[LB223 LB586 CONFIRMATION]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, March 23, 2017, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on an appointment to the Commission for the Deaf and Hard of Hearing, LB223, and LB586. Senators present: Merv Riepe, Chairperson; Sue Crawford; Sara Howard; Mark Kolterman; Lou Ann Linehan; and Matt Williams. Senators absent: Steve Erdman, Vice Chairperson.

SENATOR RIEPE: (Recorder malfunction)...this Thursday here at the Health and Human Services Committee. I'm Merv Riepe, I'm the Chairman of the Health and Human Services Committee. We're pleased that you're here. This is your opportunity to participate in Nebraska process of lawmaking. So every bill in Nebraska, you know, is entitled to a hearing, and we live up to that and we encourage people to participate in that. The committee will take up the bills today, we start off with an appointment, and then we'll have two bills. We'll take those in the order that they're listed on the agenda. You will also see some of the committee members at times come and go. They have other hearings to open on or they are going to be testifying. I have a bill that I'm going to open for in Judiciary in a matter of minutes, so I will be leaving here shortly. I'm assuming Senator Erdman, the Vice Chair, will be here to assume the responsibilities if I'm not. If not, I'll probably ask Senator Kolterman down here on the end. To facilitate our process today, and I'm holding off just a little bit, I'm going to have everyone introduce themselves, but I'm holding off in case we get a couple of more here. We would ask you to please silence or turn off your cellphones. If you're testifying, to help move the process along, we ask you to move to the front rows so that we can know who we have and how many. The process here in the Health and Human Services Committee, like other committees, works that the senator who is introducing the bill will come introduce himself or herself and then they introduce the bill and they are unlimited time. Or somewhat limited time. Following the introduction, we will then go to proponents. Once we've gone through the proponents, we'll go over to the opponents. And then we will go to the neutral. And then the senator that's introducing will have an opportunity to come back for closing. We would ask those of you who are testifying to make...to sign in. We have some orange sign-in slips that one of the pages will pick up and Tyler, the clerk over here, will handle that. When you come to the seat, we ask you to state your name and spell your name, that's for the record so that we can keep that clear. We run here in the Health and Human Services Committee on a five-minute fly. You will have four minutes, you'll see the lights in front of you. If you're testifying, you'll have four minutes on the green; one minute on the amber; and then you'll have a red light. And when the red light comes on, we ask you to try to conclude, draw together your remarks. We won't be abrupt on that, but if it goes too far over I will probably interrupt and ask if you can pull it together out of respect for everyone else that's here to testify. We like to try to get people out of here as best we can. If you will not be testifying at the microphone, but want to go on record as having a position on a bill being

heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. We also, if you are coming up to testify, we ask you to bring your slip, but also 10 copies for the committee members. If you don't happen to have your 10 copies, please let us know. One of our pages will run out there lickety-split and they'll get back here and get those copies made and get them back to us. Okay. I think we'll go ahead and introduce our committee members, starting over here with the senator.

SENATOR KOLTERMAN: Senator Mark Kolterman from Seward, District 24: Seward, York, and Polk Counties.

KRISTEN STIFFLER: Kristen Stiffler, legal counsel.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford, LD45, which is eastern Sarpy County; eastern Bellevue; and Offutt.

SENATOR WILLIAMS: Matt Williams, Legislative District 36, from Gothenburg, which includes Dawson; Custer; and the north parts of Buffalo Counties.

SENATOR LINEHAN: Good afternoon. Lou Ann Linehan from District 39, which is Elkhorn; Waterloo; and Valley in Douglas County, Nebraska.

TYLER MAHOOD: Tyler Mahood, committee clerk.

SENATOR RIEPE: Thank you very much. Today we have two pages. One of our regulars is Jordan Snader, who is from Oakland, Nebraska. And I apologize. Our second one, would you announce yourself, please?

HANNAH SEITZINGER: I'm Hannah Seitzinger, I'm from Minneapolis, Minnesota.

SENATOR RIEPE: Okay, great. Thank you so much. They are a great help to us, and we appreciate that. We are going to start off with our appointment. And with that, we have Dr. Frank Turk. Is Dr. Turk here? While he's coming up here, I wanted to note that he has both a lodge and a lane named after him. So that's pretty impressive.

DR. FRANK TURK (THROUGH INTERPRETOR): Do I start by stating my name? I am Dr. Frank Turk, F-r-a-n-k T-u-r-k, with the Nebraska Commission for the Deaf and Hard of Hearing.

I decided to continue for another term because of the wonderful leadership of our exploitive director, John Wyvill, who is over here, and his outstanding staff...like my interpreter who is in front of me today, Jenny (laughter). If you know what a world-class interpreter looks like, she looks like that (laughter). She is about to rule the world. She is one of the very few interpreters who can actually interpret for me without risking her sanity. John's leadership at the commission really emphasizes four things: the first one being integration, collaboration, partnership, and reciprocating. He has chosen his leaders from four of the biggest to collaborate, integrate, partner, and reciprocate with him with those four retirees like me. I am 87 years old. And seniors, 55 and older but who are still working, and millennials, those group of people who think that they know it all, and their faculties. Those are the four components. And when all of us work together, incredible things can happen. And that is why John's wonderful way of doing things for the commission and for all deaf and hard-of-hearing people in the state of Nebraska is wonderful. Another thing I wanted to add about the Nebraska commission is the leadership of Governor Ricketts and President Bounds. Both of their leadership, they are true leaders with the idea of working with others. And that's why I am seeking to be reappointed today. Any questions? [CONFIRMATION]

SENATOR KOLTERMAN: Yes, Senator Williams. [CONFIRMATION]

SENATOR WILLIAMS: Senator Kolterman, thank you. Thank you, Dr. Turk, for being here. How long have you served on the commission? [CONFIRMATION]

DR. FRANK TURK (THROUGH INTERPRETOR): Four years. It will be four years. [CONFIRMATION]

SENATOR WILLIAMS: And what, during that time, has been one of the greatest accomplishments that you feel has happened on the commission? [CONFIRMATION]

DR. FRANK TURK (THROUGH INTERPRETOR): There's too many to even mention in the time limit that I have right now. But mostly it would be the outstanding thing is all of us work together. And, you know, when we are all in it, there's a lot of things that happen. Before I got onto the board, things weren't very positive. But as soon as John Wyvill came, and he started running the right people, and hiring the right people like Jenny, things definitely turned on the upside. And our limit is...the limit is the sky, or the sky is the limit. [CONFIRMATION]

SENATOR WILLIAMS: Thank you for your commitment. [CONFIRMATION]

DR. FRANK TURK (THROUGH INTERPRETOR): You're welcome. [CONFIRMATION]

SENATOR KOLTERMAN: Senator Howard. [CONFIRMATION]

DR. FRANK TURK (THROUGH INTERPRETOR): And the sign for "I love you" is (signs) that. Just something to learn today. When you get into a fight with your spouse, you just make sure you flash that in their face and your problems will be solved (laughter). [CONFIRMATION]

SENATOR KOLTERMAN: Senator Crawford, I'm sorry. [CONFIRMATION]

SENATOR CRAWFORD: Thank you, Senator Kolterman. And thank you, Dr. Turk, for that wonderful advice for us as well. I just wanted to congratulate you again for all your accomplishments and thank you for serving on the commission. We really appreciate your service. And it's nice to see you again. I was able to get a chance to meet you when you came before our committee when you were first appointed to the board. And I appreciate hearing how well things are going on the board. And I appreciate your service to make sure that that happens and continues to happen. And I appreciate your education background and your service on the board. And congratulations on being Deaf Senior of the Year last year. [CONFIRMATION]

DR. FRANK TURK (THROUGH INTERPRETOR): You can all rely on me anytime. [CONFIRMATION]

SENATOR KOLTERMAN: You're not going to get away that easy, Dr. Turk. Any other questions? I have a couple. First of all, thank you for serving, and your willingness to serve. I plan to support your...vote to renominate you, but I have some serious concerns about the fact that you only have three pages of credentials instead of four. [CONFIRMATION]

DR. FRANK TURK (THROUGH INTERPRETOR): (Laughter). I didn't think that was the answer (laughter). [CONFIRMATION]

SENATOR KOLTERMAN: Thank you for coming. [CONFIRMATION]

DR. FRANK TURK (THROUGH INTERPRETOR): Can I go now? You're the one that kept stopping me last time, so I want to make sure. Thank you. [CONFIRMATION]

SENATOR KOLTERMAN: Okay. Any other support? All right. Hearing none, we'll move on to the next hearing. Thank you for coming. LB586, Senator Linehan, to change the requirements for the Prescription Drug Monitoring System. You're ready to open whenever you would like. [CONFIRMATION]

SENATOR LINEHAN: Yes. Senator Kolterman, good afternoon. Thank you, committee. My name is Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n. Today I am introducing LB586. This proposal would keep our Prescription Drug Monitoring Program statute as it is, but add language that would allow the medical director of a managed care organization, MCO, and his or her designee access to the Prescription Drug Program. Currently, only prescribers, pharmacists, and their designees can access the Prescription Drug Monitoring Program, not payers. In January, Nebraska's Medicaid program became Heritage Health, a new healthcare delivery system that combines Nebraska's physical health, behavioral health, and pharmacy programs into a single, comprehensive, and coordinated system for our Medicaid and CHIP clients. Three managed care organizations contracted with the state, and are responsible for providing this comprehensive and coordinated system. The patients they treat either choose the managed care plan they are participating in or they are auto-enrolled. But regardless of how these patients came to managed care, the managed care company has no opportunity to refuse treatment of the qualifying patient. Every member patient is afforded the same benefits. For that reason, managed care organizations are very different from commercial payers. They are fiscal managers for the state's program. The managed care organizations are held to strict directives that you will hear more about after my opening. Their care is measured by outcomes, allowing access to important prescription drug information would provide them one more important tool in managing the bigger picture of the patient's care. Additionally, access to the PDMP would assist the managed care organizations with closer management of those members who are part of the state's restricted service program. This would not benefit...excuse me, this would not only benefit a patient who has an addiction to prescription drugs, it would also potentially allow our MCOs who are contractors to better manage the program by identifying fraud, waste, and abuse. As I mentioned, there are testifiers following me who can provide you with details of how they would use access to better serve patients. I will be happy to try and answer any questions as well, though I am not the expert on this. [LB586]

