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Health and Human Services Committee
January 21, 2015

[LB27 LB37 LB87]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 21, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB27, LB37, and LB87. Senators present: Kathy Campbell, Chairperson; Sara Howard, Vice Chairperson; Roy Baker; Tanya Cook; Sue Crawford; Mark Kolterman; and Merv Riepe. Senators absent: None.

SENATOR CAMPBELL: We are starting today with the first hearing of the Health and Human Services Committee for this session. And I want to welcome all of you to the hearings that we have today. I'm going to go through some of the procedures that we use in the Health Committee and then we will go to the two bills from Senator Krist. If you have a cell phone or any type of device that makes noise, I would ask that you turn it off or put it on silent so it doesn't disturb the testifiers. Although handouts are not required, testifiers who do have handouts should have the appropriate number of copies with you ready for distribution. The HHS Committee requires 15 copies. We will not, as a rule, make copies, so if...additional copies, you can furnish those to us after the hearing. If you are testifying today, each witness appearing before the committee must sign in. So you have to pick up one of the bright florescent orange sheets and fill that out, sign in on the orange sheet, and is required each time you testify. So if you are going to testify on all three hearings today, we will need three sheets from you. Your forms should be given to the committee clerk, who is to my far left, when you come up to speak, and write as legibly as you can. If you have handouts for the committee, you can hand them to one of the pages and they will be glad to distribute them to the committee for you. We do use the light system in the Health and Human Services Committee. And the light system is, you have five minutes, and it will be on green light in front of you. And it will seem like it's green for a very long time. You have four minutes on green. And it will go to yellow which tells you, you have one minute. And then it will go to red, and you will look up and I will be trying to get your attention to let you know. And we do this so that the testimony is equitable opportunities for the first bill as well as the last bill. The other item is to be very sure that when you sit in the chair for the first time and every other time you testify that you state your name for the record and spell it. We use the orange sheet for one of the records, but the transcribers who listen need to hear you spell your name so they're sure that they have the correct spelling. And I think that covers the instructions for the day. In the committee I always ask senators to introduce themselves, so we will start on my far left today...or far right. Sorry. Looking at Senator Kolterman. Go right ahead.

SENATOR KOLTERMAN: I'm Mark Kolterman from the 24th District.

SENATOR BAKER: Roy Baker, District 30.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford from District 45,

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which is eastern Bellevue, eastern Sarpy County.

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

SENATOR CAMPBELL: And I'm Kathy Campbell, District 25, Lincoln.

JOSELYN LUEDTKE: Joselyn Luedtke, legal counsel for the committee.

SENATOR COOK: I'm Senator Tanya Cook from District 13 in Omaha.

BRENNEN MILLER: I'm Brennen Miller. I'm committee clerk. And to my right is Jamison Wyatt, who is the new committee clerk for...

JAMISON WYATT: Business and Labor.

BRENNEN MILLER: ...Business and Labor. Thank you. He's kind of watching the ropes today.

SENATOR CAMPBELL: And we have two pages with us. Jay--so, Jay, you have to stand up--is from Dalton, Nebraska, is at UNL studying ag economics. And Brook is from Omaha. Brook--there she is--is at UNL also, studying advertising, public relations, and political science. And with all of those out of the way, we will open the public hearing this afternoon on LB27, Senator Krist's bill, which would create a reporting requirement under the Vital Statistics Act when parenting time is established or modified. Senator Krist, delighted to see you. We will miss you on this committee.

SENATOR KRIST: I feel like I'm back home, Senator. [LB27]

SENATOR CAMPBELL: Absolutely. You're always home here. [LB27]

SENATOR KRIST: (Exhibits 1, 2) Thank you. Good afternoon, Senator Campbell, members of the Health and Human Services Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha and north-central portions of Douglas County and the city of Bennington. I appear before you today in introduction and support of LB27. LB27 is very simple. In its core, it seeks to add three check-the-box questions to an existing Department of Health and Human Services vital statistics form that's already completed in connection with every divorce in the state. I've circulated a copy of the current DHHS vital statistics form and the proposed questions which are based on questions taken from an existing form used in Washington State. As you can see, the proposed questions would ask the parties to check the box that best summarizes the parenting time arrangements contained in the divorce decree and to also check a box if domestic violence or other risk factors were present. This information is important because more than 40 mental health studies

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demonstrate a link between certain types of parenting time awards and emotional and physical health of the children of the divorce. One leading scholar calls inadequate parenting time a public health crisis. There is a critical need for this information. None of this information is currently collected. At the request of then-Chairman of the Legislature's Judiciary Committee, Brad Ashford, the Nebraska Supreme Court, two years ago, undertook a comprehensive review of child custody decisions from 2002 to 2012. In order to collect the same information, this study would cost taxpayers more than \$150,000...surprised many people whose assumptions about these matters were very different than what this study showed them. Collecting accurate data about parenting time and domestic violence is critical to the Unicameral, our court system, and our public health system as well. LB27 would collect this information on a real-time basis. And because it would operate with an existing vital statistics process, it would operate...I'm sorry, process would be so...seamlessly and at no cost to the taxpayers. This form is already in use elsewhere and, as I said, there are well-established procedures in place to collect the forms and to compile the information collected. No new process is involved with collection. That's the bottom line. As I said earlier, this is a very simple bill and would collect critical public health information and minimum impact to the existing process. Several groups have provided input for LB27, including the District Court Clerks Association and the Nebraska Association of County Officials. I would like to publicly thank them for cooperation and constructive efforts. I would also like to reserve the right to close in case there's something that can be...well, I won't have to do that because I'm going to be here anyway. But I would say this as I finish: This is a bill that we heard last year in this committee. It was not ready for prime time and I believe that we needed to do further study. The bill has been changed significantly, so I ask for your careful consideration. Thank you. [LB27]

SENATOR CAMPBELL: Thank you, Senator Krist. Any questions from the senators? And Senator Krist will be here, so if you have questions you can at the end. As is our practice in this committee, we start with the proponents and go through that, and then we go to those who may oppose the bill, and those in a neutral position. So could I see a hands of those who are in favor of the bill, want to testify? Okay. Would you come forward? And while you are coming forward, I'd like to introduce Senator Riepe who has joined us, a senator from Omaha. Good afternoon. Thanks for coming. [LB27]

JIM CREIGH: Good afternoon. Thank you, Senator Campbell. My name is Jim Creigh, which is spelled J-i-m C-r-e-i-g-h. I'm an attorney in private practice in Omaha. I'm also the founder and president of the Midwest Family Law Association. And I'm here speaking on behalf of that organization today. I'm appearing today in support of LB27. I'd like to reiterate some points that were just made by Senator Krist. As the senator indicated, LB27 is a simple bill. It would add three check-the-box questions to an existing form that's been in use for more than a decade in Nebraska. The court clerks and the Department of Health and Human Services are familiar with this form and this process, and they've both indicated that they can handle this seamlessly. LB27 does not

