[LB701 LB702 LB717 LB838]

The Committee on Health and Human Services met at 1:30 p.m. on Friday, January 26, 2018, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB838, LB717, LB701, and LB702. Senators present: Steve Erdman, Vice Chairperson; Sue Crawford; Sara Howard; Mark Kolterman; Lou Ann Linehan; and Matt Williams. Senators absent: Merv Riepe, Chairperson.

SENATOR ERDMAN: Good afternoon. Thank you for coming to the hearing. My name is Steve Erdman, I represent District 47, which is ten counties in the Nebraska Panhandle. This is a meeting...a hearing over the Health and Human Services. We'll start with introductions. On my far right; Senator Kolterman, will you start there?

SENATOR KOLTERMAN: Yes. My name is Mark Kolterman. I represent the 24th District; Seward, York, and Polk Counties.

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

KRISTEN STIFFLER: Kristen Stiffler, legal counsel.

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

SENATOR WILLIAMS: Matt Williams, Legislative District 36; Dawson, Custer, and the north part of Buffalo Counties.

TYLER MAHOOD: Tyler Mahood, committee clerk.

SENATOR ERDMAN: And we have a couple of pages with us today to help us with our needs when needed. The committee will take up the bills in order posted on the wall outside of the hearing room. Our hearing today is a public hearing and it's your opportunity to get involved in the legislative process. This is an opportunity for you to express your position, whether you're opposed or for the bill, the legislation will be heard before us today. The committee members will be in the hearing today, and some of those have other hearings they need to attend to. So if they step out to go to another hearing, be not alarmed. They do have other commitments besides being here. They'll be working on some of their electronic equipment, and so don't be distracted by that. They may be looking up information about your bill or researching things. To better facilitate the procedure, we ask that you fill out the green form and present that to the clerk when

you come up to testify. And if you would, please silence your cell phones. And move towards the front if you're going to testify on a bill, whether it's pro or con or neutral. And that's the order that we will take the testifiers today; we'll do proponents, opponents, and then neutral. And if you're interested in having your information presented, fill out the white sheet on the side of the room, there, and please turn that in. We'll move forward with the bills as they were announced there. Senator Linehan will be joining us later. Senator Riepe is at a convention, and that's the purpose that I'm taking over today. So with that said, we'll start the hearing with LB838. Senator Wishart. [LB838]

SENATOR WISHART: Well, good afternoon, Vice Chairman Erdman and members of the Health and Human Services Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th Legislative District in west Lincoln. And I'm here today to introduce LB838. This bill revisits a law passed several years ago that banned the use of tanning beds for someone under the age of 16 and required parental consent for someone under 18. I introduced LB838 because I believe the Legislature needs to revisit this issue to protect the health of our youth. The second-most common cancer in both men and women, estimated 234,030 new cases in 2018. The chance that a man will develop this cancer in his lifetime is about 1 in 15. For women the risk is about 1 in 17. These are actually the statistics for lung cancer. Currently in Nebraska, it is illegal to sell tobacco products to minors because the research is clear that cigarette smoking is the number one risk factor for lung cancer. I doubt that any member of this committee would be in favor of reversing the ban on sale of tobacco products to minors, even if businesses in your district reach out to you about how it would improve their bottom line. Cancers of the skin are by far the most common of all types of cancer. Nationwide, an estimated 91,270 new cases of melanomas--which is the most dangerous type of skin cancer--will be diagnosed in 2018, with an estimated 13,540 deaths and 60 of those occurring in Nebraska. No matter what you may hear at tanning salons, the cumulative damage caused by UV radiation in tanning beds increases a person's risk for skin cancer. In fact, people who first use a tanning bed before age 35 have an increased risk for melanoma by 75 percent. According to a study conducted by the Journal of American Medical Association, the number of skin cancer cases due to tanning is higher than the number of lung cancer cases due to smoking. I'm going to repeat that again; according to a study conducted by the Journal of American Medical Association, the number of skin cancer cases due to tanning is higher than the number of lung cancer cases due to smoking. In Nebraska, youth indoor tanning rates for 12th grade girls are higher than the nationwide rate; 22 percent in Nebraska, 16 percent nationwide, according to Nebraska Youth Risk Behavior Survey. So I ask you this: If we know that youth indoor tanning rates are high in Nebraska, we know that skin cancer cases caused by tanning are higher than lung cancer cases caused by smoking, and we know that certain types of skin cancer are fatal, then why would we allow minors to access the very thing that increases their chances of having skin cancer? This is a personal bill to me. I have family members who have struggled with skin problems and the looming fear of skin cancer because of the amount of sun exposure they had when they were young. I, myself, used tanning

beds when I was young, before school dances. And I had a wake-up call--a really big wake-up call, researching this bill--that I need to go to a dermatologist. I need to get my skin checked because my activities, when I was younger and using tanning salons, leave me vulnerable to skin cancer. Now, if I want a golden glow before I go on vacation or I go to a black tie event, I get a spray tan. And for those of you who are hearing from businesses in your district that this affects their bottom line, I do want to point out that even though tanning beds still make up the bulk of indoor tanning businesses...their business, spray tanning is now the only part of the industry that is growing. Spray tanning is a safe alternative to tanning beds. The decisions of previous legislators have helped paved the way for reductions in youth smoking rates in Nebraska, from 36 percent in 1997 to a current rate of 13 percent. Think how many lives have been saved because a legislature had a strong and consistent precedent of protecting young people and their health and safety for the long-term consequences of harmful actions. State statutes forbid the sale of cigarettes to youth because we know the long-term health risks that these habits pose, and because science also tells us that youth have a diminished capacity to understand and weigh those long-term consequences before taking action. This session, we can be leaders in reducing the rates of skin cancer by imposing similar restrictions to those we have on tobacco products. Current law is inadequate, Nebraska's youth deserves better from us. Thank you so much. And I'm happy to take any questions. [LB838]

SENATOR ERDMAN: Thank you, Senator Wishart. Any questions? Senator Williams. [LB838]

SENATOR WILLIAMS: Somebody was going to start. (Laughter) Thank you, Vice Chairman Erdman. And thank you, Senator Wishart... [LB838]

SENATOR WISHART: Yes. [LB838]

SENATOR WILLIAMS: ...for being here today. How can we be certain that if we pass LB838 that we actually reduce the number of young people using tanning beds, knowing that there are other alternatives for them? [LB838]

SENATOR WISHART: So when you look at...across the country, in terms of states that have some sort of laws regarding minors' access to tanning beds and tanning salons and whether they're...how enforcement works, you actually see that states that have just a restriction in terms of minors, 18 and younger, actually have the best compliance from tanning salons in terms of enforcement. So I think that we'll actually see better compliance if we go and just completely restrict it for 18-year-olds. You know, the other thing is, I don't have anything in here in terms of compliance. I believe that when we pass legislation, the businesses in the state will uphold the laws. But that is definitely something I'm willing to talk and work with the committee on. [LB838]

SENATOR WILLIAMS: And I would like you to have an opportunity to express your views also on, you know, oftentimes here in the Legislature we deal with issues of personal choice versus regulation...helmet bill, you know, those kind of things. What makes this different? [LB838]

SENATOR WISHART: Because we're talking about minors. [LB838]

SENATOR WILLIAMS: Thank you. [LB838]

SENATOR ERDMAN: Any other questions? Hearing none, thank you. [LB838]

SENATOR WISHART: Thank you. [LB838]

SENATOR ERDMAN: Will you be around to close? [LB838]

SENATOR WISHART: Yeah, I'll be here... [LB838]

SENATOR ERDMAN: Okay. [LB838]

SENATOR WISHART: ...if you need me. [LB838]

SENATOR ERDMAN: Thank you so much. Are there proponents? Please move forward, take a seat, and state and spell your name, if you would, and then proceed. [LB838]

DAVID WATTS: Thank you. David Watts, D-a-v-i-d W-a-t-t-s. Vice Chair Erdman, members of the committee, my name is Dr. Dave Watts. I'm testifying in support of LB838 on behalf of the NMA and the American Cancer Society. I know you have a very busy afternoon, so I'll try to be quick. You may have heard that the science on UV radiation exposure and skin cancer is controversial or inconclusive. I don't believe that's true. The scientific consensus is UV exposure causes all three skin cancers, from the overwhelmingly common and disfiguring to the all-too-common and potentially deadly. Our major public health agencies agree: like the National Toxicology Program who, 15 years ago, listed UV from the sun and tanning beds as a known human carcinogen; like the World Health Organization, which says of malignant melanoma and indoor tanning, there is convincing evidence to support a causal relationship, particularly with exposure before the age of 35...the WHO lists indoor tanning in their top cancer class, right along with tobacco; like the CDC, who says that indoor tanning causes cancer in humans and is particularly dangerous for younger users; like the US Surgeon General, who reported in 2004 as many as 90 percent of melanomas are estimated to be caused by UV exposure, and who

encouraged prohibiting tanning device use under age 18; and like the FDA, who now requires a black box warning on each indoor tanning device, that it should not be used on persons under the age of 18. Unfortunately, teenagers under 18 are tanning at rates greater than the national average in Nebraska. And melanoma incidents continues to rise, especially in Nebraska, and is one of the most common cancers in young people. Two separate, recent studies calculated that women who tan indoors are 6 times as likely to get melanoma before age 30 as women who have not tanned indoors. One of those studies attributed 75 percent, 3 out of 4, of the melanomas in those women to their indoor tanning. You may have heard that sunburn is the real culprit, and that a controlled base tan is safe and helpful: no. It's true, sunburn can increase melanoma instance between 40 to 90 percent, according to the Surgeon General, but one National Institutes of Health-sponsored study showed that melanoma risk was higher in indoor tanners who reported never having been burned, indoors or out. A tan is the body's...excuse me, the CDC says a base tan is not a safe tan. And they say that a tan is the body's response to injury from UV rays. You may have heard that this bill will have the unintended consequence of pushing teenagers to tan in unsupervised locations, thereby increasing sunburn incidents. First, sunburn is common in salons. Second, this bill does address gyms, apartment complexes, and beauty shops, which are the most common nonsalon locations where tanning is available. And third, there is no reliable evidence that sunburns are increased in nonsalon locations. You may have heard that tanning beds can be used for medical skin conditions. However, I think medical conditions, like psoriasis, should absolutely not be treated in nonmedical settings using variable-output, nonmedical equipment and supervised by nontrained, nonlicensed staff. You may have heard tanning is a good, natural way to get vitamin D, and that vitamin D cures everything from the cancer to the common cold. In fact, the U.S. Preventative Services Task Force recently concluded that data are insufficient to even recommend even routine vitamin D screening. The Institute of Medicine reached the same conclusion: take a supplement. You may have heard that tanning is not addictive. There is good evidence that it is. Lastly, you may have heard that parents should be allowed to decide whether their child can use tanning devices. In fact, nearly a third of tanning salons in Nebraska were found in a recent peer-reviewed study to be noncompliant with the current law. And that is the case in other parental consent law states as well. But more importantly, we don't make parents decide whether or not to use car seats for toddlers, or allow their adolescents to buy alcohol and tobacco with a note. There's a lot of misleading information out there, and even well-informed, smart, educated, dedicated parents can be lulled into thinking that indoor tanning is not dangerous. Unfortunately, it is. I hope you'll consider the evidence and advance this important public health measure from committee. And thank you for your attention and thoughtful consideration. I'd love to answer questions. [LB838]

SENATOR ERDMAN: Thank you, Dr. Watts. Are there any questions? Senator Williams. [LB838]

SENATOR WILLIAMS: Thank you, Senator Erdman. Thank you, Dr. Watts, for being here. I think you do surgery on people that... [LB838]

DAVID WATTS: Yes, sir. [LB838]

SENATOR WILLIAMS: ...have had this kind of situation happen? So you've counseled with them. Would you talk a little bit to us about when you...you said we're going to hear that it's not addictive, but your position is it is addictive. [LB838]

DAVID WATTS: Yes. [LB838]