SENATOR KOLTERMAN: Thank you, Senator Linehan. Are there any questions? I assume you will stay to close? [LB586]

SENATOR LINEHAN: I will. [LB586]

SENATOR KOLTERMAN: All right. Hearing no questions, proponents, please. [LB586]

STEPHEN LAZORITZ: (Exhibit 1) Good afternoon. [LB586]

SENATOR KOLTERMAN: Welcome, Doctor. [LB586]

STEPHEN LAZORITZ: Mr. Chairman, members of the committee, my name is Stephen, S-t-e-p-h-e-n, Lazoritz, L-a-z-o-r-i-t-z. I'm a medical doctor, presently the medical director of WellCare. I started in medicine when dinosaurs were still roaming the Earth, but have been in Nebraska for the past 17 years: First working as a provider for Children's Hospital as the medical director there; then doing utilization case management for a commercial provider; and for the past four years I've been medical director for managed care, first for Arbor Health Plan and now for WellCare. Whether you know it or not, we're seeing a revolution in healthcare delivery among Medicaid recipients in Nebraska. And there are two reasons for this: one is the present PDMP that we have. And I thank Senator Howard for taking the leadership in establishing the PDMP, and I'll tell more about why this is a revolution. But as Senator Linehan said, the real revolution is Heritage Health. For the first time, caring for the most vulnerable patients that we have in the state, most vulnerable citizens, we have a comprehensive program where physical health and mental health and pharmacy are not separate but they're combined together. And so instead of physical health, mental health, we have health. And so managed care organizations are tasked with providing the most cost-effective, most comprehensive, and high quality care for our members. We are not an insurance company, we do not insure anyone. We provide medical care for our members as contracted by the state. One of the parts of our contract that we take very seriously is our restricted services program. You might have heard of the lock-in program, and what that means is that, when we identify someone who is using opioid drugs or any drug in a way that is deleterious to them, we have a committee that reviews that and we have the authority to restrict them to one provider, one pharmacist, or one hospital and manage their care of their total healthcare, including restricting their access to drugs. One of the things that we don't have now, however, is if a member is addicted to opioids or overuses opioids they can buy things for cash and we would never know about it. So those members that use cash are a loophole, and we've seen several members, who have used what they could on Medicaid, supplemented on cash purchases. We are not able to help these people by not knowing about it. The other thing that we're missing is the whole story. We need records about our members. For instance, if someone we identify goes from hospital to hospital seeking drug injections, painkillers, is that someone who is addicted or is that someone with pain that's not being managed properly? For instance, someone with sickle cell disease may not have adequate pain management. We need all of this information to properly manage our patients. We're contracted by the state, very well regulated by the state. And if you want to look at my calendar on my iPhone to see how many meetings with the state I go to, you're welcome to do that. And we have a fiduciary responsibility to the state, to the citizens of Nebraska, to provide high quality, high value healthcare, and to help them get the care that they deserve. So in speaking towards LB586, this bill gives us some tools to help us do this job, tools that we don't have presently, and tools that will help us in this regard. I'll stop now, and I'll be happy to answer any questions you have. [LB586]

SENATOR KOLTERMAN: Thank you, Doctor. Any questions? Senator Williams. [LB586]

SENATOR WILLIAMS: Thank you, Senator Kolterman. And thank you, Doctor, for being here. And I'm going to start with that last comment you made about this bill giving you some tools. Can you more clearly describe what those tools are and how you would use those? [LB586]

STEPHEN LAZORITZ: The tool is the access to the medical director of a managed care organization to access the PDMP. That gives me the ability to look in the drug system to see if any of our members have been...what their pattern of drug use is and also it will include cash payments. So if we get a claim for a drug, that's one way to get it, it's not real time if we use claim data. The PDMP is real time. There's no way of us knowing for cash payments, but the PDMP will give us cash payments. So this just gives us additional information for those members who need it the most. If I had my choice of getting reports on the people in the PDMP or the ones that through Medicaid or the ones that you would cash, I would concentrate on the ones that use cash payments, because they're the ones most likely to be abusing or misusing. Why else would they spend their own cash money to fill prescriptions? So this is a segment that's very important, that's not included in the data that we have available now. [LB586]

SENATOR WILLIAMS: With that access, do you have some kind of a--I'll use the term auditing program--that can then monitor it to red flag those situations like you're talking about? [LB586]

STEPHEN LAZORITZ: Yes. We have a restricted services committee, we have utilization department, case management department and we could take this data. And we have a restricted services committee composed of a psychiatrist, myself, nurses, case managers, and pharmacists, and a data analyst to help us look at the data and see what the patterns are. [LB586]

SENATOR WILLIAMS: Okay. [LB586]

STEPHEN LAZORITZ: So we take this very seriously, enough that we have a committee that deals with this. [LB586]

SENATOR WILLIAMS: But something in that data tracking has to signal this is a case we should look at. [LB586]

STEPHEN LAZORITZ: Yes, absolutely. [LB586]

SENATOR WILLIAMS: Okay. Thank you very much. [LB586]

STEPHEN LAZORITZ: And the committee analyzes that. [LB586]

SENATOR KOLTERMAN: Senator Crawford. [LB586]

SENATOR CRAWFORD: Thank you, Senator Kolterman. And thank you, Dr. Lazoritz, for being here. We appreciate your service and we appreciate you being here to help answer questions about what this looks like in your...for WellCare and the patients you're taking care of for us. So just to clarify then, with the current system as it is, as the medical director you would have access to the Medicaid patients' data. Is that correct, or that's not correct? [LB586]

STEPHEN LAZORITZ: That's sort of correct. [LB586]

SENATOR CRAWFORD: Okay. Go ahead and correct it. [LB586]

STEPHEN LAZORITZ: I am not a prescriber as medical director. [LB586]

SENATOR CRAWFORD: Okay. [LB586]

STEPHEN LAZORITZ: Therefore, I do not have access to the PDMP. As the medical director, I am not a prescriber, so I'm excluded from it. I can get some of the data from our claims data, but that's not real time. It's delayed. And again, I don't have access to cash payments. So that is one of the things. I think the assumption is I'm a medical doctor, I would have access. But I'm not, because I'm not a prescriber. In fact, because I've been doing the administrative so long, I don't even have a DEA number anymore. So I cannot get this data in the present legislation. [LB586]

SENATOR CRAWFORD: All right, thank you. I appreciate that clarification. [LB586]

SENATOR KOLTERMAN: Any additional questions? Senator Howard. [LB586]

SENATOR HOWARD: Thank you, Senator Kolterman. Do any other MCOs have access to PDMPs in the country? [LB586]

STEPHEN LAZORITZ: Yes, several do. But I'm not certain which ones. And that's something that we should look into. You know, my feeling is if there aren't, then we're on the brink of a revolution in delivery of healthcare in Nebraska. And if we're one of the first ones that do access, I think that is of benefit to our members and a benefit to the state that we do have it. So I think it would be good if we were one of the first two or three that have it. It would show the leadership that we have. Establishing the PDMP showed great leadership, but we're just moving forward to help with our revolution in managed care. [LB586]

SENATOR HOWARD: Is it your understanding that the term prescriber in the original legislation has been interpreted very narrowly to only include people who are currently prescribing? The original intention was that it would be anybody who had prescribing privileges or their designee. [LB586]

STEPHEN LAZORITZ: The way I interpret it is the prescriber. [LB586]

SENATOR HOWARD: But is that how the state is interpreting it? [LB586]

STEPHEN LAZORITZ: Well, the state's interpreting that the prescriber is the person who wrote the prescription. And I should not have access to the data of someone that I am not caring for. [LB586]

SENATOR HOWARD: But we are asking them to look at the data before they prescribe. They have access before they prescribe, before they are considered the prescriber. [LB586]

STEPHEN LAZORITZ: That's correct. In managed care, we're looking at using the data in a different way. We're just looking at our members. [LB586]

SENATOR HOWARD: So the original intention was to address opioid addiction and abuse and to give it to people who have that patient relationship. So would you have individuals...would it just be you who would be checking the PDMP? [LB586]

STEPHEN LAZORITZ: LB586 says me or my designees. I work as part of a team. We have...one of the things that we have that's unique is we have care managers, and these are nurses that actually go out to where the members are. So if there is someone in a drug rehab setting or in a hospital or in their home that we identify, one of our care managers may well actually go make personal contact. We also have care managements that do it telephonically. [LB586]

SENATOR HOWARD: So you would let a care manager access the PDMP? [LB586]

STEPHEN LAZORITZ: Care manager is a licensed nurse, and that would be maybe one of my designees, because we do work as a team. And so I may designate one of our nurse care managers to access the information on their member, on our member that they're managing. [LB586]

SENATOR HOWARD: Now, do you currently have a contract with NeHII? [LB586]

STEPHEN LAZORITZ: We don't presently have a signed contract. We're very close to signing a contract. I've been a longstanding, years and years and years, from the very beginner, supporter of NeHII. I think it's very important we get NeHII. NeHII is great, but we're missing those who opt out, and so the percentage that opt out. And we're also missing the cash payments if we got the information through NeHII. I suspect that if PDMP were accessed through NeHII, then the number of people who opt out would grow, because if I'm an opioid abuser, I'm going to be very secretive about my information. And therefore, I will opt out. So the small percentage that opt out now I think is going to grow. And then we don't answer the issue of the cash payments, which is a significant issue. [LB586]

SENATOR HOWARD: So right now it's, and somebody I'm sure will correct me, but it's about 2 percent opt out on NeHII. [LB586]

STEPHEN LAZORITZ: According to NeHII it's 2 or 3 percent. Again, those people that opt out are the ones I'm most concerned about. [LB586]

SENATOR HOWARD: And then for the PDMP side, there is no opt-out? [LB586]

STEPHEN LAZORITZ: There's no opt-out in the legislation. [LB586]

SENATOR HOWARD: And the way that the data works within NeHII, can you tell me a little bit about that, between the PDMP and the NeHII system? [LB586]

STEPHEN LAZORITZ: It's a very technical way, but the NeHII and the PDMP would have two entrances as Deb Bass explained to me. And if you have access to the PDMP, you will get through that door, if you have access to NeHII you go through that door. Under...if there's legislation to combine them, you go through one door, whichever one you want. But again, you're missing the opt-outs and the cash payments, and that's my major concern. [LB586]