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require the creation of any new procedures by either the court clerks or HHS. As Senator Krist indicated, the proposed questions have been used in Washington State for seven years without any known issues. The information sought by the questions is critical to understanding and improving our family law system and to protecting the physical and emotional health of our children. If you take a look at the existing vital statistics form that was circulated earlier and take a look at question 12b, which is in the bottom right corner, you'll see that this question asks the party completing the form to check a box to indicate whether physical custody was awarded to the husband, wife, joint, or other. This question is actually ambiguous. It doesn't have any explanation and it often confuses people. If you compare this question with question 2 on the Washington State form, you'll see the Washington State question is more precise and asks the party completing the form to check the box that best summarizes the allocation of the parenting time. This information is critical from a public health perspective because more than 40 mental health studies indicate that children who have less than 35 percent parenting time with either parent are at significantly higher risk of poor lifetime outcomes, including early mortality, juvenile delinquency, poor educational outcomes, and a whole host of other bad outcomes for children. In addition, the existing vital statistics form used in Nebraska does not collect any information about domestic violence or other risk factors. And as Senator Krist indicated, the Washington State form asks the parties...the party who completes it to check the box to indicate whether domestic violence or other risk factors are present. Getting accurate information about parenting time and domestic violence is critically important for judges, policymakers, and our public health system. As Senator Krist noted, the state recently spent \$150,000 on a comprehensive ten-year study of custody cases because it does not currently collect this information. LB27 would gather this information on a real-time basis. And it calls for annual reporting of the information that is collected as is currently done with the information that is collected today, but it would do so at much less cost. As Senator Krist indicated, more than 40 mental health studies demonstrate a link between parenting time and long-term outcomes for children. Without the transparency that this bill would provide, lawmakers, judges, and the public health system have no idea what's really going on in the court system today. And that concludes my remarks. [LB27]

SENATOR CAMPBELL: And all within the green light. All right. (Laughter). Senators, do you have questions that you'd like to ask today? Senator Kolterman. [LB27]

JIM CREIGH: Yes, sir. [LB27]

SENATOR KOLTERMAN: Thanks for testifying. I have a question about the statistics that you used regarding the issue of parenting, and something...35 percent. Would you repeat that aspect and tell me where that came from? [LB27]

JIM CREIGH: Sure. There have...as I indicated, there is more than 40 peer-reviewed mental health studies that have been done over the last ten years by a wide variety of

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scholars throughout the country. And these studies show that children who have less than 35 percent parenting time with either parent have a significantly higher risk of poor outcomes, and between 35 and 50 percent, outcomes improve. So that...the optimal parenting time in most cases is close to 50/50. But what the research shows is that there's an inflection point at 35 percent where outcomes fall off significantly. [LB27]

SENATOR KOLTERMAN: Thank you. [LB27]

SENATOR CAMPBELL: Any follow-up questions from the senators? Thank you very much for your testimony today. [LB27]

JIM CREIGH: My pleasure. Thank you. [LB27]

SENATOR CAMPBELL: Our next proponent? [LB27]

LES VESKRNA: Good afternoon. [LB27]

SENATOR CAMPBELL: Good afternoon. [LB27]

LES VESKRNA: My name is Les Veskrna, first name spelled L-e-s, last name V-e-s-k-r-n-a. I'm a family physician from here in Lincoln. I've been a member of the Nebraska Parenting Act evaluation panel. I'm also the executive director of the Nebraska Children's Rights Council. I'd like to talk about LB27 in terms of outcomes. I hope that few people would disagree that children need both parents. And the best interest of children affected by divorce or separation is served by maintaining the involvement of both parents, at least as long as they are both loving and competent. There is a great deal of debate, however, and this confuses everyone, about how much involvement there should be by both parents and under what circumstances. There's quite a bit of difference between what groups of people will say to describe the process and outcomes associated with child custody determinations in Nebraska. One group, parents and children, tend to complain that the current system is not working. Another group, the professional stakeholders, like attorneys, judges, mental health professionals, tend to proclaim the opposite. And I'm lumping in general, I assume here, to a great extent. But there is another group, child development and post-divorce parenting experts, who have emerged over the last several years. And they have concluded, based on a substantial and growing amount of scholarly research, that too many children experience poor outcomes in their life precisely because our existing statutes and judicial practices often exclude or marginalize a good parent after divorce. Now these child development experts and post-divorce parenting experts are whom Mr. Creigh referred to as generally being authors of these studies supporting shared parenting. Children, again, who grow up missing a parent in this manner are more likely to experience a wide range of adverse emotional, social, cognitive, and physical problems. We've already referred to that. And in the interest of time, I'm not going to

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refer to any. But there's a whole litany of bad outcomes and suffice it to say that just about any parameter you mention or you can think of, they tend to have poor outcomes. And this is supported by other research and research that's good, peer reviewed, and published in widely known journals. In addition, these problems often persist into adulthood, and they're associated with things like lower socioeconomic attainment, lower psychological well-being, poor marital quality. And these folks often find themselves at increased risk of seeing their own marriage end in divorce. Now, outcomes should inform our public policy about something so important as the well-being of our children. Now, the last thing that I'd like to say reflecting process and outcomes...not a group but the record. And that's what I think this bill is about. It's becoming increasingly clear from listening to parents and children that...and also looking at the research, that we have to do something to improve the well-being of our children that are affected by divorce. The first step is measurement. And there's an old saying that if you don't measure something you can't understand it, and if you can't understand it you can't improve it. LB27 is a real-time public health reporting bill and it's important because it collects data about shared parenting and domestic violence. So thank you for listening to me. [LB27]

SENATOR CAMPBELL: Thank you for coming, Doctor. Are there any questions from the senators? Senator Crawford. [LB27]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you for coming to testify. I wonder if you're familiar with those studies, if you've read them or seen those studies. [LB27]

LES VESKRNA: I've read many of them. I've...the collection of studies has been put together in one meta-analysis. [LB27]

SENATOR CRAWFORD: Okay. [LB27]

LES VESKRNA: So... [LB27]

SENATOR CRAWFORD: So one of my questions was, and I assume they do, but just wanted to confirm if those studies showing those results are controlling for other factors that would happen in some cases where there might be, like, levels of conflict between the spouse or other factors that would also reduce...make it more difficult to have positive outcomes in some of those cases. [LB27]

LES VESKRNA: Um-hum. In general, those are factors that are controlled, the socioeconomic groups, parents who tend to get along already anyway before the divorce and after the divorce. [LB27]

SENATOR CRAWFORD: Um-hum. [LB27]