SENATOR WILLIAMS: Could you talk about that in your experience with your patients? [LB838]

DAVID WATTS: Yes, I believe tanning is in the class of behavioral addictions, similar to gambling addiction. There's a tendency for people to perceive the reward to be greater than the perceived detriment. So kids will skip school, sometimes, to tan. They will skip work, sometimes, to tan. They will not see the...they will overrule the perceived dangers. Even if they know the dangers of tanning, they will say; I need to get a tan because I need to fit into my peer group. So those are addictive behaviors. And the addiction medicine is moving along. In fact, the information is robust enough now to be...have been collected in a review article that was published last year. There's a couple of mnemonics that have been developed and validated to look at addictive behavior...behavioral addictions. And some of those...it's not in the DSM-5 yet, but neither is gambling addiction. So I think there's a good body of evidence that tanning is addictive. And the other thing I'll say is that there's also a physical component to addiction, to tanning, in my view. And that is that tanning, because of the way that it works in the molecular level, causes an endorphin release, the natural opiates of the body. And those act on the reward center of the brain to release dopamine, which is a reward chemical. And so there's a response in kids who, in one study, were given a fake tanning bed and a real tanning bed--looked just the same but one had UV, the other didn't--migrated 95 percent to the tanning bed that had UV. And in another study that I believe I mentioned to you at one point, a group of chronic tanners--frequent tanners--were given a drug that's used to treat heroin overdose in emergency rooms, and opioid overdose, and produced withdrawal symptoms in those individuals. So taken all together, I think there's good evidence that tanning is addictive. [LB838]

SENATOR WILLIAMS: A follow-up question, similar to the question that I asked Senator Wishart...then, if we recognize that there is an addictive tendency, or could be, with this, restricting the use from tanning salons and gyms and...are we potentially forcing people that have an addiction to an underground source of use of tanning? [LB838]

DAVID WATTS: Potentially, yes. And... [LB838]

SENATOR WILLIAMS: And how do you see that, and what the risk of that is? [LB838]

DAVID WATTS: Well, the numbers...the numbers...there was one study that looked at nonsalon locations. And in that study they looked at a survey of 850-odd adults in the United States--women, adult women--and found that 41 percent who had ever used an indoor tanning bed had tanned...excuse me, of those that...I'm messing this up...only 13.2 percent of those adults had tanned at homes. The rest were in gyms and apartment complexes and beauty salons, and that sort of thing, so a small number in that study. And of the current tanners, it was only about 7, 7.5, 7.7 percent that tanned at homes. But yeah, I think it's a problem and it probably will need to be addressed at some point. But, I also think that the tanning units that are available in salons, some of these are monsters that have a UV index which tops out at 11, which is extremely dangerous...skin injury in minutes. Some of these larger tanning machines have been shown to have a UV index over 30, so incredibly dangerous, again, in my view. Those are too expensive, I think, for the home user. The home user is probably going to have a clamshell-type thing. And even in salons, sometimes--and this is my belief--the patron actually tans for as long as they want to. They're not controlled by someone at the desk. And the... [LB838]

SENATOR WILLIAMS: So the fact that the person in the tanning salon had special training, or whatever, may not matter because the person...my concern is, I think...I shouldn't say concern, my question would be, I think we have this conception that tanning beds are an expensive device, and sometimes they're not necessarily tempting to buy. So there's one for sale in north Lincoln for $300, I just pulled up on my gadget, so... [LB838]

DAVID WATTS: Yeah. [LB838]

SENATOR WILLIAMS: ...if you have a true addiction, that might just end up in your basement. [LB838]

DAVID WATTS: It very well might, Senator, yeah. [LB838]

SENATOR WILLIAMS: Thank you, Doctor. [LB838]

DAVID WATTS: Yes, sir. [LB838]

SENATOR ERDMAN: Any other questions? [LB838]

DAVID WATTS: I would speak to the training issue, though, just since you brought it up. And I'm sorry to take the time, but the training in the salons is interesting. And the training is better in the tanning-dedicated salons than in the beauty shops. But, one training device that I...training program that I'm aware of is the D-Angel Empowerment video, in which the staff are trained to educate the patrons on the values of vitamin D. And in 2012, I believe, the tanning industry actually reached a settlement with the Federal Trade Commission on misleading information given to patrons. And nine out of ten salons claimed that tanning was not dangerous, and four out of five actually said tanning was good for you. And I think that's along the line of the D-Angel Empowerment video. So I think training...and yes, they are trained, to some extent, in skin types and that. But one in five users, in a recent study that was a diary study, and they checked girls' memory after about two weeks, one in five professional salon tanning sessions ended in a burn, and 66 percent of those kids reported having been burnt. So I think it's common in professional salons as well. [LB838]

SENATOR WILLIAMS: Thank you. [LB838]

SENATOR ERDMAN: Thank you. One thing I failed to mention when we started, if you're going testify, we're going to go on the light system. The green, you've got four minutes; the yellow, one minute; and the red, you should wrap it up. The doctor did fine completing his testimony in that time, I appreciate it. Next proponent. Please state your name and spell it, and begin when you'd like. [LB838]

KANDICE DOLESH: (Exhibit 1) Sure, my name is Kandice Dolesh; first name Kandice K-a-n-d-i-c-e, Dolesh D-o-l-e-s-h. Hello. I was diagnosed with melanoma at the age of 26. And I...my whole experience basically stemmed from a spot that I didn't even know that I had on my back. I had felt something itch in the area just a couple of times, and so I asked my husband to take a quick look at it. And he told me it looked like a little freckle. And for whatever reason, that really bothered me. And so I went in to have it looked at, and the dermatologist took one look at it and said it needed to come off immediately. Now, we're talking about a really small spot, it was smaller than the size of a pencil eraser. And so she took the spot off and I waited a day and received the phone call. And I'll never forget what I was doing or how I felt when I got that phone call to tell me that it was melanoma. So that day definitely changed my life. But the next day, I got a phone call telling me that I was lucky and that I had a superficial spreading type of melanoma that had been caught early. So this is essentially what started my long history of multiple biopsies and excisions that soon became a way of life, and still is a way of life now, and will continue to be a way of life for as long as I live because, as you can see, that the damage is already done. I was a regular indoor tanning bed user in my younger days. Growing up, my mom did not want me to tan. She did not allow me to tan but, when I turned 16, she had less control of my whereabouts. And that's when I began tanning, is when I had the ability to drive myself there and make my own decisions. So I tanned ever since I was 16. And I began tanning because I

liked the way I looked when I was tan, and I liked the way I felt when I was tan and so I was going to do it. When I went off to college, I continued to tan and I even got a part-time job at a tanning salon. So I clearly continued to use the beds regularly. I continued to tan for the same reasons I mentioned earlier about the way it made me feel and the way it made look, but it also became a social thing at that point. So the salon that I worked at had all sorts of deals and fundraisers, they would call them, so cheap tans on Sundays, or bring in a can of food on Tuesday and you get to tan for free. So the line of college kids would be out the door and everyone would be socializing as they're waiting for their turn. So then you fast forward to nine years later. I'm still married, same husband, and we now have three kids; ages six, four, and eighteen months. So...sorry...I would never step foot in another tanning bed again, and I wish more than anything that I never had. But, you can't turn back time. So the choices I made at 16--at the age of 16--are still with me today and will continue to be with me for the rest of my life. The problem is I don't know the extent of my skin damage, and I never will. So all I can do at this point is go to my skin checks and I pray about it, so. My stomach hurts when I think about how my past choices are still affecting me today and how they'll continue to affect me in the future. But what hurts even more is when I think about how these choices will affect my children. I really hate to think about what life would be like if the cancer came back, because I might not be so lucky the next time around. So this whole thing has caused me to do a lot of self-reflection on many levels. And I have come to terms with that the past is the past and I cannot change that. So at this point all I can do is look forward and look to the future. And that's what brings me here today. So I urge each and every single one of you to please pass this bill. A 16-year-old child does not realize the impact their choices have and that these choices can haunt them for the rest of their lives. These kids are worried about hanging out with their friends, going to the next party, and feeling good about themselves, just as I was. These kids need to be protected from making these decisions that they just aren't capable of making yet. We need to protect them from the peer pressure that comes along with it. These kids are too young to have the responsibility to be able to tan because it carries a very heavy burden. They do not understand the long-term consequences of their behavior. And I also want the children to know that they are perfect as they are. They don't need to tan to fit in, to feel good, or to fill any other void in their lives. And I want them to hear this message loud and clear, because it's not worth it. So please, I urge you, protect the children of Nebraska and pass this bill. [LB838]

SENATOR ERDMAN: Thank you very much for your testimony. We appreciate it. Are there any questions? Senator Williams. [LB838]

SENATOR WILLIAMS: Thank you, Senator Erdman. Thank you, Kandice, for being here and your testimony. I want to ask you a question about now that you're a grown-up and a mom... [LB838]

KANDICE DOLESH: Yeah. [LB838]

SENATOR WILLIAMS: ...compared to when you were making those decisions to tan early. Do you think that when you were 16 and able to drive, and so you were able to go there yourself, were you capable of making good choices at that time like you would be today? [LB838]

KANDICE DOLESH: Not at all. [LB838]

SENATOR WILLIAMS: And can you tell me why? What's happened...different? [LB838]

KANDICE DOLESH: Because at that point in my life, I was thinking short-term. I was thinking I want to look tan so I look good in my dress for homecoming, or I want to look tan before I go swimming with my friends, right? You don't think about I'm going to go tanning and I'm really going to damage my skin and that's irreversible. And you don't think about I have all these family members, I have all these loved ones in my life, and doing these actions can really affect them. It not only affects myself, but it affects everybody around me. [LB838]

SENATOR WILLIAMS: Thank you for helping us distinguish between making decisions when you're young and when you have a little higher level of maturity. Thank you for being here. [LB838]

SENATOR ERDMAN: Thank you for that. Any other questions? Seeing none, thank you very much. [LB838]

KANDICE DOLESH: Thank you. [LB838]

SENATOR ERDMAN: Next proponent. Thank you for coming. Please state your name and spell it, please. [LB838]

WENDIE GROGAN: My name is Wendie Grogan, it's W-e-n-d-i-e G-r-o-g-a-n. [LB838]

SENATOR ERDMAN: Go ahead. [LB838]

