

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee February 2, 2022

ARCH: Good afternoon. Welcome to the Health and Human Services Committee. My name is John Arch. I represent the 14th Legislative District in Sarpy County and I serve as Chair of the HHS Committee. I'd like to invite the members of the committee to introduce themselves starting on my right with Senator Murman.

MURMAN: Hello. I'm Senator Dave Murman from District 38 and I represent seven counties and part of an eighth along the southern border south of the middle part of the state.

WILLIAMS: Matt Williams from Gothenburg, represent Legislative District 36.

M. CAVANAUGH: Machaela Cavanaugh, District 6, west-central Omaha, Douglas County.

ARCH: Also assisting the committee, one of our legal counsels, Paul Henderson, our committee clerk Geri Williams, and our committee pages Savana and Aleks. A few notes about our policies and procedures. First, please turn off or silence your cell phones. This afternoon, we will be hearing four bills in-- and we'll be taking them in the order listed on the agenda outside the room. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. For those of you who are planning to testify, you will find green testifier sheets on the tables near the entrance of the hearing room. Please fill one out, hand it to one of the pages when you come up to testify. This will help us keep an accurate record of the hearing. When you do come up, please begin by stating your name clearly into the microphone and then please spell both your first and last name. We use the light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left, you speed up at that point. When the light turns red, it is time to end your testimony. We will ask you to wrap up your final thoughts. If you wish to appear on the committee statement as having a position on one of the bills before us today, you need to testify. If you simply want to be a part of the official record of the hearing, you may submit written comments for the record online via the Chamber Viewer page for each bill. Those comments must be submitted prior to noon on the work day before the hearing in order to be included in the official record. However, additionally, there is

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a white sign-in sheet at the entrance where you may leave your name and position on the bills before us today. And with that, we will begin today's hearing with LB812 and welcome Senator Hilkemann.

HILKEMANN: Good afternoon, Chairman Arch and members of the Health and Human Services Committee. I am Robert Hilkemann, that's R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I represent District 4. LB812 would allow a pharmacy technician under the supervision of a pharmacist, under the supervision of a pharmacist to administer vaccinations in Nebraska. It is important to begin by understanding that pharmacy technicians in Nebraska have been delivering vaccinations for several months under the Public Readiness and Emergency Preparedness Act, or PREP. This action by Congress provided a pathway for states to rapidly expand and support their vaccination workforces. Additionally, Governor Ricketts issued an executive order expanding the flexibility of pharmacists to utilize pharmacy technicians as they determined necessary when administering vaccinations. The provisions of the PREP Act are currently scheduled to expire on October 1, 2024, or when the end of the declaration of the emergency is issued. LB812 will essentially codify the existing pandemic waivers for the administration of vaccine by pharmacy technicians, thereby allowing pharmacy technicians with appropriate training to continue to help pharmacists meet the vaccination needs of their patients. The requirements of the pharmacists and pharmacy technicians for the delivery of vaccinations in this bill are as follow: first, prior to the administration of a vaccine by a pharmacy technician, the vaccine must be reviewed and verified by the pharmacist. Secondly, the pharmacy tech would be limited to administering a vaccination to patients three years of age or older. Third, the vaccination can only be given in the deltoid muscle of the arm. Fourth, the pharmacy technician is required to hold a current certificate in basic life support. Fifth, the pharmacy technician must be certified and trained to administer vaccinations and finally, the supervising pharmacist would be required to be on site. A survey of pharmacists and pharmacy technicians practicing in Nebraska conducted by the University of Nebraska College of Pharmacy reflected no increased risk to Nebraskans as a result of current pandemic waivers and overall support for allowing pharmacy technicians to continue to administer vaccinations. At a time when our healthcare workforce is facing unprecedented challenges, pharmacy technicians have administered vaccinations during this waiver period in a safe and sound fashion. They have been integrated by pharmacists into their workflow from administration of the vaccines and LB812 would allow a pharmacist to continue this practice on a permanent basis. I'd be

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happy to try to answer any questions you may have or there's certainly other pharmacists behind who--

ARCH: Thank you, Senator Hilkemann. Are there any questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you, Senator Hilkemann. You said that this-- their-- the emergency staff status expires when?

HILKEMANN: October 1, 2024.

M. CAVANAUGH: And is there currently a specific waiver that they're using?

HILKEMANN: Yes, they're under-- it's under the-- called the PREP Act.

M. CAVANAUGH: PREP, P-R-E-P?

HILKEMANN: P-R-E-P, the, the Public Readiness and Emergency Preparedness Act.

M. CAVANAUGH: OK, thank you.

HILKEMANN: Um-hum.

ARCH: Other questions? Senator Williams.

WILLIAMS: Thank you, Chairman Arch, and thank you, Senator Hilkemann. And just so that we are all on the same page, this is all vaccinations that they could give. This is not just a COVID-19 vaccine.

ARCH: There's a lot of--

HILKEMANN: Yes, I think--

ARCH: There's a lot of--

HILKEMANN: Yes, I think that's correct.

ARCH: --nodding heads behind you.

HILKEMANN: Yes, OK. Yes, OK. Yeah, I believe it's--

WILLIAMS: I just wanted to have that on the record.

HILKEMANN: I'm going to, I'm going to-- and certainly ask the pharmacists that question for sure--

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WILLIAMS: Thank you.

HILKEMANN: --but yes.

ARCH: Any other questions? Seeing none, thank you very much. Are you going to stay to close?

HILKEMANN: I will be here.

ARCH: OK, thank you. First proponent for LB812.

ROBERT LASSEN: Chairman Arch, members of the Health and Human Services Committee, my name is Robert Lassen, that's R-o-b-e-r-t L-a-s-s-e-n. I'm a pharmacist testifying today on behalf of AARP Nebraska as a volunteer in support of LB812. Pharmacy technicians are critical team members who facilitate a variety of pharmacy services in the medication-dispensing workflow. The Public Readiness and Emergency Preparation Act, the PREP Act, was designated into law December 2005. The act limited liability to providers for the manufacture, testing, development, distribution, administration, and use of covered countermeasures. On March 10, 2020, the Secretary of Health and Human Services invoked the PREP Act and determined that COVID-19 constituted a public health emergency. Under the provisions of the PREP Act, pharmacy technicians and interns were allowed to administer COVID-19 vaccines and other immunizations to help with increased pharmacy demand. It has been a model that has seen continued success. The eighth amendment to the PREP Act, issued on August 4, 2021, expands upon the third and fourth amendments. The first amendment clarifies that qualified pharmacy technicians and supervised pharmacy interns are included as qualified persons authorized to administer these vaccines. The second amendment expands the vaccine these persons can administer to include seasonal influenza vaccines for adults. In 2020, that scope was expanded to include pharmacist testing and delivering a vaccine to ages 3 through 18. Finally, the eighth amendment reinstates the effective time period for the PREP Act liability protections, which are generally extended through October 1, 2024. This is unless the declaration of emergency is rescinded earlier. The pharmacist oversight under this act must have the following components: the vaccinations must be ordered by a supervising qualified pharmacist, supervising qualified pharmacists must be readily and immediately available, a qualified pharmacy technician or state-authorized pharmacy intern must complete a practical training program that is approved by the Accreditation Council of the Pharmacy Education. This training must include hands-on injection techniques and the recognition and treatment of emergency reactions to vaccinations. A

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qualified technician or state-authorized pharmacy intern must have a current certificate of basic cardiopulmonary resuscitation. A qualified pharmacy technician must complete a minimum of two hours of approved immunization-related continuing education during the relevant state licensing. Now, a typical flow of-- through the pharmacy for vaccination would be a staff member would be taking and checking in the patients, which includes running the prescription for requests for vaccine, providing the vaccine information sheets, vaccination safety information, and other pertinent information. The pharmacist does a quick check to make sure that the right vaccine is selected, preparation of the dose is completed, and prints the paperwork. The patient fills out a vaccine questionnaire, including allergies, health conditions, and other questions that may affect the safety and administration of the vaccine. The pharmacist reviews the questionnaire with the patient and answers any questions and the technician is free to administer the medication. The bill doesn't so much bring us into compliance with the PREP Act as it guarantees our technicians may keep doing what they currently are doing once the pandemic has ended and we've reached that 2024. Pharmacy technicians are critical to the increasing pharmacy role that pharmacies play in patient care, whether administering the vaccine themselves or supporting the workflow for other pharmacy team members. As our population ages, those needing pharmacy services will continue to increase. Pharmacy technicians play a critical role in assisting to meet those challenges and the growing needs surrounding our aging population. Allowing pharmacy technicians to continue with administering vaccinations makes sense and it's the right thing to do, allowing all Nebraskans better access to care and services. Thank you for the opportunity to comment and to Senator Hilkemann for introducing LB812. We would ask the committee to support and advance the bill to the floor. I would be happy to answer any questions.

ARCH: Thank you. Are there any questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here. I was just reviewing the Department of-- DHHS's website and it says that the PREP Act authorized pharmacists to order and administer COVID-19 vaccines, but it doesn't talk about pharmacy techs.

ROBERT LASSEN: Yes, that's part of-- if you remember the second amended-- excuse me, the first amendment to that PREP Act--

M. CAVANAUGH: OK.

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ROBERT LASSEN: --which is under the eighth. It clarifies qualified pharmacy technicians and supervised pharmacy interns to-- are included as qualified persons authorized to administer these--

M. CAVANAUGH: OK. Great.

ROBERT LASSEN: --vaccines.

M. CAVANAUGH: Thank you. I appreciate that.

ROBERT LASSEN: Um-hum.

M. CAVANAUGH: And then my other question is the October 2024 date, that's a federal date--

ROBERT LASSEN: That's in the act.

M. CAVANAUGH: --that's not the state.

ROBERT LASSEN: Yeah, right.

M. CAVANAUGH: OK.

ROBERT LASSEN: That's in the original declaration.

M. CAVANAUGH: OK, thank you

ROBERT LASSEN: Um-hum.

ARCH: Thank you. Other questions? Senator Walz.

WALZ: Thank you. So I was just thinking about all vaccinations. It includes all vaccinations, correct?

ROBERT LASSEN: Well, it was extended-- initially it was COVID then it was-- included flu and then it's actually into the pediatric [INAUDIBLE].

WALZ: OK, that was going to be my question. Does this include vaccinations that children get, vaccinations that they would normally get at their Well-Child checkups?

ROBERT LASSEN: Um-hum.

WALZ: OK.

ROBERT LASSEN: Right.

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WALZ: So is the information-- is the pharmacy then forwarding that vaccination information to the pediatrician just to make sure that there's a consistent--

ROBERT LASSEN: That's a good question. I'll hold it for the people behind me.

WALZ: OK.

ROBERT LASSEN: Any other questions?

ARCH: Are there any questions? Seeing none--

ROBERT LASSEN: Thank you.

ARCH: --thank you very much for your testimony. Next proponent.

MARCIA MUETING: Good afternoon, Senator Arch and members of the Health and Human Services Committee. My name is Marcia, M-a-r-c-i-a. My last name is Mueeting, M-u-e-t-i-n-g. I am a pharmacist and I am the chief executive officer of the Nebraska Pharmacists Association and I am grateful to be here and testify in support of LB812. Senator Hilkemann did a terrific job of, of teeing up this bill and I don't really have any further comments about the bill itself. I did want to make a comment so that you would know that to date, five states in the United States have already made changes within the scope of practice for pharmacy technicians to allow them administration of vaccines. Those include Idaho, Rhode Island, Utah, Michigan, and Nevada, and lots of other states pending legislation. The experience in Idaho lends credence to the strong safety profile that has accompanied pharmacy technician-administered vaccines. This track record is really not a big surprise, as we already require each pharmacy technician in Nebraska to be registered with Department of Health and Human Services. That requirement has been in place for a long time. So they have to be registered prior to employment and they must become certified already within a year of being employed as a pharmacy technician. Excuse me. This means that pharmacy technicians would have similar backgrounds to other medical professionals like a medical assistant in a physician's office, as far as background training requirements for people that have been administering vaccines for years under the supervision of a physician, for example. So I think that's really important. I do want to let you know that my second COVID vaccine I received from a pharmacy technician. The first one was from a pharmacist and I couldn't tell the difference. One thing that this is going to help without a doubt: I don't know if you've been to

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a pharmacy lately. The lines are long. There's a lot of people that want to talk to the pharmacist about their prescriptions or they want to ask questions about COVID vaccines or they want a vaccination. This is going to help relieve that-- the burden. If the pharmacist is the only person in that pharmacy that can give a vaccination, people will have to wait. And, you know, sometimes people that don't want to wait just leave and they, they won't get their vaccination. Is it that important? I think it is. And I think pharmacy technicians are well poised to do this because they are going to be supervised all the time by a pharmacist. Our pharmacy technicians in Nebraska must be high school graduates or equivalent. They need to be 18 years of age. And as I noted, they're, they are already registered with the Department of Health and Human Services. So for those reasons, I'd like for you to support LB812 and forward it to the committee-- or forward it to the body of the Legislature for debate and passage. I'd be happy to answer any questions.

ARCH: Thank you. Are there questions? Senator Williams.

WILLIAMS: Thank you, Chairman Arch, and thank you, Ms. Mueting for being here. Especially in our rural areas, I think many of us are in a situation where we rely on pharmacies to provide this service and COVID has allowed this to, to increase, but do you think the need for this service with all the vaccines will stay at or above the same level when COVID wanes?

MARCIA MUETING: Absolutely. In fact, I know there's, there's others that are prepared to testify and actually give you some data that's going to talk about what we anticipate the need, the increased need for vaccinations is going to be.

WILLIAMS: Thank you.

MARCIA MUETING: And Senator Cavanaugh, the, the section you were looking at was about pharmacists, about pharmacists ordering the immunizations. Under the PREP Act, a pharmacist can actually order that. It doesn't have to be from a physician or another prescriber. So the Feds have given pharmacists the ability to order immunizations. That was the first-- before the PREP Act was amended. Does that help?

M. CAVANAUGH: Thank you.

ARCH: Other questions? I have one.

MARCIA MUETING: Sure.

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ARCH: And, and it's, it's a, it's a question of process. It is unusual for the committee to hear a scope-of-practice bill without going through the 407 process.

MARCIA MUETING: Um-hum, sure.

ARCH: Why should we consider this without going through the 407?

MARCIA MUETING: I don't want to sound disrespectful, but pharmacy technicians don't really have a scope of practice. You can't have a pharmacy technician without a pharmacist. So if you, if you look at what they can do, it's help a pharmacist.

ARCH: So they're not independent.

MARCIA MUETING: They're not at all independent. That's a great question. They're not at all independent.

ARCH: OK.

MARCIA MUETING: In fact, in those very few seven or eight instances in Nebraska where we allow a technician to run a pharmacy, we call it remote dispensing. So you have a pharmacy out here that is manned by a technician and remotely supervised by a supervising location. Under this bill, we're not-- we don't even want that technician who is out there being supervised via audio/video link to be able to administer a vaccination because there's not a pharmacist on site. That oversight, I think, is the key here. You know, a lot of other professionals administer vaccinations and they don't have a direct supervisor.

ARCH: Could a, could a pharmacy technician today-- without, without the PREP Act, could a pharmacy technician today direct, allow a pharmacy technician to provide a vaccine? In other words, were it not for the PREP Act, could a pharmacy-- could a pharmacist direct a-- and supervise a pharmacy technician to do a vaccine? Do they need, do they, do they need statutory authorization? Now, it might be a good idea to do it--

MARCIA MUETING: Um-hum.

ARCH: --but do they need to have this or can they, under the direction of the pharmacist now, do a vaccine administration?