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LES VESKRNA: And so most of the studies have controlled for all of those important variables that...even levels of conflict. So...and those studies are showing that there are different types of conflict. There's...shared parenting definitely doesn't work when there's a history of physical violence or domestic violence, but verbal conflict often de-escalates over time. And even parents who have a fair amount of ongoing verbal conflict...shared parenting seems to protect the kids in those situations. [LB27]

SENATOR CRAWFORD: Thank you. [LB27]

LES VESKRNA: Yeah. [LB27]

SENATOR CAMPBELL: Senator Riepe. [LB27]

SENATOR RIEPE: Senator, thank you. Doctor, thank you for being here. Can you help me to understand, how do we validate if there's claims of domestic violence or mental health issues in the families so that we know that we're doing...dealing with valid information as these decisions are being made? [LB27]

LES VESKRNA: That's a good question. And I think that's a shortcoming of our child custody system because not enough time is given to investigate those situations. I...and I think if there's one thing that shared parenting advocates have with domestic violence advocates (sic) is that the system just doesn't seem to be able to take enough time to work through those issues and fully evaluate parents. This should be an individual decision for every family because every family is different. But the reality is, we don't even have a family court system in Nebraska. We don't have judges who have special training and interest in this. And so that's a limitation. But the consequence is that we're throwing the baby out with the bathwater, and we're treating the good parents very similar to the bad parents. And it's showing now. The research is showing that if you fail to make...if you fail to distinguish the good parents from the bad parents, children suffer. And it's costly to our entire society. [LB27]

SENATOR RIEPE: May I have a follow-up question? [LB27]

SENATOR CAMPBELL: Sure. [LB27]

SENATOR RIEPE: As a physician, you know that patients will doctor shop. [LB27]

LES VESKRNA: Yeah. [LB27]

SENATOR RIEPE: And I guess the question might be is, how do we avoid parents maybe judge shopping in this legislation? [LB27]

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LES VESKRNA: Well, I'm not an attorney so it's hard for me to answer that. But I do know that there are jurisdictions in Nebraska that vary widely, vary widely in terms of how much shared parenting they approve or whether they approve shared parenting at all. I think the recent preliminary Parenting Act study showed the wide variation in judicial districts. And this shouldn't be a matter of where you're located in Nebraska in terms of what kind of outcomes we have for child custody and parenting plans. [LB27]

SENATOR RIEPE: Thank you. [LB27]

SENATOR CAMPBELL: Okay. Any other questions, Senators? Thank you very much, Doctor. Our next proponent? Anyone else? Those in the hearing room who are opposed to LB27? Good afternoon. [LB27]

JOSEPH ACIERNO: Good afternoon. How are you? [LB27]

SENATOR CAMPBELL: I'm fine. [LB27]

JOSEPH ACIERNO: Good. It's different to see people moving. (Laughter) [LB27]

SENATOR CAMPBELL: I know. [LB27]

JOSEPH ACIERNO: Okay? So you used to live over there. You used to live over there. You lived over there. Anyway. [LB27]

SENATOR CAMPBELL: We try to keep everybody... [LB27]

SENATOR COOK: Keep you on your toes. [LB27]

JOSEPH ACIERNO: It's just part of the test. I guess that I passed the test. [LB27]

SENATOR CAMPBELL: Yes. For the audience, Dr. Acierno has testified a number of times and so he's now seeing a new composition of where people sit. [LB27]

JOSEPH ACIERNO: That's right. It's kind of a... [LB27]

SENATOR CAMPBELL: So I'm sure that is somewhat new. Absolutely. [LB27]

JOSEPH ACIERNO: (Exhibit 3) It is. Well, good afternoon, Senator Campbell. Members of the Health and Human Services Committee, my name is Dr. Joseph Acierno. That's J-o-s-e-p-h A-c-i-e-r-n-o. I'm the Chief Medical Officer and the Director of the Division of Public Health in Nebraska Department of Health and Human Services. I'm also acting DHHS CEO. I'm testifying today on behalf of the department in opposition to LB27. LB27, which would amend the scope of the Vital Statistics Act Section 71-615 to include

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the development of a parenting time summary report form. This would provide for the reporting of information in every case where parenting time is established or modified in the district court. This is currently outside the scope of the Vital Statistics Act Sections 71-601 through 71-649. The department or the Vital Records office doesn't currently serve as a repository of parenting time summary information, nor has it in the past. It's DHHS's position that since the parent summary report is to be filed with the court in every case which parenting time with children is established or modified by the direction of the district court, that the court would be the most reasonable source to develop, track, compile, and publish that information. Section 71-615 relates to divorce certificates. Information required to be reported in LB27 isn't needed for the divorce certificate. It uses a different form and has separate reporting requirements. The way this bill is currently written, there would be costs associated with developing the form, adding it to the Vital Records reporting system, data entry time, and costs associated with creating the reports. Estimated costs are approximately \$127,129 for the first year and approximately \$56,128 annually thereafter. If it's added to the divorce certificate, there would be additional expenses to the state JUSTICE system, which would also need modification. Any questions? [LB27]

SENATOR CAMPBELL: Questions for Dr. Acierno this afternoon? Dr. Acierno... [LB27]

JOSEPH ACIERNO: Yes? [LB27]

SENATOR CAMPBELL: ...have you had an opportunity to visit with Senator Krist about any modifications or issues? [LB27]

JOSEPH ACIERNO: No, not specifically. We've talked with his office. He knew... [LB27]

SENATOR CAMPBELL: Okay. [LB27]

JOSEPH ACIERNO: ...how we felt about this. But this is more to do with...I think we're...what Vital Records' role is in any of this and just the collecting of information. I'll let those folks speak about the underlying merits of what they want to do. But I just think it's probably not...I don't think it's appropriate that it sit in Vital Records. I think it more appropriately sits in the court system. So... [LB27]

SENATOR CAMPBELL: Okay. Senator Crawford. [LB27]

SENATOR CRAWFORD: Thank you, Senator Campbell. And welcome. [LB27]

JOSEPH ACIERNO: Yes. [LB27]

SENATOR CRAWFORD: So, does the department of Vital Records collect or...collect parenting plans at all? [LB27]

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JOSEPH ACIERNO: No. [LB27]

SENATOR CRAWFORD: Is there any way in which parenting plans go to that department currently? [LB27]

JOSEPH ACIERNO: No. We don't do any of that. We have plenty of records already. [LB27]

SENATOR CAMPBELL: Senator Riepe. [LB27]

SENATOR RIEPE: Doctor, is there any reason to believe that the cost would be more expensive through the vital statistics...of your collection of these as opposed to the courts, or is this a...it's going to be a common cost? [LB27]

JOSEPH ACIERNO: Well, the issue, I think, and as far as cost...if you have it in the JUSTICE System, as I understand, they would probably have to make some modifications to it. But when that system communicates with ours to move the data to us, we would also have to have modifications in our system. So I think you would end up creating more cost by just having us in it versus keeping it in the court system. [LB27]