SENATOR HOWARD: Absolutely. I appreciate that. As we consider sustainability of our PDMP system, if the MCOs have sort of this statutory access to it and the original intention was to make it available as possible to those front-line workers, so the dispenser at the pharmacy, and the prescriber, and with the patient, we wanted to make it free and to keep it free. [LB586]

STEPHEN LAZORITZ: Yes. [LB586]

SENATOR HOWARD: And if the MCOs have access, will that be a way for them to bypass having to help us pay for it in the future? [LB586]

STEPHEN LAZORITZ: I think that the MCOs are committed to paying for the HIE access because it's not just about the drugs. We get information that's very valuable, we get the rest of the story. So for instance, seeing someone is using drugs is one thing, but seeing why they're using it and if they have a chronic pain problem or whatever their condition is. Plus, we use the HIE for other things: our routine case management utilization. In the olden days, when I first started in medicine, the hospital would fax over...do you remember what a fax machine is? You're pretty young, Senator Howard. [LB586]

SENATOR HOWARD: Thank you. [LB586]

STEPHEN LAZORITZ: They would fax it over to the hospital. Usually we would get it at the end of the day. Now we can get the information in real time. A doctor dictates or writes in a progress note, we get it as they wrote it from the system. So we have access to real time. So that increases the value of medical care when we can have quick access to information. [LB586]

SENATOR HOWARD: So tell me a little bit about why the MCOs aren't contracting directly with the PDM to get everything that's dispensed under their patient's name, regardless of payer? [LB586]

STEPHEN LAZORITZ: I don't think the present law enables us to get cash payment information. If we're paying for it... [LB586]

SENATOR HOWARD: Even if they're in your pool? Okay. [LB586]

STEPHEN LAZORITZ: ...we can get that information. The PDMP is one place where all the information is. And again, I have to say that's progressive legislation that really helped the people of Nebraska a lot. I don't see much of a downside for allowing the MCOs, which are basically a contractor...well, we are a contractor of the state. We're an arm of government, actually, in that regard, that have responsibility...what the downside is for giving access to us. [LB586]

SENATOR HOWARD: So my only concern, and this is more of a comment, is that part of our sustainability conversations have been about increasing licensure. Pharmacists, doctors understand that that's on the table when we get to a point where our grants run out. And for the MCOs if it is just that medical director, that's only one licensure. But you would have access and several other designees who would be accessing the information. And so it would almost seem sort of like a lopsided investment, and that's part of my concern here. [LB586]

STEPHEN LAZORITZ: I think NeHII is very wise, the way they structure things. They have a new structure of payment based on the utilization of the information. And as we move forward, they will be looking for other ways to sustain NeHII. I don't think NeHII is going away. [LB586]

SENATOR HOWARD: Well, this is not...actually, the PDMP is the state's responsibility. [LB586]

STEPHEN LAZORITZ: Yes. I see, eventually, it rolling in. And the thing that's missing from it being in NeHII are the few things, are: the opt-out would be one thing, the lack of cash payments would be another one. So those are the major problems now with the current legislation. [LB586]

SENATOR HOWARD: With NeHII? [LB586]

STEPHEN LAZORITZ: With NeHII. The PDMP sustainability... [LB586]

SENATOR HOWARD: But NeHII is a public/private partnership. I can't legislate how they behave. [LB586]

STEPHEN LAZORITZ: And sustainability is something that NeHII is addressing. I'm on a committee of NeHII, the future of services, and we talk about that sustainability. And eventually it will be sustainable, one way or the other, whether they have to raise fees or...you know, it's more valuable the more people that put data into it. And so there's a tradeoff between having fees too high for everyone to put data into it, or fees that are not high enough to sustain it. So I think NeHII is here for the long-term. They will address the issue of sustainability. [LB586]

SENATOR HOWARD: But my concern is the sustainability of the Prescription Drug Monitoring Program. It lies inside of the NeHII system, and we've actually had several conversations about having a stand-alone or if that would be worth the investment. My only concern is the sustainability of the PDMP. If NeHII goes away, and heaven forbid, and I look at my NeHII folks, my responsibility is for the sustainability of the PDMP program. [LB586]

STEPHEN LAZORITZ: And I understand that. And I think that that's something that has to be addressed sooner, rather than later, the sustainability of the PDMP. Because once we start using it, we're going to get--a bad pun--addicted to it. It will become invaluable, we can't, you know, we won't be able to give it up. So we have to figure out some way to fund it in the future. And I guarantee we are going to become addicted to the PDMP, we can't imagine not using it because of the value it gives to us. [LB586]

SENATOR HOWARD: Nice to see you again. Thank you, Doctor. [LB586]

STEPHEN LAZORITZ: Thank you. [LB586]

SENATOR KOLTERMAN: Any additional questions? Thank you, Doctor. Additional proponents? All right, opponents? Welcome, Mr. Dunning. [LB586]

ERIC DUNNING: Thank you, sir. Mr. Vice Chairman and members of the Health and Human Services Committee, my name is Eric Dunning. For the record, that's spelled E-r-i-c D-u-n-n-i-n-g. I believe that the testimony that the page is handing out is actually for the following legislation and not for this. But in listening to Dr. Lazoritz speak, I will tell you that there are not a lot of reasons that he identified for MCO access to the...direct access to the PDMP that don't also apply to private sector carriers. The difference is is that they are a contractor for the government. And for the same reasons, the same policy rationales would also apply to private sector health insurers. We also have lock-out provisions; we also have pretty substantial regulation, both at a state and a federal level; and we are also seeking to provide the best services that we possibly can to our members. And last, but not least, we also have to take those people who walk in the door during the open enrollment period. So that said, we're opposed because we believe that the bill, as drafted, is probably too narrowly drawn. We would also note that the bill that we're going to be up later on covers much of the same ground, although it will not allow access to the opted-out information as well. But I think it answers some of Senator Howard's questions and concerns about the future sustainability of NeHII a little better by giving people an opportunity to see more value in NeHII. So with that, if there are questions, I would be more than happy to answer them. [LB586]

SENATOR KOLTERMAN: Senator Crawford. [LB586]

SENATOR CRAWFORD: Thank you, Senator Kolterman. And thank you, Mr. Dunning, for being here and sharing that perspective. I believe, if you were listening to the conversation with the last testifier, one of the questions was about sustainability. And if, as I understand it, the current fees are paid on a license basis. And so MCO would be a very different kind of animal on that front. Would you...if this information is very valuable to Blue Cross and Blue Shield, do you anticipate that it's something of enough value you would be willing to pay for access to that? [LB586]

ERIC DUNNING: Well, I will tell you, Senator Crawford, as a significant stakeholder in NeHII, NeHII's long-term continued sustainability is of vital concern to us. We spend a considerable amount of time, effort, and energy trying to encourage others to, and particularly even in the legislative process, in trying to explain why NeHII is valuable to us. But the current PDMP is

funded largely with federal grants. And so these two are kind of, you know, out there. So Blue Cross is worried about sustainability of the PDMP, but we're also worried about the sustainability of NeHII, because we think both are valuable parts of the state's health IT infrastructure. And we're very excited about both of them. We are also very excited about the work that this committee, and Senator Howard in particular, did last year to recognize the importance of the submission of all prescription data into the PDMP. So we are very interested, we're at the table. Senator Howard and I worked on a bill when I first came to Blue Cross that was an attempt to solidify the fortunes of NeHII. And, you know, we've been working on these things for a long time. [LB586]

SENATOR CRAWFORD: Great, thank you. [LB586]

SENATOR KOLTERMAN: Additional questions? All right, thank you. [LB586]

ERIC DUNNING: Thank you, sir. [LB586]

SENATOR KOLTERMAN: Additional opponents? [LB586]

MARCIA MUETING: Senator Kolterman and members of the Health and Human Services Committee. I feel like I'm really short, do you have a booster chair? Sorry. My name is Marcia Mueting, it's spelled M-a-r-c-i-a, and my last name is M-u-e-t-i-n-g, and I appear today in opposition to LB586 on behalf of the Nebraska Pharmacists Association. I am the pharmacist on staff at the Nebraska Pharmacists Association, and I appreciate the opportunity to offer testimony. Our primary concern with the bill, as drafted, is allowing Medicaid managed care organizations access to the prescription data. Let me give you an example of our concern. Have you heard of Marcia's perfect pharmacy? It's fictitious, okay? It's my perfect pharmacy. So when a patient comes to Marcia's perfect pharmacy with a prescription, the information is entered into the pharmacy's computer software program. The computer then sends the information to the payer or the company that processes claims for that payer. The information that is sent includes the patient's identification number, the date of birth of the patient, the name of the drug, number that identifies the drug, the quantity dispensed, the date the prescription is filled, the number of days supply, the name and identification number of the proscriber; just to name a few of the data elements that are supplied to the payer. So a lot of information is sent to the payer when a claim is submitted. When we asked the three managed care companies if they could access this information, each of them responded yes. In fact, some cases the payers could access that information in real time. I want to clear up something that I'm certain that the folks from NeHII can also confirm, the PDMP data are not real time. Pharmacies submit their information up to 24 hours after a claim is submitted. I don't understand a bill that would be introduced to allow a managed care organization access to information that they already have. The current statutory

language clearly outlines who can access the prescription drug information: prescribers, dispensers, and their designees. It is essential that the security of these records be maintained and access limited only to those who have a treatment relationship with the patient. At this time I would be happy to answer any questions. [LB586]

SENATOR KOLTERMAN: Thank you. Any questions? Senator Crawford. [LB586]

SENATOR CRAWFORD: Thank you, Senator Kolterman. So I believe the conversation by the first testifier was a concern about access for cash payment. And do you disagree that the managed care organizations, do you think they do have access to these cash payment patients? [LB586]

MARCIA MUETING: No, I'm certain they don't. [LB586]

SENATOR CRAWFORD: Okay. [LB586]

MARCIA MUETING: However, do we want to open that door and allow a payer access to claims data that they didn't pay the claim? And remember, the most important piece of the PDMP is that the prescribers and the dispensers have access to all of it. I have no doubt that a prescriber that accesses the information, or a pharmacists that accesses the information, that sees a pattern of fraud, abuse, diversion, they're going to take action. [LB586]