WENDIE GROGAN: Thank you for having us, Senator Erdman. I want to introduce myself; I am the mom to Paige, my daughter, who is also going to speak to you this afternoon. And I also want to tell you that I'm a pharmacist, and have been a pharmacist in the hospital at the med center for the last 28 years. And I hope you'll understand why I think that's important. I can only give you some images of what it's been like since last fall when Paige got diagnosed with a melanoma. And I can tell you that I was lying by the pool with her, right before she went off to

college at KU. And I looked over at her and I looked at her leg and I thought; that mole looks browner or bigger or I never noticed it. I don't really remember. It wasn't what you think of melanoma. It wasn't bleeding, it wasn't black and blue. It wasn't irregularly shaped. It wasn't on a part of her body that had ever had a blistering sunburn. But, for some reason, we decided to have it taken off and I really kind of thought no more of it. Well, about three weeks after that, I--flash forward--I can remember the phone call I got at eight o'clock in the morning. I remember answering the phone and the person on the other end of the line--sorry--saying: Is this a good time? And being in the healthcare profession, I know that that salutation is an ominous sign, when someone says: Is this a good time to talk? And I said: Of course. They said that Paige's mole came back as a melanoma. And they said this is very serious, and that you need to get her back to Omaha because she needs to have a wide excision done of the area on her leg where this no-bigger-than-a-pencil-eraser was...mole. And I said to the girl...I said: You know, I know it's...I'm a pharmacist, I know this is really serious, I said: but I'm reacting to it emotionally right now because basically you told me that something that was my dream come true...was my daughter after two boys, you basically said she's going to die, because to me, being in the healthcare profession, that's what a melanoma is. So Paige will tell you some more about that, but flash forward to...I went down to KU and picked Paige up. I couldn't tell her what was up before I got her because I didn't want her to be scared, I didn't want her to get on the internet. So flash forward to...we were fortunate enough to have Dr. Watts remove...do the wide excision on Paige's leg. And I can't tell you what it was like to have your 18-year-old daughter standing there while a physician drew a three-inch football size to take care of a mole that was no bigger than a pencil eraser out of her leg, and saying to him--because I'm in the healthcare field and I do worry about things--make sure that you take a good amount so that it doesn't spread, because people die from melanoma. You know, Paige was really lucky and so was Kandice. But there's people in the hospital who die from melanoma, men and women. Anyway, we were really lucky. And I watched while my daughter had an ounce of lidocaine injected under her skin to remove the football-sized thing off of her leg. And Dr. Watt's office staff was wonderful, because it hurts to have lidocaine. I don't know if any of you have had a little lidocaine, but it's pretty painful and she was trooper. So I guess what I'm here to speak to...and I don't want to forget a few important things. So parents want to be able to make a good choice for their children, right? They want to have the control over making a decision. Paige...I think we probably even lied about how old Paige was when she first started going to the tanning beds. And I signed the waiver for her. And I am a healthcare professional who full well knows, and I consider myself to be a smart person with good common sense about the dangers of tanning. But for whatever reason...and she's...Paige is not a high-maintenance kid. She's probably one of my easiest kids, of my three. She wasn't, like, saying; I hate you mom, you won't let me go to the tanning bed. But anyway, just so you know, it wasn't from that. But I think to have a law that says: 18, it's the law, takes it out of my hands. I don't have a choice; she can't go to the tanning bed. We don't even have to cross that bridge. So I'm here, really, to say that I think that it's important for that reason. I should have known better. I shouldn't have let my daughter go to the tanning bed. And I made

bad choices and she's having to pay for it. I never thought I'd be here in a million years...no history of cancer, nothing. So I guess I'll entertain any questions. [LB838]

SENATOR ERDMAN: Is there any questions you may have? Thank you for your testimony, we appreciate it. [LB838]

WENDIE GROGAN: Thank you. [LB838]

PAIGE GROGAN: My name is Paige Grogan, P-a-i-g-e G-r-o-g-a-n. [LB838]

SENATOR ERDMAN: Would you move over a little closer to the microphone so the transcribers can pick it up? Thank you. [LB838]

PAIGE GROGAN: I'll never forget the day my mom traveled to Kansas to pick me up for Labor Day weekend. It was a long weekend, so I was going home. And as I packed up my stuff, my mom said she had something to tell me. And at that point I had just, like, kind of forgotten about the mole. I didn't really think anything of it. It had just, like, gone over me. And so I wasn't expecting what she was going to say next. And we went outside and we sat on the front stairs of my dorm. And she told me that she got a call saying that the mole came back as a melanoma in situ, and described to me what it was and told me not to look it up so I wouldn't get scared about it. And at first I was like, okay, it's not too bad, like, we're going to get it removed. But then, me being an 18-year-old...I'd only been 18 for, like, 2 months. I was just starting college. It hit me that, like, I have what's considered skin cancer. So then I thought the worst things possible that might happen to me. But I was very, very fortunate to have Dr. Watts have me in the next day to get it removed. It definitely was a very scary process for me to go through at that age. I've never really been too scared by needles or anything, but that was definitely life-changing. And now, unfortunately, I have a giant scar on my left leg that it will take years and additional therapy to get rid of. So it's just one extra thing for me to worry about when I look in the mirror. And the reason I first started to tan was because I was involved with cheer, show choir, dance; all activities that had me, like, out in the open for people to just look at me while I was performing. And I didn't really like being pale. Like, I felt like my makeup didn't look right. So I just felt better about myself when I was tan because it covered up everything I was insecure about. And it did become my addiction. I would only go once a week, most of the time. But sometimes I would decide to go twice a week. And it was, like, the warmth of the bed; it was, like, the comfort, the music. It was just a time for me to relax. That's why I thought it was, like, my addiction because I just, like, couldn’t stop going. And I was just, like, really self-conscious about myself, so it allowed me to, like, cover everything up. And the people at the salons made it super easy for me to be, like, okay, like, I'll upgrade to a higher-level bed today. Like, it's cheap, why not? And I never really invested in the expensive, like, lotions that they have for us to use,

and stuff. And I just think there's so much pressure on young girls to be, like...feel a need to be pretty and tan. And I think that's something by, like, putting this bill into effect it's showing girls you don't have to be tan. You need to be comfortable in your own skin. Now that I can't go tanning, I've had to learn to accept my fair skin and when I need...if I want to, I can go get a spray tan because that's the better alternate. And my friends, they don't really realize how bad it is. They don't...when I first told them...I mean, they didn't really make a joke about it or anything. It was just, they didn't really understand that I had skin cancer. They don't understand that it was a serious thing. And I'm only 18 years old, and now my life has changed. I mean, I have to go in every few months just be make sure I don't have any more. So it's definitely life-changing. And I just...I don't want anyone else to have to go through what I went through. I mean, when people first...like, when people found out that I tan and stuff, they would be like: You know you're going to get melanoma, right? And I was like: No, I'm not. Like, I'm not going to be the person that gets melanoma, but it happens, and I think that, if we take it away for people under the age of 18, it shows them that it can happen. And looking back now, I wish I hadn't gone because I realize that I didn't need to be tan. There were so many other people that dealt with being pale and they didn't feel the need to go tanning, so why did I have to go? So I just...I think that's really important. I think it's important to, like, let girls and boys know that it's okay to, like, feel comfortable in your own skin, and you don't need to go in a tanning bed just to feel more comfortable about yourself. I mean, people will accept you for however pale or tan you are, so that's all I have to say. [LB838]

SENATOR ERDMAN: Thank you very much. Any questions? Senator Howard. [LB838]

SENATOR HOWARD: Thank you, Senator Erdman. Thank you for visiting with us today. So are you still in school? [LB838]

PAIGE GROGAN: I'm a freshman in college. [LB838]

SENATOR HOWARD: Okay, so where are you going? [LB838]

PAIGE GROGAN: UNL, I just transferred. [LB838]

SENATOR HOWARD: Oh, right on. What are you studying? [LB838]

PAIGE GROGAN: I'm studying business administration. [LB838]

SENATOR HOWARD: Okay. [LB838]

PAIGE GROGAN: Yes. [LB838]

SENATOR HOWARD: Well, we're glad that you came back to this state (laughter), we appreciate it. And I appreciate you and your mom's testimony. It takes a lot of bravery to come talk to us. We're a little intimidating, just look at us--that guy especially (laughter)--and I just really appreciate you telling your story today. [LB838]

PAIGE GROGAN: I'm glad I could come do it. [LB838]

SENATOR HOWARD: Thank you. [LB838]

SENATOR ERDMAN: Thank you so much. Next proponent. [LB838]

SENATOR CRAWFORD: Oh, he had a question. [LB838]

SENATOR WILLIAMS: That's okay. [LB838]

SENATOR ERDMAN: Oh, do you have a question? [LB838]

SENATOR WILLIAMS: That's okay. [LB838]

SENATOR ERDMAN: Sorry, I missed you. Thank you for coming. Please have a seat, and say and spell your name, that'd be great. [LB838]

SHEENA HELGENBERGER: (Exhibit 2) Hello, my name is Sheena Helgenberger, S-h-e-e-n-a H-e-l-g-e-n-b-e-r-g-e-r. I am a resident of Elkhorn, Nebraska, and a constituent of Senator Linehan's in District 39. And I'm here today in support of LB838. I used tanning beds in high school starting at age 15, as did a lot of my other female peers. I felt a lot of pressure to look tan as it was a huge trend at the time and still is, unfortunately. My mom even signed a consent form, and neither of us though much about this choice. Using a tanning bed became a normal, frequent part of my life. I would see stories in teen magazines warning of the dangers of tanning, like an increased risk of melanoma and even early death. But my adolescent brain simply ignored all of those warnings. Like most youth, I felt invincible and didn't think it could happen to me. Years later, as an adult, it sunk in how foolish I had been. When I made a decision to stop tanning, I began to schedule yearly skin checks with my dermatologist. I had three suspicious moles removed during my twenties, and I'm very grateful to say that they were noncancerous. One mole, however, was on the bottom of my foot and the skin there is very tender. I couldn't walk

well for about a week following the removal. And one day, as I crawled from my bed to my bathroom because it was particularly painful to stand up, I thought, no tan is worth my ability to walk. There are people in my life who used tanning beds and have had skin cancer. A mentor of mine, she thought she was doing the right thing by treating her autoimmune skin disorder by using tanning devices. She put just her feet in the tanning bed about two to three times a week, mainly during the winter, and later developed squamous cell carcinoma in the bottom of both feet. After 12 surgeries and 33 radiation treatments, she became a bilateral amputee. So stated simply, she lost both of her legs as a result of her tanning bed exposure. This story is painful to hear, and I can't imagine what it's been like for her. I think about her experience often as I continue to stay away from tanning beds and conduct self skin checks and see my dermatologist once a year. Despite my good diagnosis thus far, I can never say that I am in the clear. I am fearful that I will end up paying a higher price for all the years that I used a tanning bed. I'm a mom to a seven-month-old and I think about what passage of LB838 could mean for her and her peers. It could save her from my experience of using tanning beds as a child. Because tanning beds cause cancer, they should be treated like any other carcinogen. Children can't smoke, and they shouldn't be able to tan. This bill seeks to protect youth and, in my opinion, put prevention before profit. Thank you for listening. [LB838]

SENATOR ERDMAN: Are there any questions? Thank you for your testimony. Any questions? Seeing none, thank you very much. Next proponent. Anybody else in favor of the bill. Any opponents? Please come forward. Good afternoon. [LB838]

JOSEPH LEVY: Good afternoon. [LB838]

SENATOR ERDMAN: Please state your name and spell it, and then begin. [LB838]

JOSEPH LEVY: (Exhibit 3) Thank you very much. Mr. Chairman, members of the committee, my name is Joseph Levy, J-o-s-e-p-h L-e-v-y. I'm director of scientific affairs for American Suntanning Association, and executive director of International Smart Tan Network, which is the training and education institute for the North American sunbed community. For 25 years, I have developed training materials to teach tanning facilities how to do their jobs correctly, how to help clients prevent sunburn whether they're tanning in the stores or outdoors. The issue isn't whether or not we should education teens and their parents, and everyone for that matter, of the risk of overexposure to UV from the sun or a sunbed. We should. Everyone agrees on that. But what is the best way to go about that? Parental consent respects the fact that many parents choose to acknowledge that sunshine in people's lives is an acceptable practice. UV exposure is not an industrial chemical, it's an essential component of life. We'd be dead without UV exposure. The key on this issue is balance. The risk of...that the proponents of this bill have ascribed to sunbeds from studies are not from studies that isolate professional tanning salons, rather, come from