MARCIA MUETING: If we set aside the PREP Act-- OK, so as someone who's been with the pharmacy association for a few years, pharmacists were really initially very resistant to allowing a technician and, and

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going through any kind of a process to change what a technician can and can't do in Nebraska, very resistant and I'll tell you why. Because I myself, as a pharmacist, feel that administering immunizations, vaccinations to Nebraskans was the single thing that propelled my profession forward in the last 20 years. I touched my patients, I talked to them, and I-- and they saw me administering a medication to them. That's huge. I didn't want to give that up. So when we asked our members over and over again, do you want help? Do you want your technicians to be able to do this? It took me a long time to realize that doing this does not require professional judgment, but the professional judgment comes in when you bring me the, the form you filled out that says, do you have a fever? Are you being treated for cancer? Are you taking any oral steroids like prednisone? That's when the professional judgment comes in and the pharmacist reviews that and says you are a candidate for a COVID shot, but you are not. That's where the professional judgment occurs. What we want to be able to have our pharmacy technicians do is this and that's, that's a trainable event. That's something that we can train people to do, without a doubt. And you know, it's kind of funny; now that pharmacy technicians are doing this under the PREP Act, they don't want to give it up because they feel the same way. They feel involved in that patient's care and it has elevated them in healthcare. So before the PREP Act, our pharmacists weren't interested in making that change, but I'm telling you now that COVID has occurred, they're begging for help.

ARCH: All right. OK, thank you. Any other questions? Senator Hansen.

B. HANSEN: I got to disagree a little bit on the scope of practice thing. Scope of practice typically means the law allows you to do something, right?

MARCIA MUETING: Um-hum.

B. HANSEN: And so technically, you do have a scope of practice, so do pharmacists and so do pharmacist technicians, because the law, us or the federal government, allows you to do something or it does not. So anything that falls in the purview of that is considered a scope of practice, in my opinion, and I think, according to definition too. However, one of-- the other question that I have-- that is more of a comment-- is do, do you think, in your mind, pharmacist technicians, do they ask contraindications to, to, to treatment before injecting a vaccine?

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MARCIA MUETING: Yeah, it's, it's that, that consent form that you fill out.

B. HANSEN: Yes.

MARCIA MUETING: So if you have-- if you're immunocompromised, if you are taking an anticoagulant, most of the-- I mean, your pharmacist is going to say, are you-- what, what anticoagulant are you taking? If someone would say I am taking this anticoagulant, they might say, you know what? I want you to get your, your, your influenza vaccine from your doctor's office.

B. HANSEN: Gotcha.

MARCIA MUETING: We-- you know, we want to be prepared for anything and you might be higher risk than I want to-- and I'm going to refer you on to a, to another professional. And I want to talk a little bit about a technician scope of practice because if you actually look at Nebraska law, it's, it's kind of interesting. I got to be honest-- maybe the people behind me can explain how we got where we are-- but if you look at it, it's a list of things that technicians cannot do. It's not this is what they can do, so I'm not really sure if a list of things that a person in their capacity can't do is considered their scope of--

B. HANSEN: Define a scope of practice.

MARCIA MUETING: --practice. I don't think it's defined very well, to be honest with you. I don't like the way the law's written, but it is what it is. So without a, a pharmacist, a technician can do nothing.

B. HANSEN: Yes and I appreciate that. That was my concern--

MARCIA MUETING: Um-hum.

B. HANSEN: --when you were saying we just want pharmacy technicians to do this.

MARCIA MUETING: And we do.

B. HANSEN: Yes, but also the informed consent portion too.

MARCIA MUETING: Oh no, no, no. That's the pharmacist stuff.

B. HANSEN: OK.

MARCIA MUETING: That is the pharmacist stuff.

B. HANSEN: So pharmacists will look at an informed consent--

MARCIA MUETING: Absolutely.

B. HANSEN: --and decide whether the vaccine is appropriate for that person or not?

MARCIA MUETING: Absolutely.

B. HANSEN: So when somebody comes in, we have a line of people, the pharmacist looks at the forms, says OK, OK, I think, yes, you can get a vaccination when there are contraindications, here's a pharmacy technician, they can do the injection.

MARCIA MUETING: Yep.

B. HANSEN: OK.

MARCIA MUETING: Not only that, not only that, but I, as a pharmacist would say this is the right dose, this is the right immunization, the right vaccine for this patient. Will you give it to the patient--

B. HANSEN: OK.

MARCIA MUETING: --OK? So--

B. HANSEN: So for instance, so for instance, like, if we're at a pharmacy, the pharmacist is gone, somebody comes in, requests a COVID-19 vaccine, the pharmacy technician cannot give it to them until the pharmacist comes back.

MARCIA MUETING: That's right.

B. HANSEN: That's what I was wondering.

MARCIA MUETING: Right.

B. HANSEN: OK.

MARCIA MUETING: Right and if you remember in the bill, it actually says on site.

B. HANSEN: Yep, just-- I just wanted to verify just to make sure--

MARCIA MUETING: Yep, I think that's an important, that's an important piece--

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B. HANSEN: Yep.

MARCIA MUETING: --super important--

B. HANSEN: All right.

MARCIA MUETING: --to me as a pharmacist because I'm liable as well.

B. HANSEN: Thank you.

ARCH: Other questions? Seeing none, thank you very much for your testimony.

MARCIA MUETING: Thank you.

ARCH: Next proponent for LB812.

ALLY DERING-ANDERSON: Senator Arch, members of the committee, my name is Ally, A-l-l-y, Dering-Anderson, D-e-r-i-n-g-A-n-d-e-r-s-o-n. I would very much like to thank Senator Hilkemann for his introduction of this bill and for sponsoring it. I am a faculty member at the University of Nebraska College of Pharmacy. I'm testifying today on behalf of myself, not on behalf of my college or my campus, but I'm the one who did the survey that Senator Hilkemann indicated was the basis for the chosen language in this bill. It became very clear that under the PREP Act and the other things that were allowing pharmacy technicians to assist with the administration of vaccine, that that was an important piece of our workflow. And while-- Dr. Mueeting was right, initially, pharmacy wasn't real excited about that until we saw it happen. And once we saw it happen, we realized it was safe, it was efficient, and it freed us to do some other things. But what were we going to do when the PREP Act expired? There's an old way to allow technicians to get a second credential and then they can give some immunizations. It is unwieldy it costs them money, it makes us train them for things they will never do, but it's possible or we could come to the Unicameral and say, look, we can show you this is safe and it's efficient and patients like it. And let's plan ahead for October of 2024 or whenever this pandemic is over because I think the other piece of being a health professional, especially right now, is believing it's going to be over and looking forward to that day. And saying we will have 1 million dead Americans, 1 million and if we can't learn anything from the experience, then sadly all we have over 1 million dead, but if we can learn, like pharmacy technicians improve workflow and pharmacy technicians improve access and they are well-trained in this skill, then we've learned something. So I did the survey asking pharmacists and pharmacy technicians in Nebraska, what do you want?

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Where is your comfort level? What can exist in this piece of legislation? That's where the three-year-old limit came from because that's where we stop injecting little ones in their thigh and start injecting them in their arm. I appreciated your question about a pediatric medical home. That's not our goal. Children with a pediatric medical home need to stay there because that's where they get all their records. But fascinatingly, when a pharmacist gives a vaccine, we report it to the PDMP. Not everybody does, not everybody reports it anywhere so that we run out of records because they don't exist and pharmacy doesn't do that. We report every vaccine administered. I've been at this for a while. When pharmacists were first allowed to immunize in Nebraska, it was 1994. I gave the first pharmacist-authorized immunization in Nebraska, in Crete, Nebraska, in my daddy's drugstore. Last month, I gave my 50,000th vaccine. I've stuck a needle in 50,000 arms. So when I tell you that this is a love and a professional passion, I, I can prove it. I would be honored to answer any questions that you may have. I think this is a fabulous bill and I urge you to support it.

ARCH: Thank you. Are there questions? Senator Williams.

WILLIAMS: Thank you, Chairman Arch, and, and thank you for being here. I asked Ms. Mueting the question about whether the, the need for this will change much when hopefully COVID goes. Do you have a reaction to that?

ALLY DERING-ANDERSON: I mean, my, my reaction is while it is inconceivable that we could need more, I think it's reality. The data show us that we are 12 percent below measles, mumps, rubella vaccines for teenage children and for adult-age immigrants. Somebody is going to have to do those. Two months ago, ACIP, the Advisory Council on Immunization Practices, changed the standards for giving Shingrix, the vaccine to treat and prevent shingles. We at that point estimated that we added 750,000 eligibles annually because of the change in the age recommendations for that vaccine and it's a two-dose series, so that's 1.5 million. Last week, ACIP changed all of the recommendations for hepatitis B vaccine. That's either a two-dose or a three-dose series that will now impact approximately 14 million adults, including, amazingly, my husband and my parents. Those vaccines, I got those covered. I will do those, but I don't know about any folks other than those three. So, Senator Williams, the need is actually going to increase and we have other vaccines that have fallen behind because of pandemic. People are afraid to go out in some cases and in some cases, we're so busy shooting people for COVID and influenza that some of the others have fallen through the cracks. The numbers on people who are

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behind on their tetanus vaccine. When you go home tonight, check if you haven't had yours in the last ten years. Think about it. All of those things and then we can add in the new pediatric recommendations that everyone in the child circle of care be immunized against pertussis while a woman is pregnant to protect this newborn. Whooping cough as an adult is an annoyance. Whooping cough as an infant is fatal.

ARCH: Thank you.

ALLY DERING-ANDERSON: So yes.

ARCH: I want to, I want to make sure we have time for other questions as well. Any other questions? I, I do have one. How would we know-- OK, I'm back to the 407 question.

ALLY DERING-ANDERSON: OK.

ARCH: We, we've had two years, almost two years of experience now with pharmacy techs delivering COVID vaccines and some other vaccines, perhaps, I don't know. But at any rate, how would we know if there's been any safety issues in that two years?

ALLY DERING-ANDERSON: Well, we have a number of ways to know. In my survey, I said, free text, tell me if there have been any problems. And there were three that were reported, which is actually below statistical standards, but they were common vaccine-related issues. There is a VAERS system, the Vaccine Adverse Event Reporting System, at the federal government and they have, they have reported no uptick in skills-based problems. Now we remember that, that we had one vaccine that in certain susceptible people may increase blood clots. That would have happened regardless of who was holding the syringe. And lastly, we can ask the state about error reporting, that is have you had a report of an error or worst case scenario, has there been a report of unprofessional conduct? And they can't ever tell you who before an investigation is complete, but they can certainly tell you yes or no. And as we are working to prepare the manuscript on this survey, the answer from the state is no. They have had no reports. So I'm really confident that a 407 kind of helps you plan for the what if--

ARCH: That's correct.

ALLY DERING-ANDERSON: I got two years of data--

ARCH: That is--

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ALLY DERING-ANDERSON: --so it isn't what if anymore.

ARCH: That's, that's where my thinking is going in, in that--

ALLY DERING-ANDERSON: Yeah.

ARCH: --in that, you know, the 407 is usually in anticipation of somebody's scope changing, not retroactive--

ALLY DERING-ANDERSON: Right.

ARCH: --not looking back. We've had two years of experience and so for that reason-- you know, again, I say it's very unusual that this committee would ever consider this without, without--

ALLY DERING-ANDERSON: Oh, it is very unusual.

ARCH: --without a 407, but having two years of experience, having the evidence regarding safety issues, we, we-- I think we have some freedom to experience. It's an unusual situation that we have here.

ALLY DERING-ANDERSON: And God willing, sir, we will never have another pandemic--

ARCH: Right.

ALLY DERING-ANDERSON: --to do it again.

ARCH: OK. All right. Thank you. Other questions? Seeing none, thank you very much for your testimony. Next proponent for LB812.

TODD LARIMER: Good afternoon, Chairman Arch, members of committee. My name is Todd Larimer. It's T-o-d-d, last name, L-a-r-i-m-e-r, and I am proud to serve the community as a pharmacist in the state of Nebraska for the last 31 years. I'm also currently a member of the Nebraska Board of Pharmacy, but I'm not here in that capacity. I'm also a member of the NPA. In my day-to-day work, I rely on the support and expertise of pharmacy technicians I supervise in providing care and services to our community members. I appreciate the opportunity to present testimony in favor of LB812. Community-based pharmacists, pharmacy technicians, and pharmacy interns are integral members of their community and bring significant value to the individuals they serve. We provide convenient, high-quality care and education to our patients and are more frequently the most accessible and frequent touchpoints a patient has with their healthcare systems. And that has to do whether it be availability, geography, whatever the case may be.

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In rural areas, we are very much the only touchpoint. I was in western Nebraska for a number of years, owned my own pharmacy, little town of Benkelman, and we provided services 24/7. It seemed like we were always busy doing something, and we were available constantly to our community members when doctors weren't available at certain times, so we did provide a lot, a lot of benefit at that point. Evidence of the number of immunizations that we are administering in my location are, are almost mind boggling to me when I looked at the numbers. In the past 12 months, we provided over 5,100 COVID shots and this is a single-pharmacist operation. This is not two pharmacists, three pharmacists, this is one pharmacist working with two, three, or four technicians, depending on what we got going on. We also provided over another 1,000 of influenza and expanded-- and expanded as everything else; that's the Shingrix, that's the tetanus, that's pneumonia, that's everything. And so you combine those into two to basically equate it down to 17 shots per day every day we were open. We were open 360 day-- 363 days out of the year. We only close twice and that's, that's corporate America, but we only close twice. There were some days that we would give 180 COVID shots. Imagine 180. We had four people scheduled every 20 minutes at times, would not even been close to possible without having a technician able to do that and that was their only function all day long is to provide those COVID vaccines to adults. Currently in Nebraska, there are not enough pharmacists and pharmacy technicians to adequately serve the healthcare needs of the entire population of 1.2 million Nebraskans. According to UNL, in 2019, there were 2,048 pharmacists and 3,500 pharmacy technicians. Seventeen counties had no active pharmacists and 13 counties had no licensed pharmacy technicians. There are also more than 50 state-designated shortage areas for, for pharmacists in the state of Nebraska. Shortages don't mean that there was a lack of patient demand. It just meant that we didn't have the people to fill those, fill those voids and that void is getting worse. There is a terrible crisis in healthcare right now. It has to do not only with pharmacists and technicians. It has to do with doctors, nurses, everybody across the healthcare spectrum. I mean, people are-- they call it the great resignation. It has had a big impact on healthcare. The COVID-19 public health emergency has amplified the central role of pharmacists, pharmacy technicians, and pharmacy interns in providing essential clinical services to the public. Aided by the federal preemptive authorities and temporary state-level scope of practice changes-- which I would like to thank the Governor's Office for the executive orders that they have issued for pharmacy technicians to be able to provide immunizations. Subsequently, Health and Human Services granted additional authority to pharmacy technicians, including the

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administration of influenza vaccine to adults and COVID oral therapeutics. Operating under the supervision of pharmacists, pharmacy technicians have administered tens of thousand COVID-19 vaccines to our fellow Nebraskans without really any issues. I have not had one issue with any of my patients having a problem getting a vaccine from a technician, zero, none. Not only have pharmacists and pharmacy technicians demonstrated their ability to safely and effectively deliver services like administration of vaccines to children or adults, the public now comes to expect this service from pharmacies because we are providing it. Here in the last board of pharmacy meeting, we did receive a message from the State Medical Board thanking us, the practice of pharmacy, for administering the number of vaccines that we have administered to Nebraskans in the state. It's by all estimates that we have given over 70 percent of all COVID vaccines in the state are done by pharmacies, which is amazing when you think about it. This past summer, I was authorized to conduct a survey of Wal-Mart pharmacists and technicians in Nebraska. The results indicate overwhelming pharmacist support for allowing technicians to immunize, with 91 percent of those pharmacists surveyed saying they would use technicians if a law was passed to provide vaccines. Sixty-seven percent of the technicians surveyed said they would be willing to provide vaccines. You know, some of the hesitancy I could see from technicians is can I get properly trained? They want to make sure they can do it safely because that was a concern when we started vaccinating as pharmacists. Are we going to be able to do this, do it properly, and not have any issues? The answer to that is yes. We can do that and we can train them to do it effectively.

ARCH: Your, your red light is on--

TODD LARIMER: Oh, sorry--

ARCH: --so.

TODD LARIMER: --I'll wrap up.

ARCH: OK, please.