SENATOR CRAWFORD: So a physician or a primary care provider seeing a patient would see the information and also access to the cash? [LB586]

MARCIA MUETING: Yes. [LB586]

SENATOR CRAWFORD: That is true information. [LB586]

MARCIA MUETING: Anyone who has access to the PDMP has access, thank goodness, thanks to Senator Howard, to all of the data. [LB586]

SENATOR CRAWFORD: Your concern is you don't consider a managed care organization as in a treatment relationship with the patient. [LB586]

MARCIA MUETING: That's exactly right. [LB586]

SENATOR CRAWFORD: All right, thank you. [LB586]

SENATOR KOLTERMAN: Additional questions? Senator Williams. [LB586]

SENATOR WILLIAMS: Thank you, Senator Kolterman. And thank you. Is there a concern on your part that the managed care provider will gather information on prescriptions you're writing and find a cheaper way to market to that person? [LB586]

MARCIA MUETING: I think that we've had some members that have expressed that concern. I don't have any proof of that being done. [LB586]

SENATOR WILLIAMS: Marcia's perfect pharmacy isn't concerned about that? [LB586]

MARCIA MUETING: It never happens at Marcia's perfect pharmacy, no. I think, you know, we've had concerns expressed by members that that is exactly what could happen. [LB586]

SENATOR WILLIAMS: Thank you. [LB586]

MARCIA MUETING: Sure. [LB586]

SENATOR KOLTERMAN: Seeing no other questions, thank you very much. Additional opposition? [LB586]

DEB BASS: I usually don't need a stool, but I feel like I do need one today. Good afternoon, members of the committee. My name is Deb Bass, for the record, that is spelled D-e-b B-a-s-s, and I'm the chief executive officer of the Nebraska Health Information Initiative known as NeHII. NeHII is testifying to oppose LB586. And my comments are based on the sustainability concerns and giving free access. As a nonprofit, public/private collaborative, who's participants include hospitals, healthcare providers, insurance, public health officials, and the state of Nebraska, we feel that contractors for the state who have taken on obligations under state contracts should pay equal fees for access to the health information that is available in the health information exchange, as the other payer participants do. As a nonprofit, NeHII must carefully balance the needs of all of its stakeholders. With limited budgeting for additional services and, therefore, all participants, we feel all participants should pay for the valued services that NeHII provides. I would be happy to answer any questions that you have. I do want to make a comment, new patients that are...that enter in the PDMP, their data will be found within 24 hours. But if they're an existing patient in that PDMP, and we have significant numbers in there, as I talked about the other day, that prescription is available within several minutes. And that is an

extreme advantage to the MCOs, and I can certainly understand why they're asking to have access to that information. [LB586]

SENATOR HOWARD: Are there questions? Seeing none, thank you for visiting us today. Any other opponents? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, Senator Linehan, you are welcome to close. [LB586]

SENATOR LINEHAN: Thank you very much. Thank you. The concerns about sustainability, I understand that those are valid. I also...it seems to me that if you charge the MCOs, who I assume would turn around and bill back to the state, it's kind of a circle. So I don't know how to fix that, but I'm willing to talk to what the possibility is. Because I understand you're private and you're paying it why it seems unfair, but ultimately asking the state to pick it up. So anyhow, I'm willing to have that discussion. And I appreciate all the testifiers, and I don't have anything else unless you have questions. [LB586]

SENATOR HOWARD: Are there any questions? Senator Crawford. [LB586]

SENATOR CRAWFORD: Thank you, Senator Howard. And thank you, Senator Linehan. Have you had any conversations with private plans or had any conversations about what that might look like if they were to have access? [LB586]

SENATOR LINEHAN: I have had conversations, but I probably have not robust conversations. [LB586]

SENATOR CRAWFORD: Okay. [LB586]

SENATOR LINEHAN: I mean, and I'm willing to do that as well. [LB586]

SENATOR CRAWFORD: We haven't really talked about yet in this hearing, I think, I don't know how to say this as a question. Would you also consider...I turned it into a question. Would you also consider, as we have future conversations, just assuring that we have a robust conversation about any risk to the patients about access to this information in terms of that access being available to managed care plans? I mean, I think in a no-preexisting-condition environment we're in a different environment on that front. But should that change or, you know, should that be weakened, we're going to, I think, in a previous policy environment there would have been concerns about access to managed care organizations in terms of protecting that patient, you know, from future discrimination. [LB586]

SENATOR LINEHAN: That's a very legitimate question, and I understand that. And I'm sure everybody behind me understands it. In a world where there's not preexisting conditions you don't have to worry about somebody checking your history and therefore not covering you and trying to sort people out. So if that changes, you would definitely have to have a conversation. The one thing I would say, and I'm not...I understand everybody's...I do understand people's concerns, but to think that the patient--there's never an abuse of doctor/patient relationship--I mean, that happens too. I mean, there's...when you're talking about addictions, you don't know where you're going to go. So I don't really have a problem with the information shared in the world we're in now. If that world changes, I think we would have to look at it. I don't see how we go back to a preexisting world because I think that's very hard. But if we did, yes, I would agree, you have to look at it to make sure that people are safe. Or they're not discriminated against because of health reasons. [LB586]

SENATOR CRAWFORD: I just have one more for the record, while we're having this conversation. And that is when we look at the managed care designee, would you look carefully at how that designee is defined? I think if there's a concern to make sure that stays in a provider relationship that that designee...just how that designee is defined might be important to make sure. The example we heard in the testimony was a nurse who's a care manager. I think that could understand that in terms of the broader idea of a care relationship. But just I would just appreciate if you would consider careful conversations about how that designee is defined in thinking about that relationship. [LB586]

SENATOR LINEHAN: Right. You would want it wide enough that it actually is workable, but not so wide that anybody who happened to work there could just check it out. [LB586]

SENATOR CRAWFORD: Right. [LB586]

SENATOR LINEHAN: Right, I agree with that. You need to have it defined in a way that's workable, but not abusive. [LB586]

SENATOR CRAWFORD: Thank you. [LB586]

SENATOR LINEHAN: You're welcome. [LB586]

SENATOR HOWARD: Any other questions? Seeing none, thank you for visiting with us today. [LB586]

SENATOR LINEHAN: Thank you very much. [LB586]

SENATOR HOWARD: Passing it back to Senator Kolterman. This closes the hearing on LB586. [LB586]

SENATOR KOLTERMAN: We will now move into LB223, Senator Kuehn, change requirements for the Prescription Drug Monitoring System. The floor is all yours. [LB223]

SENATOR KUEHN: (Exhibits 1, 2, 3) Thank you, Vice Chairman Kolterman. Senator Kolterman and members of the Health and Human Services Committee, I am Senator John Kuehn, J-o-h-n K-u-e-h-n, and I represent District 38: seven counties in south-central Nebraska. And I am here today to present to you LB223. LB223 makes some technical and procedural changes to the statutory language which was originally heard by this committee and passed under LB471 in 2016, which establishes in statute Nebraska's comprehensive Prescription Drug Monitoring Program. I'd like to begin our hearing this afternoon by thanking a wide variety of stakeholders who have been really great about coming together and collaborating and talking through language; including a number of the healthcare professional organizations representing prescribers and dispensers, the team at NeHII, as well as legal counsel and staff at HHS, for working together to develop language that will continue to ensure successful implementation of the Prescription Drug Monitoring Program in Nebraska. I also would be very remiss if I did not thank the leadership of our colleague, Senator Sara Howard, who is on the committee today, for her continued enthusiasm for this major undertaking which, as an end goal, will improve patient safety and promote information sharing and best practices among providers here in Nebraska. You probably all have in front of you the green copy of the bill. Since its introduction, we have been continuing to work on language and so what I have is...the page will be bringing around three separate pieces of paper with amendments. So we have two separate amendments that we have merged into one. I'll refer to them by their AM numbers and walk you through each of the changes that will be in the green copy, and as it goes with the language that is going to be addressed. So the AM741 is both of the other two amendments put together. So as you're getting it, if you take a look at AM741, that's both concepts merged. I separated them out so you could look at the two other distinct amendments. So AM678 looks at language concerns with HHS, NeHII, and stakeholder groups that we'll work through, that update some of the issues of LB223. AM734 addresses specifically some of the controlled substance reporting issues by veterinarians, specifically the fields, and we'll talk about that in a minute. So you can see both of those issues separately. They are merged together in AM741, so hopefully that is as confusing as possible at the end of a week and at the last bill hearing for today. What I'm going to do is I'm going to walk you through what the amendments, if introduced into the green copy of LB223, would collectively do as one bill, and how it would address things statutorily. So first, in Section 2, the new language ensures that the information submitted to the PDMP is ultimately fully protected by HIPAA in terms of privacy. The data entered into the PDMP is available through NeHII, which therefore avoids the need for a prescriber or dispenser to go to multiple sites to obtain that prescription information. This simply ensures that that information falls under HIPAA standards

and is considered protected health information. The amendment inserts the word "its" before "its participants" to clarify exactly who we're referring to with "participants" in LB223. Next, the amendment inserts the term "confidential" into Section 5(a), just again reinforcing that privacy piece; as well as inserts new Sections 5(b) and 5(c). Sections 5(b) and 5(c) allow the data only to the Health Information Exchange and make sure it's only available to them and the prescribers and dispensers; 5(c) further clarifies the legal obligations and responsibilities of the users of any aggregated health data from the system, in accordance with existing statute. So it refers to existing statute with regard to utilization of public health data by the Department of Health. Third, Section 6 establishes a very important piece of LB223, which is the training requirement for an individual who might access the PDMP system. So to ensure that all users are educated at the proper use of the system, as well as familiar with the legal responsibilities associated with access to the system, Section 6 clearly establishes those and that NeHII will administer that training. It also includes language, and a grandfather clause if you will, that ensures that currently compliant users will not have to undergo a retraining from this point forward, but establishes that important training component to ensure the integrity of the system. Fourth, a newly ordered Section 7, so we added 5(a) and 5(b) and 5(c), so we had to reorder. So Section 7 in the reorder defines the term "designee." So you've heard earlier today about some concept of designee language, so this actually establishes that term "designee." So allowing the authorization of the designee of the prescriber or the dispenser to allow access to the PDMP for the purposes of entering and obtaining information, which just simply reflects the reality of the fact that it's a healthcare team that is administering these functions of the PDMP. Finally, the amendment language, which you can see sorted out on its own as AM734, but integrated into AM741, in Section 4 clarifies specific fields for veterinary submission. So obviously the patient name isn't relevant to a veterinary submission, but clarifies those fields in a special reporting mechanism for veterinarians and also extends the operative date for mandatory reporting until July 1 of 2018. Currently, that mandatory date is January 1. The July 1 extension gives us time accommodate the technical needs of the system and ensure everything is functional before mandatory reporting would begin. Finally, LB223 does have an E clause, as that designee language in particular is important for full implementation and utilization of the PDMP by the full healthcare team. So with that, I am happy to address any technical questions that you may have, or defer them and punt them to the able-bodied individuals familiar with the system behind me. [LB223]

