB471]

SENATOR CRAWFORD: Like, what could we expect to happen? [LB471]

JOHN MASSEY: Let's use an emergency department visit, okay, because the cost that we see here, $15,000 more per patient, that's the direct medical cost, right? The economic costs are double the direct costs. The patient comes into the emergency department and says, I hurt, I have back pain. They've got a crinkled up MRI or something like that. The physician has to take their complaint seriously and treat them compassionately. They aren't allowed to discharge that patient from the emergency department until they say, my pain is less than 4.5 out of 10 on the visual analogue scale, if you're familiar with that. [LB471]

SENATOR CRAWFORD: Okay. [LB471]

JOHN MASSEY: To get that patient to that number if that patient is abusing medications is essentially impossible. The subjective experience of pain is being driven by the abuse physiology. So what that physician then has to do is disprove a negative. They have to do all the tests possible to say, there's not something going on here. We don't see a new disc problem. We don't see arthritis. We don't see this rather than looking at the prescription program in the entirety and say, oh, I see this patient has just been going to a number of different emergency rooms down I-80, for example, and this is problematic drug use. I don't need to do all that defensive medicine testing. I can identify it right away, quite quickly that this is a patient who...by the way, life is at risk because of the substance abuse, but I don't need to expensively order tests in order to prove that. [LB471]

SENATOR CRAWFORD: So they are able then to discharge the patient because they've looked at that record? That covers them or provides what they need? [LB471]

JOHN MASSEY: Well, the way...yeah, the way you would look at that, it's never possible to make a patient who is attempting to get opioids for abuse to say, my pain is under control, until the abuse has been treated. So, yes, ma'am. [LB471]

SENATOR CRAWFORD: Okay. Thank you. [LB471]

SENATOR COOK: Additional questions from the committee for the doctor? Seeing none, thank you very much. [LB471]

JOHN MASSEY: Thank you very much. [LB471]

SENATOR COOK: Next testifier in support of LB471, please. Thank you. Say your name and spell it into the microphone, please. [LB471]

JASON KRUGER: Dr. Jason Kruger, J-a-s-o-n K-r-u-g-e-r, speaking on behalf of the Nebraska Medical Association. I'm an emergency physician at CHI St. Elizabeth and past president of the Nebraska chapter of the American College of Emergency Physicians. As emergency physicians, we see patients with painful conditions on a daily basis. We prescribe controlled substances on a daily basis in order to try to alleviate painful conditions. We never want to do harm. We do not want to withhold pain medications from somebody with a truly painful condition. At the same time, somebody with a substance abuse or addiction problem...we have no interest in pouring gasoline on the fire. As an emergency physician, I can speak with what Dr. Massey was talking about with regards to these extensive workups. If somebody comes in to the emergency department with the worst headache of their life, we need to prove that they're not having a subarachnoid hemorrhage, bleeding on their brain, a stroke, something life-threatening. If they come in with severe back pain, I can't tell just by looking at them how bad their pain really is. We believe people. We take their word for it. But at the same time, we have suspicions sometimes that somebody is trying to manipulate us and get medications not for medical use. We frequently do CAT scans, MRIs, and run up extraordinary medical bills trying to treat this phantom pain. As an emergency physician who's seen people who have overdosed on medications...shortly after testifying on this bill a couple of years ago, we had a patient come into the emergency department that had overdosed on fentanyl. His family found him unconscious laying on his couch. He had been down for several hours. He had an anoxic brain injury where his brain was not getting oxygen for a period of time because he was not breathing adequately. He ended up admitted into our intensive care unit. He ended up going into renal failure, was on dialysis, was eventually discharged from the hospital to a rehab facility. But his

bill, his medical bill alone, would have paid for the entire implementation of a program like this. This is something that destroys lives and destroys families. And when this addiction goes unrecognized and untreated, the end process in this is death. We think it is time for Nebraska to have a functioning prescription drug monitoring program. We strongly support Senator Howard's efforts as the Medical Association and the Nebraska emergency physicians have been fighting for this for years. This is something we would use on a daily basis and we really appreciate the committee's work on this. Thank you very much. [LB471]

SENATOR COOK: Thank you, Doctor. Questions from the committee? Senator Crawford, Senator Riepe. [LB471]

SENATOR CRAWFORD: Thank you, Senator Cook. And thank you, Doctor, for being here. I wondered if you could speak to whether there is evidence in the field that having this kind of program may also reduce racial disparities, end pain treatment of people who come into the emergency room. That's sort of the flip side of this issue. [LB471]

JASON KRUGER: It's certainly easier to treat pain appropriately when you have the information. And, I mean, we don't want to stereotype or profile people. You know, sometimes we are suspicious that somebody's story isn't adding up. This would give us a simple way of looking up. And in most cases, this is legitimate, we go ahead, we treat the pain appropriately. But on those cases where this is inappropriate, this is a chance to intervene. This is a chance where, you know, many times family members or friends that have brought this patient to the emergency department are unaware of what's going on. They do not see the totality of everywhere else this person has been. So it gives us an opportunity to intervene in a positive way to try to refer them to a pain specialist or, you know, a suboxone clinic, methadone clinic. You know, there are resources available. I wish there were more resources. I think this is a start. We need to be able to identify this appropriately. [LB471]

SENATOR CRAWFORD: Thank you. [LB471]

SENATOR COOK: Senator Riepe. [LB471]

SENATOR RIEPE: Thank you, Senator Cook. Thank you for being here. And we know as an emergency room physician, you're on the frontline of seeing a lot of stuff that you have no history about when it comes in. My question is, is Nebraska the only state that doesn't have this kind of a program? [LB471]

JASON KRUGER: There aren't many states left. We're one of the last... [LB471]

SENATOR RIEPE: Okay. [LB471]

JASON KRUGER: ...that does not have a functioning prescription drug monitoring program. [LB471]

SENATOR RIEPE: What options are there, alternatives? Are there any? [LB471]

JASON KRUGER: This is a first step in getting a patient...and sometimes patients don't realize. They may subconsciously not realize that there's a problem with them bouncing around like this. But we do have, you know, detox facilities. We have people in our...in Lincoln that specialize in opioid addiction and treatment, that there are medications that we can put people on to kind of crave and treat withdrawal symptoms to try to get them, you know, back as a fully functioning member of society and kind of reintegrate and get beyond this. Most people don't, you know, want to become addicted to these type of medications. They have some type of medical procedure or they're in a bad place in their life, and they get hooked on these. And it's our opportunity to be able to identify this and have a positive impact instead of having a negative impact and just writing them a prescription for 20 more Percosets. [LB471]

SENATOR RIEPE: Some of the stuff you just described sounded like it's how we treat them once we identify them. Sounds to me like the program we're talking about today, though, is to try to do early intervention and get it...nip it in the bud, as you could say. Is that... [LB471]

JASON KRUGER: Absolutely. If we can catch this early, it's so much easier to get it treated. I mean, it's why, you know, doors have deadbolt locks, to keep honest people honest. And with something like this, it's a lot easier to keep honest people honest. [LB471]

SENATOR RIEPE: Sure. Thank you. [LB471]

SENATOR COOK: Any more questions for Dr. Kruger? Seeing none, thank you very much, Doctor. [LB471]

JASON KRUGER: Thank you very much. [LB471]

SENATOR COOK: Next testifier in support, please? [LB471]

MARK PTACEK: Hello. [LB471]

SENATOR COOK: Hello. [LB471]