studies where many of those surveyed used home units or units in nonsalon locations. And I provided a study to you that shows that, if you separate those out by the location of the sunbed, that the tanning facility didn't increase risk in a significant fashion but that home units increase risk in a significant fashion, and that a 2016 Rutgers study showed that restricting access from a professional tanning salon didn't actually reduce the usage of sunbeds in the state of New Jersey. What it did is it sent them to nonsalon locations where sunburn was more common. Melanoma researcher, professor of dermatology, Dr. Jonathan Rees from Newcastle University once wrote that discussion on this issue is an amalgam of politics and science becoming intertwined. That's because melanoma--we know this from science--is more common in those who work indoors than those who work outdoors, according to the World Health Organization. It's more common in men, two to one, than it is in women. It's increasing fastest in older men than it is in any other group, according to the National Cancer Institute. And it's most common on parts of the body that don't get regular UV exposure. Many of the proponents of restricting access to sunbeds have not respected a lot of the nuance that's on this science, and I can go on, and on, on that. That's what Rees is talking about, that's the problem. That's why professor of dermatology, research dermatologist Dr. Bernard Ackerman, who is largely credited with founding the field of dermatopathology, trained more dermatopathologists, probably, than anyone else on the planet, spent his career calling for balance in sun care. And in his last monograph that he wrote he explicitly said that Smart Tan's position on melanoma is right, that sunburn prevention is what we should be focusing on and that the American Cancer Society and the American Academy of Dermatology, specifically, should reconsider their positions on this issue, that we need to focus on sunburn prevention. So when the man who founded the field of dermatopathology says explicitly Smart Tan gets it and that we're right, you can't ignore or recognize that there's nuance to this issue that can be discussed at length, and more than I can do in four minutes. Ackerman's biggest concern, again, is that all of the science on this topic is based on surveys, and that those surveys aren't capable of isolating other things that are going on. That's why Dr. Sam Shuster, a British professor of dermatology, has written that if you think a tan is damage to the skin, quote unquote, then you should tell that to Charles Darwin, that a tan is part of nature's intended design to prevent sunburn, that calling it damage is like calling exercise damage to muscle tissue. It's a misrepresentation of an intended relationship we have with sun. IARC scientist from the WHO, Dr. Sara Gandini did a meta-analysis of over 60 studies showing clearly that the greatest risk factor for melanoma is not UV-related. Having more than 40 moles, having red hair, having a family history of melanoma are greater risk factors than any of the UV-related associations. And Gandini's largest meta-analysis showed clearly that sunburn doubles one's risk of melanoma, but that chronic exposure may actually be protective against melanoma. And again, outdoor workers get fewer melanomas than indoor workers. So let's talk about sunburn. According to the U.S. Centers for Disease Control and Prevention, 50 percent of Americans sunburn every year. And some studies show that up to 83 percent of Americans in their teen years sunburn every year. So if five out of six teenagers are burning every year, and that doubles one's risk, how can you possibly survey a subgroup of those who use sunbeds and attempt to isolate what the sunbed

usage is doing? It can't, and that's what the proponents aren't willing to acknowledge. That's a discussion we need to have. Again, the largest risk factors are non-UV related. And Dr. Arthur Rhodes, a melanoma researcher from Rush University Medical Center in Chicago, has written extensively on that. I'd like to talk a little bit more about that, but I'm kind of running out of time. Research dermatologist Dr. Richard Weller, from the U.K., is now getting worldwide press with research suggesting that the benefits of regular nonburning exposure are 80 to 1, but the alleged risks of overexposure are (inaudible), and that we may need to rethink our approach to sun care. He used the sunbed to prove that UV exposure produces nitric oxide in the skin and lowers blood pressure. That's why Boston University endocrinologist and world-wide vitamin D pioneer Michael Holick published hundreds of papers on this topic of that we need to balance our approach to how we deal with UV exposure. We need to focus on sunburn prevention...lots of studies on that topic. I will finish in one sentence... [LB838]

SENATOR ERDMAN: Okay. [LB838]

JOSEPH LEVY: ...I know I'm at the end of my time here. So we've never shied away from a rigorous, dispassionate discussion of this topic. And we're happy to participate in that discussion. But we think that this bill would take away the rights of parents to make an intelligent decision on sun care, and that we should all be focusing on sunburn prevention. Again, happy to talk to you more about that. Thank you. [LB838]

SENATOR ERDMAN: Okay. Thank you very much. Are there any questions? Senator Howard. [LB838]

SENATOR HOWARD: Thank you, Senator Erdman. Thank you for visiting with us today, Mr. Levy. [LB838]

JOSEPH LEVY: Thank you very much, Senator. [LB838]

SENATOR HOWARD: You spoke very quickly, and I appreciated that. But, you talked about a lot of studies. And so is there any way you could give us a list of the studies so that we can look them up? [LB838]

JOSEPH LEVY: Ones in particular are handed out in the handout I gave to the committee clerk. [LB838]

SENATOR HOWARD: Yeah, and so some of these are a little bit older than I'd like. The one in the back is from 2006. [LB838]

JOSEPH LEVY: Which one is that? [LB838]

SENATOR HOWARD: The Rhodes... [LB838]

JOSEPH LEVY: Oh, yeah, that's just a...that's certainly not the prime piece, but Rhodes talks about the...what the relative risk from different items are for melanoma and that most of them are non-UV related, and that that needs to be taken in to account. Dr. Rhodes wrote an essay that accompanies that. It's...he had a colleague who was a Harvard-trained physician, whose wife was Harvard-trained physician. And the colleague had a lesion on his back. And he and his wife figured that since he never takes his shirt off outdoors that it was not problematic. But it ended up it was melanoma, and he died of it. And Rhodes' point is that if a Harvard-trained physician doesn't know that having more than 40 moles, having a family history, are the largest risk factors that are non-UV related, then we really need to rethink. And that's what that paper is all about, our public messaging on melanoma. [LB838]

SENATOR HOWARD: And then tell me a little bit about why the Susan G. Komen insert? [LB838]

JOSEPH LEVY: Didn't even get a chance to get to that in four minutes. In twenty minutes I can discuss that. You heard it mentioned that UV is a carcinogen, that we deal with other carcinogens, like tobacco, in an absolute fashion. I put in a paper there from...it's actually right off of Susan G. Komen's Web site. The list of carcinogens that the National Toxicology Program and the World Health Organization have does not mean that agents that are listed as carcinogens are considered to be carcinogenic in their intended doses. There are many things that are listed as carcinogens: red wine is a carcinogen; sawdust is a carcinogen; bacon consumption is a carcinogen. If you eat more than 1.5 ounces of bacon a week, it raises your risk of colorectal cancer, I believe, 18 percent. And our public health advisories about bacon are, just use good sense, of course. Of the listed carcinogens, there's only one item that humans need in order to live; it's sunlight. Estrogen is a carcinogen. And Susan G. Komen does a fine list of all the epidemiology on the association between birth control device usage--the pill--that contains estrogen and increased risk of breast cancer, which is a concern. And to discuss that topic, we are willing to look at what the nuance is. And we're saying wait a minute. Probably the problem from this is--and we need to do further research--is that older versions of the pill had higher levels of estrogen in them than what we have now, that there probably isn't the increase in risk in this. When it comes to how we have heard sun care characterized and sun exposure characterized, we're not willing to discuss...many of the groups that are proponents of this type of legislation aren't willing to discuss the fact that there is nuance. So that's the point of why I put that in there, is that of course there's nuance to how we handle birth control. And birth control is putting a chemical into your body that's telling your body to do something that your

body wouldn't do naturally. But we accept the nuance of that. That's how birth control works. That's how... [LB838]

SENATOR HOWARD: Oh, I apologize, I thought you were implying that I didn't have any estrogen right now (laughter). And I feel like I have some. [LB838]

JOSEPH LEVY: You know, I'm glad you clarified that because no, absolutely not. And I'm not making an argument for or against birth control. I'm simply saying that, to discuss what the potential risks of birth control are, we are willing to put on the table that there's probably nuance to what is going on. There is nuance to what is going on with sun care, because melanoma is more common in indoor workers than outdoor workers. It is more common on parts of the body that don't get regular sun exposure. And it's increasing fastest in men, by far, than it is in women. And everybody is sunburning outdoors, is the problem. And so to isolate, and attempt to isolate, sun bed usage in a nonburning fashion as an independent variable is virtually impossible. And no body is willing to acknowledge that... [LB838]

SENATOR HOWARD: Okay, thank you, Mr. Levy. [LB838]

JOSEPH LEVY: Thank you. [LB838]

SENATOR HOWARD: I appreciate your time. [LB838]

SENATOR ERDMAN: Okay, are there any other questions? Senator Williams. [LB838]

SENATOR WILLIAMS: Thank you, Senator Erdman. First of all, Mr. Levy, would you...because you didn't address it in your testimony and some of the previous testifiers did, would you like to comment on what's been talked about as the addiction to using tanning beds? And then the concern of if we remove them from salons that we drive the youths underground--I'll use that term. [LB838]

JOSEPH LEVY: Thank you for your question, Senator. Ultraviolet light exposure, sun exposure, is a natural attraction. Humans are intended to be attracted to sunlight, our biology has an attraction. We're attracted to oxygen, we're attracted to food and water. We are supposed to be. When we're hungry, we eat. Humans are supposed to get sunlight. The one thing we know about UV exposure is that, if we didn't get any, the consequences would be deadly, completely. The question that nobody is willing to ask is how much sun should you get, and that is kind of where the discussion needs to go. How much UV exposure should you get? And if you get UV exposure from any source, whether it be a sun or a sunbed, are there risks that can be identified

as independent? And that is a discussion we're perfectly willing to have. The fact is, in...I may have fumbled the year here, it was either 2013 or 2014, we reached out to Dr. Watts and said we'd be more than happy to have this discussion with you in public. And he declined the invitation to have this discussion in a more robust fashion. Happy to do this, this is not smoking. I lost my mother to lung cancer, I've been an anti-tobacco American Cancer Society supporter for my adult life, and I don't think there's anybody who hasn't been affected in some way by cancer, either personally or one degree away, having a family member. I will tell you that tobacco...when the Surgeon General looked at tobacco in 1964 and commissioned a report to look at tobacco, thousands of people were involved. From 1961, when President Kennedy directed that report to be put together and the industry...the tobacco industry was invited to participate in the production of that report. And they, of course, declined. In the early 1900s, the average American, according to that report, smoked...10 percent of Americans smoked. And they smoked 100 cigarettes a year and lung cancer was virtually nonexistent unless you had occupational exposure of some sort. By the mid-1950s, more than 50 percent of Americans smoked. And they smoked on average 3,800 cigarettes a year. So we had a massive increase in tobacco intake, and a resultant six-fold increase in lung cancer mortality, without any...these are chemicals that the body isn't designed to process, that the body was never designed to touch, and that you don't get from any other location. The association...a smoker is 25 times more likely to get lung cancer than a nonsmoker, according to our government. The association, the causal association, was clear. It was very clear what was happening and the tobacco industry ran away from conversation about it. When our Surgeon General, who was a dermatologist--he was appointed as acting Surgeon General--eighteen days after being appointed, commissioned a report on this topic that was referenced earlier, we begged to be involved in discussion on that topic. We begged to have open meetings on discussion of that topic and were told we would not be allowed to. And only 40 people from the government put that report together. The Surgeon General did a transcripted (sic--transcribed) interview in the Washington Post about that report and admitted that we don't know what is causing the increase in melanoma. I'd be happy to provide that to you. He said that, point blank; we don't know. You heard indications of that otherwise, but he was very, very clear on that point. There is a gap that needs to be addressed on this topic of how to integrate sun in our lives. How much sun should you have? The answer that the proponents of this bill are advocating doesn't give anyone a practical approach to that. There are thousands of papers and thousands of scientists today who are...not thousands of scientists, excuse me, thousands of papers written by scientists today that are coming back to center. I mentioned one from Dr. Richard Weller--and I don't think I provided it to you, but I will send it to you... [LB838]

SENATOR ERDMAN: Okay... [LB838]

JOSEPH LEVY: ...that says the benefits of regular sun exposure--and his research came from using sun beds--are 80 to 1, and that the risks that people are ascribing aren't isolating the fact

that everyone is sunburning outdoors. And if you isolate the sunburn out, it doesn't seem that we're seeing this type of significant increase. There are about 355 women, I believe, according to the American Cancer Society, between the ages of 15 and 19 who get melanoma every year in the United States... [LB838]

SENATOR WILLIAMS: Thank you, Mr. Levy... [LB838]

JOSEPH LEVY: Thank you. [LB838]

SENATOR WILLIAMS: ...I've got another quick question for you. Being a person that's studied this for a long time, at what age do you believe people are capable of making their own personal choices? [LB838]