SENATOR KOLTERMAN: Thank you, Senator Kuehn. Any questions? Seeing none, are you going to stay to close? [LB223]

SENATOR KUEHN: I absolutely will. [LB223]

SENATOR KOLTERMAN: We'll move to proponents. Welcome back. [LB223]

DEB BASS: (Exhibit 4) Thank you, nice to see you all again. Thank you for your time today. Members of the committee, my name is Deb Bass, for the record, that's spelled D-e-b B-a-s-s, and I am the chief executive officer of the Nebraska Health Information Initiative known as NeHII. You may recall from the overview I gave to the committee last week, NeHII is a nationally recognized system that allows healthcare providers to exchange healthcare records in a secure environment. We connect the various electronic health records using a common platform or a network to support the exchange, so that a patient's information can be accessed by a care provider wherever that patient might go. I have testified to this committee on several occasions about the need for an enhanced PDMP in Nebraska, and the next steps in making that vision a reality. NeHII has worked closely with several members of the Legislature from the early days of the PDMP, during which, in another very difficult budget time, NeHII stood up, at no cost to the state, an early attempt at PDMP. Using NeHII resources, and supported by providers and payers, we created an integrated PDMP that functioned as part of NeHII. That model, which admittedly had significant holes, formed the basis for Nebraska's current PDMP. The integrated model drew down the federal resources that Nebraska has used to create its improved PDMP. Today, I'm here to talk to you about why we need LB223 to refine some of the concepts from last year's legislation, to preserve this integration between NeHII and the PDMP. The language in LB471 required prescription data be given to all prescribers and dispensers and dispenser's delegates at no cost. This language did not include prescriber's delegates, which means nurses will not be able to check the PDMP. This clearly was not an intended result. It is one of the nurse's primary duties to collect the med history of the patient and monitor those prescriptions to avoid medication errors, overdoses, and/or adverse reactions from combinations of medications. The bill also requires training on the system. Training increases user understanding, which translates to increased usage and user satisfaction. We also want to make certain that any healthcare professional accessing the data understands and complies with the HIPAA minimum necessary requirement, as well as the treating relationship that must exist before any professional can access prescription data on a patient. As part of the integration I spoke with you about earlier, LB223 also supports the flow of information to NeHII so that the HIE can deliver that data to healthcare professionals who need the data to deliver care, while controlling cost. NeHII's privacy and security committee is made up of the privacy officers from the major health systems and insurance companies, and they manage NeHII's privacy and security policies. These carefully written guidelines serve to protect the data through administrative and technical policies and procedures. NeHII has been recognized as a leader in HIE, not only for the successful operation of the HIE, but also for the privacy and security policies and processes we developed from our beginning, and for the ongoing work with the development of the policies we have in place addressing treatment, payment, and healthcare operations covered by HIPAA. NeHII has presented our solutions for payer access and the readmission reporting for hospitals to the Office of the National Coordinator and the Office for Civil Rights in D.C. NeHII's success for Nebraska has been built on the concept of sharing data, while protecting its privacy and security, rather than controlling it and limiting access. In closing,

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 safer and better outcomes at lower cost for Nebraska. I'll be happy to answer any questions that you have. [LB223]

SENATOR KOLTERMAN: Thank you, Ms. Bass. Any questions? Thank you. Seeing none, next proponent. [LB223]

MELANIE SURBER: (Exhibit 5) Good afternoon. My name is Melanie Surber, M-e-l-a-n-i-e, Surber, S-u-r-b-e-r, and I will let you know this is the first time I have testified. So if I am showing anxiety, please take that into account. But I am currently the director for field health services for WellCare Nebraska. This means that I am the care management leader for the team of nurses, social workers, and licensed mental health professionals we have that are across the state to provide support and care coordination to highest-risk, highest-need patients. I am here to support the bill, LB223, as originally drafted. I will tell you I'm not a new care management leader. I've been a nurse for many years and have, prior to my work at WellCare, been a care management leader for a large health system for years prior. And although in that work as a care management team in that health system we had access to the full medical record every day, my team was in NeHII constantly looking for the information in the gaps and what we didn't have in our records. So it's a very valuable tool for care management. Allowing the medication information to be visible in the HIE allows my team to have a more complete view of that patient, helps us also answer the questions that those patients ask of us. Very simple questions--they ask us why...why did my physician add that new medication when I was in the hospital. Right now, it's very difficult for us to answer because in the MCO we do not have access to that medical record. But we can see it through the HIE. So when we can see that medication addition within the context of the medical record as it was prescribed, we can confidently answer the question for the patient that we know why that medication was prescribed for them. This allows us to educate them and provide direction to them that will enhance their knowledge and their ability to safely take their medications. This becomes especially valuable to us when we have patients that are new to Medicaid or they come from another plan. The health history stays in the previous plan, it doesn't come with them. If we do get any history, it's claims, and claims don't tell the story of what was needed for the patient. It only tells us what we paid or what we authorized. Oftentimes, a care manager, we do home visits for WellCare, we actually do home-based services. So we will actually go out and sit at their home, sit at their kitchen table and look at all their medications. And oftentimes there, as a nurse, you see duplications. You see medications that you know probably aren't normally prescribed to be taken together, but you see that. So as we're sitting there, you have to ask yourself how am I going to know the answer to make sure that before I leave here this patient understands what they need to be doing. The only choice I have now is to call the physician's office and ask that question for clarity. If we had access to the medication information through the HIE, my team can look at that and they can see,

oh, this is what was expected, this is what the physician intended. Or we can clearly see this physician had no idea this medication was in the home and that they're still taking it. I have an issue, I need to let them know. So this communication with the physician, we want that to be when we have information they need to know, not us calling them simply because we don't know. Access to the HIE is something that people often question. And the reality is when it works with the MCO it will be limited to our enrollment. We will only be able to see the members that are enrolled in our plan. And also along that lines, all of us is healthcare professionals and our licenses are bound to only access the information we need to know to provide care. And the tool in NeHII, every time we log in, we have to attest that that's why we're going into this record. We have to click that button that says yes, this is why I'm going into this, before that chart will open to us. So we are limited to the view of only our members and we're reminded every time we go in as to why we're getting into that information. So, you know, the care management to me, the care manager is that nurse, that social worker, that LMHP is really that conduit between the patient and the physician. Our goal is to provide everything within our scope to support the patient and have the physician assured that if we are in the space they can trust that we will advise them of everything they need to know. Having access to the medication information in the HIE gives the MCO's care management team the ability to meet that goal. Thank you, and I'll be glad to take any questions. [LB223]

SENATOR KOLTERMAN: Thank you for your testimony. Any questions? So now you can relax. [LB223]

MELANIE SURBER: It's okay. It won't be so bad next time. [LB223]

SENATOR KOLTERMAN: Next proponent. [LB223]

ERIC DUNNING: (Exhibit 6) Good afternoon, Mr. Vice Chairman and members of the committee. My name is Eric Dunning, for the record, that's spelled E-r-i-c D-u-n-n-i-n-g. I'm a registered lobbyist appearing today on behalf of Blue Cross and Blue Shield of Nebraska, here today to testify in support of LB223, particularly as it relates to PDMP integration with NeHII. Blue Cross and Blue Shield of Nebraska has long been a strong supporter of NeHII and we believe that NeHII's efforts, both as NeHII and wearing its PDMP hat, will make Nebraskans' lives better. In particular, we are here to support Section 1 of the bill, which makes it clear that the PDMP is an integral part of NeHII. As introduced, LB223 recognizes the strong recognition...strong record of partnership between NeHII and the PDMP. By imbedding the PDMP within NeHII, we believe that Nebraska has taken a national leadership role in developing health IT infrastructure. We also believed that this partnership would avoid some silos between data. It was our understanding that the PDMP would be integrated as part of NeHII from the start, and so we view the language in Section 1 as largely cleanup that recognizes the intended

relationship between these projects. As applied specifically to Blue Cross and Blue Shield of Nebraska, Section 1 allows us to continue to access the information that we accessed before the effective date of last year's bill. Before January, PDMP was accessible to NeHII members if the patient had not opted out of having their data shared. Section 1 will make it clear that can continue to get the information, but because of NeHII's rules and policies we only get the information if the patient has not opted out. So Section 1 is nothing new, just makes sure that the old standard continues in force. So what do we use the data for? Under NeHII rules we can only access for preauthorization, hospital-acquired infections, and case management. I believe you heard more compelling testimony than I can offer on the value of case management. I will say, however, that Blue Cross and Blue Shield is very proud of its case management team. We have a dedicated team of folks who look to improve the lives of our members and we are very proud of them as well, that we'll let the prior testimony stand. What are the safeguard...I think it's an important thing to note that there are some pretty significant safeguards on our use. Under NeHII standards, patients can still opt out of having their data shared. But even then, under HIPAA, even if they haven't opted out we can only view data on our members. And that data is updated daily. We can only...and then, under HIPAA, we can only access the minimum amount of data necessary to meet those functions. NeHII's payer access policies were adopted only after meetings with the ONC and the Office of Civil Rights, and we, as payers, have the same auditing requirements to make sure that we're in compliance with NeHII and federal standards as the healthcare providers do. But we also have secondary, additional audits performed by NeHII's security officer to verify how our case managers access data. In conclusion, we strongly support PDMP integration with NeHII. It benefits our members, as does health information exchange generally. And most importantly, both federal law, HIPAA, and NeHII policy protects our members' privacy rights. I'm happy to answer any questions you may have. [LB223]