TODD LARIMER: Demand, demand will not subside moving forward, as Dr. Dering said, there are so many things that are coming down the pipeline with ACIP, with , with, with hep B being done, shingles changing. Pneumovax, a pneumonia vaccine, has also got a new recommendation. Things are going to be ramping up, even though the pandemic at some point, we hope will subside. I want to thank you for

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the opportunity. I hope you guys will please submit LB812 to the floor.

ARCH: Thank you. Are there any questions? Seeing none, thank you very much for your testimony--

TODD LARIMER: Thank you.

ARCH: --very much. Next proponent for LB812.

JULIE WOLLBERG: Hi. My name is Julie Wollberg. It's J-u-l-i-e, Wollberg, W-o-l-l-b-e-r-g. I am a certified pharmacy technician and I have been for over 25 years. I currently work full time as a program director at Southeast Community College and the pharmacy technician program, but I also work as a senior certified pharmacy technician in a local pharmacy. I'm here today to testify in favor of LB812 to provide for vaccine administration for pharmacy technicians. So the last two years have highlighted the significance of our role in the healthcare team. We've proven that we are essential frontline healthcare workers and critical team members who are well trained to provide a variety of services. We worked through the pandemic with constant exposure to the public and we found innovative ways to stay safe, all while our profession has evolved into a COVID-19 point-of-care testing centers and vaccine administration sites. We continue-- we also are continuing our primary role to safely fill and dispense prescriptions. So prior to the pandemic, several states had already adopted regulations to allow for pharmacy technicians to administer vaccines. 2017 was the first-- Idaho was the first state to allow technicians to immunize and since then, Michigan, Washington, Rhode Island, Utah, and Nevada have followed. Technicians in these states have vaccinated hundreds of thousands of patients for influenza, shingles, pneumonia, and other childhood diseases and now COVID, so. This proves that technicians can safely and efficiently administer vaccines. So the pandemic has significantly increased the pharmacist/pharmacy technician workload, allowing for qualified, well-trained technicians to administer vaccinations would help lessen the burden. As part of our training, we do complete a practical training program, which includes a hands-on, hands-on injection skills check, emergency response to reactions. We have to complete OSHA bloodborne pathogen training and be CPR certified, so allowing technicians to immunize has greatly improved public access to vaccines. It has reduced the need for public clinics and likely freed up doctor's offices to treat patients for other conditions. It also significantly elevates the role technicians play in healthcare. With the current pharmacist staffing challenges in retail pharmacy,

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technician immunizers have allowed pharmacists to focus on patient care and safety. My technician colleagues and I have vaccinated thousands of patients since the PREP Act was announced. Passing this bill would allow us to continue our work to provide public access to immunizations. So therefore, I urge the committee to support LB812. Thank you.

ARCH: Thank you. Are there questions? Seeing none, thank you very much for your testimony. Next proponent for LB812. Hello.

JEANIE SHIPMAN: Good afternoon. My name is Dr. Jeanie Shipman, J-e-a-n-i-e S-h-i-p-m-a-n, she/her pronouns, and I am providing testimony today in support of LB812. Thank you, Senator Hilkemann, for putting forth this legislation and to the committee for considering my comments. I am a pharmacist actively practicing in Nebraska, including a retail pharmacy position with Walgreens. Though I do have several pharmacy affiliations, today I'm here to speak on my personal opinions and experiences with technician vaccinations. Allowing technicians to continue administering vaccines is important to promote public health in Nebraska. Technicians are currently administering influenza and COVID vaccines under the authorization of the federal PREP Act, demonstrating that this practice can safely be done. LB812 will secure the continued authorization of pharmacy technicians as immunizers and increase access to healthcare services in Nebraska. Retail pharmacies are an integral part of healthcare, as they are easily accessible to the public. That accessibility is an important factor when looking at vaccine administration. Many patients would often skip or delay vaccines because of the challenges associated with taking the time to go into the provider's office. Retail pharmacies have adapted their workflow to provide vaccines and other services like COVID testing both safely and quickly. Allowing technicians to immunize increases the pharmacies' capacity to provide vaccine services, saves patients' time, and reduces barriers to care. Before the COVID-19 pandemic, vaccines were being administered solely by the pharmacist on duty. While I do sincerely enjoy patient care activities, it can be difficult to balance the vaccine administration with the other pharmacist duties. Allowing technicians to administer vaccines takes something off the plate of the pharmacist without compromising patient care. The patient is still getting the vaccine information and the opportunity to talk to the pharmacist about any questions or concerns that they have about the vaccine and its safety. The vaccine administration area is typically just outside of the secured pharmacy area and allowing the pharmacist to remain in the main pharmacy space makes sure they are available for other patient questions. When I step out to give an immunization, I can tell you it doesn't feel like a lot

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of time to me, but I can tell you that parent that's standing there waiting for me to talk to them about how to care for their sick child or another patient waiting for me to talk to them about their medication allergy to see if it's something that's safe for them to take or any other patient in one of many different circumstances where they need my professional judgment, I don't want to leave those patients waiting and what that comes down to is my professional judgment. In those circumstances, my professional judgment is required and that is not a task that can be delegated to a technician. The administration of vaccines does not require professional judgment. The restrictions in the PREP Act and LB812 clearly spell out the training required for technicians to be able to administer vaccines. I am comfortable with technicians administering vaccines under my supervision when these requirements are met. I am eternally grateful to work with amazing pharmacy technicians who can help promote public health by administering vaccines. If there are any opponents to this bill that question the ability of technicians to safely administer vaccines, I challenge them to observe a tech performing these duties. Technicians in hospital settings perform even more complex tasks and manipulations than what is required to prepare and administer a vaccine. I trust technicians in their training and even brought my own children to the pharmacy for their flu and COVID vaccines. If I felt this was an unsafe practice, I would not have put my children in a situation where I felt they could be harmed. Again, I state my support for LB812 and would be happy to answer any questions that you may have. Thank you.

ARCH: Thank you. Are there any questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Are you familiar with whether or not the PREP Act covered children?

JEANIE SHIPMAN: Yes, the PREP Act allowed for the administration of any childhood vaccine, any COVID vaccines, so all of those would be authorized vaccines under the PREP Act.

M. CAVANAUGH: OK, thank you.

JEANIE SHIPMAN: You're welcome.

ARCH: Senator Hansen.

B. HANSEN: Thank you. Just a question about the difference between hospitals and pharmacies. So when a pharmacy technician administers a vaccine, are the requirements the same as of being in a pharmacy

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versus a hospital? Like are they-- do they both have to be under direct supervision of, like, a medical doctor or a nurse practitioner versus a pharmacist, do you know?

JEANIE SHIPMAN: The supervision-- I mean, even in a hospital, a technician is supervised by a pharmacist.

B. HANSEN: OK.

JEANIE SHIPMAN: I'm not familiar with all the different rules, but basically technicians are still just pharmacist helpers.

B. HANSEN: OK. I didn't know for sure if they could still be there when the pharmacist or somebody can take their place instead of the pharmacist or like-- just a little unsure about how the whole process works, so. OK, thank you.

JEANIE SHIPMAN: Thank you.

ARCH: Questions? Senator Walz.

WALZ: Thank you. Thank you for being here today. Ms. Wollberg before talked about-- and I wasn't quick enough to answer-- ask the question or think about it-- talked about the training and said they must have training in emergency response to reactions. So I was just thinking-- it's a general question. Who are they supposed to contact? If, if they come to you for the vaccination, what are the instructions from you on if there's a reaction or, you know, some type of harm due to the vaccination on who they contact if there's a problem?

JEANIE SHIPMAN: So that would go down to the basic life support training that's required by the bill. In that training, it's kind of a instincts kick in. So if a person would start to have a reaction, they would know that an EpiPen needs to be administered. The technician would come talk to the pharmacist, emergency services would be activated, but a lot of how to handle those situations is covered in the basic life support classes.

WALZ: Reactions usually occur pretty quickly?

JEANIE SHIPMAN: If a person is going to experience anaphylaxis, typically, yes. That is why there is a recommended 15-minute observation period after any administered vaccine.

WALZ: OK. All right, thank you.

JEANIE SHIPMAN: You're welcome.

ARCH: Any other questions? I have one. Does, does-- and I don't-- I'm not familiar with-- do, do vaccines come all prepared? Do-- does anybody have to draw up the vaccine?

JEANIE SHIPMAN: Yes, sir. So there's several different forms of the, the COVID vaccine at this point, so I'll use that as an example. Initially, the Pfizer adult was kind of the most standard where that one needed to be constituted, so diluent needed to be added to the actual medication and then appropriately mixed and then drawn up into separate syringes from that.

ARCH: And is that the duty of the pharmacist?

JEANIE SHIPMAN: That depends. Technicians are fully capable of being trained in that. If you look at hospital technicians, they're making IVs, all sorts of complex add mixtures. Retail pharmacy technicians, if they are comfortable with that and if the pharmacist supervising them is comfortable with that, the technicians are definitely well-trained and capable of reconstituting a vaccine if it is required for that specific vaccine. Some of them come in prefilled syringes where all you have to do is attach a needle, but yes, some manipulation is required for certain vaccines.

ARCH: OK. All right, thank you. And I'm assuming that the language here would cover that if it needs to be, if it needs to be compounded, if it needs to be, if it needs to be drawn up, that a, that a pharmacy technician could do that if the pharmacist decides that's appropriate.

JEANIE SHIPMAN: It is something that would be covered in their training and the pharmacist is supervising it, so yes, it would be allowed.

ARCH: OK, thank you. Any other questions? Senator Murman.

MURMAN: Thank you and thank you for coming in. If I-- before this emergency declaration, I assume most vaccines were administered in a medical clinic, doctor's clinic. If it's done in that way, if it's administered, administered there, is there a pharmacist on hand at the clinic to supervise?

JEANIE SHIPMAN: In those situations, pharmacists are generally not in clinics, not saying that they couldn't and there are some great clinical pharmacists out there, but typically when vaccines are administered at the provider's office, there's other staff. I mean,

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technically a doctor could administer a vaccine. They're generally going to delegate that task to a medication aide or a nurse, somebody that is certified in the exact same way that a pharmacist would delegate the administration to a pharmacy technician.

MURMAN: But a pharmacist typically would not be--

JEANIE SHIPMAN: Correct.

MURMAN: --there to supervise or mix the vaccine or anything like that?

JEANIE SHIPMAN: Correct.

MURMAN: Thank you.

ARCH: Any other questions? Seeing none, thank you very much for your testimony.

JEANIE SHIPMAN: Thank you.

ARCH: Next proponent for LB812.

RICH OTTO: Good, good afternoon, Chairman Arch, members of the committee. My name is Rich Otto, R-i-c-h O-t-t-o, testifying in support of LB812 on behalf of the Nebraska Retail Federation and the Nebraska Grocery Industry Association. We do appreciate Senator Hilkeemann introducing this legislation. First of all, I have to just thank all of our pharmacy associates. Obviously, they always work hard, but this last 18 months has been extremely stressful for them and all healthcare workers and I am just so appreciative of the job they've done. That job has included giving 1.2 million vaccinations in retail pharmacy-- in pharmacies in Nebraska, but only 87,000 of those were COVID vaccinations, which somewhat caught me by surprise. So this is needed for beyond COVID, even though that's the whole reason we're here, the PREP Act, all of that. One in 14 shots administered in the pharmacies is COVID, so it just shows that it is needed for all of these other vaccinations that were mentioned before and again, we don't see demand diminishing. Just quickly, all of these waivers, we have the federal PREP Act, which they have discussed, many waivers in that, gave the authorization for our technicians to do this. Then at the state level, we have many executive orders that Governor Ricketts has issued that we're very appreciative of. Todd and the pharmacy-- department of pharmacy-- excuse me, Board of Pharmacy, and then Marcia with NPA, Nebraska Pharmacy Association, has given their recommendations to the administration and we're just so appreciative of their work and the administration's work to issue these executive

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orders. My point in all of this, we have all of these waivers; the one thing we're asking of the Legislature is to continue this and let our techs keep giving shots, one thing. Again, it's been discussed where there will be training that the technicians will have to go through. We've had 18 months of experience with this. I don't need to reiterate all that. I just wanted to mention that again and I'm just so proud of our pharmacy workers. I encourage the committee to advance this and would gladly answer any questions you may have.

ARCH: Thank you. Thank you for your testimony. Are there questions? Senator Hansen.

B. HANSEN: Thank you. Do you know was there like a legitimate reason why-- previous to this all taking effect and their ability to provide vaccinations, was there like a legitimate reason why they were unable to or is it just something we never addressed before, something we never looked into and this is just kind of something new since the pandemic?

RICH OTTO: My best answer is kind of Marcia with NPA's answer when she came-- I don't know if you're in here for all of her testimony, Senator Hansen. Pharmacists, I think she said in the '90s, were allowed to do this. Basically, the industry didn't know if they wanted to give this over to techs. We were somewhat reluctant. We thought, OK, let's keep this with pharmacists. Well, now that we've been able to do it, we are so I guess, proud and amazed of how well it's worked and that pharmacists continually want to now delegate and practice at the highest level of their license. The other testifiers have shown where we haven't had the adverse effects, so I think we are just happy with the results. It's now something that we're very confident delegating in a safe fashion and we're willing to move forward in that approach.

B. HANSEN: Thanks, appreciate that.

ARCH: Any other questions? Seeing none, thank you very much for your testimony. Next proponent for LB812. Is there anyone else that would like to speak as a proponent? Are there anyone-- is there anyone here that would like to speak as an opponent? Good afternoon.

RITA WEBER: How are you?

ARCH: Great.

RITA WEBER: Well, that was impressive. What I would like to say, my name is Rita Weber, R-i-t-a W-e-b-e-r, and I'm speaking today on

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behalf of the Nebraska Nurses Association and we're speaking in opposition to LB812 and that may shock everybody. The Nurses Association is the voice of registered nurses in Nebraska and patient safety and improved health is certainly a priority for our association. NNA seeks to support the delivery of safe, cost-effective care for Nebraskans and we recognize the truly critical services that have been provided by pharmacy techs during the challenges with COVID-19. Section 1 (2) of the bill makes permanent a pharmacy technician's ability to administer vaccines in a pharmacy setting, provided they meet the requirements as outlined in the bill. Currently, this can be done by pharmacy technicians under the Public Readiness and Emergency Preparedness, the PREP Act, and it's also, under normal circumstances, if the pharmacy technician is registered as a medication aide. They have always been able to give not only immunizations, but they can give a variety of, of medications and administration of meds if they're on the medication aide registry in the state of Nebraska. Vaccine administration is not within the current education to be certified as a pharmacy tech in Nebraska. The medication aide piece is a core requirement in order to administer medications in Nebraska. There are currently 292 pharmacy technicians who are also on the medication aide registry. Checks and balances already exist in statutory requirements and they've been tested over and over again over the years. Pharmacists are among those who can provide direction and monitoring for medication aids. It's unnecessary to try to reinvent or duplicate the system that is working well. We would ask that LB812 be amended to authorize pharmacy technicians to administer COVID vaccine, but set a sunset date at October 1, 2023. Now that actually falls before-- the, the dates keep flying around and it gets confusing because the executive order at the state level from the Governor would expire at the end of March, but there are federal exceptions that would go longer than that, so that's where those dates get confusing. We believe, excuse me, such an amendment to LB812 would address our concerns of public safety. And it's not so much public safety, I should amend that to say we are more concerned with just the duplication and the complication that it, it creates by creating yet another statute that tries to define who can do what when it's already out there in the statutes in Nebraska. And so by-- in, in its big sense, we don't think this piece of legislation is necessary because there is an option for pharmacy techs now to be able to give or administer medications and there are a number of pharmacy techs-- I have over the last year and a half worked with quite a few pharmacy techs at immunization clinics that they were also medication aides. And because they were also medication aides, they can be supervised by quite a number of, of other professionals. Pharmacists is one of them.

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Nurses can supervise them at that-- if they're are medication aid. Physicians can supervise them. And so they, they have a broad range of utilization if they're, if they're on the medication aide registry and, and it makes them useful in a, in a variety of, of places. To be flexible in utilizing physician or pharmacy technicians, we would recommend these amendments. I would answer questions if you have any for me. Yes.