JOSEPH LEVY: Thank you for your question, Senator. The industry standard practice is that under the age of 18, we believe parental consent is...should be the standard. And that's just what we would do. There has been resistance to that, in passing that, in parts of the country. Because when we bring that up as a proposal--and we've proposed that in some states--sometimes it's brought forward that, well, you can get birth control without parental consent. And it has killed the legislation in certain states. And that's, I think, been one of the concerns of, you know, there are some groups that won't compromise with us and won't move off of they will only do an 18 and under ban or nothing... [LB838]

SENATOR ERDMAN: He asked you a question about what age and you've answered. [LB838]

JOSEPH LEVY: And I'm sorry, I did answer it. [LB838]

SENATOR WILLIAMS: Thank you. [LB838]

JOSEPH LEVY: Thank you. Thank you, Senator. [LB838]

SENATOR ERDMAN: Any other questions? Senator Howard. [LB838]

SENATOR HOWARD: Yes, Senator. Do you tan, yourself? [LB838]

JOSEPH LEVY: Yes. Thank you for your question, Senator... [LB838]

SENATOR HOWARD: Okay... [LB838]

JOSEPH LEVY: ...I am... [LB838]

SENATOR HOWARD: ...that's... [LB838]

JOSEPH LEVY: ...what I would... [LB838]

SENATOR HOWARD: ...all I wanted to know... [LB838]

JOSEPH LEVY: ...consider a typical tanner. [LB838]

SENATOR HOWARD: ...to know... [LB838]

JOSEPH LEVY: I haven't begun tanning yet this year, but I live in Colorado... [LB838]

SENATOR ERDMAN: Okay, thank you. [LB838]

JOSEPH LEVY: I will tan, it will help me prevent sunburn. [LB838]

SENATOR ERDMAN: Any other questions? Thank you very much. [LB838]

JOSEPH LEVY: Thank you very much, Senator. [LB838]

SENATOR ERDMAN: Any other opponents? Please say and spell your name, and begin when you are ready. [LB838]

HEATHER ALMOND: (Exhibit 4) My name is Heather Almond, H-e-a-t-h-e-r A-l-m-o-n-d. Thank you, Honorable Chair and members of the committee. I manage all the Palm Beach Tan locations in Nebraska. I am proud to teach sunburn prevention to people of all ages in the state. Professional tanning salons in Nebraska currently require parental consent signed on every visit for minors under age 16 to use UV tanning equipment in the salon. We support that, and we would do that whether or not the state required it. This standard was set back in 2014 under LB132, which we fully cooperated with and thought that this issue was put to bed. This is the most effective standard in the nation for two main reasons. First, it respects the right of parents to decide how to address this issue as a family. UV exposure is not an industrial chemical, it is something humans need. My business is dedicated to helping those who want sunlight in their lives to learn how to prevent sunburn. Second, it recognizes that once a teenager is 16, she or he and their friends can drive. And 41 percent of all sunbed usage today occurs in nonsalon sunbeds

in homes, apartment complexes, gyms, and other places where the sunbed does not have a professional operator to properly set the exposure time. In other words, passage of this would simply drive those who want to use sunbeds into those nonsalon units, where no professional operator sets the exposure time like my staff does at Palm Beach Tan. So there is no doubt passage of this bill will increase sunburn, not decrease it. That's what happened in New Jersey. A 2016 Rutgers University study showed that prohibiting UV tanning in salons for teens under 17 did not reduce sunbed usage in that state. It just sent those 17-year-olds to nonsalon sunbeds. Obviously, Joe was here to speak on the science, but please keep this in mind: the risk the proponents of this bill say come from sunbeds are not from studies that isolate professional tanning salons, but rather from studies where many of those surveyed used nonattended home tanning units, which are not controlled by a professional operator and therefore more likely to lead to sunburn. Please keep in mind the scientific community today has both proponents of regular nonburning UV exposure and opponents. And that's why the decision about sunbed usage in a family should be left up to the parents. As for sunbeds being compared to tobacco, it's time for the other proponents of this bill to end that silly game. Saying that UV is something to be avoided like cigarettes is political grandstanding that cheapens our most public...our most important public health campaign, which is tobacco cessation. Please keep in mind the category level (sic--Group) 1 carcinogen also includes, bacon, birth control pills, and even red wine. Of all the things the government puts in this list there is only one that humans need, which is UV exposure. Thanks to indoor lifestyles, we get less sunlight today than at any point in history. There are plenty in the scientific community who think that the service we provide is helpful when we do our jobs correctly. And there are many who know that a base tan from a salon in combination with sunscreen usage outside works better at preventing sunburn outdoors than sunscreen usage alone. In conclusion, we are here to be a part of the solution and to discuss this issue constructively and intelligently. The science clearly supports balance. I have respect for those who are here today in support of the bill. No one is saying that those groups can't continue to promote their views. But viewed in totality, the science supports balance and the parent's right to be involved in the decision. And that's why parental consent should continue to be the standard in salons, and we support any constructive measure to bolster that standard. So let's work together to send a balanced message to the state and your constituents that sun care is serious business, without overreaching. We can do that by continuing to support parental consent as the standard for sunbed usage in tanning salons in this state. I'm happy to talk about how professional salons, and my salons in this state, are part of the solution moving forward in fighting sunburn and overexposure. I'm happy to take your questions. [LB838]

SENATOR ERDMAN: Thank you for your testimony. Are there any questions? Senator Williams. [LB838]

SENATOR WILLIAMS: Thank you, Senator Erdman. And thank you for being here. And in your role of managing these salons, from...I want to ask a business question on this. In Mr.

Levy's handout information, he suggests that 16- to 17-year-old clients represent approximately 5 percent of salon business. But the next sentence says; losing this would represent a 10 percent loss in business. Do those numbers jive with your experience? [LB838]

HEATHER ALMOND: In my experience, 5 percent would be an accurate representation of approximately how much teenage tanning we have. [LB838]

SENATOR WILLIAMS: And eliminating that would cause a 10 percent net loss in...for most salons? [LB838]

HEATHER ALMOND: I would say that's probably pretty close. [LB838]

SENATOR WILLIAMS: Okay, am I interpreting that correctly, then, that even though that percentage of age only makes up 5 percent of the business, it's making up 10 percent of the revenue, suggesting to me that that age group tans a lot? [LB838]

HEATHER ALMOND: Yeah, for my business... [LB838]

SENATOR WILLIAMS: Am I interpreting that correctly? [LB838]

HEATHER ALMOND: No, I agree with you and I see what you're saying. For me, personally, I would say that that age group actually spends less money in the salon for...so for my salon, personally, even though it might be about 5 percent of my tanners, it would be less than 5 percent of my revenue. [LB838]

SENATOR WILLIAMS: So those numbers are different, so... [LB838]

HEATHER ALMOND: To be honest, it's going to depend on the salon, because... [LB838]

SENATOR WILLIAMS: We always expect you to be honest. (Laughter) [LB838]

HEATHER ALMOND: My salon caters more to more mature women, so we have less teenage tanners at my salon. But I do know that there's other, more what I would consider a mom and pop salon, that really caters to teenage tanning. And that would, maybe, be where the difference is. [LB838]

SENATOR WILLIAMS: My concern is about those numbers is that it leads me to look at that there's more use of that age with these numbers that we have seen. That's all, thank you. [LB838]

SENATOR ERDMAN: Okay. Senator Crawford. [LB838]

SENATOR CRAWFORD: Thank you, Chair...Senator Erdman. And thank you for being here. Could you speak about any restrictions you have on the frequency with which people tan if they have parental permission...if they have parental consent? [LB838]

HEATHER ALMOND: We have, at my salon, a 24-hour rule. So they are not allowed to tan more than once every 24 hours. So our computer system will not let them process a tan. So if they tan at 4 o'clock today, my computer system will not let them process another tan until 4 o'clock the next day, so. [LB838]

SENATOR CRAWFORD: Is that true for all clients, regardless of age? [LB838]

HEATHER ALMOND: Yes. [LB838]

SENATOR CRAWFORD: Thank you. [LB838]

SENATOR ERDMAN: Thank you. Senator Howard. [LB838]

SENATOR HOWARD: Thank you, Senator Erdman. Thank you for visiting with us today. Who's the youngest person you've seen go in and tan, like at a Palm Beach Tan or something like that? [LB838]

HEATHER ALMOND: As a company, our rule is 14. I did have one instance where I had an 8-year-old girl who came in and tanned. And that was because her dermatologist had reached out to me and asked if she could receive services from us because they couldn't afford their copays to get their treatment in their dermatology office. But I had a prescription for her, and that's the only one who I've ever allowed to do that. [LB838]

SENATOR HOWARD: Perfect, thank you. [LB838]

HEATHER ALMOND: Thank you. [LB838]

SENATOR ERDMAN: Thank you. Any other questions? Thank you very much. [LB838]

HEATHER ALMOND: Thank you. [LB838]

SENATOR ERDMAN: Any other opponents? Any neutral testimony? Tyler, do we have letters? [LB838]

TYLER MAHOOD: (Exhibits 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16) Yes. All of these letters are in support. I have a letter from the Nebraska Nurses Association, a letter signed by Dr. Robert Rhodes of the Nebraska Medical Association, Dr. Cindy Ellis of the American Academy of Pediatrics, Dr. Trisha Sams of the Nebraska Academy of Family Physicians, Dr. Matthew Appenzeller of the Nebraska Academy of Eye Physicians and Surgeons, Dr. Ralph Hauke of the Nebraska Oncology Society, Terry Krohn on behalf of himself, Dr. Adi Pour of the Friends of Public Health in Nebraska, letter signed by Nick Faustman of the American Cancer Society Cancer Action Network, letter signed by Dr. Henry Lim and Dr. Lisa Donofrio of the American Academy of Dermatology Association and the American Society for Dermatologic Surgery Association, Dr. James Madara of the American Medical Association, and Heidi Woodard of the Nebraska Women's Health Advisory Council. [LB838]

SENATOR ERDMAN: Thank you very much. Senator Wishart, would you care to close? Senator Wishart waives closing. This completes the hearing on LB838. We will now move on to LB717. Senator Howard. [LB838]

SENATOR HOWARD: Thank you. [LB717]

SENATOR ERDMAN: Senator Howard, thank you for coming today. [LB717]

SENATOR HOWARD: Thank you for having me, Senator Erdman. [LB717]

SENATOR ERDMAN: Begin when you're ready. [LB717]

SENATOR HOWARD: All right. Good afternoon, Senator Erdman and members of the Health and Human Services Committee. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I am presenting LB717, a bill that deals with safe sleep training for licensed childcare providers. So all too often we hear awful stories about babies that don't wake up after being put down to sleep. A mother in Colorado dropped her 4-month-old baby off at daycare not knowing it was the last time she would see her baby alive. Video shows a daycare worker laying the baby down on her back. After crying for about ten minutes, another worker comes in and turns her over on her stomach. The baby is on her stomach for 59 minutes. For the first nine minutes, the baby is seen laying on her stomach with no issues. And then after

20 minutes, you can see her start to struggle and thrashing around with her face in the mat trying to push her knees under her body. Video shows workers ignoring the thrashing baby as they clean up, at one point even high-fiving each other. Forty-nine minutes later, she's moving less and less and, at one point, almost five minutes go between movements. Video shows the worker walking by at least ten times while the baby is motionless on her stomach. And then after the 59 minutes passes, a worker finally picks her up, sees that she is lifeless, and 911 is called. The baby was pronounced dead at the local hospital. And while this is a startling and extreme case, it shows why babies should not sleep face-down and why we should ensure that our childcare workers are trained in safe sleep. So in 2016 our Inspector General for Child Welfare, Julie Rogers, investigated four deaths that occurred in licensed childcare facilities. Each death involved an infant dying suddenly and unexpectedly in an unsafe sleep environment. Each facility involved was a family childcare home rather than a childcare center, as in the story that I just told you. In her annual report, Inspector Rogers recommended that the Department of Health and Human Services Division of Public Health revise childcare licensing regulations to ensure that all caregivers are trained on infant sleep--safe sleep--before a childcare license is issued...before it is issued. The OIG determined that current Nebraska regulations, which give providers three years before getting trained on safe sleep, were inadequate. Some of the childcare providers in the deaths the Inspector General investigated had never been trained on safe sleep. DHHS accepted the recommendation and, in 2016, put in a request that the requirement for training on safe sleep be addressed through legislation. And there was no legislation that was introduced in 2017. And it's my understanding that DHHS is currently revising these childcare regulations, including adding requirements for safe sleep. And they told us that they would be finished in December 2017. Those have yet to be released. So this bill, LB717, adds the requirement for licensed childcare providers to be trained in sudden infant...sudden unexpected infant death syndrome before they receive their license to provide care, as opposed to after. Any person who is providing care to babies and children needs to be educated in safe sleep requirements so that no child is put in harms way. I ask for your support on this important issue and I would be happy to answer any questions that you may have. [LB717]