MARK PTACEK: My name is Dr. Mark Ptacek, P-t-a-c-e-k, and I would like to speak in favor of LB471, prescription drug monitoring program. Just a little bit of a history: I practiced in O'Neill, Nebraska for about 25 years and I left there about four or five years ago. I was an emergency room physician and the director of the emergency room up in Yankton, South Dakota for a year and subsequently have moved to Omaha. I now teach at the family practice residency program at 42nd and Douglas Street, Omaha, Nebraska doing full-scale family medicine at Nebraska Medicine, Clarkson in the Med Center. And what I would like to stress is that this is not just an urban problem or a rural problem. It's a state of Nebraska problem. It is something that we have had to deal with in rural Nebraska for many, many years. And the expense I think you understand. It's very, very real. We had the Highway 20 corridor where people would come down from one hospital starting usually in Sioux City, and then they would go to Neligh and then end up in O'Neill. And while we were doing the third workup...and again, these patients are extremely savvy. They will have a kidney stone or some type of abdominal pain that needs to be evaluated. And they know how to bring that problem as realistically as possible. And oftentimes, the best that we had was a fax from another hospital down the Highway 20 corridor saying, this patient had been in our emergency room several hours ago, so look out. And that is what we're hoping that the prescription drug monitoring program will help is it will afford us that very simple process of being able to look at drugs and prescriptions, problems...the things that we need to be able to say, this patient is looking for drugs. As I progressed into my present position, I realized that that problem exists. I teach...we have 18 residents on staff and I teach the residents. And it is very common daily to have one or two drug seekers coming in. And it is a very difficult mix of trying to convince these young physicians or young physicians-to-be that we have to take care of the patient first and pain is real and we need to treat pain. But at the same time, we have drug seekers on a daily basis. We have drug seekers for two reasons. One is because of addiction. The second reason is because there is drug diversion. We have...I also do inpatient care at the Med Center, and we have multiple patients that come in repeatedly for benzodiazepine overdoses. We bring them in. We try to wash them out. And they go back and repeat this process. We have the same problem with narcotics and we deal with those same patients all the time. So the drug diversion is out there. And these patients are very, very open about telling us where they get their drugs. They can buy them on the street and it is a huge problem. I actually had one patient tell me that they can get--this was after we had worked them through some of their problems--that they can get 180 Percosets and sell them for $1,800 a month. It costs them $4 a copay. So drug diversion is very real and I'm seeing that as well. The mix, again, of trying to get the people who need adequate pain treatment and those who are misusing or abusing medicines is so real that we need to have the system that will allow us to look at these patients and say, you have an addiction problem, because until we are able to address that with the people who are using or misusing drugs, we're aren't doing them justice either. And I think that's something that this will definitely help. I really would like you to

support this because the system of faxing down Highway 20 is no longer acceptable. It's not something that we can live with. We have the ability and the technology to make this happen, so I would strongly encourage you to support this bill. [LB471]

SENATOR COOK: Thank you, Doctor. Questions from the committee? [LB471]

SENATOR RIEPE: I, of course, have one. [LB471]

SENATOR COOK: All right. [LB471]

SENATOR RIEPE: Thank you. [LB471]

SENATOR COOK: Go ahead. I'm not surprised. (Laugh) [LB471]

SENATOR RIEPE: Thank you, Senator. My question is this: I think maybe you touched on it, you said faxing down corridor 29 (sic), so it's by faxing and not unsecured e-mail or... [LB471]

MARK PTACEK: No. Highway 20 was actually...we had...we used faxes, correct, yes. [LB471]

SENATOR RIEPE: How do you protect HIPAA? I mean, I'm always concerned about HIPAA violations. [LB471]

MARK PTACEK: From my understanding, the...as long as there's a cover sheet then there is a protection for HIPAA because we can fax medical information. It is an accepted way of actually transmitting information. [LB471]

SENATOR RIEPE: So it's a secured kind of a system? [LB471]

MARK PTACEK: Correct. And it went from emergency room to emergency room so that was...that's how we would do it. [LB471]

SENATOR RIEPE: Okay. I was just curious. Yeah. Thank you. [LB471]

MARK PTACEK: Yep. [LB471]

SENATOR COOK: Thank you, Senator, and I...that sparked a question for me as well, more of a statement, because that...sending that fax, in my mind, presupposes that a practitioner is observant, that she or he has the time to make that fax, send it to the presumed next stop in the ER, and I'm not certain how, knowing what I know--mainly from television--about emergency rooms... (Laughter) [LB471]

MARK PTACEK: Right. [LB471]

SENATOR COOK: ...how thoughtful and how much time a person would have to follow through on that, so... [LB471]

MARK PTACEK: You know, it was a courtesy that we extended to other facilities. [LB471]

SENATOR COOK: Okay. [LB471]

MARK PTACEK: So essentially, if you were in a small town, if I had a patient came in and we did a complete evaluation and I said, I don't believe you have any illness that warrants that type of narcotic and someone would get very angry and storm out of the emergency room... [LB471]

SENATOR COOK: Okay, okay. [LB471]

MARK PTACEK: ...we would literally just send a notice saying that we believe that there's a drug seeker in this area. And that was the best that we could do. [LB471]

SENATOR COOK: All right. [LB471]

MARK PTACEK: The other thing that is interesting is that we actually...the young doctors that we're putting out now are so techno-savvy, it's unbelievable. And we are still teaching them the gut feeling of, do you feel this person is an addict or, you know, what is your suspicion? You have to have a high level of suspicion. And in this day and age, we literally should be able to pull up a Web site and say, these are the prescriptions that were given and then walk into the room and say, we believe you have a drug problem. We would like to help you with that problem. We can't do that right now. And I think this bill will help that. [LB471]

SENATOR COOK: All right. Thank you, Doctor. [LB471]

MARK PTACEK: You're welcome. [LB471]

SENATOR COOK: Any questions? More questions for Dr. Ptacek? Thank you. [LB471]

MARK PTACEK: You're welcome. [LB471]

SENATOR COOK: Next testifier in support, please. [LB471]

KEVIN NEUMANN: Good afternoon, Senator Cook, members of the committee. Senator Howard, thank you very much for bringing this bill forward. A little bit of background about my situation. I'm not a doctor. Tomorrow will be three years since my son passed away due to a prescription drug overdose, so I'm very passionate about this program. [LB471]

SENATOR COOK: Thank you, sir. Would you say your name and spell it for us? [LB471]

KEVIN NEUMANN: I'm sorry. My name is Kevin, K-e-v-i-n, Neumann, N-e-u-m-a-n-n. I'm sorry, ma'am. [LB471]

SENATOR COOK: Thank you, sir. [LB471]

KEVIN NEUMANN: And I feel that it's very important that we have a functioning prescription drug monitoring program, because it is an epidemic in Nebraska. In 2013...I'm sorry, 2012, there were 133 prescription drug overdoses in Douglas, Sarpy, and Lancaster County. And that information...I obtained that from Don Kleine, the Douglas County Attorney, and the Nebraska State Patrol. So it's factual information that can be verified. It's easy for a person to get a prescription from another state and come to Nebraska and go from Walmart to KMart, to Shopko, to Target, CVS, Walgreens, and get the same prescription filled. A round-trip plane ticket from Tennessee costs $400. They can take back a Pepsi can full of oxycodone and sell it for $35,000. And there are young people here in Nebraska that are taking...I don't know if you've seen the news report that was done on my son's death last Sunday. When I was told by the county coroner that my son died from acute bronchial pneumonia and a combination of toxic levels of methadone, it was like a punch in the stomach. I didn't see this coming. I didn't...had no warning signs. And I wanted to make a difference and do something. So never in a million years did I feel that I'd be doing this or having this conversation sitting here today. To get a real good understanding of what needs to happen in Nebraska, I would urge your committee to request investigator Chris Kober from the Nebraska State Patrol to meet with you for about an hour. The man is brilliant when it comes to the...to a functioning prescription drug monitoring program. He knows how to do it. He knows what needs to be done, and he knows how to do it very effectively. There are two programs--one is in Oklahoma and the other one is in Ohio--that are model programs that he is very fond of. And he's...and if you want to know, Oklahoma is willing

to let Nebraska piggyback off of their program for a nominal fee. And Texas right now piggybacks off the Oklahoma program. Senator, you'd asked the question earlier about how many states there are that do not have a functioning prescription drug monitoring program. There are two: Nebraska and Missouri. There are some additional items I'd like to see the committee consider adding to LB471 before it's finalized. And again, officer...or Investigator Kober will be a big help. One is implementing education programs across the board. Students, young people, need to start being educated about this in middle school. Several months after my son passed away, there was a ten-year-old boy that passed away from a prescription drug cocktail in Omaha because he got it from his siblings, older siblings. Now, they didn't necessarily give it to him to take it, but it was out and he accidentally took it and he passed away. There was also a young girl here in Lincoln that passed away due to prescription drug overdoses in 2012, unfortunately while she was being raped. Define responsibilities and reporting procedures for county attorneys and hospitals. Right now, there is no data being collected on the number of prescription drug overdoses by DHHS. And I would ask that the program look at giving the Nebraska State Patrol or the Omaha Metro area Drug Enforcement Agency Task Force access to that data so they can take immediate action and arrest people where it needs to be...where it's necessary. That concludes my testimony if there's any questions. [LB471]

SENATOR COOK: Thank you very much, Mr. Neumann. And what was your son's name? [LB471]

KEVIN NEUMANN: Trey, T-r-e-y. [LB471]

SENATOR COOK: Trey. I'm so sorry for your loss. [LB471]

KEVIN NEUMANN: Thank you, ma'am. [LB471]

SENATOR COOK: Thank you for coming. Are there any other questions from the committee? [LB471]

KEVIN NEUMANN: Thank you. [LB471]

SENATOR COOK: Thank you. Next testifier? Thank you, sir. [LB471]