SENATOR RIEPE: Okay. Thank you. [LB27]

SENATOR CAMPBELL: Senator Cook. [LB27]

SENATOR COOK: Thank you, Madam Chair, and thank you, Dr. Acierno. [LB27]

JOSEPH ACIERNO: Sure. [LB27]

SENATOR COOK: To your knowledge, does any agency or any division or department in Health and Human Services collect this kind of information? [LB27]

JOSEPH ACIERNO: I'm not aware of that for sure. I would...I don't know whether anything is...the only other place I would think it might be collected, but I don't know... [LB27]

SENATOR COOK: All right. [LB27]

JOSEPH ACIERNO: ...would be the Division of Children and Family Services. [LB27]

SENATOR COOK: Right. [LB27]

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JOSEPH ACIERNO: But I could get back with you on that. [LB27]

SENATOR COOK: Yeah. I'd appreciate that. [LB27]

JOSEPH ACIERNO: But I don't know that for sure. [LB27]

SENATOR COOK: Even a short e-mail because we are... [LB27]

JOSEPH ACIERNO: Yeah. [LB27]

SENATOR COOK: ...also the child welfare team, if you will, part of it. [LB27]

JOSEPH ACIERNO: Right. Well, we'll get that information to you. [LB27]

SENATOR COOK: Thank you. [LB27]

JOSEPH ACIERNO: Um-hum. [LB27]

SENATOR CAMPBELL: Dr. Acierno, to your knowledge, did the department testify last year on the bill? I can't remember. [LB27]

JOSEPH ACIERNO: I don't recall. [LB27]

SENATOR CAMPBELL: Okay. [LB27]

JOSEPH ACIERNO: I don't recall one way or another. [LB27]

SENATOR CAMPBELL: Okay. [LB27]

JOSEPH ACIERNO: And I probably...had it been, it would have been me, but I just don't remember. [LB27]

SENATOR CAMPBELL: Okay. So, the Vital Records would come under the Division of Public Health? [LB27]

JOSEPH ACIERNO: It does, yes. [LB27]

SENATOR CAMPBELL: I know you're wearing two hats these days. [LB27]

JOSEPH ACIERNO: Yeah, but, yeah, Vital Records is under the Division of Public Health. [LB27]

SENATOR CAMPBELL: Okay. Any other follow-up questions, Senator? Thank you, Dr.

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Acierno. [LB27]

JOSEPH ACIERNO: Thank you. [LB27]

SENATOR CAMPBELL: Anyone else opposed to the bill? Good afternoon. [LB27]

MARSHA FANGMEYER: Good afternoon. Senator Campbell, members of the committee, my name is Marsha Fangmeyer. That's M-a-r-s-h-a F-a-n-g-m-e-y-e-r. I am here on behalf of the Nebraska State Bar Association. I'm a practicing attorney in Kearney, Nebraska, and the lion's share of my practice is family law and juvenile law. I am...I was delighted when I saw at...our procedure for the Bar Association is we have a legislation committee. The committee reviews the bills and we vote on whether to...our position on the bill and then it will go to the executive council. Then it ultimately goes to the house of delegates which...sometimes all of that happens faster than...or, not quick enough and we need to be here and present to you before it's gone through all of those procedures. Our legislation committee voted to oppose the bill, not because we're opposed to measurement. I agree wholeheartedly with what's been said by the folks who testified in favor of this bill. We need to measure. And I was delighted when I saw this bill and saw that that's what it's about, is to gather data. The opposition, though, comes from how it's going to be done and a potential for some subjective collection of data. And I will say I'm not a social scientist, but I'm married to one. And I've heard him say numerous times, no data is better than bad data. So that's the concern, and it was particularly the portion under (b)(iii). Who determines "whether domestic violence, child abuse, chemical dependency, or mental health issues"...how is that going to be determined? Now, I've worked with Mr. Creigh on a Parenting Act bill. We've gone through this process together. We've worked together on things. We've argued about things. And I...but we are in agreement that we do need to gather data. He just informed me that he can give me a copy of that Washington form that he talked about and so I would be happy to look at that. The Bar Association would certainly like to be helpful and not stand in the way of collection of data. It's just that concern about how it's going to be done and whether it can be done in the most objective manner so that we do get the measurements that we need, because that has been an issue all along. The Parenting Act study, I understand from a conversation I had this morning, should be out for everyone's review in a couple of months. And I did raise the question with one of the folks who are working with that, can you help us out with how we collect this data and how...and make sure that it's done right. And I think that's something that should be pursued also. So we're opposed, but that's the reason why. [LB27]

SENATOR CAMPBELL: Okay. Questions? Senator Kolterman. [LB27]

SENATOR KOLTERMAN: Thank you for coming to testify. Came from Kearney? [LB27]

MARSHA FANGMEYER: I came from Kearney. [LB27]

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SENATOR KOLTERMAN: Beautiful day for a drive, right? [LB27]

MARSHA FANGMEYER: It is. It is. I know that interstate pretty well. [LB27]

SENATOR KOLTERMAN: My question would be in regards to this collection of data. As an attorney, would there be any way that if you have a parent...husband and wife that sit down and work through this form and they fill it out and there's something on there, could that come back to either one of the parents at a later date and be used against them if it's already filed in the courts? [LB27]

MARSHA FANGMEYER: Well, I haven't addressed that particular point, but I think that is a potential for, you know, how is...that's another question, how will the data be used? Will it be kept confidential? Is it something that could be subpoenaed in a later proceeding of some sort? So that's a concern. But most of the vital statistics forms that I've...we've completed over the course of my practice, those things have been kept confidential. And data collection like this I would hope would be kept confidential so that we get...what we get are the numbers of how things are going across the state when it comes to shared parenting time and the factors that are taken into consideration. So we get the numbers but not attached to the names. [LB27]

SENATOR KOLTERMAN: Okay. Thank you. [LB27]

SENATOR CAMPBELL: Any other questions? Thank you, Ms. Fangmeyer. I'm assuming that you would be willing to sit down and review the form that we have been given... [LB27]

MARSHA FANGMEYER: Yes. [LB27]

SENATOR CAMPBELL: ...and also sit down with Senator Krist and...in terms of any suggestions. [LB27]

MARSHA FANGMEYER: Yes, and we have more steps in our process at the Bar Association, so we'll be looking at this again for sure. So... [LB27]

SENATOR CAMPBELL: Okay. If you come up with additional information or the position alters in some way, please do let us know. You can just send an e-mail to me, and we'll make sure the committee gets it. [LB27]

MARSHA FANGMEYER: I would be delighted. [LB27]

SENATOR CAMPBELL: Thank you for your help. [LB27]

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MARSHA FANGMEYER: Thank you. [LB27]