SENATOR KOLTERMAN: Any questions? Thank you, Mr. Dunning. [LB223]

ERIC DUNNING: Thank you. [LB223]

SENATOR KOLTERMAN: Next proponent. [LB223]

JOEY GAINES: Good afternoon, Senator Kolterman and members of the Health and Human Services Committee. My name is Joey Gaines, it's J-o-e-y G-a-i-n-e-s. I'm a small animal veterinarian and the owner and partner in three veterinary clinics in the Omaha area. I'm offering testimony today in support of LB223, and specifically the AM741 additions, on behalf of the Nebraska Veterinary Medical Association. The NVMA is supporting this bill because the Prescription Drug Monitoring Program cleanup bill now does include some things to clean up the veterinary participation requirements that are currently in the laws. The proposed amendment will do two things. First, the amendment will create appropriate reporting fields specific to

veterinary medicine; and second, the amendment will allow time for NeHII to set up the veterinary fields and allow time for a pilot program. So before all of the veterinarians have to start participating, we can go through a pilot program before its implemented. One thing it does not address is entering versus monitoring. We would request that the veterinarians are only allowed to enter and not allowed to monitor. We aren't covered under HIPAA, we don't see humans as our patients, and we don't want to see their information. But we do want the information available to pharmacists and physicians when we prescribe those controlled drugs so they can use that. In order for the PDMP to work as it was intended, it must work for all healthcare professionals who are dispensing prescription medications, which does include veterinarians. The program as it exists today gives no consideration to the unique aspects of the practice of veterinary medicine. The amendments take care of that. Veterinarians are willing to be part of the solution, but we also want to be sure that information we're providing to the state is meaningful and addressing the issue at hand. For that reasons, the NVMA worked with Senator Howard and Senator Kuehn last session to create a task force to work during the 2016 interim to create veterinary-specific reporting solutions to ensure the state is collecting meaningful data from veterinary practices. Veterinarians are interested in finding reporting systems that can facilitate timely and accurate reporting, without adding unnecessary, burdensome reporting requirements on the veterinary practice's staff. There are no software programs at all available to veterinary practices that allow our software to speak to the PDMP. So that's what happens for pharmacists is theirs speaks directly to it. Until that software exists, we have to go in and manually enter every database field. It's timely. It was understood the task force would have facilitated a statutory solution to be introduced and passed in this session. And since that there was not that provision, this will help with that and give us that time to fix that. In January, Senator Kuehn did ask me to participate in a pilot program that he was working out with NeHII. I said yes. I've checked with him a couple of times, it's not ready to work with yet, but I did take it on myself and applied, went on to NeHII, set up my own account. I asked a couple of my colleagues to do the same, one of them is here as well. And so I've been able to go in and work with the site and work with NeHII. NeHII has been great, Kevin Borchers and everybody there has been super helpful in helping us figure out the system. When I go in, it takes a lot of time. I open it and I have to go into my site and then look and enter, and then go back to my site and enter. And right now, it's just it's really cumbersome for us. It's averaging between three and five minutes, three and a half minutes, for me to enter each patient's information right now. And they actually went out and watched me do it, so that was kind of fun. So we do want the PDMP to work, we believe there's still a path to make it work and make it better. The pilot program will be helpful in confirming the systems that are put in place are meaningful and accurate when full veterinary participation begins. And so that's really why we want the extension of time. So thank you for your attention, and I can answer any questions. [LB223]

SENATOR KOLTERMAN: Thank you, Ms. Gaines. Any questions? Yes, Senator Crawford. [LB223]

SENATOR CRAWFORD: Thank you, Senator Kolterman. And thank you for being here and thank you for stepping up to be willing to try this out in your practice, so that we can learn how it works. You mentioned that there isn't a software program that is able to communicate with NeHII in veterinary practice. Are there one or two major kinds of programs that veterinarians use that we should know about? [LB223]

JOEY GAINES: I think there's more than 60. [LB223]

SENATOR CRAWFORD: Okay. That might be more difficult. [LB223]

JOEY GAINES: There's some bigger ones that more people, you know, like there's the Walmarts versus the locals. And so there's some differences there. But no. [LB223]

SENATOR CRAWFORD: Not really a sense that there's a small number that we could accommodate. [LB223]

JOEY GAINES: Correct. [LB223]

SENATOR CRAWFORD: Thank you. [LB223]

SENATOR KOLTERMAN: Any additional questions? [LB223]

JOEY GAINES: Thank you, Senator Linehan, for talking to my partner, by the way. You spent a lot of time with him and he really appreciated that. [LB223]

SENATOR LINEHAN: Thank you. [LB223]

SENATOR KOLTERMAN: All right. Thank you very much. [LB223]

JOEY GAINES: Thank you. [LB223]

SENATOR KOLTERMAN: Go ahead. Welcome. [LB223]

ELIZABETH MARRIOTT: Okay, thank you. Good afternoon to the members of the Health and Human Services Committee. My name is Dr. Elizabeth Marriott, that's E-l-i-z-a-b-e-t-h M-a-r-r-i-o-t-t, and I am a veterinarian at the Nebraska Humane Society, which is a large nonprofit

animal shelter serving over 30,000 animals annually in Omaha and the surrounding area. I am testifying today in support of LB223 with the amendment on behalf of the Nebraska Veterinary Medical Association to urge the committee to support the amended bill that addresses needed changes to make the Prescription Drug Monitoring Program workable for veterinarians. As Dr. Gaines explained, the PDMP as it exists today gives little consideration to the unique aspects of the practice of veterinary medicine. I come before you today as a shelter veterinarian, as the shelter studying creates additional areas of needed clarification. Under the current law, the prescription information that must be submitted electronically to the PDMP includes the patient's name, address, and date of birth. As a shelter veterinarian, my patients are animals. And while it has been portrayed that our patient information to be entered is actually that of our human clients, the current wording of the data entry fields is such that errors in provided information are more likely to occur. And that's why we want those amended changes. The Nebraska Humane Society is fortunate enough to have a robust foster care program for animals requiring extensive care for medical or behavior conditions. In fact, NHS had 344 foster homes in the community care for nearly 2,000 animals in 2016 alone. Several of those animals do require controlled medications in order to help alleviate their pain. Again, under the current law I would need to provide information about these drugs to the PDMP, but there's not a requirement to track information about the humans who will have the responsibility for administering them. So if the intent of the PDMP is to enter the personal information of the human to whom I am dispensing, I would need to enter the information of a foster parent each time they cared for an animal on controlled medication. Many foster parents do become somewhat specialized in their care abilities. For example, some prefer taking care of kittens, while others do take on orthopedic or behavioral cases. The latter two types of cases often require controlled substances for short periods of time. At this time, the PDMP does not have fields to allow a way to alert those monitoring data at NeHII that the individual to whom I have dispensed the medication is a foster parent. The veterinary task force was specifically designed to include the input of a veterinarian whose employed buyer provides services at an animal shelter. We certainly understand and appreciate the intent of the Prescription Drug Monitoring Program and want to ensure that our participation adds value to the system. My colleague at the Nebraska Humane Society, Dr. Elizabeth Farrington, expressed her willingness to Senator Kuehn, the chair of the task force, to participate in any pilot program and provide feedback about the unique considerations of shelter animal practice. Like Dr. Gaines, she has voluntarily registered with NeHII to gain familiarity with the system and learn about the program. As Dr. Gaines explained, NeHII is not presently designed to allow for automatic transmission of the information needed from veterinary software systems, like it does on the human medicine side. As such, veterinary offices and shelters will be required to log in to the system and manually enter information required for each controlled substance dispensed. Furthermore, current law requires daily entry of prescription information. We would like to ask that we only be required to log in to enter information if a controlled substance has actually been dispensed that day, thus alleviating spending unnecessary time logging in each day if a controlled medication was not dispensed. We greatly appreciate the

consideration of this committee to include an amendment to create reporting fields tailored to the unique needs of veterinarians and to grant an extension of time for mandatory participation that will allow veterinary clinics and shelters to work out the kinks via a pilot program. We are eager to collaborate and find solutions that serve the PDMP's noble mission of saving lives. And that's all from me. I'll take your questions. [LB223]

SENATOR KOLTERMAN: Thank you, Dr. Marriott. Questions? Senator Linehan. [LB223]

SENATOR LINEHAN: Thank you. This is just how the process works. So do you have drugs...do you dispense the drugs or do you give...because I've been to your shelter, it's wonderful. It's beautiful, it's huge, you have many, many animals. [LB223]

ELIZABETH MARRIOTT: Yes. [LB223]

SENATOR LINEHAN: So do you have the drugs that you use on the premises? [LB223]

ELIZABETH MARRIOTT: We use drugs on the premises, but we also dispense to doctors and to foster parents to take home with them. [LB223]

SENATOR LINEHAN: I guess, so what I'm trying to... [LB223]

ELIZABETH MARRIOTT: Only the ones that are dispensed would be required to be entered. So do the ones dispensed off-site. So those going to a doctor's or foster parents would be the ones that we would enter in, not the ones that we use in-house. [LB223]

SENATOR LINEHAN: Because when they adopt them they get the prescription drug from you? [LB223]

ELIZABETH MARRIOTT: Correct. [LB223]

SENATOR LINEHAN: And you're the one-stop-shop and send them home. [LB223]

ELIZABETH MARRIOTT: Correct. So we send home, for an example, like a seizuring dog would go home on phenobarbital, which is a controlled substance. We usually dispense out only just a 30-day supply, so that way they have time to get to their veterinarian, get a veterinarian exam and then, you know, make sure that they can be under their care. And then they would provide the rest of the medication for the life of the animal. [LB223]

SENATOR LINEHAN: Okay, that's helpful. Thank you very much. [LB223]

SENATOR KOLTERMAN: Any additional...yes, Senator Howard. [LB223]

SENATOR HOWARD: Thank you, Senator Kolterman. And thank you for visiting with us today. I wanted to clarify, in your testimony you had indicated that you felt as though you needed to enter into the PDMP every day? [LB223]

ELIZABETH MARRIOTT: So what I was looking at was on the bill, LB223, Page 2, Line 22 it says "daily." But I'm just I guess asking for clarification too, making sure that so we don't necessarily dispense controlled medications every day at the shelter. So wouldn't want to have to log in just to say that we haven't dispensed anything. [LB223]