ROBERT MARSHALL: Senator Cook, members of the committee, my name is Bob Marshall, B-o-b...I guess it says Robert, R-o-b-e-r-t, Marshall, M-a-r-s-h-a-l-l. I'm a practicing pharmacist. Come May, I will be a pharmacist for 40 years in this state and I am now serving on my eighth year on the Nebraska State Board of Pharmacy. Our state Board of Pharmacy has gone on record

previously as supporting comprehensive PMP programs. We've not yet taken a position on LB471 so I will be speaking on behalf of myself today and not on behalf of the board. But I wanted to thank Senator Howard for introducing LB471 and for her continued leadership on this very important issue. And in response to a question earlier from Senator Riepe, Nebraska is one of only two states without a functioning PDMP program. The other is in Missouri. We've obviously had enabling legislation in effect for four years but we really don't have a functioning program yet. Most other states have had programs for ten years or longer. Some are close to 20. I don't know of any state that is considering ditching their program because they're too costly. I think every state has seen the value in spades of these programs. They're a tremendous tool for medical professionals including pharmacists and also for law enforcement as you've heard as well. What I'd like to add, perhaps, to the testimony you've already heard is that we would encourage the Legislature to assign the oversight for the prescription monitoring program to the state Board of Pharmacy within the Department of HHS. About half of the operating PDMP programs are operated directly through their respective boards of pharmacy now and most of the remainder are operated by state health departments with the input from the boards of pharmacy, medicine, dentistry, and others. We, in pharmacy, were the first health professionals to computerize our operations and we remain the professionals who really know how to generate and utilize prescription data. In addition, boards of pharmacy know how to work with other professional boards. We know how to work with professional associations. We know how to work with individual practitioners to enhance the utilization and the effectiveness of the PMP programs. One of the huge assets to boards of pharmacy and, well, to state governments in general has been an organization in Chicago called the National Association of Boards of Pharmacy, NABP. They are the organization that represents our Board of Pharmacy and all the other state boards of pharmacy as well as the Canadian provinces and even the U.S. territories. In addition to just supporting PMP programs with data and with communication and with education, they also developed a service that they are not charging the states for at all called PMP InterConnect which is designed to facilitate interstate data sharing between state PMP programs. In other words, if you are in Council Bluffs and you are a drug seeker because you are interested in diverting and you know that Iowa has a PMP program, which they do, of course, and you come over to Omaha or Blair or somewhere, right now there's no way for that Omaha pharmacist or that Omaha physician even to know that that patient had been getting prescription medications over in Iowa. So...and even if those programs were being run independently, that would still be true. But with the InterConnect program of NABP, those states are now online to be able to talk to each other and get information from bordering states. There are right now 28 states that are actively sharing data through that InterConnect system, and NABP tells me that there will be 35 of those states by the end of this year. Since they've launched the InterConnect system in 2011--and I believe the bugs are probably out of it by now, because it was a computerization challenge, I'm sure--but since they launched it, over 7 million requests for information have been processed through that InterConnect system. So I would certainly encourage you to pass this legislation, get some teeth behind the PDMP program in Nebraska,

and certainly the Board of Pharmacy and individual pharmacists are here to help you in any way we can do that. Thank you. [LB471]

SENATOR COOK: Thank you very much. Any questions for the testifier? Senator Crawford. [LB471]

SENATOR CRAWFORD: Thank you, Senator Cook. So your recommendation is that the state Board of Pharmacy would have an oversight role. Is there any restriction or limitation of us using the NeHII tool that would restrict the ability of the state Board of Pharmacy to have that kind of role? [LB471]

ROBERT MARSHALL: I'm frankly not sure, Senator. [LB471]

SENATOR CRAWFORD: Okay. [LB471]

ROBERT MARSHALL: We have not have very much connection with NeHII up to this point. They've come to speak at our meeting once or twice, but really haven't had that much connection, so I just... [LB471]

SENATOR CRAWFORD: So it's not a tool that pharmacists are as connected to... [LB471]

ROBERT MARSHALL: No. [LB471]

SENATOR CRAWFORD: ...or use. [LB471]

ROBERT MARSHALL: No, not really. [LB471]

SENATOR CRAWFORD: Okay. [LB471]

ROBERT MARSHALL: In fact, I was working this morning at a pharmacy here in town. It's a very, very busy pharmacy. And they do have drug seekers that come to that pharmacy, and I asked the pharmacists who were working there if they were familiar with the program that's currently in place and I got blank looks. They had not even heard of it, so... [LB471]

SENATOR CRAWFORD: Okay. [LB471]

ROBERT MARSHALL: Yeah, so it's not being utilized really at all, at least in our profession. [LB471]

SENATOR COOK: Senator Crawford. [LB471]

SENATOR CRAWFORD: So in states where the...where it's overseen by the pharmacy board, what does the connection to the ER room look like then in terms of making sure that ER physicians have access to that information? [LB471]

ROBERT MARSHALL: Well, the program is administered by...whomever it is administered through collects data. Right now, almost every prescription--and if this was operation it would be every prescription for a controlled substance--right now, if you have an insurance program or state Medicaid program, that's going through a computer switch. You know, the pharmacists fill the prescription and the first place that has to go is through a switch that says, oh, this is a Blue Cross prescription and it goes to Blue Cross; oh, this is Nebraska Medicaid, and it goes to...so now this would be one more place where that prescription information goes. It goes to this repository of computerized information. And if you are a legitimate emergency room physician or if you're a dentist or in law enforcement, you would know the password or whatever system that they use to get into that system, and you can say, okay, patient John Doe is now before me complaining of intractable headaches. Let's just see if...where John Doe has been in the last five days. Oh, look at that, you know, this system says...so the system would be as close as the nearest computer terminal to the physician or to the dentist or whomever. [LB471]

SENATOR CRAWFORD: And is that system usually different than the general electronic health rider...or system in those states? [LB471]

ROBERT MARSHALL: Boy, I wish we had a PMP program in Nebraska so I knew the answer to that question. (Laugh) [LB471]

SENATOR CRAWFORD: Okay. That's fine. [LB471]

ROBERT MARSHALL: I don't...I think, yeah, it is a separate program from that. [LB471]

SENATOR CRAWFORD: And one thing that strikes me: We have quite a few programs for the...I don't know what the correct... [LB471]

ROBERT MARSHALL: Sudafed. [LB471]

SENATOR CRAWFORD: Sudafed? [LB471]

ROBERT MARSHALL: Yeah. [LB471]

SENATOR CRAWFORD: Yeah. Tracking that, is that a similar system in some states or do some states use a similar tool for both? [LB471]

ROBERT MARSHALL: I'm not sure of that either... [LB471]

SENATOR CRAWFORD: Okay. [LB471]

ROBERT MARSHALL: ...to tell you the truth. I'm...I've not had much experience with Sudafed. [LB471]

SENATOR CRAWFORD: Okay. [LB471]

ROBERT MARSHALL: My practice was not in that kind of thing, but... [LB471]

SENATOR CRAWFORD: Thank you. Thank you. [LB471]

ROBERT MARSHALL: ...the same principle, certainly. [LB471]

SENATOR COOK: Okay. Thank you, Senator. Any other questions from the committee? [LB471]

ROBERT MARSHALL: Thank you for your time. [LB471]

SENATOR COOK: Seeing none, thank you very much. Next testifier, please. [LB471]