SENATOR ERDMAN: Thank you, Senator Howard. Are there any questions? I had...Senator Crawford, go ahead. [LB717]

SENATOR CRAWFORD: Go ahead. [LB717]

SENATOR ERDMAN: Go ahead. [LB717]

SENATOR CRAWFORD: I noticed in...that it appears that there's online training that's available. [LB717]

SENATOR HOWARD: There is, yes. [LB717]

SENATOR CRAWFORD: And so someone would just need to complete that training and certify that on a form or something like that? [LB717]

SENATOR HOWARD: Yeah. [LB717]

SENATOR CRAWFORD: That's the mechanism we're talking about? [LB717]

SENATOR HOWARD: Absolutely. [LB717]

SENATOR CRAWFORD: Okay, great. Thank you. [LB717]

SENATOR HOWARD: Thank you. [LB717]

SENATOR ERDMAN: Senator Howard, I have one question. [LB717]

SENATOR HOWARD: Yes? [LB717]

SENATOR ERDMAN: On the green copy, page 2, line 19, starting on 18, it says: information on sudden, and the additional word "unexpected," infant death syndrome... [LB717]

SENATOR HOWARD: Yes, um-hum. [LB717]

SENATOR ERDMAN: Tell me...that's peculiar to me because it used to read "information on sudden infant death syndrome." [LB717]

SENATOR HOWARD: Right. [LB717]

SENATOR ERDMAN: Why the word "unexpected" added there? [LB717]

SENATOR HOWARD: I think there's been a change in the understanding about SIDS, and so the medical term is now "sudden unexpected infant death syndrome." [LB717]

SENATOR ERDMAN: Okay. Okay, thank you. [LB717]

SENATOR HOWARD: Thank you. [LB717]

SENATOR ERDMAN: All right, any other questions? Thank you so much. [LB717]

SENATOR HOWARD: Thank you. [LB717]

SENATOR ERDMAN: Okay, proponents to LB717. Thank you for coming. [LB717]

JULIE ROGERS: (Exhibit 1) Good afternoon. Senator Erdman, members of the Health and Human Services Committee, my name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s. I'm the Inspector General of Nebraska Child Welfare. Our office is statutorily required to investigate deaths and serious injuries of children that occur in licensed childcare settings. Two years ago, as you heard, we issued an investigative report to the Department of Health and Human Services related to the sudden and unexpected death of infants in unsafe sleeping environments, often referred to as "sudden unexpected infant death," or SUID. Included in the report were summaries of four deaths classified as SUID that had occurred at licensed childcare settings, each in an unsafe sleeping environment. Two of the four providers had not been trained on infant safe sleep practices when the deaths occurred. As part of the report, we recommended that DHHS require all licensed childcare providers to complete training which would include SUID, safe sleep, and other topics before being granted a provisional license. Nebraska law currently requires training on these issues, however DHHS regulations give family childcare providers three years before completing the training. DHHS accepted this recommendation and, as you heard, further explaining that the plan was to move forward with a revision of the regulations for all licensed childcare programs within the next 18 months and incorporate that requirement, but they have not been updated. In addition, as my role as Inspector General, I serve on the Child and Maternal Death Review Team, which reviews every child death in the state. In that team's latest report, it was noted that 22 percent, or 9, of all SUID deaths in Nebraska between 2012 and 2013 occurred while the infant was in the care of a babysitter or childcare provider. LB717 represents a simple adjustment to current Nebraska requirements to ensure that licensed childcare providers have the information they need to safely care for Nebraska infants. [LB717]

SENATOR ERDMAN: Thank you very much. Are there any questions? Senator Linehan. [LB717]

SENATOR LINEHAN: Thank you, Senator Erdman. How many sudden...get the terminology right...sudden unexpected infant deaths occurred per year in Nebraska? Is there a number? [LB717]

JULIE ROGERS: There...I can...the Maternal and Child Death Review Team looks at that... [LB717]

SENATOR LINEHAN: Um-hum. [LB717]

JULIE ROGERS: ...every year. The latest information is from 2012 and 2013 and, if I can find it really quickly...otherwise I'm just going to have to get back to you. [LB717]

SENATOR LINEHAN: Yeah, that's fine. That's fine. So when you say they need training for the licensed daycare provider... [LB717]

JULIE ROGERS: Yes. [LB717]

SENATOR LINEHAN: ...so are you saying...who needs...who gets the training, everybody that works there, the person who's in charge? [LB717]

JULIE ROGERS: For...there's a difference between in-home daycare licenses and then childcare centers. So in-home licenses, I believe that every person working there needs to be trained. But you don't need that, you can get a provisional license and then be trained within three years. [LB717]

SENATOR LINEHAN: Okay. [LB717]

JULIE ROGERS: I think at daycare centers, not everyone needs to be trained. Maybe it's 50 percent, and, again, I would have to confirm that that's right. But I don't know that every person needs to be trained before the center can open. [LB717]

SENATOR LINEHAN: Okay, probably depending on what kids they're taking care of. Okay. [LB717]

JULIE ROGERS: Right. [LB717]

SENATOR LINEHAN: Right. All right, thank you very much. [LB717]

JULIE ROGERS: Yeah. [LB717]

SENATOR ERDMAN: Thank you very much. Any other questions? Seeing none, thank you very much. [LB717]

JULIE ROGERS: Thank you. [LB717]

SENATOR ERDMAN: Any other proponents? Thank you for coming. [LB717]

ANN ANDERSON BERRY: (Exhibit 2) Thank you for having me, Senator Erdman and the members of the committee. I am Dr. Ann Anderson Berry, A-n-n A-n-d-e-r-s-o-n B-e-r-r-y; medical director of the Nebraska Perinatal Quality Improvement Collaborative, otherwise known as NPQIC. I am here speaking for myself as a private citizen to testify in support of LB717 regarding a requirement for safe sleep training for childcare providers to help decrease the incidence of sudden unexpected infant death syndrome (sic--sudden unexpected infant death), SUIDS (sic--SUID), in Nebraska. It is well known that training in safe sleep practices result in fewer sleep-related infant deaths, also known as SUIDs. The initial safe sleep campaign, Back to Sleep, which was launched in 1994, resulted in a 50 percent decrease in SUIDs in the United States. However, over time, the use of these proven, effective safe sleep practices have decreased across the country. A recent CDC analysis showed that in the U.S. in 2009, 27.2 percent of mothers used safe sleep practices as compared to only 19.4 percent in 2015--information from the CDC published in 2018. In Nebraska during the years 2002 (sic--2012), when there were 25,939 state annual births, and 2003 (sic--2013), when there were 26,094 state annual births, there were 41 infant sleep-related deaths, a rate that is much higher than the U.S. rate. Of these Nebraska sleep-associated deaths, 24 percent of deaths, 10 percent of infants--or 10 infants--an updated number from what the Inspector just provided to you from DHHS just last week, occurred while the infant was in the care of a babysitter or childcare setting; and that's from Nebraska, meaning that they died in unsafe sleep situations in childcare settings. Parents expect that their infants will be safe in the care of licensed childcare providers. That is not always the case. Rates of SUID are increasing in Nebraska. In 2010 there were 17 deaths, and in 2016 the number rose to 26, with 152 deaths in the last 7 years. This is almost one per thousand live births. In 2015 to 2016 there were 51 SUIDs (sic) deaths, with 5 of those in licensed childcare settings. These Nebraska rates are much higher than published U.S. rates. And our Nebraska childcare sleep-related death rates are higher than total sleep-related deaths for many countries, including Japan and the Netherlands. Additionally, in 2017 Children's Hospital in Douglas County reported 50 admissions for apparent life-threatening events, a diagnosis often considered a near miss SUIDs (sic) in infants less than 1 year. These near misses often result in expensive hospitalization and can lead to prolonged morbidities such as seizures, hearing loss, and lifelong learning disabilities. The American Academy of Pediatrics recommends that health professionals and childcare providers model safe sleep practices for parents--the AAP, 2016--since parents are more likely to do what they see others doing. Training of childcare providers is an effective approach to improving safe sleep practices in childcare settings--Moon, 2008. Additionally,

many authors conclude that to improve safe sleep practices in childcare settings, legislative regulations are critical. LB717 closely parallels work being done by the Nebraska Department of Health and Human Services with strong support of the Nebraska Perinatal Quality Improvement Collaborative to update and standardize safe sleep practices in hospitals across Nebraska, the Nebraska Safe Babies: Safe Sleep Campaign. This will provide clear and up-to-date safe sleep education to parents at discharge from the hospital. Having this education mirrored for childcare providers will not only improve safe sleep practice in childcare settings, but will also reinforce these practices at home. Examples of this education can be found at the Web address that's included in my written testimony. In conclusion, passage of LB717 will have a significant positive impact on safe sleep practices of infants in the state of Nebraska and can reasonably be expected to reduce both mortality and morbidity in infants less than one year of age in Nebraska. The financial impact of this bill should be neutral to positive when considering the productive years of life lost or negatively impacted by unsafe sleep practices. Please strongly consider giving this bill your full support. Thank you for this opportunity to speak, and I would be happy to try to answer any questions you might have. [LB717]

SENATOR ERDMAN: Thank you, Doctor, for your testimony. Are there any questions? I have one, I have a question. You mentioned in your testimony that countries, total countries like Japan and Netherlands have less sudden unexpected infant death syndrome than we do. Do you know what they do differently? Why do they...why their rates are low? [LB717]

ANN ANDERSON BERRY: They have better uptake. We have had slow uptake of the education, cultural differences. As a neonatologist, a grandmother is my worst enemy because their babies were put on their bellies to sleep, and "look, they're just fine." And the statistics don't mean much to them, and so you have to educate based on personal stories. But the statistics should mean a lot to us because these are Nebraska babies that are dying. [LB717]

SENATOR ERDMAN: Thank you. Any other questions? Senator Linehan. [LB717]

SENATOR LINEHAN: This is a really harsh question, but you opened the door. So how...when it says babysitters, that would include grandmothers, right? [LB717]

ANN ANDERSON BERRY: Um-hum. [LB717]

SENATOR LINEHAN: Okay, thank you. [LB717]

SENATOR ERDMAN: Thank you very much. [LB717]

ANN ANDERSON BERRY: Thank you. [LB717]

SENATOR ERDMAN: Any other proponents? Any opponents? Anyone in opposition? How about neutral? Anyone neutral? Tyler, do we have letters? [LB717]

TYLER MAHOOD: I do not have any letters. [LB717]

SENATOR ERDMAN: Okay, thank you. Senator Howard, you're welcome to close. [LB717]

SENATOR HOWARD: I forgot to mention one item. So when you look at the list of the things that childcare providers have to be trained on, one of the issues is shaken baby syndrome. And when the department reached out to us just to give us feedback on the bill--they're not coming in on it--they asked us if we would consider changing the wording for that "shaken baby syndrome" to "infant neck trauma," or something like that. But I think changing one word here is too little..."shaken baby syndrome" and "shaken baby" is in our statutes in a lot of different areas, including in our criminal code, and so that's something that I'll put in as an interim study to investigate, and see where we need to make those changes. But other than that, I appreciate your time and attention to this issue. [LB717]