ARCH: Thank you. Senator Williams.

WILLIAMS: Thank you, Chairman Arch, and thank you, Ms. Weber, for being here. A medication aide is trained in a lot of things, many things beyond just giving injections, if I understand that right, is that correct?

RITA WEBER: That's right and some of the pharmacy techs I've worked with who are medication aides, they do more than just give immuniza-- vaccines.

WILLIAMS: So what we're, what we're talking about here today is the administration or administering vaccinations.

RITA WEBER: That's right.

WILLIAMS: Can you compare for me the training that a med aide would have to administer vaccinations to the training that a pharmacy tech receives to do the same thing?

RITA WEBER: They are trained in looking for side effects of medication, things that would be untoward. They are trained--

WILLIAMS: Can, can you described to me, though, if the training is any different for a med aide in administering a vaccination versus a pharmacy tech administering a vaccination?

RITA WEBER: No.

WILLIAMS: Thank you.

RITA WEBER: It wouldn't be.

WILLIAMS: It would be the same training?

RITA WEBER: It would be the same training.

WILLIAMS: Thank you.

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ARCH: Any other questions? Seeing none, thank-- oh, I'm sorry--

RITA WEBER: Senator Murman.

ARCH: --Senator Murman.

MURMAN: Sorry, I was a little slow on-- is there any cost involved with being a medication aide?

RITA WEBER: Twenty-five dollars to register.

MURMAN: OK and then--

RITA WEBER: And the assessment that they have to do-- and I brought this in because I thought it might be a question, but it wasn't, so I'll tell you anyway because, because a question was posed to me outside of the hearing of so do they have to go through the 20- or 40-hour med aide class? No, they don't. Because the statutes under Chapter 71-6725 state that a medication aide, except those who are working in a nursing home, disability, assisted living, several other facilities, do not have to take a course. Medication aides are assessed to determine that the medication aide has the competencies listed in Section 1 and those competencies are that they maintain confidentiality, complying with recipients' rights, maintaining hygiene, documenting accurately and completely. The, the list of competencies here, that's what they have to be assessed for to make sure that they are competent to provide those medications. And once they've had that assessment, they can be put on the medication aide registry for a \$25 fee.

MURMAN: So a follow-up question, so there is an assessment periodically for-- to be a medication aide for being a medication aide. Is that what you just--

RITA WEBER: I don't know that it's periodic. I'd have to go back and check on that, but this is how they become a medication aide.

MURMAN: OK, so at least a one-time assessment?

RITA WEBER: Yes.

MURMAN: And then to be a pharmacist aide, as far as you know, there's no assessment or, you know, regular type assessment?

RITA WEBER: I'm a registered nurse. I don't know what the pharmacy techs have to do.

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MURMAN: OK and as far as you know, there's no cost either for pharmacist aide?

RITA WEBER: Yeah.

MURMAN: OK, thanks.

ARCH: Thank you. Other questions? Senator Walz.

WALZ: Thank you. I'm just curious, what's the benefit to the state or constituents if someone's on the medication aide registry as opposed to not being on it? What's the benefit for--

RITA WEBER: If they're on the medication aide registry, it's-- they're trackable. We know where they're at, what they're doing, we know who they are, but they're also able to work in a variety of settings as a medication aide. They can administer a broader range of, of medications.

WALZ: OK.

RITA WEBER: I mean, not just vaccines.

WALZ: All right.

ARCH: OK. Thank you. Other questions? Seeing none, thank you very much for your testimony.

RITA WEBER: Thank you.

ARCH: Any other opponents for LB812? Is there anyone that would like to speak in a neutral capacity on LB812? Seeing none, Senator Hilkemann, you're welcome to close. As you're coming up, I would mention that we have received letters for testimony; four proponents, no opponents, and one neutral.

HILKEMANN: Well, thank you for this entertaining afternoon here. Senator Arch, when this was presented to me, the very first thing I said, doesn't that have to go through 407? And when it was explained to me-- and you and I have had this conversation. As you well know, I'm not a big fan of 407, but at either rate, I learned a lot about what this was all about before I agreed to testify. And then I went with my own experience. I was a little late coming to the table about going to a pharmacist to get my vaccinations. My dear wife would go and say, you know, well, I got my flu shot or I got this. Got get it at-- and several years ago, I went for my first shot. I thought now

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that's the way to do this sort of thing. You can just go to your pharmacy like that. It's safe, it's convenient, it's well supervised. That's what we have with the pharmacy techs. And the other thing that I-- and when I went for my annual physical a few years back, doctor asked if I'd had my shingles shot. I thought, don't think-- we checked and said go to your pharmacy and get it. I said, really? You know what, he said, go to your pharmacy. Better-- yeah, it's-- that's the way to do that. And we were traveling some this summer and we had some of our vaccinations while we were in another area of the state-- of the country. It was so convenient the other-- about two weeks ago, my wife wanted to, to-- she had to get a record. She was able to call a national chain pharmacy and go down and get her record right there. It was all there. This is the future of these-- of, of a lot of the injections down the line. Let's help the pharmacists carry out their role and that's why I think the pharmacy techs are well supervised by the pharmacist and so that's why I was willing to carry that. And I think Senator Arch, we're going to have to take-- as Dr. Anderson said from the college of pharmacy and her research, that's probably about as close to 407 as we've gotten anyway.

ARCH: Thank you. Any final questions? Seeing none, thank you very much for introducing--

HILKEMANN: Thank you very much.

ARCH: --and your testimony. We will now turn to LB752, which I will be introducing. And so Senator Williams will handle the hearing.

WILLIAMS: We will now open the public hearing on LB752, introduced by Senator Arch to redefine respiratory care under the Respiratory Care Practice Act. Welcome, Chairman Arch.

ARCH: Thank you, Vice Chair Williams, members of the Health and Human Services Committee. My name is John Arch, J-o-h-n A-r-c-h. I represent District 14 in the Nebraska Legislature. I am here today to open on LB752, which updates the practice of respiratory therapy as outlined in Section 38-3205 of Nebraska Revised Statutes. Although this need, the need for this change evolved from the current pandemic healthcare crisis and the need for respiratory therapists to fully utilize their skills and training related to extracorporeal membrane oxygenation. We'll call it ECMO after that, which is a modified cardiopulmonary bypass technique used to treat life-threatening cardiac or respiratory failure. It became evident that their current scope, which has not been updated since 1986, had not kept up with the actual changes in the profession the practice today. LB752 seeks to clarify and update

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the scope of practice of respiratory care practitioners as they currently provide care and their training. It has become evident with the onset of COVID-19 and its variants that these practitioners are critical in our healthcare system. Last fall, the Nebraska Society of Respiratory Care initiated a credentialing review relating to their scope of practice and a 407 committee was formed. Doesn't that warm your heart? A 407 committee was formed in the Department of Health and Human Services. The committee determined that the proposal was appropriate and needed and sent its report to the State Board of Health, which also approved the report and changes. There was no opposition brought forward in the 407 process, and both the 407 committee and the State Board of Health unanimously approved these changes. Thank you. There will be people that will follow to explain a little bit more about the current practice of respiratory therapy, but I would be available to answer any questions if you have them.

WILLIAMS: Thank you, Senator Arch. Are there questions? Seeing none, thank you.

ARCH: Thank you.

WILLIAMS: And we will invite the first proponent. Good afternoon and welcome.

HEATHER NICHOLS: Hi, my name is Heather Nichols. First name H-e-a-t-h-e-r, Nichols, N-i-c-h-o-l-s. I am here on behalf of the Society for Respiratory Care. Thank you for your time and thank you for Senator Arch for proposing our bill, LB752. The updated definition of respiratory care will help clarify and meet our current practice. We're recommending wording changes in the scope of practice to meet what our current practice is. As Senator Arch said, we have went through the 407 process and many of the committee meetings and we got the positive approval. We went to the Board of Health and received an 11-0 vote. With the support from the Medical Association, the Hospital Association, and the Perfusion Association, many pharmacists and nursing sat on our committee and were very happy with the updated changes for changing our practice. This update would help us continue to keep our public health safe and aware and for the residents of Nebraska. We're proposing the updated changes of wording, like we said, we have not updated our wording since 1986, when we first got a scope of practice. There's been significant changes with technology and practices that we've had rulings on that have-- we've been practicing under those opinions. There's currently about 1,500 respiratory therapists in the state of Nebraska. The respiratory profession continues to be very dynamic. And of course, over the last

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24 months, we've seen what COVID has done to many of our patients. We are currently asking that we update the bill to assume training in roles in advanced cardiopulmonary resuscitation and ECMO, like we stated before, so to administer all pharmaceutical and diagnostic and therapeutic agents while assessing our treatment of patients. Respiratory therapists have been a vital member of the healthcare field and this technology has been very much used during the pandemic. So we are asking that you support this bill as you move forward and I'm open to any questions.

WILLIAMS: Thank you, Miss Nichols. Are there questions? Seeing none, thank you for your testimony. Invite the next proponent. Good afternoon.

RACHEL SHIRK: Good afternoon. Good afternoon, members of Health and Human Services Committee. My name is Rachel Shirk, R-a-c-h-e-l S-h-i-r-k. I'm the director of respiratory therapy at Children's Hospital and Medical Center. I'm here before you today on behalf of Children's and the Nebraska Hospital Association in support of LB752 to redefine the scope of practice for the respiratory therapists in the state. I want to personally thank Senator Arch for his support during this process and during the 407 credentialing review process with the Department of Health and Human Services. Children's is the safety-net provider for children throughout the state of Nebraska, reaching over 153,000 unique patients each year with symptoms ranging from the common cold to highly complex chronic conditions requiring multiple specialists over a lifetime. As the safety-net provider, it is up to us to think ahead for the needs of every child in the state. We recently celebrated opening our Hubbard Center for Children, which is a 100-bed tower dedicated to the critical care needs of patients today and well into our future. In this tower, we have ECMO, a modified cardiopulmonary bypass technique used to treat life-threatening cardiac and respiratory failure. ECMO is one of the many reasons we are here testifying before you today in support of LB752 to update the statute and the role of the respiratory therapists specifically through additional ECMO training. At Children's, we rely on each person within a unit to ensure the highest quality of patient safety and care. Year after year, Children's has celebrated years as gold, and most recently, platinum, in our service excellence as a provider for ECMO. It is a standard for RTs to be specially trained and certified to monitor and administer this critically important life support system and Children's promotes obtaining the specialized training through a unique and crucial skill set in working with the human cardiopulmonary system. This extensive training makes RTs uniquely qualified to manage the ECMO system, specifically overseeing

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the administration of blood, blood by-products and the medication delivering intravenously. As the safety-net provider for children in the state of Nebraska, we're responsible for the most medically complex children in the region, and these children require medical services that adults systems can not adequately provide. While the statute clearly brings administration of complex respiratory therapy such as ECMO within the scope of the licensure, the current statute addressing the scope of practice does not squarely address medication administration within the context of these types of complicated cardiopulmonary therapies. We just concluded a successful 407 credentialing review with DHHS receiving unanimous support for the administration of medication during these complex cardiopulmonary therapies to be within the scope of RT when they have obtained training as an ECMO specialist. The standard of care of our pediatric hospital colleagues in Iowa, Kansas, South Dakota, as well as the larger pediatric health systems ranked in the top 10 pediatric health systems by U.S. News and World Report is to allow the RT trained to administer complex cardiopulmonary therapies such as ECMO and be responsible for all duties related to the respiratory therapy procedure. In these complex settings, an RT and an RN are always at the patient's bedside. The RN is overseeing the patient and the RT is utilizing his or her specialized training to oversee the cardiopulmonary equipment being used to support the patient's life. I would like to conclude with the number 12. Twelve is the average number of breaths an adult takes each minute. This process many times goes unnoticed, but I notice it as a respiratory therapist from the premature baby breathing 60 times a minute to the 8-year-old asthmatic using every muscle to pull air in at 40 times a minute. I'm proud to be in a profession that helps someone breathe easier. Every breath is precious and we use our expert skills, growing technology, research, and compassion to make breathing easier at the highest level of life support to a simple breathing exercise to strengthen your lungs. Respiratory therapists make a difference, and we ask that you advance our practice, skills, and technology to allow us to continue to care for our community of Nebraska. I'm happy to answer any questions.

WILLIAMS: Thank you for your testimony. Questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here. I'm going to show my bias a little bit. I have an eight-year-old who has asthma, and I am just very, very grateful because not only do I get to represent Children's Hospital, but Children's Hospital has been an amazing resource and lifesaving. So thank you for your work.

RACHEL SHIRK: Thank you.

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WILLIAMS: Additional questions? Seeing none, thank you for your testimony. Invite the next proponent. Seeing none, is there anyone here to testify in opposition? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Arch, as you're coming up, we have one letter from Dexter Schrodt representing the Nebraska Medical Association in support.

ARCH: Thank you. I think, I, I think the testimony was very clear. This is, this is bringing, this is bringing the statute into current practice. Currently, RTs are involved in ECMO. They went back and took a look and said, oh, we really ought to run this through the 407 and get this into statute and so that's the effort that's being done here, so. With that, I'll close. And if there's any questions, I'd be happy to entertain them.

WILLIAMS: Any questions for the senator? Should we just have you describe what ECMO is or we should--

ARCH: Would you like me to demonstrate or-- no, that's OK.

WILLIAMS: Is it?

ARCH: That's OK. No, please don't ask me.

WILLIAMS: Thank you very much. That will close the public hearing on LB752.

ARCH: We will now open the hearing on LB1249. Senator Hansen, you're welcome to open.

B. HANSEN: Thank you, Chairman Arch and members of the Health and Human Services Committee. You heard two nice, simple, easy bills and this is number three. Maybe, maybe not. My name is Ben Hansen, B-e-n H-a-n-s-e-n, and I represent District 16. Today, offer LB1249 to the committee to update the Medical Nutrition Therapy Practice Act. The Nebraska Academy of Nutrition and Dietetics asked me to introduce this proposal to modernize the statutes that have been in place since 1995, and importantly, to rename their professional license. Dietitians in Nebraska refer to them as LMNTs, Licensed Medical Nutrition Therapists, have a unique role in healthcare, and their skills, education, and population served are also unique. This bill is intended to update their practice and, and regulate how it is regulated, not to change how others practices are allowed to work. I am passing out an information sheet that shows the changes proposed by the bill. You might have that in front of you now. The Licensed Medical Nutrition Therapists' license is being converted to Licensed

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Dietitian Nutritionist to be consistent with the licensure terms that are used nationwide. Nebraska is the only state to refer to dietitians as LMNTs which cause confusion for patients and some insurance companies. An additional pathway for licensure is established for Licensed Nutritionists who are trained as certified nutritional specialists who do not currently have a pathway to licensure in Nebraska. There's a lot of acronyms here, so you got to follow with me here. Sorry. Also, medical nutrition therapy is better defined in the bill. The Nebraska Academy of Nutrition and Dietetics submitted its corresponding 407 application to DHHS in 2020, and the Technical Review Committee met six times over the course of five months to discuss the application. I believe you have that in front of you also. The 407 Technical Review Committee, the Board of Health, and Dr. Gary Anthone, the director of Public Health Division, all gave unanimous approval. I understand there's some misunderstanding around the complex language of the bill that has brought out some opposition from holistic healers, CrossFit leaders, and others. Lastly, I want to draw your attention to AM1728. After receiving communication from a local naturopath who is concerned about their ability to continue practicing under the new credential, the first change clarifies that any physician, not just a primary care physician, may consult with an LDN or LN. We also worked with the Nebraska Health Care Association, who is concerned about the cost of hiring LDNs or LNs at assisted living facilities. The second and third changes would ensure their facilities are not required to do more than they are doing today, and the third change removes language also at the request of the NHCA to give more freedom to assisted living facilities. And we also understand after this amendment, the Nebraska Health Care Association still has some concerns, as I'm sure they'll share. We all know the reputation of scope of practice bills, which I'm sure we all love to have in front of this committee. And while the 407 credential review at DHHS does not help with the more technical aspects of healthcare or does help us with the more technical aspects of healthcare, the real work of compromise comes now, and we're open to continuing this work with all stakeholders on this important issue. So in saying that, I feel we, as legislators, need to listen to all stakeholders and people affected by our bills. And this bill is no different. Even though this bill has gone through the 407 process, I feel, and others, that this bill still needs work. I think right now this is a great opportunity to open up communication between those who are for the bill, those who are opposed to bill move forward and with that communication work over the interim and over the summer to come up with even a better bill next year. And so with that, I'm going to ask the committee that they do not move this bill forward this year because I feel like it needs more

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work, which I'm sure will happen over the summer and over the interim. So with that, I will take any questions, and I'm sure there will be others behind me to describe the process of this bill further, if needed.