JONI COVER: Good afternoon, Senator Cook, members of the committee. My name is Joni Cover, J-o-n-i C-o-v-e-r. I'm the executive vice president of the Nebraska Pharmacists Association, and I'm here in support of LB471 on behalf of the pharmacists of Nebraska. I'd say a big thank you to Senator Howard--Senators Howard--for their yeoman's work in getting a prescription drug monitoring program in our state. Being the lucky person who's gone behind so many great testifiers, a lot of the things you've already heard I won't repeat. But I do want to bring up a couple of things just from the pharmacist's perspective. You know, pharmacists

support the safe and legitimate use of controlled substances by patients, and it's interesting the things that they have seen with controlled substances. When we...since this has become such a pandemic, I would say, we see things like the DEA coming in and really putting a lot of restrictions on pharmacies. So, for example, pharmacies are limited now to the amount of controlled substances they can purchase through their wholesalers. So that's an issue when you have a pharmacy, particularly in a small community where you have people who need the controlled substances and maybe they have a hard time getting them. So that's been something instead of...you know, one of the ways to restrict access is to be able to, you know, tell a...or to tell the wholesalers, we just can't let you have so much and then sell it to the pharmacies. So that's been an interesting twist. We see some corporate policies changing so that not all patients, when you walk into the pharmacy with a prescription, will you necessarily get the prescription filled. And again, that's because of the DEA crackdown on the pharmacy side of all of this. One of the things that we have done in conjunction with many of the people in this room today and Health and Human Services is we've worked on a prescription drug overdose task force because we know that overdoses of...with prescription medication is a fact. It's here. We can't deny it. And education is important and so we've worked very hard on that. You know, the thing is that I don't think that there's one panacea. One thing isn't going to fix this all. So we need education. We need the prescribers and we need the dispensers working together educating the public. We need help from the state to support funding of a prescription drug monitoring program that actually works, that's we'll actually use, that the prescribers will look at and say, you know, Joni Cover shouldn't have more medication or Mrs., you know, Smith was in here last week and she was in this town the week before and in this town the week before that. Something that we have had experience with, and Mr. Neumann talked about this a little bit, is the folks who fly in from out of state and go to different pharmacies to get their prescriptions filled. Some of our corporate partners have, you know, systems that are all connected. So you can see if you went to one Walgreens, you know, if you filled it at here, the ones in the other locations can see it. But not all of our independent pharmacies have that connection. And so we have had the experience where people...flying in from Florida for the day and had prescriptions filled in Omaha and in some of our small communities and hopping on a plane and flying back out of town. And until, you know, we're alerted by the State Patrol to share that information with our membership, you know, we don't necessarily know that that goes on. Some of our pharmacist members in our border part of the states, you know, some are linked into the Wyoming system. And so if somebody from Wyoming comes across the border, they can look up the Wyoming system and say, oh my gosh, you know, they just, you know, got this filled in someplace in Wyoming and now here they are in Nebraska trying to get access. So we see how well a prescription drug monitoring program works and we really...we're really hopeful that the state and the Health Committee will listen to the folks here, the experts. You know, utilize our expertise. And I'm not saying that I'm the smartest person at the Pharmacists Association, but I have lots of smart, smart, smart pharmacists who really believe in this. And every year, when we talk about our legislative agenda, they say, are we going to get a prescription drug monitoring program in Nebraska that works? And you

asked about NeHII, and I think NeHII is a fabulous system and it's great for all the medical information. And I don't know why we wouldn't have something that would connect with NeHII. Can NeHII be the prescription drug monitoring program? I don't know that. But I certainly think it would be in the best interest of the state of Nebraska to at least have them talk to each other, because I think that would make NeHII better and it would make a prescription drug monitoring program better. So with that, I will stop talking. And I will tell you, though, the one concern we do have, and that is the number of robberies that we have in pharmacies. And if all of a sudden now we're being able to track who gets our controlled substances, we know that some of our friends and colleagues in other states have seen an increase in robberies. So that's just something that we're mindful of and we'll hope that doesn't happen, but it's a fact. That's one of the things that we're dealing with, and we're dealing with it more and more across Nebraska. So with that, I'll stop, and I'll answer any questions you have. [LB471]

SENATOR COOK: Okay. Thank you. Senator Riepe. [LB471]

SENATOR RIEPE: Thank you. Thank you, Joni. My question is, what is happening...I know with guns, you know, they're talking about securing them more and people are going in and stealing the whole gun case at 400 pounds. They don't care. What is being done to...in addition to controlling the inventory but also then controlling...what is there to make it less attractive to thieves, if you will? [LB471]

JONI COVER: Well, we've worked with some of our national partners. We've worked with State Patrol and DEA to provide education to pharmacists on different things they can do: the amount of narcotics they have in their pharmacies, how they store them, you know, simple--I shouldn't say simple--but having security cameras and making sure that your business is open when other businesses are and, you know, those kinds of things. It's really education. And, you know, we know that we're never going to take away that problem. It's always going to be something that pharmacists are faced with. And, you know, some pharmacists have said, I'm just not going to have any controlled substances in my pharmacy, which, you know, for them is a choice, but then it also, if there's another pharmacy in their community, it means that their inventory will go up because the need will go up which then you look at your wholesaler and then you can't get it because all of a sudden you have an increase and people start wondering why you're asking for more. So it's a very interesting dynamic in this whole situation, so. [LB471]

SENATOR RIEPE: Senator Cook, I have a second question. [LB471]

SENATOR COOK: Oh, sure. [LB471]

SENATOR RIEPE: Thank you. My second question is, how does this interface or integrate with existing pharmacy systems? I know the pharmacy I go to, if I inadvertently try call in to get a refill, and they...they'll tell me, you're not eligible for it yet. So they have some program that's monitoring very closely. And these are not controlled substances, I'd like to add. (Laughter) But we want to get that on the record. [LB471]

JONI COVER: You don't have to share all that. (Laughter) [LB471]

SENATOR RIEPE: Is this mike working? So but, you know, they, I mean, they kind of...they tell me when I can and when I...may I, mother may I and when I can't. [LB471]

JONI COVER: Some of that is because of your insurance plan. So they will tell you whether or not you can get it filled. It depends on the pharmacy, but most of our pharmacy systems, like Bob Marshall just said...you know, pharmacy has been sending data to...electronic data forever, it seems like. And so the systems that are in place now that I know of are really...it's just a seamless transition, you know. They type...the pharmacists, you know, will sort of, we call, adjudicate the claim to see if it will go through, and one of the places that it gets sent is maybe to Blue Cross or maybe to Medicaid, or maybe it will find out that you don't have a prescription plan. But one of the places it can also go to is this repository of prescription drug monitoring programs, so... [LB471]

SENATOR RIEPE: Okay. So they would just integrate it into their existing system. [LB471]

JONI COVER: Exactly. Exactly. [LB471]

SENATOR RIEPE: Okay, like it was any other prescription. [LB471]

JONI COVER: That's right, that's right, that's right, so. [LB471]

SENATOR RIEPE: Okay. Very good. Thank you. [LB471]

SENATOR COOK: Any other questions? I have a question.... [LB471]

JONI COVER: Okay. [LB471]

SENATOR COOK: ...to clarify. I think I know. When these stores, pharmacies, are being robbed or burglarized, it's for the controlled substances and not just for whatever cash might... [LB471]

JONI COVER: Typically it's for controlled substances. [LB471]

SENATOR COOK: Typically it is for the controlled substances. [LB471]

JONI COVER: Right. Right. And pharmacists are very smart, and they can tell you if somebody actually needs their controlled substance and they're taking it as they're supposed to or if they're getting more and they're not taking it because of the side effects that you can have with having too much of it. So usually they'll tell you. If they're taking this and they're not taking this, then they're probably selling it on the street, so... [LB471]

SENATOR COOK: Oh, I see. [LB471]

JONI COVER: Yes. So it is controlled substances that they're stealing. [LB471]

SENATOR COOK: All right. Thank you very much for your testimony. [LB471]

JONI COVER: You're welcome. Thank you. [LB471]

SENATOR COOK: Any additional testimony in support of LB471 today? [LB471]

ANN FROHMAN: Good afternoon, Senator Cook, members of the committee. My name is Ann Frohman. For the record, that's spelled A-n-n F-r-o-h-m-a-n. I'm a registered lobbyist here on behalf of the Nebraska Medical Association. As you've heard the testimony earlier from the physicians in regard to this bill, there is a lot of passion behind it to move it forward. And I just wanted to add, in clarification to Senator Riepe's question about the instances where we may have prescribers who have maybe an easier inclination to write scripts for controlled substances, in regard to that fact finding, now you did hear testimony that there are challenges with that. But just as a point of clarification, the Nebraska Medical Association, as a voluntary association, has approximately 80 percent of the physicians in the state as members. And there would be really no mechanism or legal basis by which they could engage in that sort of fact-finding mission. But with that said, the Board of Medicine is a statutory organization, and those fact-finding types of issues along with, you know, investigations and disciplinary matters are housed there. So that probably would be more of a consideration when you're looking at those types of issues. Again, recognizing that we don't necessarily know whether that...you know, that there is that concern, but that would be more of the forum for it. [LB471]

SENATOR COOK: Thank you for your testimony. Are there any questions for Ms. Frohman? [LB471]

SENATOR RIEPE: I have a quick one that would follow up to that. [LB471]

SENATOR COOK: Senator Riepe. [LB471]

SENATOR RIEPE: Thank you, Senator Cook. And that would be as...like many professions, how do you...oftentimes the physicians would know who the other physicians are that are abusing it, but they elect not to cross the...what's called the blue line. In the police business or any...and every profession, I think, struggles with it. But how do you get them to bring to the professional organization without being liable and slanderous, that they bring it up to the professional organization? And I say that I think doctor so-and-so is an easier subscriber and maybe is participating and maybe, you know, making a living off of selling prescriptions. And unfortunately, in every profession there are rascals. [LB471]