SENATOR HOWARD: Certainly. The language says "daily after such prescription is dispensed." [LB223]

ELIZABETH MARRIOTT: Okay. [LB223]

SENATOR HOWARD: And so I think it means when you dispense a controlled substance. [LB223]

ELIZABETH MARRIOTT: Okay, sounds good. [LB223]

SENATOR HOWARD: Thank you. [LB223]

ELIZABETH MARRIOTT: Thank you. [LB223]

SENATOR KOLTERMAN: Additional questions? Thank you for...oh, I'm sorry. Senator Williams. [LB223]

SENATOR WILLIAMS: Thank you. And thank you, Dr. Marriott, for being here. Sounds like this whole prescription drug monitoring thing has caused a lot of stress to the veterinarian business. Is that...? [LB223]

ELIZABETH MARRIOTT: I would say that it's probably more difficult for us to, you know, manually enter in the information. [LB223]

SENATOR WILLIAMS: But I want to be sure, you're testifying in a positive position now. [LB223]

ELIZABETH MARRIOTT: Yes, for this cleanup bill with the amendment. [LB223]

SENATOR WILLIAMS: So that with the amendments that Senator Kuehn is bringing, your stress is relieved? [LB223]

ELIZABETH MARRIOTT: Supporting, correct. Yes. Somewhat, yes. [LB223]

SENATOR WILLIAMS: We've heard a lot about stress with veterinarians over the last couple of weeks. So we wanted to make that clear. Thank you. [LB223]

ELIZABETH MARRIOTT: Okay, thank you. [LB223]

SENATOR KOLTERMAN: Thank you, Senator Williams. And thank you, Dr. Marriott. [LB223]

ELIZABETH MARRIOTT: All done. [LB223]

SENATOR KOLTERMAN: You're done. Additional proponents? Welcome. [LB223]

KIM ROBAK: Thank you. Senator Kolterman and members of the committee, my name is Kim Robak, K-i-m R-o-b-a-k, I'm here today in support of LB223 and the amendments as introduced, on behalf of the Nebraska Medical Association. I want to say that Nebraska was one of the last states in the nation to get a PDMP for controlled substances. I think we were the second to the last state to have a PDMP, a Prescription Drug Monitoring Program, that would allow you to see what drugs people are getting. But due to the hard work of Senator Howard, which has been mentioned before, and many of the people in the room, meeting after meeting after meeting was held. A lot of turf was looked at and a lot of turf was finally overcome. And as a result of that, we will be on the cutting edge, you've heard that. What we will be on the cutting edge for is I believe we will be the first state in the nation that has all drugs in a Prescription Drug Monitoring Program. So no other state in the nation has that. And let me tell you how this might work. I actually had a bad sinus infection that I'd had for a couple of weeks. I went to doc-in-the-box or whatever...Lincare or WellCare or the little place on the corner next to HyVee. So I went in, and I had just been given a prescription drug by my physician a month or so ago and I had completely forgotten about it, I filled out all the drugs. And when the doctor came in, she said, well, aren't you on such and such. And I said, well, yes, I am. I had forgotten about it. She had logged in to the PDMP and already the drug, even though it doesn't go live until January 1 of 2018, this

physician in that doc-in-the-box could tell what drugs my pharmacist had dispensed to me, which is a wonderful program because now she can say, when I'm giving you a drug for your sinus infection it may or may not have an interaction. And the doctor can also tell whether or not I've actually filled that prescription the next time I go in. And they have given me the prescription for the sinus infection that I didn't actually fill, and they say, well, and why weren't you filling that prescription or why weren't you following up on the medication that you were supposed to do. So this a wonderful program that allows physicians and the healthcare community to be able to make strides in how we treat patients and do it in a cost-effective manner. So we are thrilled with this bill because it makes that minor change that would say a designee can get on the system. And I think everyone intended that, I think it was an oversight last year. This bill is a cleanup. We are grateful for the fact that Senator Kuehn has brought it, and we hope that you will advance the bill forward and that we can get it passed this year. [LB223]

SENATOR KOLTERMAN: Thank you. Any questions for Ms. Robak? Seeing none, how many more proponents do we have? Two? Thank you. [LB223]

KEVIN CONWAY: (Exhibit 7) Okay, thank you. Good afternoon, Vice Chair and members of the committee. My name is Kevin Conway, K-e-v-i-n C-o-n-w-a-y, I'm the vice president of health information for the Nebraska Hospital Association, and I'm here today to testify in support on behalf of our members of LB223. The NHA supports the statewide implementation of PDMP. We think the intent of the brilliant LB471 passed in 2016 is to facilitate the safe and effective treatment of patients. To satisfy the intent of the true purpose of the law, providers' access rights must correspond to service needs of the patient, namely the ability to query medication record information to facilitate safe treatment. It is the position of the NHA that under the intent of LB471, provider access includes access by qualified, nonphysician providers, which includes nurses and other clinical staff involved in the treatment process. The PDMP should not preclude access to the system for clinical staff. Limiting members of the patient's treatment team for accessing the medication creates a flawed system that counters the intent's underlying bill. A patient's full treatment, as I said earlier, includes clinicians. The Health Insurance Portability and Accountability Act of 1996, or HIPAA, the privacy rule recognizes the need for clinicians to access personal health information of the patient as part of the normal clinical care. The HIPAA privacy rule applies to the PDMP information in the same way as other personal health information used by clinicians today, including shared health information. HIPAA also clearly defines the role of the health information exchange, such as NeHII, and how it provides information access to patient's information. Medication history is a component of health information clinicians currently access routinely, and the PDMP information is simply an extension of that role and should flow into NeHII so that clinicians can access the medication history as part of their daily work flow using NeHII. In addition, measures for effective use of electronic health record system calls for clinicians to perform medication reconciliation as part

of the patient's health information. In Nebraska, NeHII serves as a statewide system for clinicians to access a patient's health information, including medication history for reconciliation. The NHA encourages the inclusion of the clinicians for accessing the medication information in the PDMP and that is an integral part to patient treatment and the flow of information into NeHII. This access is necessary to meet the full intent of the current PDMP legislation and help ensure the safety of patients during the treatment process. With that, that concludes my testimony. If you would have any questions, I would be glad to address them. [LB223]

SENATOR KOLTERMAN: Thank you, Mr. Conway. Any questions? Next proponent. [LB223]

DIANA MEADORS: Good afternoon. My name is Diana Meadors, and I am here just as a citizen. I am a licensed independent mental health practitioner and a licensed drug and alcohol counselor. I presently am the treatment center director for the only state and federally funded opioid maintenance program, which is in Omaha. So I am much appreciative of LB471. We were very excited when this was coming out, because as you can imagine, many of our patients opted out of the NeHII originally when it was first being initiated. I'm here to support this bill based on the notion that we have a medical director there that's very limited hours. And so although we do not enter information into the system, someone like myself having access to that information prior to approving take home methadone for patients is very important. And this was something that I strongly feel needs to be passed just for the protection of our patients. And with that, I submit and am open to questions. [LB223]

SENATOR KOLTERMAN: Thank you. Any questions? Hearing none, thank you very much. [LB223]

DIANA MEADORS: Thank you. [LB223]

SENATOR KOLTERMAN: Any additional proponents? With that, I'm going to turn this back to Senator Riepe so he can deal with the opponents. So wake up over there. [LB223]

SENATOR RIEPE: Thank you. Well, we'll continue on with opponents, and we'll see if there are any there. Please come forward. And thank you for doing a wonderful job. And Senator Howard, I understand that you participated too, so thank you. If you would just state your name and spell it please and then proceed. [LB223]

MARCIA MUETING: Sure. Senator Riepe and members of the Health and Human Services Committee, my name is Marcia Mueting, it's M-a-r-c-i-a M-u-e-t-i-n-g, and I appear today in

opposition to LB223 on behalf of the Nebraska Pharmacists Association. I am the pharmacist on staff at the Nebraska Pharmacists Association, and I appreciate the opportunity to offer my testimony today. The NPA fully supports the amendment that clarifies that a prescriber may choose a designee to access the PDMP on his or her behalf, and that designee must be a credentialed healthcare provider. We also support the amended language pertaining to training, and those already trained upon passage of this bill will be deemed trained. Our primary concern with the bill and the amendments as drafted is allowing participants to have access to the PDMP data through the NeHII portal. Participants include insurance companies and healthcare providers. While participants have access to the data in NeHII now, that data should not include information about patients who have opted out of NeHII. NeHII also contains information about individuals who do not know about NeHII or may not have a provider participating in NeHII and not know that their healthcare information is available in NeHII. We've done some background research and we've found...we believe that no other state operating a Prescription Drug Monitoring Program have authorized access to insurers. We're also concerned about the effectiveness of the opt-out of the NeHII system. For example, I believe that my prescription information records would be available through the PDMP for NeHII participants. I have never seen a provider that is connected to NeHII, and therefore have not been given the opportunity to opt out. The current statutory language clearly outlines who can access the prescription drug information on the PDMP side of NeHII: prescribers, dispensers, and their designees. It is essential that the security of these records be maintained and access limited only to those who have a treatment relationship with a patient. The NPA will continue to work with Senator Kuehn and Senator Howard on this bill, however, our members have questions about the amendments. I'd be happy to answer any of your questions. [LB223]

SENATOR RIEPE: Are there any questions from the committee? Senator Howard. [LB223]

SENATOR HOWARD: Thank you, Senator Riepe. Thank you for visiting with us today. [LB223]

MARCIA MUETING: Sure. [LB223]

SENATOR HOWARD: One of the conversations that we had had with Joni Cover and Bob Hallstrom was the negotiated language with the department around the participants where it had specified that it is "it's" participants. It is only the participants who are allowed to participate within the PDMP. And the department's lawyers didn't feel as though they needed any further clarification. Can you suggest some better language around participants for us? [LB223]

MARCIA MUETING: Sure, that would include prescribers, dispensers, and their designees. [LB223]

SENATOR HOWARD: So is anything around "its participants" that doesn't meet that same definition? [LB223]

MARCIA MUETING: I think you would have to double-check with Joni on that, I'm not sure of the technical concern with the word "its." [LB223]