SENATOR ERDMAN: Okay. Thank you very much for that explanation. Senator Linehan. [LB717]

SENATOR LINEHAN: Thank you, Senator Erdman. Because this probably reflects my irritation with some fiscal notes, but don't we already...we already have training, right? [LB717]

SENATOR HOWARD: Yes. [LB717]

SENATOR LINEHAN: So we're just adding other training. [LB717]

SENATOR HOWARD: Right. [LB717]

SENATOR LINEHAN: So my guess is they update and change things on training pretty frequently when they get new information. [LB717]

SENATOR HOWARD: I would hope so. [LB717]

SENATOR LINEHAN: So why would it cost money, because they...thank you very much. [LB717]

SENATOR HOWARD: At least it's coming from the Child Care Development Block Grant. That's a pot of money that we get annually, and so we know that we can do those updates without having a General Fund impact. [LB717]

SENATOR LINEHAN: Okay. [LB717]

SENATOR ERDMAN: Good question, thank you. Any other questions? Thank you very much. [LB717]

SENATOR HOWARD: Thank you so much. [LB717]

SENATOR ERDMAN: We'll close the hearing on LB717. And we'll move on to Senator Kolterman. Senator Kolterman, LB701. What would you like us to know? [LB717]

SENATOR KOLTERMAN: Well, we're going to educate you, here. [LB701]

SENATOR ERDMAN: Okay. [LB701]

SENATOR KOLTERMAN: Good afternoon. My name is Mark Kolterman. Members of the Health and Human Services Committee, I represent the 24th District of the Nebraska Legislature, which encompasses Seward, York, and Polk Counties. I'm here today to introduce LB701, a bill that amends the Uniform Credentialing Act to establish a physician-patient relationship through telehealth without the requirement for an initial face-to-face visit for physicians and physician assistants. This legislation is needed to clarify and update telehealth statutes to support existing practice. Nebraska Telehealth Act was originally passed in 1999, and at that time the Legislature made the following findings. Access to healthcare facilities and healthcare practitioners is critically important to the citizens of Nebraska. Access to a continuum of healthcare services are restricted in some medically unserved areas of Nebraska. And the use of telecommunications technology to deliver healthcare services can reduce healthcare costs, improve healthcare quality, improve access to healthcare, enhance economic health of communities of medically unserved areas of Nebraska. And finally, the full potential of delivering healthcare services through telehealth cannot be realized without the assurance of payment for such services and the resolution of existing legal and policy barriers to such payment. Currently, physicians are using telehealth for initial visits without first seeing their patient face-to-face. However, the statutes are silent on telehealth practices outside the Nebraska

Telehealth Act, which technically only applies to Medicaid telehealth services. In addition, regulations relating to physician practices are unclear as to whether or not a physician would be engaging in unprofessional conduct by seeing a patient via telehealth for initial contact. This legislation will provide certainty and stability to telehealth providers by clarifying the current telehealth practices are supported by Nebraska law and regulations. It makes clear that a physician can provide treatment or consultation recommendations, including issuing prescriptions, through telehealth without the need for face-to-face contact. Attempts have been made in the past to rectify this absence in our laws. In 2014, LB1078 attempted to clarify that a physician-patient relationship could be established through telehealth. Only portions of LB1078 passed and did not include the provisions relating to the physician-patient relationship. I have discussed this legislation with leaders from several statewide health organizations. Several of them have sent letters of support that were submitted for the record. Some asked that I expand the intent of legislation to include other scopes of practice. I respectfully declined such requests, not because I oppose the expanded use of telemedicine, but because the intent of this bill to provide certainty and stability to telehealth providers by clarifying that current telehealth practices are supported by Nebraska law and regulations. We can take a look at expanding telehealth during the interim session. While Health and Human Service has not taken a position on this bill, they have reviewed it and ask that I make one change; change the "shall" to "may" on page 4, line 16. DHHS Public Health Division believes that the more restrict languange...the more restrictive language could be interpreted as an obstacle for the Board of Medicine and Surgery. This is something we can address with committee amendment. They also suggested that Section's 3 and Section's 4 language on telemonitoring and telehealth may need to be placed in the Medicine and Surgery Practice Act. It is my understanding that Claudia Duck Tucker from Teladoc will be testifying after me and will be able to discuss this bill in further detail. Along those same lines, I'd like to say that I...and I indicated this earlier, but I have had a lot of professionals approach me about including them in this: nurse-practitioners, nurse anaesthetists, chiropractors, a lot of different professionals. This bill was brought originally for Teladocs to meet their model of legislation, and so I've decided to keep it as clean as possible, just to satisfy their needs. But at the same time I am open to expanding that next year. It has never been my intent to try and exclude anyone, I just didn't want to get into a huge scope of practice issue over this particular bill. With that, I'd try and answer any questions that you might have. [LB701]

SENATOR ERDMAN: Thank you for your introduction. Any questions? Go ahead, Senator Crawford. [LB701]

SENATOR CRAWFORD: So you may or may not know this, then. Is there telemonitoring...telemedicine provisions in multiple different scopes, or is this a general definition of it outside of those scopes in your...(inaudible). [LB701]

SENATOR KOLTERMAN: I don't know the answer to that, and I wasn't aware that we had to make changes in some of the other areas as well. [LB701]

SENATOR CRAWFORD: Mostly just adding those other practices to these definitions? [LB701]

SENATOR KOLTERMAN: Correct, I will let the people coming behind me that are the doctors--practitioners--try and answer that question for you. [LB701]

SENATOR CRAWFORD: Great, thank you. [LB701]

SENATOR ERDMAN: Senator Kolterman. [LB701]

SENATOR KOLTERMAN: Yes. [LB701]

SENATOR ERDMAN: One thing I was amused by when you said telehealth for chiropractors; how do they do that? [LB701]

SENATOR KOLTERMAN: I don't know, but they approached me. [LB701]

SENATOR ERDMAN: I mean, I always have to go there and have them adjust me. And they can do that over the phone? They're pretty good. (Laughter) Thank you. Any proponents? Will you be around to close, if you need to? Thank you for coming. If you would, please state and spell your name. [LB701]

CLAUDIA DUCK TUCKER: (Exhibit 1) Thank you, all, very much. Good afternoon, Mr. Chairman, members of the committee. My name is Claudia Duck Tucker, C-l-a-u-d-i-a D-u-c-k T-u-c-k-e-r. I'm here today in support of LB701 and the good work that Senator Kolterman and the various stakeholders have done. I am with Teladoc; I am vice president of government affairs for Teladoc. Teladoc is the nation's oldest and largest telemedicine company, established in 2002. And if you think of 2002, to me, at my age, that was yesterday (laughter). And so it shows you how quickly technology moves. Teladoc is operational in 50 states and the District of Columbia. We have a network of 3,100 physicians. They've got an average of 15 years of experience, so these aren't folks right out of medical school. These are folks with established practices. They're still practicing, or they are ER docs. In the case of Nebraska, they are licensed here in the state of Nebraska. Teladoc has a "foot space" that's in the simple, non-emergent care. So by that I mean the things that make you sick but hopefully don't land you in the hospital. Things like the flu, upper respiratory, pink eye, UTI, sinusitis. In the last couple of years we have also added behavioral health, dermatology, and smoking cessation to our programs. In July, last July, we

acquired a company called Best Doctors, and what that did is that took us from the simple, non-emergent care all the way over here, to dealing with the most complicated and complex of diseases and illnesses. We've got approximately 23 million enrollees nationwide. We've had almost 3 million consults, and this is extremely important. In all this time, with all these consults and all these people; we have never, ever had a single medical malpractice claim against us. And the reason why is that there is nothing more important to Teladoc than safety of our enrollees, and safety of our patients. We are NCQA certified, the first telemedicine company to have that certification, and recently acquired our HITRUST certification for our technology and our patient security. So that's all good. And I tell you that because I want to tell you that access to quality health care nationwide is a mission of mine, personally. I live near Appalachia. But it's a mission in the foundation for the work that Teladoc does. What does that mean for Nebraska? In Nebraska, we've got about 70,000 lives. Our clients include the City of Lincoln, TD Ameritrade, Costco, Lowe's, and there was a school here...Millard Public Schools, Hornady Manufacturing Corporation, and many other employers and health plans. We've got, as I said, about 70,000 lives...in 2017 we saved Nebraska patients $1.6 million dollars. And we did that through 3,400 virtual visits in the state in 2017. And, as policy makers, your question is always going to be why. Why do we need this? And I know the senator did a very good job of explaining it. And the answer is that, currently, the definition of Medicaid...I mean the definition of telemedicine exists in your Medicaid statutes. Nebraska is one of just a few states that did not have a definition of telemedicine and what that physician-patient relationship would require. LB701 will accomplish that. It will establish that the physician-patient relationship can be established using technology, it has a very good definition of telehealth, and it also allows the prescriber the ability to prescribe non-controlled substances. And in my job, I go to all 50 states, I talk to legislators and regulators. I know what good telemedicine policy looks like, and you folks have hit a home run with this one. So thank you to all the stakeholders that worked. And I'll be glad to answer any questions, thanks. [LB701]

SENATOR ERDMAN: Thank you for your testimony. Senator Linehan. [LB701]

SENATOR LINEHAN: Thank you, Senator Erdman. I just have a question on how this works. So if I'm at TD Ameritrade, then part of my healthcare reaches Teladoc? [LB701]

CLAUDIA DUCK TUCKER: You would have a health plan, and in that you would also have an additional telemedicine benefit. And that would be through Teladoc. [LB701]

SENATOR LINEHAN: So if I'm home and feel sick I can get on my computer and... [LB701]

CLAUDIA DUCK TUCKER: Yes, you can. You would have to...you would have to go on the Teladoc platform, you would download your medical history, answer questions just as if you

were in a doctor's office, and then you would be able to access a Teladoc physician through either, as you said, your computer, your smartphone, or your landline. [LB701]

SENATOR LINEHAN: Thank you very much. Thanks for being here. [LB701]

CLAUDIA DUCK TUCKER: Um-hum. [LB701]

SENATOR ERDMAN: Any other questions? Thank you very much. [LB701]

CLAUDIA DUCK TUCKER: Thank you. [LB701]

SENATOR ERDMAN: Any other proponents? Thank you for coming. [LB701]

MICK MINES: Thank you, Senator. Members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s. I'm here as a registered lobbyist for the National Association of Insurance and Financial Advisors of Nebraska. Try saying that without making a mistake. We're here, obviously, in support. And the folks in NAIFA, just last week, we had our regular legislative review and we go through all the bills that may or may not affect their business, and they are insurance agents, healthcare, property, casualty, and financial advice. We don't normally testify on healthcare bills, but this one got them more excited than any of the other legislation that we engaged in, because they're from all over the state. There are 1,000 members in NAIFA-Nebraska, many in less populated areas, many from Omaha. And we all saw the advantage of the telehealth application and they see it as growing. And that entire industry is expanding and there are new tools, and we have limited knowledge about exactly how it works and what it does. We'll give you that. We don't understand the platform that, for instance, Teladoc uses. But we see the benefit to our clients, and I think that's the most important thing to our membership, is that there are opportunities afforded our insured to have the best healthcare that they can get. And telehealth appears to fit a lot of different applications for our membership. So with that, thank you for your time. We offer our support and I'd be glad to answer any questions. [LB701]

SENATOR ERDMAN: Any questions? Seeing none, thank you for your testimony. [LB701]

MICK MINES: Thank you. [LB701]

SENATOR ERDMAN: Any other proponents? I see one coming. Thank you for coming. If you would, please state your name and spell it. [LB701]

ROBERT RHODES: Thank you, Senator. My name is Dr. Robert Rhodes, R-h-o-d-e-s. I'm a board certified family physician here in Lincoln, and I'm the president of the Nebraska Medical Association. So thank you for your time in the committee today. I have to first tell you, a few years ago I was probably one of the docs that questioned this. I'm like, you know, I'm the family doctor here in Lincoln. I like face-to-face visits. I've worked with my patients for years to establish that relationship. And at first I was like; how can a computer or cell phone do that? And I have to tell you, I'm a believer now. I buy in. [LB701]