ANN FROHMAN: Yes, and, you know, that's a difficult one that I think there is no answer for, because you...when you dig into it then you might have to recognize that the population in which that physician serves might...you know, might be a pain specialist. You know, there might be some other issues that kind of create that. But, yes, recognizing that that's there with respect to many professions. [LB471]

SENATOR RIEPE: And I don't...it's almost like whistle-blower immunity or...but it still doesn't work, because it...it's just a naughty ongoing problem, I guess, in every profession. [LB471]

ANN FROHMAN: Yeah, sure. [LB471]

SENATOR RIEPE: Okay. Thank you very much. [LB471]

SENATOR COOK: Thank you very much for your testimony. Are there any more testifiers in support of LB471? [LB471]

BILL MUELLER: Senator Cook, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska Methodist Health System, the Nebraska Academy of Eye Physicians and Surgeons, and the Pharmaceutical Research and Manufacturers of America, PhRMA. We do appear here today in support of Senator Howard's LB471. You've heard excellent testimony. I've been here throughout the testimony and I'm...I can assure you I can add nothing to the substance of what those who testified before me provided you. We would hope that you would advance the bill. I did look at the fiscal note and, from what I heard today, it certainly seems like a good investment of state funds. Be happy to answer any questions that the committee may have. [LB471]

SENATOR COOK: Okay. Thank you, Mr. Mueller. Are there questions for Mr. Mueller? Seeing none, thank you for your time. [LB471]

BILL MUELLER: Thank you. [LB471]

SENATOR COOK: Here's a question for the committee: There are three people in the room right now. Mr. Clerk, is that...and Senator Howard. Is that...we're still good to go? [LB471]

BRENNEN MILLER: Yeah, because Senator Howard is here. [LB471]

SENATOR COOK: Good. Thank you. (Laugh) [LB471]

BRENNEN MILLER: Yeah. [LB471]

SENATOR COOK: Thought I would check, speaking of self-monitoring. (Laughter) All right. Any other testimony in support of LB471? Anyone like to testify in opposition to the proposal? Anyone like to testify in a neutral capacity today? Come on up, please. [LB471]

DEB BASS: (Exhibit 3) Good afternoon, Senator Cook and members of the committee. My name is Deb Bass. For the record, that is spelled D-e-b B-a-s-s. I am the chief executive officer of the Nebraska Health Information Initiative, also known as NeHII. I want first to say that we are taking a neutral stance with this legislation. To begin, I'd like to give you a brief background on NeHII. It is a nationally recognized system that allows healthcare providers to exchange healthcare records in a secure environment. We are a health information exchange. NeHII is not a data warehouse. We do not collect the records. We allow them to be exchanged. The best analogy is probably to roads. NeHII is the highway better known as an exchange. We are not the trucking companies nor the stores on the end of the highway. NeHII is a nonprofit, public/private collaborative whose participants include healthcare providers, insurance, and the state of Nebraska. NeHII's goal is to improve the quality and safety of healthcare through the exchange of medical information, all medical information, completely free of charge to the patient. Fifty-two percent of the beds in the state are already connected. More than 4,000 hospitals, medical clinics, physicians, pharmacists, and various healthcare professionals currently participate in NeHII across Nebraska. NeHII is supported largely with funds from our participants. We have built a system Nebraskans can be proud of. It has been described by physicians and office staff as easily used, even for non-computer wizards. However, NeHII, as a nonprofit, public/private collaborative, will not be able to meet unfunded legislative demands because of very limited budgeting for additional functionalities. Therefore, the state must provide the necessary resources to complete any added request for functionalities. Ultimately, however, we believe that

Nebraskans benefit when their healthcare providers have a good way to share electronic health records across the state. Better data will help with better coordination of care which leads to better outcomes at a lower cost for Nebraska. As stated, NeHII is neutral on the advancement of LB471 and I would be happy to answer any questions you may have. [LB471]

SENATOR COOK: Thank you, Ms. Bass. Are there questions? Senator Crawford. [LB471]

SENATOR CRAWFORD: Thank you, Senator Cook. Thank you, Ms. Bass, for your work with NeHII and for coming to testify. So is the funding that's discussed in the bill appropriate, you think, for what you'd be asked to do? [LB471]

DEB BASS: I think it would be appropriate for us to define the exact costs that the bill outlines. Mandating consumer participation in NeHII would require changes to our policies and also reeducation of all of our providers. Because we are a health information exchange, we are required by the federal government to protect the security of the information and also to abide by a consumer's wish for privacy. So, you know, we are not allowed to use fax to exchange information. That's not considered secure in our world. So there are...we are a health information exchange. I think some of the confusion here is what others called PDMPs. Those are separate, standalone systems and they're just beginning to integrate those with electronic health records. NeHII is the connection piece between electronic health records. We do provide the medication history from Surescripts, the pharmacy benefit manager, and they're also sending us their retail data. Do we have all of the information? No. That's very difficult, as you're constantly working to connect all of these systems electronically. But we have proven from our history that we're trying to work with the state of Nebraska to deliver the functionality. We were the first state that incorporated PDMP into health information exchange. Eight other states are following us. Now, some of those have taken what they have with their traditional PDMPs and integrated that into their HIE. But there is a movement going on for that. [LB471]

SENATOR COOK: Thank you. Do you have another question? [LB471]

SENATOR CRAWFORD: Yes, thank you. [LB471]

SENATOR COOK: Senator Crawford. [LB471]

SENATOR CRAWFORD: Thank you. So what I recall from other previous discussions is the challenge of patients being able to opt out. So I guess, if we pass this bill, is that something that we can...is there a way for us to work with NeHII to make it possible to have a system that doesn't allow an opt out for this function, anyway? [LB471]

DEB BASS: That...there's two areas there. There's the technical capability. We're moving to a new platform, have had conversations with our vendor to accommodate that. The other piece are the policies and then the reeducation. And everyone that presents is given a NeHII brochure and educated about NeHII. We would have to rewrite that to say...and it is true. When we're just talking about the medication history, that is considered public safety. And we do not have to abide by consent for a patient. But because we had the older platform, we didn't have the ability to break that out. And we will have that with the new platform... [LB471]

SENATOR CRAWFORD: Okay. [LB471]

DEB BASS: ...that we're scheduled to start April 1 of this year to begin this migration. [LB471]

SENATOR CRAWFORD: Okay. Thank you. [LB471]

SENATOR COOK: All right. Senator Kolterman. [LB471]

SENATOR KOLTERMAN: Thank you, Senator Cook. Ma'am, can you tell me...there...the PBM...you referred to one PBM, and was that script? [LB471]

DEB BASS: Surescripts, yes. [LB471]

SENATOR KOLTERMAN: Surescripts. Aren't there an abundance of PBMs? That's not the only PBM that's out there. [LB471]

DEB BASS: There are other PBMs. You're correct. Now, Surescripts claims that they have the majority. They tell...we have had many conversations with them as we're looking for the gaps, because health information exchange is about connecting all the pieces and closing the gaps. And I will be the first to tell you, no, we don't have 100 percent of the information of the prescriptions of controlled substances. We don't have any mandated reporting laws in this state. In order to have a traditional PDMP that the others are talking about, you have to have a mandate to report all those to a system. And that's our other concern with NeHII, is that, you know, when we say all controlled substances must be reported to the system, you know, we're going to have to be able to collect those. So, you know, I think that the funding that is outlined would be wonderful for a study to look at what it is going to cost to do that and what direction to go, but these are very complex matters. And now, you know, I will say that we have seen...I will not deny the fact that we have issues in the state. NeHII...we've identified situations where an individual presents in an emergency room and tells his provider, I've been in an ED three times in the last 12 months. In NeHII with our transcription reports and the ED reports that are in

there, that individual had been in an emergency room 32 times in the last 12 months. Look at the dollars that could be saved if we can identify those individuals. We've also found situations where they've moved from one emergency department to another within 30 minutes and they were able to get prescriptions for controlled substances at the first emergency room. So...and we have all of that health information, whereas the traditional PDMPs are only collecting the controlled substances. We have the complete medication history, as much as we can get, and we also have these ED visits so that the providers can look at those reports. [LB471]

SENATOR KOLTERMAN: Okay. Thank you. [LB471]

SENATOR COOK: Thank you, Senator. Additional questions for Ms. Bass? Seeing none, thank you very much. [LB471]

DEB BASS: Thank you. [LB471]

SENATOR COOK: Mr. Committee Clerk, are there items for the record? [LB471]