ARCH: Are there questions for Senator Hansen? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you, Senator Hansen. Can we get a list of all these acronyms? Because this is-- it seems like this involves like ten different entities. Is that--

B. HANSEN: That is part, you know, that I think that is part of the reason why maybe some of this bill needs some work.

M. CAVANAUGH: OK.

B. HANSEN: I mean, I think there, there are a lot of stakeholders and a lot of people involved with, with, with this bill, and I think the intent of this bill was to do something specific. But then sometimes we want to make sure that there are not unintended consequences with any kind of bills that we move forward that might affect other people negatively or that were not intended. And so I think that is where maybe this bill needs to move forward. And so with all the acronyms, I will text them to you.

M. CAVANAUGH: OK, very official. Thank you.

B. HANSEN: Or ask me later.

M. CAVANAUGH: I'll ask you later. Thank you.

B. HANSEN: Yeah, I can answer that later. Yeah.

ARCH: Senator Walz.

WALZ: Thank you, Senator Hansen, very much for all your work on this. I just want it clarified, because you kind of talked about assisted living facilities. Currently, does the bill require assisted living facilities to utilize dietitians or does it not require them to use--

B. HANSEN: From my understanding, which I'm sure they'll describe later, they use dietitians kind of in a different manner than maybe some other institutions might. And so this bill might negatively impact them where they have to be credentialed or licensed, or they may not be able to use them, have to send out somebody else to a licensed dietitian. And so that was some of the work that was done to

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the 407-- after the 407 process to, to work with them and try to alleviate some of their concerns, which they may not have done all the way.

WALZ: OK. All right, thank you.

B. HANSEN: Um-hum.

ARCH: Other questions? Seeing none, thank you for your opening.

B. HANSEN: And I will waive closing, too.

ARCH: OK. Oh, you'll waive closing.

B. HANSEN: Yes.

ARCH: OK. All right. Very good. First proponent for LB1249.

MEGAN HALL: Good afternoon, Chairman Arch and members of the Health and Human Services Committee. My name is Megan Hall, spelled M-e-g-a-n H-a-l-l, and I am testifying in support of LB1249 as the president of the Nebraska Academy of Nutrition and Dietetics. I am a registered dietician and due to my practice as a dietitian, I am licensed in 16 states, including Nebraska. I received my credentialing from the University of Nebraska-Lincoln and my required internship program at the Augusta Area Dietetic Internship in Augusta, Georgia. The Nebraska Academy of Nutrition and Dietetics is committed to improving the health of all Nebraskans and advancing the profession through research, education, policy, and advocacy. Our mission is to empower members to be Nebraska's food and nutrition leaders. First, we would like to thank Senator Ben Hansen for introducing this bill and recognizing the importance to the health and well-being of Nebraskans. LB1249 will update the scope of practice for practitioners of medical nutrition therapy to better align with the current realities of the provision of nutrition care in hospitals, healthcare facilities, private clinics, and even retail establishments that currently provide patients and customers with the services of a Licensed Medical Nutrition Therapist. Testifiers that follow me are experts in this field and have worked tirelessly on the details of the scope of practice for medical nutrition therapy, not just now, but also when the current laws were put into place in 1988. Paula Ritter-Gooder, is a member of our organization who has volunteered countless hours on behalf of our organization to shepherd our proposal successfully through the 407 credential review process at the Department of Health and Human Services. She will testify on that process and on the drafting of the legislative bill and can answer questions you may

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have. Toni Kuehneman, also a well-respected veteran in the practice of medical nutrition therapy, will provide you with the experiences highlighting the need for these reforms. I would like to highlight the letters of support from the Nebraska Hospital Association, the Nebraska Medical Association, Nebraska Academy of Family Physicians, and importantly, from many of our members who are currently practicing Licensed Medical Nutrition Therapists who support this bill as a protective of patient safety. Additionally, I would like to call your attention to letters of support from our national organization, the Academy of Nutrition and Dietetics, who has helped us and other organizations in several states to update their scopes of practice. On behalf of our 523 members at the Nebraska Academy of Nutrition and Dietetics, we respectfully request your support and advancement of LB1249 and thank you for your time and attention and I can answer any questions you may have.

ARCH: Are there any questions?

WALZ: Can I--

ARCH: Sure. Senator Walz.

WALZ: --just ask-- I just wanted to ask the same question that I asked Senator Hansen. Is this-- and I'm trying to look through the the bill, but I am not quick enough-- is this intended to require that assisted living facilities have dietitians?

MEGAN HALL: I will let Paula answer that question.

WALZ: OK.

MEGAN HALL: She'll be speaking more into the main bill information.

WALZ: All right, thanks.

ARCH: Any other questions? Seeing none, thank you for your testimony.

MEGAN HALL: Thank you.

ARCH: Next proponent for LB1249.

WILLIAMS: Welcome and good afternoon.

PAULA RITTER-GOODER: Good afternoon, my name is Paula Ritter-Gooder, P-a-u-l-a R-i-t-t-e-r hyphen G-o-o-d-e-r. I'm a Licensed Medical Nutrition Therapist with a PhD in nutrition, and I practice in skilled

and long-term care facilities in Nebraska. I'm speaking here on behalf of the Nebraska Academy of Nutrition and Dietetics in support of the LB1249 to update and modernize the Medical Nutrition Therapy Practice Act that was passed in 1995, nearly 25 years ago and largely unchanged since then. The Academy of Nutrition and Dietetics, which is our national organization, actively engaged in supporting and drafting LB1249. Standards of practice and scope of practice documents published by the Academy were used in drafting the bill. We have worked diligently with key healthcare stakeholders to achieve consensus on workflow practice, scope, or statute language. Our bill was unanimously approved as said before in March 2021 by the Technical Review Committee and the Board of Health and the Director of Public Health Division. The purpose of our bill is to document the current scope of practice that registered dietitian nutritionists follow to provide medical nutrition therapy and to reduce healthcare costs. Medical nutrition therapists will be able to more effectively provide timely nutrition therapy to critically ill patients. For example, consider patients who are screened at risk of malnutrition, a common condition to older Nebraskans in poor health, and an increased healthcare costs for that. The medical nutrition therapist performs a nutrition assessment, identifies specific nutrition diagnoses and can then immediately implement interventions to resolve or improve the condition. Those interventions might be things like therapeutic diets, vitamin mineral supplements, oral nutritional supplements, and we continue to monitor and evaluate progress to achieve positive outcomes. So the bill is mainly comprised of three elements. The first element defines medical nutrition therapy and the nutrition care process and the terminology that our clinicians use in this day. Medical nutrition therapy is but one part under the umbrella of nutrition services, and it does not include general nutrition. Medical nutrition therapy is complex. Beginning in 2024, a minimum of a master's degree with supervised practice experience is required for all new applicants. Authorizations for therapeutic diet order writing are clarified and according to the Centers for Medicaid and Medicare Services, diet order writing can realize an annual cost savings of \$14.5 million in Nebraska. So ordering laboratory and medical tests to monitor our interventions, including enteral and parenteral nutrition, that be feeding through a tube or through the veins, and adjusting medications using physician established protocols are included. Allowing hospitals, nursing homes, and medical staff to benefit from our clinical skills retained is the requirement to practice with consultation of physicians as endorsed by the Nebraska Medical Association. The Nebraska Pharmacists Association assisted with statute wording. The second major component adds an alternate pathway

to licensure. In the interest of being inclusive of a broader group of qualified nutrition professionals in protecting the public, we included a new pathway for licensing certified nutrition specialist who meet eligibility requirements. A large part of the bill addresses these objective qualifications, which include structured academic programs and prepractice supervisory experience criteria. We believe the requirements negotiated with the group are fair and necessary for the protection of public safety. The proposed class of qualified supervisors is more expansive than is typical in Nebraska to accommodate both the variety of licensure laws and exclusivity requirements and the variety of licensed and unlicensed practitioners that would supervise these candidates prepractice experiences. Thirdly, we terminated, as was said before, the credential of the Licensed Medical Nutrition Therapist, and we replace it with two credentials based upon the pathway to licensure: Licensed Dietitian Nutritionist or a Licensed Nutritionist. These credentials align with those adopted by other states and promote interstate compact agreements. Finally, LB1249 would not impact individuals promoting general nutrition information if they do not treat or manage a disease or medical condition. It is critical to understand that medical nutrition therapy is used for diseased states, not nutrition, health and wellness promotion. The exemptions in our current bill were modified to, to provide this clarity. Am I out of time? I can't see for sure, they're all on.

WILLIAMS: You're out of time, Ms. Gooder. But, but if I understood correctly, are you the one that shepherded this bill through the 407?

PAULA RITTER-GOODER: Yes, I am sir, but I had a lot of assistance.

WILLIAMS: Anyone that has that-- done that can continue on--

PAULA RITTER-GOODER: Thank you.

WILLIAMS: --and finish your testimony.

PAULA RITTER-GOODER: Thank you. What I wanted to add is the exemptions in our current bill that we have now were modified in our new bill to provide clarity to who the exemptions are for. Exemptions exist for those providing general nutrition information and counseling, which is easily accessed from numerous government and official healthcare websites. Exemptions exist for trained facilitators who work, say, with patients with health conditions who have prediabetes or who require weight management when using curriculum, of course, that is approved by licensed health professionals. The bill does not regulate

the sale of dietary herbal supplements. The bill does not limit health coaches, trainers, or gym employees from working with healthy Nebraskans to improve their general nutrition and fitness. Health coaches and trainers recognize registered dietitian nutritionists as a credible nutrition source. So in summary, the potential for direct or indirect harm due to delayed, inappropriate, or fraudulent medical nutrition therapy is real, real when you realize the level of acuity for patients who meet with medical conditions. So over, over-- overall modernizing this Practice Act will strengthen the Nebraska law for protection of health, safety, and welfare of the public and reduce healthcare costs. Thank you for your attention. Any questions?

ARCH: Thank you. Are there questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here, Dr. Ritter-Gooder.

PAULA RITTER-GOODER: Thank you.

M. CAVANAUGH: OK. I wrote it down. I hope I wrote it down correctly. So I-- and I-- as I will echo Senator Williams' sentiments. I very much appreciate that you've gone through the 407 process. I, I guess I wonder what prompted you to start the 407 process? What-- was there-- what was the need?

PAULA RITTER-GOODER: Because our bill was outdated, the need was to more make a clear-- clearer definition of what medical nutrition therapy is,--

M. CAVANAUGH: OK.

PAULA RITTER-GOODER: --which we defined in our bill. And we also wanted to include another group of qualified nutrition professionals who were knocking on our door saying, we, we think we are also eligible, and we took a look with that with them and negotiated appropriate language for what the quali-- qualifications would be.

M. CAVANAUGH: So enacting a scope of practice, it seems that just from looking at some of the opposition letters that have been received that it also at the same time restricted some nutrition therapies or counseling that other people are doing outside of that, that previous scope of practice.

PAULA RITTER-GOODER: If they're doing it for medical nutrition therapy or for people with disease or medical conditions, there is risk for harm.

M. CAVANAUGH: So how is that? I mean, almost everyone has some medical condition. I mean, I have a medical condition of liking food a lot. So if I need to lose weight to be healthier, what-- then I can't-- I have to go to--

PAULA RITTER-GOODER: So, so you're saying that if you are a person with high blood pressure--

M. CAVANAUGH: Sure.

PAULA RITTER-GOODER: --or with obesity above a body mass index of 30.0, kind of how we define that in, in medical terms, anyway. It would be important to understand the medications, perhaps, that you are on to understand how they would interact with diet and nutrition to understand the metabolism of your system to create a-- an eating plan or guide you in appropriate and safe nutrition guidance and counseling is, is, is maybe loosely used. A nutrition education can be done by many people. Counseling perhaps done by many people, too. But you need to really be trained in the behavioral theories of counseling as far as how to motivate and get a person internally incentivized to, to move beyond where they are to where they want to be. Was that an appropriate answer to your question?

M. CAVANAUGH: Yeah, I just-- so I'm just thinking, like, you go to the doctor and your doctor says you, you know, you should probably try and lose 20 pounds. And then you go to a gym and they maybe have a nutritionist on staff, or maybe the person who owns it is one-on-one counseling or whatever. That seems to blur the lines of the medical part of it. But your-- I mean, your doctor says you need to, you know, your blood pressure's high and you're a little overweight, you need to lose 20 pounds.

PAULA RITTER-GOODER: Well, so let's work with general nutrition then at, at the gym--

M. CAVANAUGH: OK.

PAULA RITTER-GOODER: --and fitness that perhaps they're certified to prescribe and conduct for you based upon consent, you know, and knowing what your medical conditions are. So we're not saying that a person who is above a healthy body weight needs to see a medical nutrition therapist. But you know, we have to be also cognizant and aware of people who have cardiac conditions, kidney disease. All of those things would impact on how-- what your nutrient needs are and how maybe a high protein diet that is somewhat popular could rush your

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time to dialysis if you are a person with kidney disease. So there are those intricate components that perhaps are not fully understand-- understood by the general public, but why, why we are there for the reason that we are.

M. CAVANAUGH: Thank you. I'm, I'm guessing that I'm asking some questions that will be hashed out in the coming months, so I'll, I'll hold the rest of them. Thank you so much.

ARCH: Other questions? Seeing none, thank you for-- oh, did you have something?

PAULA RITTER-GOODER: Oh, I, I, I did want to reply. Senator Walz asked about the assisted living facility and would this, this proposed bill impact what they do? And my response to that is, no, unless they provide medical nutrition therapy in the form, say, of a particular therapeutic diet for a resident or a tenant who has celiac disease, food allergies. And you can see the necessity of that, so. They're not required to provide medical nutrition therapy.

ARCH: But if they do?

PAULA RITTER-GOODER: If they do, then let's have the integrity of demonstrating-- or the integrity of, yes, this is what we say it is, and this is in some fashion supervised. Doesn't mean a person has to be hired by the facility, but maybe a consult-- a, a consultant checking in maybe once a month or by phone call to learn if the plans on paper are actually followed and implemented and land on the plate of the individual that needs that particular dietary pattern.

ARCH: OK. All right. Thank you.

PAULA RITTER-GOODER: Thank you.

ARCH: Thank you for your testimony. Next proponent for LB1249.

TONI KUEHNEMAN: Well, good afternoon, Chairman Arch--

ARCH: Good afternoon.