SENATOR ERDMAN: Okay. [LB701]

ROBERT RHODES: In fact, I'm excited about this law because I think it will actually help my job, with the caveat that there is, in Teladocs and other companies such as Carena and others...would say, if this isn't better after a certain period of time, please seek medical attention. And I think that's a key, is the safety is the number one priority of any of our patients or the state of Nebraska residents. This is a bill that I think--Senator Kolterman, and I appreciate him bringing it forward--will increase access to care in areas that are experiencing shortage. I think that this is a technological advancement I would like to be a part of making better. And I think my colleagues would as well, because I think as a state we can benefit this technology. And whether you're in an urban setting or rural setting, specialist or critical access hospital, it is actually being practiced, so it's nice to kind of bring that into a more concise law and accessing that for those physicians and providers, and physician assistants. Again, I think the key is these are Nebraska-licensed providers. And that's kind of a key as well. So with that, I would tell you that one benefit I see from this, as well, is that it helps opens up that conversation with some of our providers. The insurance carriers need to know that this is now where we need to take this further. We need to know why and how we can be reimbursed, not just on the Medicaid level, but other providers within the state. So I rise in support of this and would be happy to try to answer any questions. [LB701]

SENATOR ERDMAN: Thank you very much. Senator Linehan. [LB701]

SENATOR LINEHAN: Thank you, Senator Erdman. I just...okay, this might be a silly question, but how do you know what my temperature...first time you go to the doctor, regardless of what it's for, they take your blood pressure, they weigh you... [LB701]

ROBERT RHODES: Sure. [LB701]

SENATOR LINEHAN: ...and take your temperature. [LB701]

ROBERT RHODES: So the iPhone has amazing technology. There are adaptations that now people can actually use to check their pulse, do an EKG, look in their ear. So there's temperature apps that are being made available as well. So some of that's in the telemonitoring world, I'm not probably an expert in that. But in the software world I have actually been involved in a company that has done some education and monitoring. I've been an consultant for them. [LB701]

SENATOR LINEHAN: Okay, thank you. [LB701]

SENATOR ERDMAN: Thank you. [LB701]

ROBERT RHODES: Thank you for your time. [LB701]

SENATOR ERDMAN: Any other questions? Thank you for testifying. Any other proponents? Thank you for coming. [LB701]

ANDREW HALE: (Exhibit 2) Good afternoon, Senator. Members of the HHS Committee, my name is Andrew Hale, A-n-d-r-e-w H-a-l-e, and I'm vice president of the Nebraska Hospital Association. The Nebraska Hospital Association is the influential and unified voice for Nebraska's hospitals and health systems, providing leadership and resources to enhance the delivery of quality patient care and service to Nebraska communities. On behalf of our 42,000 members and the over 10,000 patients our hospitals serve on a daily basis, we would like to offer the following testimony in support of LB701. The Nebraska Hospital Association is committed to increasing workforce and telehealth among hospitals in the state. Telehealth is becoming vitally important to deliver the healthcare services, especially to our rural areas. LB701 clarifies existing statute that allows physicians and physician assistants to provide treatment or consultation through telehealth without the need for initial physical evaluation. Much like LB92 of last year--that Senator Kolterman brought up and the NHA supported--telehealth needs further clarification as to who can use it and when. In addition to our support of LB701, the NHA recommends that the committee make an amendment to the bill, or consider making an amendment to the bill, to include other scopes of practice so that there is more certainty as about who can utilize telehealth beyond just Medicaid. Other professions that are qualified to diagnose medical problems, order treatments, and prescribe medications also need this clarification. And we would be happy to work with the Senator and the committee to include those. Closing, I'd like to thank Senator Kolterman and his staff for his continued support of telehealth and introducing this legislation, and would like to ask the committee to advance the bill. [LB701]

SENATOR ERDMAN: Any questions? Thank you very much. [LB701]

ANDREW HALE: Thank you, Senator. [LB701]

SENATOR ERDMAN: Any other proponents? Anyone in opposition? Anybody opposed? How about neutral? Okay. Tyler, we have letters? [LB701]

TYLER MAHOOD: (Exhibits 3, 4, 5, 6, 7, 8, 9, and 10) Yes, I have a letter signed by Connie Benjamin of the AARP of Nebraska in support...all of these letters are in support except for the last one: Scout Richters of the ACLU of Nebraska, Dr. Richard Azizkhan and Liz Lyons of Children's Hospital and Medical Center, Kristin Mayleben-Flott of the Nebraska Planning Council on Developmental Disabilities, Heath Boddy of the Nebraska Health Care Association, Melissa Florell of the Nebraska Nursing (sic--Nurses) Association, Heidi Woodard of the Nebraska Women's Health Advisory Council, and then one letter signed by Kent Rogert, representing the Nebraska Optometric Association, in neutral. [LB701]

SENATOR ERDMAN: Okay. Senator Kolterman, welcome back. [LB701]

SENATOR KOLTERMAN: You ready to go for LB702? (Laughter) Thank you... [LB701]

SENATOR ERDMAN: And that completes the hearing on LB701. Senator Kolterman is in a rush to get to LB702. [LB701]

SENATOR KOLTERMAN: Good afternoon,... [LB702]

SENATOR ERDMAN: Go ahead. [LB702]

SENATOR KOLTERMAN: ...Vice Chairman. Members of the Health and Human Services Committee, I'm Senator Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent the 24th District in the Nebraska Legislature. I'm here today to introduce LB702 on behalf of the Department of Health and Human Services. LB702 is necessary to comply with federal regulations issued in 2016 mandating changes in the child support enforcement program. This new regulation is in conflict with two areas of Nebraska's child support enforcement. First, in Nebraska, children covered under Medicaid and other needs-based healthcare programs are not considered to have healthcare coverage. And second, child support is not currently reduced when a parent is incarcerated. It is important to note that failing to comply with the mandated changes by October 1, 2018, would subject the state of Nebraska to a loss of all federal Title IV-D in Temporary Assistance in (sic--for) Needy Families, or TANF funding, accounting to over $81 million. LB702 will recognize that children covered under Medicaid and other needs-based healthcare programs do, in fact, have healthcare coverage. This bill will also update statute to

require notice by the state to individuals who will be incarcerated for more than 180 days of a right to review and modify their child support order. I believe that Matt Wallen, Children and Family Services Division at the Department of Health and Human Services, is here and will testify in support of this bill. We would also be able to...he would also be able to answer any technical questions you might have. It's important that we pass this legislation so we keep the money coming from the federal government. Thank you, and I'm happy to answer any questions that I can. [LB702]

SENATOR ERDMAN: Any questions for Senator Kolterman? Thank you very much, Sir. Any proponents? Thank you for coming. [LB702]

MATT WALLEN: (Exhibit 1) Thank you. Good afternoon, Senator and members of the Health and Human Services Committee. My name is Matt Wallen, M-a-t-t W-a-l-l-e-n. And I'm the director of the Division of Children and Family Services in the Department of Health and Human Services. I am here to testify in support of LB702. Thank you, Senator Kolterman, for introducing this bill and working with the department. LB702 is a result of new federal regulations issued in 2016 to create efficiency in establishing a medical support order and to assure child support is based on the parent's current income. Nebraska has until October 1, 2018, to update our state statutes to comply with the federal requirements in two ways: First, Nebraska needs to recognize Medicaid as health care coverage for child support enforcement purposes; and second, Nebraska needs to change some of its child support laws pertaining to individuals incarcerated for 180 days or more. Title IV-D requires Nebraska to have laws and procedures to establish and enforce medical support judgments as part of child support orders whenever health care coverage is available to the responsible party at a responsible cost. Nebraska's current definition of "health care coverage" found at Nebraska Revised Statute 44-3,144(5) excludes public medical assistance programs such as Medicaid. This means that children who are covered by Medicaid are not recognized as having health care coverage for child support enforcement purposes. Even though a child has coverage through a public medical assistance program, Nebraska law requires child support workers to secure alternative health care coverage that meets the statutory definition. Nebraska's statutes were consistent with prior federal law. However, (Title) 45 CFR 303.31 was amended in 2016 to require all states to recognize children covered under Medicaid or other need-based health care programs as having health care coverage. Our current state statute is now in direct conflict with this federal mandate. This could have serious implications for the state. The federal Office of Child Support Enforcement has specifically advised Nebraska that it must comply with this new federal regulation by October 1, 2018. The Office of Child Support Enforcement has further advised that failure by the state to comply by that date would subject Nebraska to a potential loss of all (Title) IV-D and TANF funding, currently amounting to as loss of more than $81 million. LB702 aligns Nebraska Revised Statute Section 44-3,144(5) with the new federal mandate requiring that Medicaid be recognized as health care coverage. In addition, the bill would ultimately promote efficiency and reduce

taxpayer costs by eliminating the need for child support workers to dedicate time and resources pursuing medical support orders in situations where the child already has healthcare coverage through public medical assistance. The second part of LB702 concerns modifying an existing child support order for persons incarcerated for 180 days or more. Under Nebraska Revised Statute Section 43-512.15, incarcerated individuals are deemed to have a voluntary reduction in income if they are incarcerated less than one year or incarcerated for criminal nonsupport or crimes in which a supported child was victimized. This state statute directly conflicts with new federal regulations; (Title) 45 CFR 302.56 now provides that incarceration may not be treated as voluntary unemployment when it comes to establishing or modifying support orders. (Title) 45 CFR 303.8 requires Nebraska to either amend its IV-D State Plan to include a review of child support orders after learning that a noncustodial parent will be incarcerated for more than 180 days or provide notice to both parents of the right to request a review for modification. The Office of Child Support Enforcement has stated; children do not benefit when their parents engage in a cycle of non-payment, underground income generation and re-incarceration. Individuals released from prison with insurmountable child support debt are less likely to be productive members of society, to take care of their responsibilities and to succeed in the outside world. They are also less likely to be involved in their children's lives, and ultimately are less likely to continue making support payments. It is not anticipated that the change in statute will significantly increase the work load for staff, nor will it require additional FTEs. When an incarcerated individual is no longer in prison and has the ability to earn a living wage, child support could again be reviewed and modified at that time. Thank you for the opportunity to testify before you today. I believe LB702 will help DHHS continue in our mission of helping people live better lives. I'm happy to answer any questions you may have. [LB702]

SENATOR ERDMAN: Are there any questions? Senator Crawford. [LB702]

SENATOR CRAWFORD: Thank you, Vice Chair Erdman. And thank you, Director Wallen, for being here today. Can you tell us just a little bit about how this child support review, what that means? So now it's the case that if they're incarcerated less than a year, that's a time at which we review whether or not they need to continue to pay child support? [LB702]

MATT WALLEN: For...if they're incarcerated for 180 days or more, the bill would then, at 180 days, we would send them a letter and the custodial parent a letter and let them know they have the opportunity to review or modify their child support order. [LB702]

SENATOR CRAWFORD: What does it take to modify it? It's just like a notification, then, am I right? [LB702]

MATT WALLEN: Well, what we do is we send them a letter and let them know that they have the opportunity. And then what they would do is respond to our correspondence, and then we would give it to the...either an HHS attorney or the county attorney and then it would work through the judicial process. And more than likely the order would be reduced down to reflect the current wages while the person is incarcerated. [LB702]

SENATOR CRAWFORD: Thank you. [LB702]

SENATOR ERDMAN: Any other questions? Seeing none, thank you for your testimony. [LB702]

MATT WALLEN: Thank you. [LB702]

SENATOR ERDMAN: Any other proponents? Any opponents? Anybody in opposition? Any in the popular neutral category? Seeing none, Senator Kolterman? Are there any letters, Tyler? [LB702]

TYLER MAHOOD: I do not have any letters. [LB702]

SENATOR ERDMAN: Okay, that completes the hearing on LB702. Thank you for coming today. [LB702]