BRENNEN MILLER: (Exhibits 4, 5, 6, 7) Yes, thank you, letters from the Nebraska Board of Optometry, Jennifer Green, the Department of Health and Human Services, and the Nebraska Hospital Association. Thank you. [LB471]

SENATOR COOK: Thank you. Senator Howard, would you like to close? [LB471]

SENATOR HOWARD: I would just like to thank the committee for taking the time on this bill. This is obviously very close to my heart and very personal. I once had a colleague say, I know what happened to your sister, but we don't talk about that in polite company. And for me, I feel like I talk about it in all kinds of company because I don't know how to fix it unless I talk to people about it. And so I really appreciate the committee taking the time to have this conversation today because it is so important to our state and to my family. So thank you. I would be happy to try to answer any questions you may have. [LB471]

SENATOR COOK: Okay. Thank you, Senator. Questions for Senator Howard? Senator Riepe. [LB471]

SENATOR RIEPE: Thank you. In the letter that we received from DD...the Department of...DHHS, they talked about the cost of $500,000, half a billion (sic) in the start of this. But they also noted that there was an ongoing cost. And they were...do we have any idea in terms of what

that...that always scares me when I don't have any idea. It's like walking into a blind closet. I don't know. Then I have a second question, but... [LB471]

SENATOR HOWARD: Certainly. So that is a good question. Right now, the state of Nebraska is already working with NeHII and already has staff in place. So this addition is actually a little bit of a surprise. And so I would have to work with DHHS to really drill down as to how many additional staff they would need since my understanding is that they already have staff managing a contract with NeHII. [LB471]

SENATOR RIEPE: Okay. My second one is, and Mr. Mueller can probably support this one, is that, can we expect the pharmaceutical industry to pay for this program through some form of a fee or a tax? [LB471]

SENATOR HOWARD: You know, I have never considered that. But I would be happy to circle back with them... [LB471]

SENATOR RIEPE: I'm... [LB471]

SENATOR HOWARD: ...to see if they would be willing to pay more money (laughter) for this program. [LB471]

SENATOR COOK: All right. [LB471]

SENATOR RIEPE: Thank you. Thank you. [LB471]

SENATOR COOK: Do you have any more questions, Senator Riepe? [LB471]

SENATOR RIEPE: I don't think so. Thank you. [LB471]

SENATOR COOK: All right. Any more questions for Senator Howard? Senator Kolterman. [LB471]

SENATOR KOLTERMAN: Yeah. Senator, I see the need for this. I've actually been in a family situation where we've had abuse, and not my personal family but extended family, and it is very difficult to overcome it. To spend this kind of money sounds like a lot, but if we can save it on the downside, that's also...I mean, it's a net gain and if we can save a life. But the other issue that I ask is, are there...do you know, are there federal monies? It kind of dovetails off of Senator

Riepe. Are there any federal monies available that we could through grants or...to get the program started? Because it is a...I mean, once you put something like this in place, there's going to be ongoing costs associated with it. There's no question about that. Anytime you talk about computer software, that's...I mean, that's really what we're talking about, secure computer software. [LB471]

SENATOR HOWARD: Right. That's a good question. I don't know about any federal grants that are currently available, but in the history of this bill, when my mother introduced it, she actually had to put an explicit prohibition that no state funds would be used but it would be included in the work of NeHII and encouraged for NeHII to do this work but that we wouldn't use any state funds. And so Senator Lathrop's bill got rid of that prohibition so that we were able to make an investment. I try to think of the comparison between...right now we have a system that is really brilliant. A lot of states are copying us in terms of what NeHII is doing. It talks to providers. It talks to pharmacies, the pharmacy benefit managers, and the prescribers. This is brilliant because often what happens is you'll build a standalone prescription drug monitoring program that would potentially be more expensive than the allocation that we are currently offering to NeHII. And it wouldn't be able to speak to all of those parties. And so NeHII is sort of the gold standard of what we could do for a prescription drug monitoring program. And in my view, it is cheaper because it's already there. [LB471]

SENATOR KOLTERMAN: Okay. Thank you. [LB471]

SENATOR HOWARD: Thank you, Senator Kolterman. [LB471]

SENATOR COOK: Thank you. Any additional questions for Senator Howard? Seeing none, thank you very much. This closes the hearing on LB471. [LB471]

SENATOR HOWARD: All right. We will open the hearing on LB452, Senator Hilkemann, to provide advertising requirements under the Uniform Credentialing Act. Senator Hilkemann, go right ahead. [LB452]

SENATOR HILKEMANN: Good afternoon. Senator Howard, members of the Health and Human Services Committee, I am Robert Hilkemann, R-o-b-e-r-t H-i-l-k-e-m-a-n-n. I represent District 4 of west Omaha and I'm here to introduce LB452. LB452 is brought on behalf of the Nebraska Medical Association. It seeks to create a baseline which all health occupations and professionals are regulated under the Uniform Credentialing Act and can follow as a guide in their healthcare advertisements. The bill amends the Uniform Credentialing Act, Section 38-124 by requiring ads for healthcare services to identify the credentials applicable to the provider that's doing the advertising. LB452 also requires that ads not include any deceptive or misleading

information or information that misstates, falsely describes, or falsely represents the provider's skills, their training, expertise, education, board certification, or credentials. As we are doing during the course of this session and the hearings, we are--having had some floor debates this session--we are finding that--more and more--that medical services overlap between MDs, DOs and now possibly nurse practitioners. Practices are constantly changing. Scopes are constantly changing. And so this bill will directly address that as far as advertising who's actually performing the services or who the...and so this would correspond well, Senator Crawford, with LB107 that you've created. We need to look at openness and transparency. These are the words that we want to have. It's going to become...it's going to behoove the public. And that's where that responsibility is, that who's providing their healthcare for them. And so this way, they will...if there's an advertisement out there, they'll know that this is...is this going to be provided by an MD, a podiatrist? Is it being by a DO or a nurse practitioner? Let the public decide but let the public know who's going to be providing their care, not just that we're a pain clinic. Who's involved with pain clinic, that sort of a thing. So this is what this is...this gets really down to truth in advertising type of a bill. We have spas. We have health clubs. We have different clinics that are setting up for Botox injections, facials. Who's doing it? This is letting the public know who is providing that service. This bill also provides for some disciplinary action for denying or refusing renewal by...or by denying, refusing...renewal to it...be revoked for people who are outside their scope or are...so we have those leverages there within the...our credentialing type committees. There are going to be some others who will speak relative to LB452. And with that I would answer any questions that you may have. [LB452]

SENATOR HOWARD: Thank you, Senator Hilkemann. Are there any questions for Senator Hilkemann? [LB452]

SENATOR RIEPE: I have a... [LB452]

SENATOR HOWARD: Senator Riepe. [LB452]

SENATOR RIEPE: I have a good question for a good senator. My question is this, Senator Hilkemann: Is this limited to the credentials of the individuals in terms of this information or is it...does it go to the point of...I think there was something in my notes in the letter from DHHS about advertising. And so my question is this: Who decides? Who decides whether it's in good taste and I... [LB452]

SENATOR HILKEMANN: It's going to be decided... [LB452]

SENATOR RIEPE: ...because I can smell a lawsuit coming, you know, right off the bat, that... [LB452]

SENATOR HILKEMANN: Yeah. It will be determined by the licensing boards of those disciplines. [LB452]

SENATOR RIEPE: Of each discipline? [LB452]

SENATOR HILKEMANN: Of your medical boards, that's correct. [LB452]

SENATOR RIEPE: For the physicians but, like, for the clinical nurse practitioners, it would be their board, or is it one collective board that's deciding for all the professions that are in there? [LB452]

SENATOR HILKEMANN: That would be each of these...each of the... [LB452]

SENATOR RIEPE: Each. [LB452]

SENATOR HILKEMANN: ...as is...right. [LB452]

SENATOR RIEPE: So they might all have different standards? [LB452]

SENATOR HILKEMANN: Right. That's correct. [LB452]

SENATOR RIEPE: Okay. Okay. Thank you. [LB452]

SENATOR HOWARD: Any other questions for Senator Hilkemann? I...we should note, Senator Baker has joined us. Senator Hilkemann, will you be staying to close? [LB452]

SENATOR HILKEMANN: I will. [LB452]

SENATOR HOWARD: Thanks so much. The first proponent for LB452? [LB452]