TONI KUEHNEMAN: --and the members of the Health and Human Services Committee. My name is Toni Kuehneman, T-o-n-i K-u-e-h-n-e-m-a-n, and I am a registered dietitian and a Licensed Medical Nutrition Therapist in Nebraska, and I am in support of this bill. As one of my colleagues stated, I'm the veteran. I worked on the first licensure bills at this-- before this committee in the 1990s. And let me tell you, there

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was much of the same confusion there is now. The same groups of people were opposed to our bill then, and they are now. They fear that our profession was attempting to stop their businesses or services. We were not then and we are not now doing this. Ultimately, we were able to craft exemptions that worked for those involved while still holding the importance of medical nutrition therapy provided by the dietician and the treatment of specific disease. It is interesting to me to note that for over 25 years, our current statute has worked for our practice and for the groups who are currently opposing us now. We have coexisted all these years without problems to the best of my knowledge, and I did serve for five years on the Nebraska's Licensure Board, where no complaints were received. As an outpatient dietitian, I have also worked with assisted living facilities and the opposition that you may hear, even as Senator Hansen has presented an amendment to you that we wrote with Nebraska Health Care Association, they continue to think that this new bill will require facilities to hire staff they are not currently using. That is not the case because Nebraska does not require assisted living facilities to provide therapeutic diets. Most of these facilities contract with food service providers, and they employ-- these food service providers employ dietitians to write weekly menu patterns and weekly menu plans. These menu plans follow the USDA guidelines and the MyPlate food plans that tend to be lower in sodium and saturated fat. I want to make a special note of language that we are offering the opponent groups that we know of right now. We address their concerns. First, we want to return or put back in, into the current exemption language found in Section 26 of the bill. This would be on page 13, line 19 of your bill, and this would now reinstate what we currently have: A license shall not be required for persons who provide information and instructions regarding food intake or exercise as part of a weight control program. Secondly, this would be on page 5, Section 12 and 13, or line 16 [SIC] and 19 of the bill. We also suggest striking the definition of and references to medical weight control and nonmedical weight control to remove any confusion and concern that those two terms seem to be causing. With these additional changes in the bill, we think that licensure necessarily remains for those who are treating disease through medical nutrition therapy and licensure is not required for those providing nutrition advice or services. Finally, while Senator Hansen noted our willingness to continue working with interested parties before the Practice Act change moves forward, the Nebraska Academy of Nutrition and Dietetics requests this committee to consider one small part of the bill to be moved forward this year. Nebraska is the only state that license dietitians as, as Licensed Medical Nutrition Therapists. It would relieve confusion, ease payment

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problems, and align Nebraska with other states if we were allowed to change the name of our license and change the statutory references from Licensed Medical Nutrition Therapist to Licensed Dietitian Nutritionist. Thank you for your time and I'm happy to answer any questions.

ARCH: Thank you. Are there any questions? Seeing none, thank you very much for your testimony and your years of experience.

TONI KUEHNEMAN: Thank you.

ARCH: Next proponent for LB1249. Is there anyone that would like to speak as a proponent? Seeing none, we would welcome first opponent.

JALENE CARPENTER: Good afternoon, Chairman Arch and members of the Health and Human Services Committee. My name is Jalene Carpenter, J-a-l-e-n-e C-a-r-p-e-n-t-e-r, and I am the president and CEO of Nebraska Health Care Association. On behalf of our 428 nonprofit and proprietary skilled nursing facility and assisted living community members, I am here today to testify in opposition of 1249-- excuse me, LB1249. Thank you to Senator Hansen. I think he indicated it quite clearly that the intent of this licensure bill is not to change the practice of others. And I appreciate that comment. In front of you being passed out is a letter of opposition from one of our member's legal counsel, as well as a detailed analysis from our legal counsel addressing all of our concerns with LB1249. I would call out specifically page 4, where it does document-- from the Technical Review Committee report and the Board of Health Report, on page 6, it states very clearly that exemption language for activities not subject to the act, including ensuring the LMNT scope does not change the current role or responsibilities of a nursing facility's required food services manager, certified dietary manager, and does not result in the additional requirements for nursing facilities or assisted livings to use a LMNT or to expand current use of LMNTs. And HCA believes strongly that the role of a dietitian is important and how they serve our residents today is very beneficial. For this reason, we have worked with the introducers of this legislation since the very beginning of the 407 process. As they stated, we met as recently as Friday where we thought we were very close to having compromise and being able to not oppose. However, taking the language back to our legal counsel, our member's legal counsel, and our members, they felt very strongly that the language did intend for the need for assisted living specifically to utilize dietitians, not necessarily as full-time staff members, but in a consultative state which mean a cost for assisted livings. So again, from the beginning, our concerns have

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remained very consistently the same that there not be any unnecessary requirements or costs for nursing facilities or assisted livings. As Senator Hansen also mentioned, we are very much committed to continue work, which I am sure will begin this summer to continue the conversation. Thank you, Senator Arch and members of the committee. I'm happy to answer any questions.

ARCH: Thank you. Are there any questions? Senator Walz.

WALZ: Thank you. In what ways today-- or in what ways would a-- I don't remember-- licensed nutritionist be utilized in an assisted living facility? In what ways?

JALENE CARPENTER: Yeah. So there is very detailed language that is in our, our written submission. It's four pages long. But I think a very good example was documented today, the example of a food allergy. So in an assisted living, a resident has a choice, and it's very much a social model. They have a choice in what they are, what they are eating. So if they have a peanut allergy, and we are serving peanut butter-- again, based upon the definitions, to me that would-- they are indicating that we would need the consultation of a, of a Licensed Medical Nutrition Therapist. Does that make sense that, like, it's-- it could be as basic as something as a food allergy would then-- and currently with the regulations that are today, that is not a requirement.

WALZ: OK.

ARCH: A follow-up question to that, and, and that is your, your issue is assisted living, not skilled nursing?

JALENE CARPENTER: We have some concern with skilled nursing as well in their language, specifically around general supervision. I, I will echo, it is a very complex piece of legislation, there's a lot of definitions. There's generally-- a general supervision. There's nutrition care services. Those are the two areas where we have concern with skilled nursing facilities and what-- that may increase the scope of a dietitian from where they are. I'll also note that skilled nursing facilities are heavily regulated on the federal level and that language at the federal level isn't exactly mirrored in this legislation, which always causes us concern. If those, if those languages don't match, it puts the providers in the middle of having a very gray area.

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ARCH: OK. Thank you. Any other questions? Seeing none, thank you very much for your testimony. Next opponent to LB1249.

SARAH BOUSE: Hello.

ARCH: Hello.

SARAH BOUSE: So my name is Sarah Bouse, S-a-r-a-h B-o-u-s-e, and I am currently a Level 2 CrossFit trainer. So I am coming together just with other CrossFit coaches to oppose LB1249. So since the COVID pandemic, Nebraskans have realized more than ever that they need to take personal responsibility for their health, lifestyle, and habits for themselves and their loved ones. At CrossFit, we have seen a surge of interest in our nutritional education programs that our clients use along with direct fitness training to improve their overall health and strengthen their immunity. As a passionate health advocate for our CrossFit community, we are alarmed that LB1249 intends to dampen our private initiative to provide science-based education on nutrition practices. CrossFit invests significant resources in developing our professional trainers, and our effort should be recognized and encouraged. Instead, this bill is attempting to marginalize our efforts to empower people to take responsibility for improving and maintaining their health. Our reading of the bill, its definitions, exemptions, and scope of practice leads us to the conclusion that one industry group believes it should control all others. As stated before, the confusion lies with how it is, how it is defined in the bill, and how fellow trainers can support CrossFit athletes with that definition. With Nebraskans trying their hardest to improve their lives and the lives of their communities, I question how the current bill being presented will help. I ask you not to move the bill forward in the current form. Thank you. And if you have any questions, please let me know.

ARCH: Thank you. Are there any questions? Senator Williams.

WILLIAMS: Thank you, Chairman Arch. And, and thank you, Ms. Bouse. Would you have any objection if the bill was limited just simply to the change of names?

SARAH BOUSE: To the change of names?

WILLIAMS: Change of names that were proposed by the last proponent of the-- that gave testimony today?

SARAH BOUSE: No-- so the thing is is that the definition is very, very confusing on all the things that they do and what it is allowing us to do because under the--

WILLIAMS: Right, but I'm, I'm assuming then you would not be opposed to a name change that would help this industry in being consistent with other states and insurance providers?

SARAH BOUSE: Correct, I wouldn't be opposed to a name change. Yeah.

WILLIAMS: Thank you.

ARCH: Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here. So kind of similar questions that I asked to another proponent. So when you have people come to your gym, are they sometimes referred by a doctor to go to a gym to seek, like, nutritional health and things like that?

SARAH BOUSE: Generally, they'll come and tell us that, like, hey, my doctor told me I should lose weight, those kinds of things. But that's generally all that they say.

M. CAVANAUGH: Sure.

SARAH BOUSE: Because even when they come to work out at our gym, they must sign a waiver saying that they understand what they're doing.

M. CAVANAUGH: And then when you provide nutritional counseling, could you just kind of walk us through what that looks like, like, what is that process? What questions do you ask?

SARAH BOUSE: Yeah, and really, it's just-- we go with how the CrossFit Corporation has really talked about how they teach people is that they want people to just be healthy. And so we tell people to eat meat, veggies, nuts, and seeds. Limit your grains, limit fruit, no sugar. That is the saying of CrossFit in its entirety. You can look on their website. That's what they tell us about. And really, we just answer questions for people about like, OK, well, I need to eat this. What should I eat? Eat nuts, seeds.

M. CAVANAUGH: How long have you been providing nutritional guidance?

SARAH BOUSE: So I've been a CrossFit trainer since 2015.

M. CAVANAUGH: Oh, awesome. OK, thank you.

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SARAH BOUSE: Um-hum.

ARCH: Other questions? There's-- there have been a number of terms that have been used today: education, nutritional education, therapy, counseling, guidance. What do you-- how do you, how do you describe in CrossFit what you do in relationship to nutrition?

SARAH BOUSE: So we just give general nutrition guidance is really what we try to do. Because again, we are not doctors so we're not going to tell people, but we just give general nutrition guidance so that they can create the habits that they want to be healthy.

ARCH: OK. All right. Thank you. Any other questions? Seeing none, thank you for your testimony. Next opponent to LB1249.

DANNA SEEVERS: Hello.

ARCH: Hello.

DANNA SEEVERS: My name is Danna Seevers, D-a-n-n-a S-e-e-v-e-r-s. I oppose the LB1249 for a multitude of reasons which I cannot state in five minutes because the bill is so long. I've been in the health and wellness industry for over 30 years. I'm currently a private health coach and wellness educator. I hold the title of nutritional therapy practitioner, which I earned from the Nutritional Therapy Association. I'm one of the oldest professional nutrition training programs in the United States. Under the current law, I'm free to practice within the scope and training of my education through the NTA. The current law is three pages long. This bill proposes 23 pages of new legislation. It actually might be one of the longest nutrition bills of any state in the country. When I found out about this bill just six days ago, I quickly flipped to the exemptions to make sure I was still OK to practice. Unfortunately, the new exemptions and the radically expanded definitions, seven pages worth to be exact, appear to no longer allow me to practice within the scope of my education and training. And worse yet, I was shocked to see my actual title of nutritional therapy practitioner listed as a title that no person shall use unless they are a licensed dietitian. So I'm just wondering what I'm supposed to do. Just abandon all my clients and close up my business? I'm trying not to take this personal, but with all this, plus what happened to my colleague in Omaha, I'm starting to feel like dietitians really don't want NTPs to be in business at all. A dietitian in Omaha actually reported an NTP to the Department of Health for providing nutrition services under a licensed doctor while using our title. The NTP was subsequently drug through a six-month investigation before everything

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was finally and completely dropped. According to their website, there are about 600 registered dietitians in Nebraska. I'm being very generous when I say that less than 10 percent of them are in private practice, so that means that there are about 60 dietitians available outside of facilities to serve nearly 2 million Nebraska citizens. That sounds to me like Nebraska cannot afford to lose nutritional therapy practitioners, holistic nutritionists, health coaches, herbalists, and a multitude of other nontraditional healthcare providers who do coach people in nutrition and serve the health and wellness needs of our citizens. I view this bill as an egregious overreach for competitive advantage and an abuse of this Legislature to gain expanded business pathways. I submit to you that competition between a small group of dietitians and other nutrition professionals does have the potential to turn into a conversation that can end up benefiting Nebraska citizens. But please don't let them use the legislative process to box out an established industry. Rather, let the dietitians use their education and licensure to serve individual clients better and earn their place in the free market. This will make us better. This will make all of us better in the long run. So in closing, I promise you, Nebraskans don't need the government to regulate nutrition services offered outside of healthcare facilities. The bottom line is if citizens don't get results, they will choose a different source. Thank you and thank you for serving.

ARCH: Thank you. Are there questions? Seeing none, thank you very much for your testimony. Next opponent to LB1249. And if there are others that want to speak in opposition or neutral, feel free to come on up and have seats in the front here as well.

ASHE SCHALLES: Hello, committee members. Thank you so much for hearing me today. My name is Ashe Schalles, that's A-s-h-e S-c-h-a-l-l-e-s. I am a nutritional therapy practitioner certified through the Nutritional Therapy Association. I am also the CEO of a multi-figure international organization that educates health professionals about nutrition and hormone health. I am standing in opposition of LB1249 as I am greatly concerned about the bill and how it will affect health and wellness educators within Nebraska. As an educator who integrates and applies scientific principles to the work I do and education that I provide, if this bill passes, it will hinder my ability to run my program and teach within Nebraska. Not only that, but this will also affect all other forms of educators and wellness providers within our state, including health coaches, life coaches, and personal trainers who are providing educational efforts in regard to scientific principles outside of the normal nutrition requirements. With less than 10 percent of registered dietitians in private practice, where

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are the people of Nebraska who are dedicated to personal responsibility and private initiatives going to turn to for nutritional support and education? If this bill passes, as is, it will drive Nebraskans to seek support virtually out of state or country, taking money away from the economy of Nebraska, as well as damaging the livelihoods of Nebraska citizens who rely on such income and support. This bill is a huge step backward for the state of Nebraska. To date, there are 24 states with little to no practice restrictions and 8 states with moderate restrictions. Throughout the nation year by year, states are rolling back their restrictions, pulling holistic practitioners to work, strengthening local economies, further supporting the health, safety, and wellness of our communities, especially amid a continuing global pandemic and ultimately allowing people the medical freedom to choose their healthcare practitioner. This bill greatly limits Nebraska's progress. I ask you to oppose this bill as we can not decipher what it fully encompasses and how it will affect health professionals and educators within our state. Thank you.

ARCH: Thank you. Are there any questions? Seeing none, thank you for your testimony.

ASHE SCHALLES: Thank you.

ARCH: Next opponent for LB1249.

ALAN LEWIS: Good afternoon, Senators. My name is Alan Lewis, and I represent Natural Grocers. That's A-l-a-n L-e-w-i-s, and good afternoon. First, a quick thank you to Senator Hansen who's done a tremendous job on this bill in negotiating and learning about the issue and all of the stakeholders. Natural Grocers was founded in 1955 and based in Colorado, neighboring state. We now have 163 stores and 20 states west of the Mississippi, two in Omaha that have been there for a long time, and a third one in Nebraska in Lincoln. Natural Grocers, despite its name, is a health education company and we sell crackers, carrots, and carotene to pay for that education. So what does that look like? Every store has a qualified nutritional health coach full time, and that nutritional health coach provides, provides free consultation and trains all of the staff in the store. The NHCs are-- start with a bachelor of science or masters of science in human biology or nutrition. We have a full curriculum for continuing education. They are monitored and have a practicum, basically an ongoing practicum permanently because all of the reports and their feedback is constantly monitored. In addition to that, as a nutrition education company, we publish the Health Hotline, which is a, a 36-page science digest magazine, which we print and mail to over

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500,000 customers. We have podcasts, video productions. We have trainings. And before the COVID, we have demonstration kitchens of classrooms in the store. We're dead serious about this. It's also very, very expensive program to run. Why do we do this? 1955, Margaret Ardley [PHONETIC] Isely, our founder is desperately ill, seven kids, can't get well, keeps taking all the medicines that the doctors are suggesting she take and get worse. Then she refocuses on nutrition, chemicals in her house, in her food, what is-- what she's really responding to and slowly gets better, regains her health. And then she becomes one of those people like me that are insufferable at dinner parties and starts asking you all the questions about what you eat. But in fact, she put her money where her mouth was and slowly, carefully built this company over time into 160 stores in, in 20 states that's providing all of these services to the community. The focus of this is empowering our customers so they have the knowledge, the science, and the understanding of the structure and function of the body and the chemicals in the food, contaminants and pathogens that are in the environment so that individually they can make the best decisions for themselves, for their children, and for the elders that they're taking care of. So this brings us to, to LB1249, just have great concerns about this, endless new definitions that are contradictory scopes of practice nested within exemptions. The rulemaking on a statute like this would be incomprehensibly difficult, and I do rulemaking for a living in 20 different states. I don't see how we unravel this and create any consistency. And in the end, I'm going to be very blunt. This is a very small group of nutrition professionals that wants essentially to control the conversations and the practices of all the other nutrition professionals. It's important to understand that there are hundreds of bachelor of science, master of science, and PhD degree programs in human biology and nutrition that provide a pathway to really effective, helpful nutrition, professional counseling, education, and intervention roles. The Academy for Nutrition and Dietetics, when asked, claims there's approximately 600 RDs, registered RDs in the state. They couldn't tell me how many were practicing and how many were fully employed, but most of them are already in institutional roles. So with 2 million people, how do 600 people provide the services they're claiming only they can provide, and the tens of thousands of people at CrossFit or Natural Grocers, the, the, the other chiropractors, health professionals, all of those people, weight loss clinics that are providing these key educational services? This is not even practical in our minds. Now the last thing, as the yellow goes off, this is also not in isolation. I've been doing this work in nutrition advocacy for 12 years. And for 12 years, I've seen these bills in every state from the Academy for

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Nutrition and Dietetics. Everyone starts with a lot of beautiful, flowery language and it's earnest and it's honest, and these are professionals who do a really good job. Ultimately, they're developing an exclusive scope of practice for the people that are holding those degrees from that curriculum. This is the greatest concern for us because the services and that we provide to the communities, including our communities in Nebraska, we believe are critical and should not be excluded because one group believes it should have greater control or dominance within this profession. Thank you.