SENATOR CAMPBELL: Our next testifier in opposition to the bill? Okay. Thank you for sharing that. Anyone in a neutral position? Good afternoon. [LB27]

ELAINE MENZEL: (Exhibit 4) Good afternoon, Chairman Campbell and members of the Health and Human Services Committee. For the record, my name is Elaine Menzel. It's E-l-a-i-n-e M-e-n-z-e-l, and I am here appearing on behalf of the Nebraska Association of County Officials today. My primary purpose for appearing is to deliver this correspondence to you from Janet Wiechelman, who is the clerk of the district court and president of the association. And as Senator Krist indicated, she has been working with, or the association has been working with him to try to modify some language...and as well as our association. And so we would continue to, if necessary, work with the senator or...to my understanding it is appearing the way that is proposed in some potential amendments. So... [LB27]

SENATOR CAMPBELL: Questions for Ms. Menzel? Thank you so much for always bringing good information. And I know that a lot of people have been involved with this project since the bill last year. So it's great that everyone here say, while I'm here in this position, I'm willing to help. So thank you. [LB27]

ELAINE MENZEL: Thank you, Senator. [LB27]

SENATOR CAMPBELL: Um-hum. Anyone else in the hearing room in a neutral position? Okay. Senator...oh, sir, are you neutral? Oh, sorry. Go right ahead. I want to make sure we hadn't missed you in another capacity. [LB27]

JAMES BOCOTT: (Exhibit 5) No. Thank you, Senator Campbell. Committee members, my name is James Bocott. I'm an attorney from North Platte, Nebraska. I've taken a neutral position. [LB27]

SENATOR CAMPBELL: Sir, could you spell... [LB27]

JAMES BOCOTT: I need to spell my name. [LB27]

SENATOR CAMPBELL: You bet. [LB27]

JAMES BOCOTT: Certainly. Thank you. And it's not an easy one. First name is James, J-a-m-e-s, last name is Bocott, and that's spelled B-o-c-o-t-t. I've taken a neutral position in this bill because Ms. Fangmeyer and I sat on a committee that would have greatly benefited from the information that would have been gathered by something like this. At the same time, I understand that there is a cost associated with this. And so, first of all, the thing...I hoped by my being present I could clarify some things for you. First of

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all, with regard to any issues of chemical dependency, domestic violence, parenting time, those are things that are already existing in a decree that's been filed with the court. It's already public record. So that's information that anybody who wants to go to the courthouse and knows a name or a category of cases they want to research, this information can already be obtained. Those decrees are very, very rarely ever confidential. It's public information. And so the information is there. The question is, how do we recapture it? And in fairness to the people who have to do this work, I was curious about the cost. I will tell you that the cost that was mentioned today by the Department of Health and Human Services, while it sounds expensive, when we talked about in our ad hoc committee, Ms. Fangmeyer and I, what it would...what we would have to do to hire somebody to go through and survey for the past ten years all the records for the district courts and gather all this information, it was very, very cost prohibitive. It would be impossible to do. But now that I've heard the testimony, it appears there is a good way to do this. And with regard to the form itself, it is a confidential form, and so the district courts do not release that form to the public. It's required for the filing of the case, but it's not something that's public. And so if something like that did become public, number one, the information that's requested here is already in the decree, so it would already be public record. Secondly, it would be a mistake for that information to be released. That's what I have to add. I...also, I understand the Bar Association is opposed to this. I'm...being a dues-paying member of the Bar Association, I think hopefully we can work this out, knowing this is information that we want. The question is just, what's the best way to collect it? Since we've already got a form that already requires being filled out...I don't want to change my position. I'm still neutral. But it seems to make some sense, and I'd like to answer any questions that I might have...be helpful. [LB27]

SENATOR CAMPBELL: Thank you, Mr. Bocott. Questions from the senators? Senator Cook. [LB27]

JAMES BOCOTT: Yes. [LB27]

SENATOR COOK: Thank you, Madam Chair. And thank you for coming. I have a question that just emerged because I'm not familiar with when this form might be completed. And it says right there, Senator Cook. My concern is for the many children that unfortunately are part of custody situations where the family was never married. So where does that information get...and while you're talking, can you talk about that, too, since I'm sure you don't have very much to do at these meetings. (Laugh) That would just be a concern since more and more children are in those situations. And if the information is good information to collect, it's good for those children as well. [LB27]

JAMES BOCOTT: That's an excellent point. And I'm somewhat embarrassed to say, I hadn't given that much thought. I know that...I guess I've been one of the sheep that has followed along. We fill the form out. We fill it out for domestic relations cases where

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there is a divorce or a separation. We don't fill it out for paternity purposes. If we want to have complete and accurate information, we need it for that as well. And I apologize, I haven't given that enough thought to have a great proposal for that. [LB27]

SENATOR COOK: Well, thank you for considering it. [LB27]

SENATOR CAMPBELL: Any other questions? Mr. Bocott, and for members of the audience, we probably have some questions that seem somewhat elementary to the attorneys and all of the people. And a lot of the child support and custody issues are obviously in the Judiciary Committee. And so what brings it to the Health Committee, and there was some discussion of this when we referenced the bill, but the reason it's here is because we have an oversight and a responsibility with regard to vital statistics. So we appreciate the attorneys patiently answering our questions on legal matters. So thank you for coming. [LB27]

JAMES BOCOTT: Thank you. [LB27]

SENATOR CAMPBELL: Anyone else in a neutral position? Okay. Senator Krist, would you like to close on your bill? [LB27]

SENATOR KRIST: I think Mr. Bocott just closed for me. (Laughter) I believe that you understand the need for the collection of this data. The Bar Association is in total agreement. Senator Cook brings up a great point about capturing all those kids. And I'd invite you to look at your gadget. You know, one of the bills I dropped just in the last few days, I don't know the number of it by heart yet, because there's 50 of them so I don't memorize them. But seriously, it's about establishing a family court in a pilot program in Douglas County. That was brought up here today, and I think it's...we're in critical need across the state of that kind of judiciary function. I thank everybody for coming, both in positive and negative, because we're going to learn about this. I leave it in the committee's hands. I will give you a proposed amendment that NACO brought to me, and it is...there's a note on here to remind you, Chair, that is in...Mr. Creigh and I are both in agreement that it's a good amendment. But then that would end up being your committee amendment coming out. We have to collect this data. And the convenience of the form was already in place, although I respect Dr. Acierno's opinion in terms of placing an additional burden on that process. If not there, where? And I'm open to any suggestions that would put it where it needs to be. But I think the family court will need this information, and we'll see how that goes in the future. With that, I would answer any questions you still might have. [LB27]

SENATOR CAMPBELL: Senator Crawford. [LB27]

SENATOR CRAWFORD: Thank you, Madam Chair. Thank you, Senator Krist. So, I just wanted to ask, for our information for the committee and for the record, did you consider