ANN FROHMAN: (Exhibits 8, 9) Good afternoon, Senator Howard, members of the committee. My name is Ann Frohman. For the record, A-n-n F-r-o-h-m-a-n. I'm here to testify in support of LB452 on behalf of the Nebraska Medical Association. As the senator indicated, we applaud the efforts to introduce a bill this year to address advertising of practitioners, credentialed practitioners, in the state. And with that, we had some history last year. We had brought a bill that was an American Medical Association model that was much more comprehensive and

detailed. And we decided to pause, regroup, come back this year after listening to the committee's concerns that we really didn't have a worse story on a nametag piece of that bill and that we just wanted to focus this session on where the real concerns are. And so with that, we put together a bill that is much more fine-tuned to address the issues of advertising, getting standards in there. Right now, in the Credentialing Act, there are several areas where there are comprehensive advertising rules. Optometrists have some, for instance. And then there are other areas in some of the nursing areas where they don't really have any advertising rules addressing that. So what we felt was it would be good if we just had it all across the board to address and set a baseline that everyone has to follow, in particular not misrepresenting your advertisement and simply, as the senator said, use your credential when you advertise. I have handed out two documents for your review. One is a letter from the American Medical Association who still supports our efforts although it is not, you know, per se their bill. We are behind a campaign to know your provider and this is a big part of that campaign nationally recognizing with all of the changes going on in the delivery of healthcare that this is really a paramount effort to make sure that the public really understands and appreciates the credentials that folks have worked so hard to obtain. The second document that I have handed out is a copy. You'll see on the chart at the top highlighted in red are those states that have some sort...have, as part of this Know Your Provider campaign, have engaged in efforts legislatively to adopt some measure, not verbatim the AMA measure, but like us, some measure that will standardize and get out there the message that we want the public to understand and appreciate what these credentials are about. On the next page, "Who is a Medical Doctor," this is a survey that was performed by the AMA which was interesting to us. It was conducted twice. I think they did phone surveys of 850 individuals and asked them the questions on, you know, who was a medical doctor. And we think that this just goes to show that there is an underlying need here to get the message out and get people to start thinking about who they are seeing in terms of providing their care. And to give you kind of a sense of what we are talking about with respect to advertisements, we also included in there a few advertisements that will give you kind of a sense of what falls inside and what falls outside. And you will see one advertisement that has an individual and her credentials on it, an NP, for instance, and we view that as a perfect advertisement with which we would have no concerns. And it's the one, "can we help you turn back the clock." So that is an example of how we feel an advertisement should show a credential to give folks meaning in terms of their information. The next page...on the back we'll see one where it mentions a doctor, come see us for knee pain, however we do not know what type of doctor this individual is. After further research, we learned that it was an osteopath. Good to know, but this is the sort of thing that we think this bill will help us because it will, you know, get the credential out there, the osteopath credential. And finally, as the senator mentioned, we're in a world of, you know, new types of cottage industries and in medicine one is the medical spa. And this third one that we have provided is an example of where we think there needs to be improvement. This is a Web site that does not indicate who the physician is who is providing the medical services related to this clinic. We searched everywhere on the Web site and there was no physician listed. However, when we made an

inquiry of the office, we did learn that there is a physician who does provide medical procedures. And so this bill would require on a going forward basis that the physician be identified and that credential be identified to the extent the physician is providing medical services. So that is why we would like you to advance this bill. [LB452]

SENATOR HOWARD: Thank you, Ms. Frohman. Are there questions? Senator Riepe. [LB452]

SENATOR RIEPE: Thank you. I have a question. Is the Nebraska Medical Association also in full support of providing data and other information so that consumers could get online and find out (a) the number of cases they've had, probably the acuity of those cases, and then hopefully some idea of the outcome so that they could be better consumers which would then bridge some of the advertising and credentialing so you're looking more towards outcomes and not credentials? [LB452]

ANN FROHMAN: Okay. Quality of delivery of services, that sorts of... [LB452]

SENATOR RIEPE: Well, I want to... [LB452]

ANN FROHMAN: ...when you say claims, there's interesting. There's legal claims, you know, filed in civil cases and then there's investigatory claims that are disciplinary related and, you know, database information as well. And some of that, you know, you have to kind of fetter through what's frivolous and what isn't. But recognizing that there is some value there to get more information out there. [LB452]

SENATOR RIEPE: I'm not thinking so much about legal claims as I am about...you know, a lot of times, the assumption is, the more you do, the better you do it so that...and I know recently there was a physician up in Norfolk who was doing some knees and supposedly he's having very good outcomes. And I'm...those of us from Omaha kind of look and say, can that really be that it would happen in Norfolk and not in Omaha? You know, that's an arrogant attitude, but my question gets to be...is if I'm going on the Internet and I see that this doctor has done 1,000 and another doctor has done two, I'm probably going to go for the guy that's done 1,000. [LB452]

ANN FROHMAN: Valuable information to have, yes. [LB452]

SENATOR RIEPE: And that...well, I'm just curious. Is the Nebraska Medical Association helping to support to get that information to the consumers? [LB452]

ANN FROHMAN: I think they would welcome a discussion on it, how to do it. [LB452]

SENATOR RIEPE: Okay. Thank you. [LB452]

SENATOR HOWARD: Senator Cook. [LB452]

SENATOR COOK: Thank you, Senator. And thank you, Ms. Frohman. So I'm looking at the med spa ad and the...this proposal would require, because it says the word medical aesthetics treatments, to, within the advertisement or to be able to click down on one of these--this looks like a Web site printout--to find the name of the medical professional and her or his credentials because it has to do with medical. [LB452]

ANN FROHMAN: There were more pages to this. [LB452]

SENATOR COOK: Oh, okay. [LB452]

ANN FROHMAN: And there...I didn't print them all off, but there were medical procedures going on, yes. [LB452]

SENATOR COOK: All right. Beyond the...oh, okay. Thank you. [LB452]

ANN FROHMAN: Yes. [LB452]

SENATOR HOWARD: Senator Crawford. [LB452]

SENATOR CRAWFORD: Actually, that was my question as well. I was trying to figure out if the purpose is, if someone calls themself a doctor or puts their name on it, it needs to have credentials with it or if you mean more broadly, any kind of medical service advertised at all, needs to include name and credential, what the intent is. Those are two different things as I understand it. [LB452]

ANN FROHMAN: Okay. The intent is twofold. On the one is, use your credential if you advertise. So, yes, you're going to use your name. You're going to advertise, you're going to use your name. So I think it takes care of both of them. But the other one is, let's not misrepresent what we're doing here. And so in this one there's a little bit of a confusion, because right now we said, well, what is exactly being provided? By providing your name and your credential, that tells a lot in terms of what the public can learn about the different practices that are out there. [LB452]

SENATOR CRAWFORD: So on the spa advertisement, I guess I'm trying to find what looks like medical services. [LB452]

ANN FROHMAN: It's not in there. [LB452]

SENATOR CRAWFORD: Oh, okay. [LB452]

ANN FROHMAN: I didn't print off all the pages. [LB452]

SENATOR CRAWFORD: Okay, okay, okay, okay. [LB452]

ANN FROHMAN: But that...it's...if you go to the Web site, yes, there's a lot going on medically. [LB452]

SENATOR CRAWFORD: Okay. Okay. I can check that out. [LB452]

ANN FROHMAN: We did print off the "about us" on the back and I...maybe I should have had that other page in there. I apologize. [LB452]

SENATOR CRAWFORD: That's okay. We appreciate trying to save trees. (Laughter) [LB452]

ANN FROHMAN: We were trying. [LB452]

SENATOR HOWARD: Any other questions for Ms. Frohman? Seeing none, thank you for your testimony. [LB452]

ANN FROHMAN: Thank you. [LB452]

SENATOR HOWARD: Our next proponent. Good afternoon. [LB452]