ARCH: Thank you. Are there questions? Senator Murman.

MURMAN: Well, thank you for your testimony and, and your work in improving health for Americans, but I've got a question. Is there anything that you like about LB1249 that would maybe create a basis for a stake-- stakeholder collaboration process?

ALAN LEWIS: The-- yes, the registered dietitians, I jokingly say, you know, I'm not against them. I have good friends who are registered dietitians. In all seriousness, we employ them and they're very, they're very good at what they do. This is a long-term commitment. They've done the practicum, they've done the coursework, they've taken exams, they pay their annual fees, and they do their continual education, as do other nutrition professionals within the scope of service that they aspire to. So clarifying that and making that title exclusive to them makes all the sense in the world. Most of the other 36 states that have addressed this have said, sure, if you want registered dietitian nutritionists as an exclusive title within this state, absolutely have it. But when it goes beyond that and says and nobody else can use the term nutritional health coach, nutritionist, that kind of thing is what causes us a lot of angst. So I think the profession should be acknowledged and the-- and if they want to put a licensing board in, in statute for the registered dietitians who want to be part of that, that's great. But in order to encompass all of the other accredited, trained, and very professional nutrition practitioners in the state of Nebraska or any of these other states, that is a whole nother complicated can of worms and LB1249 doesn't even get close to, to capturing that complexity.

MURMAN: Thank you.

ALAN LEWIS: Yeah.

ARCH: I, I have a question. A lot of different terms. A lot of different labels.

ALAN LEWIS: Yeah.

ARCH: You used, you used the term qualified nutritional health coach. Is, is that unique to your organization?

ALAN LEWIS: Our terminology is nutritional health coach. So the qualifier is qualified. And for us, it's very difficult to find nutritional health coaches with the educational background that gives you the basis for human biology and nutrition. You also have to be good with people. You have to be good with record keeping. You have to be diligent. You have to be extraordinarily sensitive to compliance because the federal law protects free speech regarding structure and function statements and how different nutrients affect the structure and function of the body. And from there, you can develop curricula, training materials, handouts, the 400 carefully vetted science digest sheets that we have in every store. You develop that within those guidelines of free speech. Some people want to say stuff. So qualified means people that, that understand the science and stay within it and, and are compliant when they're speaking to customers staying within their scope of practice.

ARCH: And, and do you have in your organization, do, do you have a program where that qualifies them? In other words, your program proprietary to your organization that you would say you are now qualified?

ALAN LEWIS: Absolutely. It's an intake process for reviewing their credentials and their personal abilities for, for interaction, record keeping, speech, communication, you know, responding to supervisors, right? But then there's an extended period where they are very careful oversight of their work. They are trained one-on-one with our senior people. Everything that they do is reviewed and there's this intensive feedback loop. You didn't do this well here. This was wrong. This was better. And very often one of the qualifications, Senator, is that people don't like that feedback loop, and they're not comfortable with this constant oversight and what, what may feel like criticism. But we also have 14 people on staff developing the curriculum, developing the training. Those are masters of science. Those are PhDs. One PhD who did the original microbiome research with the, with the rodents at University of Colorado, who have no pathogens or bacteria in their system with Rob Knight, who's now at San Diego. This isn't an ad hoc feel good nutrition education marketing tool. This, this is the real deal where we have really dedicated professionals who are undergoing constant improvement, updated on new science, and have really strong

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references that they depend on to keep themselves and there-- our customers and our staff well-trained and focused.

ARCH: Another term that was used and I didn't know if you have experience with it, nutritional therapy practitioner. Are you familiar with that term?

ALAN LEWIS: There, there is a very strong academic path, which includes a master's degree where you can obtain that certificate. I think we have an-- at least one NFT practitioner in the room. To be honest, you asked me if I'm familiar with it? No. But as I said, there are 100 really qualified or accepted and accredited paths forward in this profession.

ARCH: OK. All right. Thank you. Any other questions? Thank you for coming and your testimony.

ALAN LEWIS: Thank you very much, everyone.

ARCH: Next opponent to LB1249. OK, seeing none, is there anyone would like to speak in a neutral capacity to LB1249? Seeing none, there-- we received many letters. We received 27 letters as proponents, 16 as opponents, and 1 neutral. And Senator Hansen, you have waived close. And so this will close the hearing on LB1249. And we will now open the hearing on LB770. And welcome Senator Day.

DAY: Thank you. Good afternoon, Chairman Arch and members of the Health and Human Services Committee. My name is Jen Day, that's J-e-n D-a-y, and I represent Legislative District 49 in the Nebraska Legislature. I'm here today to introduce LB770, which changes the membership of the Board of Dentistry in the Department of Health and Human Services to include a dental assistant. Dental assistants play a valuable role in dental offices. In addition to directly assisting dentists in examinations and procedures, they also perform tasks like arranging and sterilizing instruments and educating patients, as well as acting in administrative capacities like scheduling and billing. The Nebraska Board of Dentistry oversees licensed individuals who provide dental services within the state. Additionally, the board hears complaints against licensed and unlicensed individuals, investigates allegations, and takes disciplinary actions for violations of law. The goal of the Nebraska Board of Dentistry is to protect oral health, safety, and welfare of citizens. LB770 is the culmination of a years-long effort by dental assistants that first started when they went through the 407 credentialing review process to establish their scope of practice and licensure in 2016 after several

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years of work. Senator Kolterman introduced their licensure bill in 2017, which was approved by the Legislature and signed by the Governor. Under this process, to qualify as a licensed dental assistant in Nebraska, a dental assistant must now graduate from an accredited dental assisting program or school, or earn 1,500 hours of experience as a dental assistant within the past five years. Additionally, applicants must successfully complete the Nebraska dental assistants' jurisprudence exam. LB770 completes the process started in the 407 licensure effort by including a licensed dental assistant on the board that oversees their practice by converting one of two private members to a dental assistant. So keeping the board at ten members. Currently, the board consists of four dentist members, two dental school faculty members, two public members, and two dental hygienist members. However, the second private-member slot has been vacant for two years. Given that the dental board provides oversight over dental assistants, it only makes sense that there be a voice from the dental assistants on this board. From our research, all healthcare professional boards under the Department of Health and Human Services include any licensed members that oversee be included on their boards. LB770 ensures that dental assistants as newly licensed professionals working with dental-- with, with the dental team are represented. And with that, I'm open for any questions.

ARCH: Thank you. Are there any questions? Seeing none, thank you for your opening. We will now ask for the first proponent for LB770.

CRYSTAL STUHR: Finally got to us, right? What a day you guys have had.

ARCH: Here you are.

WILLIAMS: It's only Wednesday.

CRYSTAL STUHR: Thank you guys so much. Yeah, well, we've been-- well, thank you, Senator Arch and all of the Health and Human Services members. We really appreciate your time. My name is Crystal Stuhr, C-r-y-s-t-a-l S-t-u-h-r. I'm familiar with this place. We worked on a scope of practice. We started our scope of practice venture in about 2007. We went through the 407 process as dental assistants on our own and got rejected and then we came back. We took the feedback, the Board of Health said, you guys need to work together with your whole team. So we collaborated starting about 2008 with the dental hygienist, the dental-- dentists. We actually had on-the-job training people-- dental assistants. We had a great group, a task force, we met for several years, once a month on Friday afternoons. I tried, tried to find a scope of practice for dental assistants. So we went through,

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we brought a 407 back again. So all those people thinking that they don't need when I'm like, really. We brought a 407 back. We completed that successfully in 2016. We came back with legislation in 2017 with Senator Kolterman, and we became licensed January of 2018. Today, we're here to seek a position on the Board of Dentistry because we feel like at this point it's really important to put education and safety hand in hand. There are about 3,500 dental assistants. Some are unlicensed, some are licensed in the state of Nebraska. There's about 1,500 dentists, about 1,600 dental hygienists in the state of Nebraska. We are the dental team that are working in your mouths every day. Dental assistants have multiple different levels. We have unlicensed dental assistants. That means on-the-job trained. We have unlicensed dental assistants that have worked 1,500 hours and obtained certificates in polishing teeth, teeth, which is called coronal polish, or taking X-rays. We have licensed dental assistants. When they become licensed, they have to pass a board exam. That board exam is the exam that allows them to become licensed. So not only do they pass the jurisprudence exam for the state of Nebraska, they actually pass a national board exam to become licensed. Once they're licensed, they can continue on and obtain expanded scope permits. There are four expanded scope permits for the licensed dental assistant. And then once they're licensed for 1,500 hours as a licensed professional, they can continue their education and become an expanded function dental assistant. As you can see, there's lots and lots of levels, and that's why we feel like we need a position because every one of those levels are regulated by the Board of Dentistry and within our scope of practice and our regulations. As a dental assistant, we have knowledge of our statute and our profession, we contribute right now to the board. We understand the levels and the requirements of everyone on the dental assisting components, every level of them. And we don't have that representation. We attend, my cohort and I, we're both legislative chairs. We've-- I have been attending, I can say since 2007 every single board of dentistry. I think I've missed one since then. And we are very fortunate, we've been able to be there if they have questions about our profession. We'll be in the audience, many times the chair or maybe even a board member will ask us a question and maybe give us-- ask for our advice on some of the regulations for assistants. So with that, we do have limited abilities to participate. It's when they call on us or they ask for our advice. So today I ask for your support in LB770. Thank you.

ARCH: OK. Thank you. Are there questions? Senator Murman.

MURMAN: Thank you. And thanks for testifying. Did you say dental assistants are requesting a position on the board?

CRYSTAL STUHR: Correct.

MURMAN: And that would replace one of the public positions, and that's been vacant for how long?

CRYSTAL STUHR: Over two years. Yeah.

MURMAN: OK.

CRYSTAL STUHR: So that's kind of been an open vote for, you know, two years. And so we felt like instead of changing the dynamics of the board, it's, it's been hard. We did some research. My next testifier is going to talk about the research that we kind of have done with-- there's lots of boards that have vacancies. It's not just the Board of Dentistry. And so we know there's kind of been a hardship with that. So we felt like if we could just take one of those positions and not change the number of people on the board, that makes the most sense.

MURMAN: Has there been much of an effort to fill that position do you know or maybe that'll be answered later?

CRYSTAL STUHR: We don't qualify to do that because we're a dental assistant in the dental field. Otherwise, we would have obviously tried to, but we cannot be a public member, so I'm not sure how the state gets their, you know, candidates for that, so.

MURMAN: OK. Thank you.

CRYSTAL STUHR: Yeah.

ARCH: Other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. So I-- I mean, you sort of answered this question about why switching it out, but would you be opposed to the addition of an, an 11th member so that we don't eliminate that public member?

CRYSTAL STUHR: I think the concern is we don't want to jeopardize, like, the budget or anything like that, and we don't want to change any dynamics because I think there was a, a process of, you know, the representation, how it was laid out, so.

M. CAVANAUGH: Because there-- OK.

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CRYSTAL STUHR: And I believe that would increase the number of public members. I think it's 11 and over, then you need to have 3 public members.

M. CAVANAUGH: So then we would have 12.

CRYSTAL STUHR: Then you would have 12.

M. CAVANAUGH: I don't have a problem with that.

CRYSTAL STUHR: So you would only-- yeah. So--

M. CAVANAUGH: OK. Thank you.

CRYSTAL STUHR: Yeah.

ARCH: Other questions? Seeing none, thank you for your testimony.

CRYSTAL STUHR: Thanks.

ARCH: Next proponent for LB770. Welcome.

CYNTHIA CRONICK: Thank you. Good afternoon, Senator Arch and members of the Health and Human Services Committee. My name is Cynthia Cronick, C-y-n-t-h-i-a C-r-o-n-i-c-k, and I'm proud to say that I am a licensed dental assistant. I began my chair-side dental assisting career in 1972, and a few years later, now I'll let you do the math, I'm recently retired from Metropolitan Community College in Omaha, where I was a longtime dental assisting instructor. I am here today representing the Nebraska Dental Assistants Association in support of LB770 to give dental assistants representation on the Board of Dentistry. In seeking representation, our goal was to keep the current size of the Board of Dentistry, not change dynamics. This bill will accomplish that by replacing one public member with a licensed dental assistant. As Senator Day mentioned, current makeup of the board is ten members: six dentists, two hygienists, and two public members. The statutory requirement for a board this size is that it must have one public member. While we greatly value the input of a public member, we also feel that the input of a dental assistant is equally as important. We feel the right thing to do would be to change the makeup of the board to include one public member and one dental assistant. Also, as mentioned, the dental board has functioned with only one public member for over two years now as one public member seat has been vacant. This vacancy is of no benefit to anyone. Any increase beyond the current ten members triggers the requirement for a third public member, and we feel this unnecessarily increases the size of

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the board. It changes dynamics and it is not our intent. Please advance LB770 to give a dental assistant representation on the board in the most fiscally responsible way without changing the size of the board, but still meeting all requirements. Thank you.

ARCH: Thank you. Are there any questions? Senator Hansen.

B. HANSEN: Thank you. Just to clarify, do the, do the public members have the same voting capabilities as everybody else, right?

CYNTHIA CRONICK: Yes, they do. Each public member has a vote.

B. HANSEN: OK. Now I'll get your personal opinion here just because I'm, I'm familiar with a lot of boards and how they work. Would adding a dental assistant instead of a public member, because I think sometimes when you have-- the purpose of a public member is to just have outside influence, not just from a patient perspective, but a nonpolitical perspective. Do you think adding a dental assistant might change the political makeup of the board?

CYNTHIA CRONICK: That's a good question. I don't know if it would change political makeup, but I think that input into our regulations and requirements and when education is looked at because part of the job of the Board of Dentistry is approving courses like is this course contain enough to allow a dental assistant to take X-rays or coronal polish and the Board of Dentistry looks at that to see what is in that. And a dental assistant, I think, could benefit that board by being able to look at what those requirements are and, and compare courses as they, they need those. Our scope of practice is not as, as our previous testimony is not an easy one. There are a lot of levels. Dentists and hygienists are all licensed, not all assistants are, and I think that's where some of the differences come in. But the board has functioned for two years without that second public member.

B. HANSEN: Yeah. I think it is a little more of a subjective question, so I, I, I apologize.

CYNTHIA CRONICK: Yeah, I hope, hope I was able to answer it.

B. HANSEN: Yeah, again, nurses boards and medical boards and PAs and nurse practitioners and sometimes adding one, subtracting one changes almost, you know, because I don't know, I'm always kind of curious. It is just more of an opinion question, and I might even ask if, if there's a, you know, a dental hygienist that comes up here, I might ask some kind of same question. I'm always just kind of curious to get perspective if that changes the, the dynamics of the board.