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having the information being collected somewhere in the judiciary? And if so, why did you think Vital Statistics was a better place for it? [LB27]

SENATOR KRIST: Financially, in terms of collection of data, this form already exists. And the extraction of the data is very simple. I think that what you heard in testimony was, in order for them to go back and calculate and extract all that data would be a very expensive process. So starting from forward, it seems to be, wherever that data is collected, it should already be in place so that there's no additional cost for creating another form or another government entity that has to do whatever they have to do. I would, to that point, say that the legislative fiscal note, which I believe is correct and which is what we live by, I think is very close to the department's. So I think the two of them are credible and that it's a miniscule amount of money for the extraction of data that's critical to life safety for our children that are involved in divorce and, again, to Senator Cook's point, all of those kids that are in a domestic problem relationship, whether they're married or not. [LB27]

SENATOR CAMPBELL: Any other questions or comments? It would be interesting to know what we are collecting on the paternity issues. And we're going to hear a report tomorrow from Kim Hawekotte in the Foster Care Review Office. And what...in her report, she spends time talking about paternity and the identification of it and how poorly we are doing on that. [LB27]

SENATOR KRIST: And to that point, Vital Statistics seemed like the place to bring these issues forward, so... [LB27]

SENATOR CAMPBELL: Appreciate that. And with that, we will close the hearing on LB27. (See also Exhibit 6) If you are leaving and not staying for the next hearing, please leave as quietly as you can. And we will proceed now to open the hearing on LB37. Senator Krist also has this bill, which is to adopt the Prescription Drug Safety Act and change and transfer pharmacy, prescription, and drug provisions. Senator Krist. [LB27]

SENATOR KRIST: Thank you, Chair. Good afternoon, again. Members of the Health and Human Services Committee, for the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha, along with north-central portions of Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB27...I'm sorry, LB37. LB37 was introduced on behalf of the Nebraska Pharmacists Association to change and update pharmacy practice laws. As many of you probably remember, Senator Gloor led this charge four years ago. I picked up this two years ago. This is really the third edition of trying to straighten out this particular effort. So it's a continuation of our efforts in the past few years. LB37 is a slight variation to LB1017 which I introduced last session that was heard by this committee. It was sent to General File but it was not heard because of the shortness of the session. LB37 creates a Prescription Drug Safety Act. The purpose of

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the act is to put in place statutory provisions for healthcare providers to follow with regard to prescribing, dispensing, labeling, storage, recordkeeping of noncontrolled, that's noncontrolled, prescription drugs. The idea is to mirror, in essence, the Uniform Controlled Substance Act, and to create a set of statutes that all healthcare providers must follow when providing noncontrolled prescription medications to their patients. LB37 updates and harmonizes many sections of the Pharmacy Practice Act. The bill makes important changes to pharmacy practice provisions such as compounding and reconstitution, hospital pharmacy practice, pharmacy technician ratios, pharmacy technician training and certification, and eliminates many outdated provisions. Others to follow will give you more technical data on the proposed changes. I will simply say that this is the last installment, and you'll probably never see me here on this effort again, hopefully. Finally, LB37 names the Poison Control Act statutes pertaining to poisonous substance...exists throughout Nebraska law. The Poison Control Act attempts to bring many of these sections of law under one act. With that, I would entertain any questions, but I would tell you that the drug guys are right behind me. (Laughter) [LB37]

SENATOR CAMPBELL: Questions from the senators? Are you staying for closing, Senator Krist? [LB37]

SENATOR KRIST: Unfortunately, I am not. I need to get back to my committee. And I really appreciate your courtesy. [LB37]

SENATOR CAMPBELL: Okay. And we can visit with you about any questions. [LB37]

SENATOR KRIST: Yes, ma'am. [LB37]

SENATOR CAMPBELL: Thank you, Senator Krist. [LB37]

SENATOR KRIST: Thank you. Thank you all. Nice to see you. [LB37]

SENATOR CAMPBELL: For the audience that has left, and I neglected to make a comment at the beginning about it, two things: One is, you're going to see senators using iPads and computers this year, which is different for this committee. And we're trying to go more paperless in the Health Committee. You used to see us, those of you who were the regulars, would have the big black books with all the bills inside of them. Now all of that information is on the senators' computers. So they are watching the bill and the fiscal notes and anything else, and I really want to credit the clerk, Brennen Miller, for the development of this pilot. We're being called a pilot. We're getting a lot of interest from some other committees. But we're going to see how it works, but that's why. They are being as attentive to you as they have been in the past. Just because they're looking at a computer doesn't mean they aren't listening. So, the second thing is that I'm supposed to say for the record if we had written communication, and we did have one for LB27, and we'll make sure that Senator Krist has that. Brennen, do you

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want to add to that? [LB37 LB27]

BRENNEN MILLER: (Exhibit 6) For the record, on LB27 we have a letter from the Nebraska Domestic Violence Sexual Assault Coalition. [LB27]

SENATOR CAMPBELL: Okay. All right. I think we're ready for the proponents to LB37. By the 20th hearing we'll have this down pat. (Laughter) Good afternoon. [LB37]

JENNIFER TILLEMAN: (Exhibit 1) Good afternoon. Senator Campbell and members of the Health and Human Services Committee, my name is Jennifer Tilleman, J-e-n-n-i-f-e-r T-i-l-l-e-m-a-n. And I am here today on behalf of the Nebraska Pharmacists Association in support of LB37. I am the president of the NPA board of directors and a pharmacist who teaches at Creighton University School of Pharmacy and Health Professions. Thank you to Senator Krist for assisting us again this year in our efforts to update pharmacy practice law and for introducing LB37 on our behalf and for those of you on the committee that are cosponsors. As Senator Krist said, the goal of LB37 is to update pharmacy practice laws and to create a Prescription Drug Safety Act. The purpose of the Prescription Drug Safety Act is to put in statute the regulations that govern the safe and proper procedures for providing noncontrolled prescription drugs to our patients. As you know, each year various healthcare professionals and others ask for permission to provide medications to various populations of Nebraskans. But many do not understand the rules, both state and federal, that come with providing medications safely to patients. We hope the creation of the Prescription Drug Safety Act elevates the safe medication delivery process. LB37 updates many of our pharmacy practice laws. The last complete update of the act was completed in the early 1990s. Lots of things have changed in pharmacy practice, and LB37 is our attempt to update the pharmacy practice statutes to reflect the modernization of the practice of pharmacy in Nebraska. Other than the many updates and technical changes, I'd like to highlight some of the substantive changes, and our next testifier will highlight some of the bigger changes we are proposing in LB37. We've moved the definitions of prescription and chart order out of the pharmacy practice regulations and into statute. In addition, we will allow chart order dispensing for noncontrolled substances for patients in long-term care facilities. We are clarifying the provisions of electronic prescribing of prescription medications. We moved the Drug Product Selection Act into the Pharmacy Practice Act since only pharmacists are allowed to drug product select or substitute brand for generic drugs. The definition of calculated expiration date was updated and is now consistent among all of the definitions in Nebraska law. We added physician assistants to the list of providers who can give drug samples to their patients. We moved the pharmacy technician to pharmacist ratio from regulations into statute. And now pharmacists can supervise three individuals or any combination of pharmacist interns and pharmacy technicians, up to three total. We added a requirement that all pharmacy technicians will be certified by a national or state certifying body by January 1, 2017. We have eliminated the requirement for a pharmacy technician training manual, as that has