SENATOR HOWARD: Okay. And then the other issue was about that access issue. And in the amendment, the first paragraph on Page 2 really digs into access. So it says "no patient-identifying data...shall be disclosed, made public, or released to any public or private person or entity except to" NeHII "and its participants," its participants again, "and to prescribers and dispensers as provided." Does that not meet your aims? [LB223]

MARCIA MUETING: I think we'll have to take...a lot of our...we've had very little feedback from our members on the amendments. I'm not sure that we've been provided all of the documents. [LB223]

SENATOR HOWARD: Yeah, you were given them yesterday? [LB223]

MARCIA MUETING: I just had a conversation with Joni, and I don't believe she has seen them. [LB223]

SENATOR HOWARD: I read that to her yesterday. [LB223]

MARCIA MUETING: Okay. [LB223]

SENATOR HOWARD: And she was given it yesterday and sent it out to her members yesterday. Or at least that's what she said in an email. [LB223]

MARCIA MUETING: Right. A document was sent out, I think there were three that were presented today. [LB223]

SENATOR HOWARD: This is the one that we discussed. [LB223]

MARCIA MUETING: I think it would be helpful for us to continue our conversations looking at all the documents and clarifying the concerns about participants. [LB223]

SENATOR HOWARD: Okay, thank you. [LB223]

MARCIA MUETING: Sure. [LB223]

SENATOR RIEPE: Senator Crawford. [LB223]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you for being here. I want to just make sure I understand your concerns. So if it's the case that those who have access to NeHII only have access to the PDMP information for the people who have not opted out of NeHII, when it's a person who only has NeHII access, not PDMP access, does that address your concern? Is that what you are concerned with? [LB223]

MARCIA MUETING: No, I think the concern is that...I live here in Lincoln, I don't see a provider that participates in NeHII, through the PDMP any prescriptions that I have received, you know, this year any controlled substances, next year everything, those prescriptions would be added to the PDMP. If I went to a...If I ended up at a hospital in Omaha that participates in NeHII, and remember I haven't been given the opportunity to opt out because the providers I've seen don't participate. If I were to go to Omaha and I would be seen at a hospital there, they would have access to all of my records. I haven't been given the opportunity to opt out. If I went to a hospital in Omaha that participated, and I believe they all do in Omaha I think, I haven't been given the opportunity to opt out. [LB223]

SENATOR CRAWFORD: So that hospital in Omaha would have your records also through the PDMP as well as NeHII? [LB223]

MARCIA MUETING: Right. [LB223]

SENATOR CRAWFORD: But you are concerned they get them through NeHII specifically? [LB223]

MARCIA MUETING: True. And, you know, any participant in NeHII is going to be able to access information. And I think the primary concern here is information is added to a record for me in NeHII, I haven't opted out, but I haven't been given and opportunity to opt out because I haven't seen a provider that participates in NeHII. It's kind of confusing. [LB223]

SENATOR CRAWFORD: But the PDMP does not give you the chance to opt out. [LB223]

MARCIA MUETING: No, and we're okay with that. [LB223]

SENATOR CRAWFORD: And if you went to that same hospital, they would have access to your PDMP information. [LB223]

MARCIA MUETING: A prescriber, a dispenser, or their designee absolutely would have access to the PDMP, and they should. [LB223]

SENATOR CRAWFORD: Okay. [LB223]

MARCIA MUETING: Our primary concern is the security of that data for participants of NeHII. [LB223]

SENATOR CRAWFORD: Someone who has NeHII access who does not have PDMP access. [LB223]

MARCIA MUETING: Right. [LB223]

SENATOR CRAWFORD: Gets access to PDMP information, is that your concern? [LB223]

MARCIA MUETING: Right. Well, and it's the bigger question is the opt-out. And I know that this was brought up in a meeting about well, anybody can go to NeHII's Web site and opt out. Sure. I don't know where the public is going to know that if they're not using a NeHII participating provider. My doctor certainly didn't tell me I can go and opt out of NeHII. Do you understand the concern? [LB223]

SENATOR CRAWFORD: I think I do, yes. Thank you. [LB223]

SENATOR RIEPE: Are there additional questions? Senator Howard. [LB223]

SENATOR HOWARD: More of a comment. One of the suggestions that I made for this specific issue was why not...we already have a mandate on the medical side when you go to the doctor that they have to explain to you the opt-out. So why not have a mandate on the pharmacist side? Just to make sure that we're covering all our bases. Now obviously in the green copy and the amendment it really doesn't reach into your issue because the opt-out was really revolving around the PDMP. And it's hard for me to reach into a NeHII statute in a cleanup bill for PDMP. So would the pharmacists be welcome to some type of mandate per every time they dispense they've got to talk about PDMP and the NeHII opt-out? [LB223]

MARCIA MUETING: Sure. The essential concern is that the information is going to be accessible to people outside of those accessing the PDMP, outside of the prescribers and the dispensers. I believe this bill opens up access to include insurers and other participants of NeHII. [LB223]

SENATOR HOWARD: So this bill would not have done that. LB471 would have done that. [LB223]

MARCIA MUETING: Okay. Right. [LB223]

SENATOR HOWARD: It probably would have been more appropriate to fought like cats and dogs about LB471 on this issue, because this bill just really just clarifies the dispensing language, gives the vets some more time. [LB223]

MARCIA MUETING: I think the word "participant" is still of question. We're not certain that "participant" refers to prescribers, dispensers, and their designees. We're concerned that that means participants of NeHII. That's the clarification I think that we're looking for. [LB223]

SENATOR HOWARD: And is that the only clarification or is there more that you're hoping for? [LB223]

MARCIA MUETING: I think that's the only clarification that we're concerned about. [LB223]

SENATOR HOWARD: So if we remove the word "participants" and we just say prescribers, dispensers in the PDMP and their designees that would satisfy your aim? [LB223]

MARCIA MUETING: I think so. [LB223]

SENATOR HOWARD: Okay, thank you. [LB223]

SENATOR RIEPE: Senator Linehan. [LB223]

SENATOR LINEHAN: Okay, so I'm confused now, so it might not be an appropriate question. But are you saying that as a pharmacist you don't want managed care organization to be able to look, which I'm not even sure this bill does anyway...it doesn't do, that's why I think I'm confused. You don't want the managed care organizations to look at the prescription drugs. [LB223]

MARCIA MUETING: Right. I believe that they already have the information that they need. [LB223]

SENATOR LINEHAN: Except for if somebody is paying cash. [LB223]

MARCIA MUETING: Right, claims that they didn't pay for. [LB223]

SENATOR LINEHAN: So you don't think it's important that they see those? [LB223]

MARCIA MUETING: I think it's an interesting proposition to allow an insurer to examine claims that they did not pay for. [LB223]

SENATOR LINEHAN: Okay. So you just...you don't think they have any interest in seeing if somebody is abusing drugs? They shouldn't be able to monitor that? [LB223]

MARCIA MUETING: Sure. Well, I'm hoping that through the PDMP that the prescribers and the dispensers are going to be monitoring that. [LB223]

SENATOR LINEHAN: Okay, but what if there is a subscriber that is abusive? How would that show up, where would that show up? [LB223]

MARCIA MUETING: What do you mean by subscriber? [LB223]

SENATOR LINEHAN: I'm not...the doctors writing the prescriptions. [LB223]

MARCIA MUETING: If they're abusive how would that show up? [LB223]

SENATOR LINEHAN: Yeah, how would that...would there be a way to find that unless the managed care organization was watching it? [LB223]

MARCIA MUETING: I'm not sure that a managed care organization necessarily is...I don't know how quickly and easily they would upload information from the PDMP into their system such that they will be able to monitor in real time. The question here too is remember that in medicine, thank goodness, we have checks and balances. You have prescribers and then you have pharmacists that are dispensing the medications. Oftentimes if...there's red flags when a person brings a prescription. [LB223]

SENATOR LINEHAN: I know, because people get caught doing it. So there clearly are red flags. [LB223]

MARCIA MUETING: Absolutely. There are red flags. And I believe that pharmacists are going to be diligent about checking the Prescription Drug Monitoring Program, especially when they have a concern about a patient or a prescriber's drug use. We do that now. We'll get in contact. If we have concerns, we call each other: did you fill a prescription for such and such. [LB223]

SENATOR LINEHAN: Okay. So you're going to...okay. All right, thank you. [LB223]

MARCIA MUETING: Sure. [LB223]

SENATOR RIEPE: Are there other questions? Seeing none, thank you very much. [LB223]

MARCIA MUETING: Thanks for the opportunity. [LB223]

SENATOR RIEPE: Are there other opponents? Any other in opposition? Seeing none, are there any individuals testifying in a neutral capacity? Seeing none, Tyler, what do we have in the way of letters? [LB223]

TYLER MAHOOD: (Exhibit 8) I have one letter for the record signed by Kaleigh Nelsen of the Nebraska Chapter of the National Association of Social Workers in support. [LB223]

SENATOR RIEPE: Okay, thank you. Welcome back, Senator Kuehn. You're invited to make your close. [LB223]

SENATOR KUEHN: Last bill, last hearing. So far, you don't think I was going to pass up closing? I apologize, I got a little bit of buck fever and got all excited about the last bill in my introduction and I forgot to acknowledge that we had had some recent meetings in the last day with the pharmacists. And we've been continuing to have that discussion. I appreciate their willingness to sit down and listen to all sides. I also appreciate Deb Bass with NeHII, Blue Cross Blue Shield representatives, NMA has participated. And I think, as you all well know as well as anyone, big projects don't happen overnight and we often don't get them perfect in the first year. So I think LB223 addresses many of those technical and specific issues of a really big, very important innovative piece of legislation. We're going to continue to have these discussions about these technicalities, make sure everyone is interpreting and applying the law in the same way. And this is just part of the policy process with doing something big. So I really appreciate everyone who has been willing to participate and come to the table to talk about this, and is

continually committed to staying at the table to work through these issues so that we can achieve the policy objectives that were started many years ago, when we started down this path of developing the PDMP. I'm a late comer to the process and I appreciate the commitment of everyone. So with that, I'm happy to answer any questions from the committee. [LB223]

SENATOR RIEPE: Are there any questions? Seeing none, thank you very much. [LB223]

SENATOR KUEHN: Thank you very much. [LB223]

SENATOR RIEPE: Thank you for all of your hard work. This concludes the HHS public hearing on LB223. Thank you all. We are going to have a brief Executive Session. [LB223]