MARK PTACEK: Hello. Hi. My name is Mark Ptacek, Mark, M-a-r-k, Ptacek, last name, P-t-a-c-e-k. As I've already addressed the group once, I won't go through my history. Just to let you know that I am in support of LB452 because we need to give the consumer the right information at the right time. Medicine is changing so dramatically. It is becoming a consumer-driven product. They have to...the consumer has to be able to make the decisions that they need to make. And medicine is so complex that without the correct credentialing and the correct

information, it's impossible for our patients to make those decisions. When I was in O'Neill I did a radio show once a week and every year we had what we called medical alphabet soup. And we would literally go down all of the credentials of the people that we had in our facility. So there were PAs. There were PACs. There were NPs. There were FNPs. There were MDs. There were DOs. And we would explain that to the people in our area and let them know that there are differences and they have to be aware of those differences. As several examples that I have of how easy it is to be confused, we had a PA working in one of the small towns in O'Neill and was constantly referred to as doctor. That PA did not dispel that. And that was the reputation that he carried for a long time. It is difficult, being a physician, to know what information you're getting when you're getting information from a PA or an FNP who literally will be a doctor or could be a doctor or say that they're a doctor. So that changes things. The other example that I'd like to give is, last Saturday I received a call. I was in the...or I was taking a call at the Medical Center for the Clarkson Family Medicine Residency program. We got a call from a small town in Iowa that wanted to transfer me a patient. And the receptionist got this doctor on the line for me and I talked to the doctor and she described a situation where this patient had diverticulosis-it was her second case--which is small pockets in the colon. She had a small infection. It wasn't anything really big. And I'm trying to decide, why would you want to send this patient to a tertiary care center, because they were doing everything correctly. And I eventually said, you are doing everything correctly. You do not need to send us the patient. And I said...and then eventually I tried to clarify who I was talking to and she said, I am a nurse practitioner. I'm covering the hospital this weekend. And frankly, they would just like to talk to a doctor. So we transferred the patient to the Medical Center so we could get an opinion to satisfy the patient. And I think the point of those two stories is, it is so easy to assume. And the receptionist assumed I was speaking to a doctor. I assumed that I was speaking to a doctor. And I think we have to give the patients the information that they need to make informed consent. The biggest issue that I have right now, again, is that the deductibles that we're starting to see are going in to the $5,000 and $10,000 range. And I often, when my patients ask me if they should get a second opinion, I tell them that I get a second opinion when I buy a battery. So if it is your body, you have the right to get a second opinion. And I think you also have the right to know who you're speaking to. You have to know how that person is credentialed, how they were educated, to make an informed decision about what your life is going to be like pre- or post-surgery or pre- or post-illness. So I think it's very important. When I'm making rounds, I oftentimes run into patients with their Coca-Cola. Okay? I'm not a great sugar...Coca-Cola fan. I'm a diet fan for the most part. But one of the things that I have noticed, and I'm sure you've all seen it, is now they have to put, by law, the number of calories on a Coca-Cola can. That's 140 calories. That allows me to bring that up with the patient in a way that I never could before. Even though that information was on the back of the can, it was not that...it wasn't discreet. It wasn't there. And now I can say, do you realize that that 144 calories of sugar is equal to a breakfast or a mid-meal snack and it is not nutritionally what you need? So even though the information existed, the way we present the information to our patients is so important, and that's why I stress support of this bill. [LB452]

SENATOR HOWARD: Thank you, Doctor. Are there questions? Seeing none, thank you for your testimony today. Are there other proponents? Good afternoon. [LB452]

BILL MUELLER: (Exhibits 10, 11, 12) Good afternoon, Senator Howard and members of committee. My name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska Dermatology Society and the Nebraska Academy of Eye Physicians and Surgeons. I've handed Mr. Miller, your committee clerk, letters from the American Society of Plastic Surgeons, a letter from the American Academy of Facial Plastic and Reconstructive Surgery, and a letter from the American Osteopathic Association. Each of these groups supports LB452. I think each of you understand the challenges with determining the credential of the person with whom you are dealing. And if you watch any television or listen to any radio or open any telephone book, you know the challenges in determining the credential of the medical person with whom you are dealing. This bill attempts to address that. It does it in a way that we think is not overly burdensome. There are many ways to skin this cat, and I think that the Medical Association has made an effort to try and balance providing good information with having a system that is not overly burdensome. We would support the bill. We think the patients--and we are all patients at one point--have a right to know with whom we are dealing and what their credential is. Be happy to answer any questions that the committee may have. [LB452]

SENATOR HOWARD: Thank you, Mr. Mueller. Senator Riepe. [LB452]

SENATOR RIEPE: Thank you. Thank you for being here. [LB452]

BILL MUELLER: Thank you. [LB452]

SENATOR RIEPE: My question: Is board certification a fundamental baseline, that you must be board certified that... [LB452]

BILL MUELLER: Well... [LB452]

SENATOR RIEPE: ...for...to try to promote, like, plastic surgeons and for the consumer that that's the gold standard? [LB452]

BILL MUELLER: Well, I think that it is... [LB452]

SENATOR RIEPE: All right. [LB452]

BILL MUELLER: ...the gold standard although I don't know that there's board...well, I know that there's not board certification in every medical credential specialty, but I think that that is something that a patient should look at. That's certainly something that I look at when I'm dealing with, in this case, physicians. [LB452]

SENATOR RIEPE: I only know that...enough to be dangerous, but I know that some physicians are getting into plastic surgery who maybe aren't board certified, who maybe aren't qualified, because there's money to be made there. [LB452]

BILL MUELLER: Yeah. And again, I'm not here on behalf of the plastic surgeons. I was simply asked to provide you their letters. [LB452]

SENATOR RIEPE: Okay. [LB452]

BILL MUELLER: I should have made that clear. I'm not representing them. I'm not here to speak on their behalf. But I'm guessing that that is the reason that they provided us letters. There are many people who are providing cosmetic surgery and all sorts of surgery that is not necessarily tied to a specific board certification or a specific medical specialty. [LB452]

SENATOR RIEPE: Okay. Thank you. [LB452]

SENATOR HOWARD: Any other questions for Mr. Mueller? If not, thank you for your testimony. [LB452]

BILL MUELLER: Thank you. [LB452]

SENATOR HOWARD: Any other proponents? Anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, Senator Hilkemann, you are up. [LB452]

SENATOR HILKEMANN: Thank you for hearing this LB452. Senator Riepe, let me just...on the whole idea of board certification... [LB452]

SENATOR RIEPE: Uh-huh. [LB452]

SENATOR HILKEMANN: You know, there are organizations out there, believe it or not, that try to...if you send them in $500 or $800 or whatever else, they'll say that you're board certified in

such and such. Or they could say that you're part of the American board of skin surgery or something of that sort. Well, that's kind of a bogus board or...and these are the type of things...this is the exact truth in advertising that we're talking about, because that's not the American Board of Dermatology or the...so those are some things that can happen that are out there. So this gives you...if you're trying to pass off yourself as board certified, you better be board certified by an organization that truly represents dermatology or something of this sort. Is that...does that answer that question for you? [LB452]

SENATOR RIEPE: Yes. [LB452]

SENATOR HILKEMANN: I'm going to close by just making up a story. I'm at that age where sometimes you get...you...they say, do you have low energy, low libido, life isn't what you used to be, you know? And you go on it and they'll say, maybe you need HCG or maybe you need testosterone levels or...and they'll say, this is the male center or whatever else. Who is behind the male center? This is what, really, this is all about. It may...that doesn't mean that they can't be out there. It just means, by golly, we...you better...is this MDs that are behind this? Is this people who are selling nutraceuticals or whatever else? This makes the public aware of who's doing the advertising. And it's not...it sounds...some of these things sound so great. But let's make certain that the people who are providing these services truly are the type of specialists that should be running a male center or something of this sort. So with that, I will close, and thank you very much, Senator Howard. [LB452]

SENATOR HOWARD: Thank you, Senator Hilkemann. Are there any other questions for the senator? [LB452]

SENATOR RIEPE: I, of course, have a question. [LB452]

SENATOR HOWARD: Senator Riepe. [LB452]

SENATOR RIEPE: Is there a fiscal note on this? I didn't... [LB452]

SENATOR HILKEMANN: No. No, there is no fiscal note on this. [LB452]

SENATOR RIEPE: Okay. So it's kind of a consumer protection kind of thing. [LB452]

SENATOR HILKEMANN: It is consumer protection 100 percent. [LB452]

SENATOR RIEPE: Who pays for it? Is that going to be the association? That would be somebody else straight across? [LB452]

SENATOR HILKEMANN: Well, that will be...it will...it's administered through the Health and Human Services or the department of...yeah, the Department of Health and Human Services. They...licensing and so forth. [LB452]

SENATOR RIEPE: But they don't think that there is an added cost to that? They have it in... [LB452]

SENATOR HILKEMANN: Well, they're already...there's already administration that they're doing all the time to make certain people are practicing within their scope and answering complaints from the public. [LB452]

SENATOR RIEPE: Okay. We'll take it up in Exec. [LB452]

SENATOR HOWARD: Okay. Any other questions? Brennen, are there any items for the record? [LB452]

BRENNEN MILLER: (Exhibits 13, 14, 15, 16, 17, 18, 19) Yes, Senator, letters from the Board of Medicine and Surgery, Health Center Association of Nebraska, American Medical Association, Nebraska Nurse Practitioners, American Society for Dermatologic Surgery Association, Department of Health and Human Services, and the Nebraska Hospital Association. [LB452]

SENATOR HOWARD: Thank you, Brennen. And with that, we will close the hearing on LB452 and we are done for the day. Thank you, Senator Hilkemann. [LB452]

SENATOR HILKEMANN: Thank you very much. [LB452]