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become cumbersome and outdated process. All technicians working in hospitals and pharmacies are trained in various practice settings by the pharmacists. And finally, LB37 names the Poison Control Act and moves statutes pertaining to poisonous substances into the act, including substances incorrectly placed in the Pharmacy Practice Act. LB37 was introduced in 2014 as LB1017. At that time, the Department of Health and Human Services and others made suggestions and various language changes which we hopefully addressed in LB37. If there are other concerns or issues, we are happy to work with the interested parties to address their concerns. Thank you for the opportunity to appear today to discuss LB37, and I am happy to answer any questions. [LB37]

SENATOR CAMPBELL: Thank you, Ms. Tilleman. Are there questions from the senators? Senator Riepe. [LB37]

SENATOR RIEPE: Thank you very much for being here. The question that I have is, how did you derive at the supervise three individuals as opposed to two or four, or... [LB37]

JENNIFER TILLEMEN: I'll have Joni Cover give you more details, but we did a survey of our membership and the membership felt that three was a safe number. [LB37]

SENATOR RIEPE: Okay. I was just curious because I know in Texas, for example, a physician can supervise five clinical nurse practitioners, and I was just curious how you got that number. [LB37]

JENNIFER TILLEMEN: All right. We went through a survey of the membership. And there were several other states that allow different varieties of numbers of technicians or interns that you can monitor, but we felt it was safer to leave it towards three. [LB37]

SENATOR RIEPE: Okay. Are there any prerequisites as well for a pharmacy technician other than to be certified? I mean, is that a high school diploma? Is it an associate degree that...before you can become certified? [LB37]

JENNIFER TILLEMEN: Right now I believe the pharmacy technicians need to be registered. And it's a high school diploma, but we're looking to put in the national certification, which...the technician takes a test and it's followed by a book that instructs them on different pharmacy practice matters. And there will also, with one of the certifications, require the technicians to go through some additional postsecondary education. [LB37]

SENATOR RIEPE: Is there any follow-up to that at some later time on a proficiency...on a manual basis or something to make sure they're...stayed up with the state of the art and they are also continuing to... [LB37]

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JENNIFER TILLEMEN: The certification requires a technician to complete continuing education hours just like the pharmacists do. So it helps them keep up to date that way. [LB37]

SENATOR RIEPE: No play on this being a pharmacy type of bill, but there's no such thing as, or there is a such thing as drug testing as well, I'm sure. [LB37]

JENNIFER TILLEMEN: I'm not sure if there is any state requirement for drug testing, but I think each company does that for their employees. [LB37]

SENATOR RIEPE: I would imagine they would. Thank you, Senator. Thank you. [LB37]

SENATOR CAMPBELL: Any other questions? Ms. Tillemen, where do you practice pharmacy? [LB37]

JENNIFER TILLEMEN: Where do I practice pharmacy? [LB37]

SENATOR CAMPBELL: Yes. [LB37]

JENNIFER TILLEMEN: Pharmacy is one of those professions where you could practice in a lot of places. So my primary practice is at the university teaching the students. [LB37]

SENATOR CAMPBELL: Ah. [LB37]

JENNIFER TILLEMEN: I do volunteer at the Campus for Hope, which is a Catholic Charities group... [LB37]

SENATOR CAMPBELL: Yes. [LB37]

JENNIFER TILLEMEN: ...that works with drug rehab, and the Ponca Tribe's community health center is another place that I volunteer at. [LB37]

SENATOR CAMPBELL: Thank you very much for volunteering. [LB37]

JENNIFER TILLEMEN: Thank you. [LB37]

SENATOR CAMPBELL: That's commendable on your part after spending a lot of time in the classroom with students. So we just appreciate your testimony today. Thank you. [LB37]

JENNIFER TILLEMEN: Thank you, Senator. [LB37]

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SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB37]

KEVIN BORCHER: (Exhibits 2, 3, 4) Good afternoon, Senator Campbell. My name is Kevin Borchner, K-e-v-i-n B-o-r-c-h-e-r. Although I am a member of the Nebraska Board of Health, I am here today as the NPA legislative committee chair and here on behalf of the Nebraska Pharmacists Association in support of LB37. I'm a pharmacist at Nebraska Methodist Hospital in Omaha currently. There are two provisions in LB37 that I'd like to highlight for this committee. You may be aware that a few years ago there was a compounding tragedy that occurred in the New England states. Since then, the FDA and state Board of Pharmacy have been working on laws and regulations to provide better oversight over compounding. In LB37, the definition of compounding is updated and new section of law has been created to include the compliance with United States Pharmacopeia Chapter 795 and 797. These chapters are among those cited by the FDA and other boards of pharmacy across the country to enforce the practice of compounding in order to improve the patient safety for compounded products. This new section clearly states what compounding is and what cannot be compounded. Federal law is clear that no matter who is allowed to compound in state practice acts, they must follow USP 795 and 797 and the rules outlined by the FDA. We also added a clarification for reconstituting and state that if reconstituting occurs according to the manufacturer package label, then that activity is not compounding. This is important to our hospitals, pharmacies, and long-term care facilities and the patients we serve. We also removed hospitals from being exempted from the practice of pharmacy in statute 38-2850 which was very problematic and confusing since pharmacists working in hospitals are not exempt from pharmacy practice. In addition, we defined hospital pharmacy and will now require that all hospitals name a pharmacist in charge and put policies in place and procedures for hospital pharmacy practice including first dose review by a pharmacist. As hospitals deal with acutely ill patients and are responsible for compounding, preparing, and dispensing high-risk medications, it's important that regulation and oversight occur to protect those patients at least as much as those patients seen in a retail pharmacy. Ideally we would like to have a full-time pharmacy on staff in a hospital 24/7, but we know in many of the critical access hospitals that's not feasible. The law will allow hospitals to meet the requirement with the use of telepharmacy. Thank you for your support of LB37, and I'm happy to answer any questions you may have. [LB37]

SENATOR CAMPBELL: Thank you, Mr. Borchner. Senator Howard. [LB37]

SENATOR HOWARD: Thank you, Senator Campbell. I had a question about this, the map that you passed out. [LB37]