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CYNTHIA CRONICK: I think the role of a board member is public safety first and foremost. And then that dental assistant would be representing their expertise in their area secondary. But the, the main thing is the protection of the public.

B. HANSEN: Perfect. Thank you very much. Appreciate it.

CYNTHIA CRONICK: You're welcome.

ARCH: Thank you. Any other questions? Seeing none, thank you very much for your testimony.

CYNTHIA CRONICK: Thank you.

ARCH: Next proponent for LB770.

DENNIS ANDERSON: Good afternoon, my name is Dr. Dennis Anderson, D-e-n-n-i-s A-n-d-e-r-s-o-n. Senators, I want to thank you for the opportunity to testify in favor of a change in membership to the Board of Dentistry as outlined in LB770 to include adding one dental-- licensed dental assistant in place of one public member as you've heard. In November of 2021, I completed ten years of service on the Board of Dentistry, the last four as chairperson of the board. In the last four years, a great deal of the board's time was, was involved with writing and modifying and rewriting regulations governing all the licensed dental practitioners in the state. Part of the need for changing and modifying the dental regulations was the statutory changes of granting a license to qualified dental assistants, as well as expanding their scope of practice to include, but not limited to, placing fillings in teeth after completing improved training and testing. Dental assistants are a vital part of the dental team. With the changes in statute they deserve the ability to be licensed, which carries with it additional responsibilities, commensurate with their level of education. As the number of licensed dental assistants continues to grow over time, this prospect can only continue to enhance the quality of care in the state of Nebraska. The dental board has numerous responsibilities throughout the year. Two of the major duties of the board are dealing with discipline of licensed individuals, as well as approving either initial and reinstatement of applications for licensure. In the last 10 years, per my tally, the board was presented with 191 discipline cases for dentists, 9 for dental hygienists, and 4 for dental assistants. When approving applications for reinstatement or initial licensure, the board ruled on 54 cases for dentists, 54 cases for hygienists, and 3 cases for dental assistants. Why is the number of cases by category that the

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board has ruled on significant? I believe that with the granting of licenses to dental assistants, they deserve a seat at the table for not only input on possible discipline application approvals, possibly more minor role at this time, based on the number of dental assistant cases just enumerated, but more importantly, their need to have a vote in possible future changes to the regulations that are initiated at board level that will undoubtedly occur with time for dental assistants. While every dental licensed member of the dental board has day-to-day contact with dental assistants, none of them have their occupation and responsibilities. I think having input from this level of dental practitioners is vital to the board to make informed decisions about keeping the citizens of the state of Nebraska safe while receiving dental care, which is the primary charge of the Board of Dentistry. This becomes principally more significant and more dental-- as more dental assistants obtain their credentials for expanded scopes of practice. Apparently, the wave of the future in dentistry, such as placing fillings. Their feedback will help guide the board in its decisions to regulate these individuals in the future, again providing a better margin of safety to our, to our dental patients. There are some who might have objections to insertion of a dental assistant for one, one of two public member positions on the board. Historically, the board's been authorized two public members with one position remaining vacant. It actually is the last three years. A number of other professional boards are also having difficulty finding individuals willing to spend the, spend the time and effort to come to the meetings well prepared. Early on in my tenure on the board, the board did have two active public members. One was very attentive and really brought up some fundamental issues not initially considered by the board members. The other public member was attentive, but had little to contribute to the board deliberations. I think that one good, dedicated public member is sufficient to bring a balance to the discussions of the board and is well within the statutory requirements for board membership. The other alternative would be to add a licensed dental assistant position without limiting any public members. But then with that expansion per statute, three public member positions would need to be added to the Board of Dentistry. When reviewing the membership of other state dental boards who have licensed dental assistants, some boards have been progressive enough to include a dental assistant member, others have not. Prior to licensing dental assistants in the state, I saw little value in adding such a member to the dental board. With the expanded scope of practice and licensure, it would seem only logical to add a licensed dental assistant to the board. In closure, I'd like to thank you senators for providing me the opportunity to provide my comments on LB770. The path

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for providing licensure and expanded functions to dental assistants has been a long one, stretching back well over ten years, as you've already heard. I'm very proud of the work the Board of Dentistry has completed in modifying the dental regulations to cover the recent statutory changes. While I'm no longer a member of the Board of Dentistry, I'm happy to have input into a process that would potentially create a board membership that would continue to provide optimum supervision to the dental practitioners in the state of Nebraska. Thank you.

ARCH: Thank you. Are there any questions? Senator Walz.

WALZ: Thank you. I'm just curious looking at the representation, how many dental assistants are there in Nebraska?

DENNIS ANDERSON: Now--

_____ : We've got [INAUDIBLE].

DENNIS ANDERSON: And right now, there's 40 that are licensed as of--

ARCH: We, we have to have just one testifier at a time.

DENNIS ANDERSON: I'm Sorry. Sorry. Sorry.

ARCH: Thank you. So if you can't answer it, you could just say that--

DENNIS ANDERSON: Yeah, I'm fine.

ARCH: --someone else can have that.

WALZ: OK.

ARCH: OK. Any other questions?

MURMAN: I got--

ARCH: Senator Murman.

MURMAN: Yes. As a former-- I think you said you were a former member of the board. Do you-- why do you think that one position has been vacant for about three years?

DENNIS ANDERSON: I think part of it is-- I'll speak as chairperson who has to run the committee, as you know, and all the reading and preparation that goes with it. But you're looking at four to six hours if you're, if you're conscientious of material before every board

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meeting. And I think a lot of people just don't want to put in that kind of time. Because if you don't read it, then you're totally lost and what contribution do you have to it?

MURMAN: Sure.

DENNIS ANDERSON: And you know, they've been advertising through newsletters and other things through HHS, trying to get additional board members, and they just aren't coming forth, so.

MURMAN: And, and one more question, I probably should know this as a member of this committee, but are they reimbursed for expenses? I assume they're just reimbursed for expenses, not any other--

DENNIS ANDERSON: We, we-- as I understand it, we're allotted a certain fee for reading time, which turns out to be \$100 a meeting and then mileage to and from the meeting. And then if the meeting extends to lunch, we get a box lunch with it.

MURMAN: OK. Thank you.

DENNIS ANDERSON: Which everybody comes for that.

ARCH: Any other questions? Seeing none, thank you for your testimony.

DENNIS ANDERSON: Thank you much.

ARCH: Next proponent for LB770.

DAVID O'DOHERTY: Good afternoon, Senator Arch and members of the Health and Human Services Committee. My name is David O'Doherty, D-a-v-i-d O-'-D-o-h-e-r-t-y. I'm the executive director of the Nebraska Dental Association, which represents nearly 70 percent of the dentists in the state. I was involved in this ten-year process to get this-- the legislation you heard about LB18 through numerous task forces. We didn't hear is that there were at the end of that ten years, there were two competing 407s, the, the dentist and the assistant stayed together, the hygienist broke off. So we had two going at the same time. So we get bonus points for that on the competing 407s. But that did launch a licensed dental assistant within the statutes, which they should be represented at the Board of Dentistry. And when we looked at-- what I passed out is I just wanted to look around the surrounding states and what did their Board of Dentistry look like? So you can see all the states around us and their size and, and how they're composed. Three of the states, I think have one public member, two-- the others have two. In our statute below

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that, 38-162 says if you go 11 or more, you need to add another public member. So we don't need to get bigger. It just seemed to make sense that we had ten with one vacant. We had to swap out a public member for the licensed dental assistant to keep the ten members as it is. I can tell you that having only one or two people does not lessen your voice. I've been going to Board of Dentistry meetings for 18 years, the two dental hygienists on the board, their voices are heard loud and clear, so it's nice to-- it's good to have a public member's voice there. I think that's very important. But only having one I don't think lessens the public member's input to the Board of Dentistry and all the work that they do. That's really about it. I think it's important to look at what-- how the other states are surrounding us and their, their numbers of the dentists and hygienists. I, I added on Nebraska, the current Board of Dentistry DRAFT newsletter states that there are 95 licensed dental assistants in the state. I'm asking this committee to advance LB770 to General File, and I'm happy to answer any questions.

ARCH: Thank you. Are there questions? Senator Hansen.

B. HANSEN: More of a technical question about the board. I, I probably should have asked Mr. Anderson this, but there's ten members on the board?

DAVID O'DOHERTY: Um-hum.

B. HANSEN: And so when there's a split vote, does the chair have the deciding vote? Does he determine where it goes or is it a split vote then that nothing happens?

DAVID O'DOHERTY: I'll let him nod or-- I don't know. I don't think there's ever been a split vote. One of the concerns when we met with Senator Arch earlier was that the, that the assistants would always side with the dentists, and I believe your aide was there in 2007, when the dental assistants put forth the 407 to make all assistants licensed. And that was the longest hearing in HHS history. It went from 1:00 to 9:00 at night because we did not agree with the dental assistants on that particular subject. So, no, we do not always agree with the dental assistants on a vote. But as a prior testifier said, it's public safety and education are the two main duties of the board. So it's very valuable to have a licensed assistant.

B. HANSEN: So you're telling me I shouldn't ask any more questions.

DAVID O'DOHERTY: No, I, I--

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B. HANSEN: We might go till 9:00.

DAVID O'DOHERTY: --I, I love the questions, but might think--

B. HANSEN: I'm nervous now.

DAVID O'DOHERTY: I don't think you got, I don't think you got the answer. I've not in my--

B. HANSEN: It's fine.

DAVID O'DOHERTY: --in my 18 years, I've never seen a 5-5 vote.

B. HANSEN: Yeah, it's good. Just more of a technical thing.

DAVID O'DOHERTY: Yeah.

B. HANSEN: Just kind of curious.

DAVID O'DOHERTY: Maybe he could nod or speak from behind.

B. HANSEN: That's all right. Thank you very much.

ARCH: Thank you. Other questions? Seeing none, thank you for your testimony.

DAVID O'DOHERTY: Thank you very much.

ARCH: Next proponent for LB770. Seeing none, we'll take the first opponent to LB770.

JASON BRISBIN: Hello, my name is Jason Brisbin, J-a-s-o-n B-r-i-s-b-i-n. I am the president of the Nebraska Dental Hygienists' Association. On behalf of the Nebraska Dental Hygienists' Association, I am speaking today in opposition to LB770. Our association can agree in principle to representation for all licensed healthcare professionals. However, it is important this representation is fair or at least as fair as we can make it. This bill is attempting to create a quick fix for a complex and nuanced issue that needs more time for in-depth consideration. Our primary reasons for opposing this bill are: (1) that it does not achieve equitable representation; (2) that it does not provide sufficient public oversight over dentistry. Currently, we have ten board members: two public, two hygiene, six dentists. In Nebraska, if you look at the number of licensed professionals, there are 1,632. And as you heard this, this varies by a couple. These are numbers we pulled last week. Around 1,500 licensed hygienists and around 100 licensed assistants. That means each dentist

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on the board represents 272 licensed dentists. Each hygienist on the board represents 760 hygienists. Under this proposed bill, an assistant would represent 99 licensed assistants. This would give dental assisting an oversized influence compared to other professions, and we feel that just by numbers alone, this proposal is inadequate and inequitable. We are also concerned about public oversight. Currently, public members represent 20 percent of the board. That's 1 to 4, keeping in line with most other boards. For example, pharmacy is 1 to 4; nursing 1 to 5, podiatry 1 to 3. This would create our board as a ratio of 1 to 9, which would be a bit unusual for typical boards in Nebraska. Citizen Advocacy Center, which is a group out of Washington D.C. that trains public members to serve on boards, their model actually recommends around 25 percent be public members. We feel that no representation and no composition will be perfect, and we don't feel like everybody is going to be entirely happy, but we feel like we can come up with a more equitable arrangement. Instead of rushing ahead with this bill, we want to take a step back, more time for consideration. Not something I listed on my, my written testimony. I will note that we are very interested in working with the other organizations to achieve a more equitable solution, and we were approached with some ideas and were taken out of consideration, our organization when this bill was brought forward. So we're, we're happy to talk. Any questions?

ARCH: Any questions? Senator Walz.

WALZ: So there were other ideas or other options?

JASON BRISBIN: There are. I, I don't want to talk specifics because in something that's this detailed specific matter. But we, we feel like we can have more equitable representation if we take a step back and work on this first before pushing this bill forward.

WALZ: OK, so the other options were brought by you or--

JASON BRISBIN: We, we had, we had somebody approach us about something very similar to this bill, and we came back with an option. And then it disappeared into smoke. So that was something brought forward by our organization for a solution.

WALZ: OK. And then I had another question. Is there, is there a-- I could-- I can see where you where there was recommendations for a representation of 20 percent of the board for public members. Is there recommendations for the board on the percentage of other-- the other professions?

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JASON BRISBIN: Not from this group. This group in particular focuses on public members on, on boards. And I don't have information about national compositions.

WALZ: OK. All right. Thank you.

ARCH: Thank you. Other questions? Senator Cavanaugh.

M. CAVANAUGH: So this recommendation of 25 percent public members, if we went to a 12-member board with three public members and one dental-- licensed dental assistant then that would be 25 percent representation.

JASON BRISBIN: It's, it's certainly something we're open to, obviously, depending on the language.

M. CAVANAUGH: Well, the-- it's actually not that complex of a bill. It's only a couple of sentences. It would just be the board shall have 12 members, three public members, one licensed dental assistant. So we just change numbers on it.

JASON BRISBIN: It, it is, it is something that would have strong consideration from our association.

M. CAVANAUGH: OK. Because from what I can tell from your testimony, the opposition is the number of public members. It's not the opposition to adding a licensed dental assistant. Correct?

JASON BRISBIN: That's correct. So I would say overall equitable representation. The reason I say that is members on the Board of Dentistry that have been hygiene members have long felt that they have had-- they have been underrepresented on the board. So when I say equitability, it's not just adding an assistant member, it's us wanting to make sure we have fair representation as well.

M. CAVANAUGH: But your testimony and actually all of the opposition testimony does not request an additional dental hygienist member. It just talks about the [INAUDIBLE].

JASON BRISBIN: That, that is correct for this specific bill, we don't think it's inadequate for these reasons, but we are open to additional bills or compromises or working together.

M. CAVANAUGH: OK. Thank you.

ARCH: Other questions? Seeing none, thank you for your testimony.

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JASON BRISBIN: Thank you.

ARCH: Next opponent to LB770. Seeing none, is there anyone like to testify in a neutral capacity? Seeing none, Senator Day, you're welcome to close. As you're coming up, I would indicate that we did receive letters on the record: 5 proponents, 12 opponents, and none neutral.

DAY: Thank you for your attentiveness at the end of this exciting and thrilling day of hearings. A couple of things that I wanted to mention. Yes, there are 95 licensed dental assistants in the state of Nebraska, but all 3,500 dental assistants in Nebraska are regulated by the board. And so when we're talking about representation, we have to understand that we're not just regulating those that are licensed, we're regulating everyone licensed and unlicensed. OK? And so I, I, with all due respect to Mr. Brisbin and the dental hygienists, I think we can get into, you know, the specifics of numbers and ratios and representation. But I think what we're looking at is the larger scope of this is sort of following the licensing and scope of practice process. This is the natural next step, right? They're now licensed, so they should have a seat on the board. And currently right now, dental hygienists have two of those seats and a dental assistant have zero. So I think that's kind of the larger picture that we're looking at is that we're, we're looking at getting at least one seat on that board for now. If that board gets expanded at some point, that's fine. But again, the, the two public member seats have one of them has been open, as Dr. Anderson said, for three years. It's difficult to get people to fill those positions. There are several states around us that have only one public member, and that seems sufficient. I think even if we look at it from the perspective of a committee, right, we have a committee meeting with seven or eight of us. Sometimes it only takes having one person's perspective to give the committee an understanding of, you know, something maybe everybody else doesn't understand. So having just one person in the room, particularly when those people are the ones that are being, being over-- overseen and regulated by the board, I think is a really important thing to consider here. So with that, I'm happy to answer any questions.

ARCH: Thank you. Are there any questions? Seeing none, thank you.

DAY: Thank you.

ARCH: With that, we will close the hearing for LB770, and that will end the hearings for the committee for the day.