KEVIN BORCHER: Yes, Senator. [LB37]

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SENATOR HOWARD: Red denotes that there are no standards, orange that there's a USP and a state standard, green that there's USP and specific. What about the states that have no color? [LB37]

KEVIN BORCHER: Oh, the map has been broken up into three separate sections. [LB37]

SENATOR HOWARD: Oh, okay. (Laugh) [LB37]

KEVIN BORCHER: And if you pull them together you have a contiguous map. [LB37]

SENATOR HOWARD: I'm looking at this at this and I'm like, there's no Iowa. Perfect. (Laughter) [LB37]

SENATOR CAMPBELL: Where is Iowa? (Laugh) [LB37]

SENATOR COOK: They moved far away from us. [LB37]

KEVIN BORCHER: Iowa has not fallen off the map. (Laugh) [LB37]

SENATOR HOWARD: Wonderful. Thank you. [LB37]

SENATOR COOK: They moved. [LB37]

SENATOR CAMPBELL: There are days, maybe. No. [LB37]

SENATOR HOWARD: I know. [LB37]

SENATOR CAMPBELL: Good question, Senator Howard. [LB37]

SENATOR HOWARD: Thank you, Senator Campbell. [LB37]

SENATOR CAMPBELL: I was thinking of that, too, thinking, well, what happened to those? All right. [LB37]

SENATOR HOWARD: Where did they go? Perfect. [LB37]

SENATOR CAMPBELL: Other questions? Yes, Senator Riepe. [LB37]

SENATOR RIEPE: Senator Campbell, thank you. The question that I have is on the compounding. Is there a check and balance so that you have two individuals reviewing the process so...to try to minimize errors that might go on in this compounding process? [LB37]

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KEVIN BORCHER: A lot of this is up to the SOP, the Standard Operating Procedures, that would be designated from USP 795 or 797 and be responsible from the pharmacists in charge to develop those policies and procedures. [LB37]

SENATOR RIEPE: Um-hum. Does that fall under that first dose review? [LB37]

KEVIN BORCHER: No. That would be a separate piece. [LB37]

SENATOR RIEPE: That's...it's separate. Okay. Okay. Thank you. [LB37]

KEVIN BORCHER: You're welcome. [LB37]

SENATOR CAMPBELL: Any other questions, Senators? Mr. Borchner, I am really sorry that we didn't know you were going to be here today, because I think you're coming back...is Mr. Borchner on a gubernatorial reappointment list? [LB37]

KEVIN BORCHER: I believe I am. [LB37]

SENATOR CAMPBELL: (Laughter) I believe you are. And at that point...Mr. Borchner, where are you from? [LB37]

KEVIN BORCHER: I'm from Omaha. [LB37]

SENATOR CAMPBELL: Okay. Since you have appeared before the committee and I think yours will be a reappointment... [LB37]

KEVIN BORCHER: I'm sorry, Senator. This will be my first appointment by the Governor to the Board of Health. [LB37]

SENATOR CAMPBELL: Oh, okay. Then we'll probably want to see you again. [LB37]

KEVIN BORCHER: That will be fine. [LB37]

SENATOR CAMPBELL: Okay. We'll look forward to it. If we'd have known you were coming today, we would have advertised. Okay. (Laughter) Scratch that, apparently. I know why, because we don't have all the paperwork. Yes. It's always the paperwork, isn't it? [LB37]

KEVIN BORCHER: It is. [LB37]

SENATOR CAMPBELL: Thank you, Mr. Borchner, very much for your testimony today. [LB37]

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KEVIN BORCHER: All right. Thank you very much. [LB37]

SENATOR CAMPBELL: Uh-huh. Our next proponent? Anyone else in the hearing room? Okay. Opponents to LB37? Can I see the hands of other people who wish to testify in opposition? Those in a neutral capacity? Okay. Dr. Forney, I think you may be our last testifier. [LB37]

KENT FORNEY: Our Lone Ranger, huh? I'd like to say congratulations to the gentleman that's going to serve on the Board of Health. I had the honor of serving on that board for ten years. But I'm off and I'm not representing the board. I'm representing myself. I am Kent Forney, F-o-r-n-e-y. I'm a veterinarian from here in Lincoln, Nebraska. Boy, this is fascinating, watching you guys do this. I didn't know whether to testify as proponent or neutral, because I'm not really against the bill. I think the pharmacists have done a wonderful job going over this. I think they just forgot the veterinarians. And this bill does affect veterinarians in a huge way. On page 16, line 28, 29, and 30, it talks about compounding drugs and about how you essentially have to start from a manufactured drug. The problem is, with manufactured drugs is, 80 percent of the drugs are not given to pets. And I wanted to kind of show that. Here is a manufactured drug. And as a veterinarian, I have to give this to the owner and say, here, you have to put this down your cat's throat. And it's not given 80 percent of the time. Here is a compounded drug. And I can simply give this to the pet owner and say, you can put this in a little half and half or whatever, or I can make it in tuna flavor if they don't like beef or peanut butter or whatever your cat likes, and 80 percent of the time, and you'll ask me where I got this study, and I think it came out of the AAHA, American Animal Hospital Association, I think, did that study, but 80 percent of the time, this is given. So instantly, I'm a better veterinarian. If I can start with the USP-grade drug, I can make it pretty small. If I have to start with this manufactured drug to make the pill, it's as big as a golf ball. And I can't get it down my pets. And the owners can't, and they get bit. So, I would like to be able to work with the Pharmacy Board on coming up with language that will make it so that I can have a flavored...you know, I don't know what the difference in between, essentially, is, but we looked it up and we're having a very hard time. What I don't want this, is to pass this bill, and then have some veterinarian in Alliance, Nebraska, or Kearney, Nebraska, have to come before DHHS and defend themselves and then this be against some small veterinarian in Kearney versus the drug manufacturer that has 20 lawyers. I would like this bill to be written properly before we go any further. The other thing is, is a lot of drugs for veterinary medicine...we have very small volume. We don't have as many as humans do. So by you saying that this drug is essentially....doesn't go off of patent, because I essentially have to start with the manufactured drug, you're dealing with patent laws here. After 20 years, the patent should be off. The drug companies should go on and hopefully develop more good medicine for veterinarians. By doing this, you're saying their patent lasts forever and that they don't have to come out with new drugs, because essentially you have to start with the manufacturer drug. I think

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competition is good and it's what makes us keep developing good drugs for veterinary medicine. And you're just patent protecting by the bill that you just wrote. Excuse me. I have to just make sure I'm not missing anything here. The second thing...and so as you look at this bill, I hope you would consider and do what is best for the pets, because that's what I have to look the clients in the eye for. The second thing is, on page 14, line 16, they talk about technicians and how many a veterinarian...or a pharmacist can supervise. Keep in mind that their pharmacist technician only has to graduate from high school and register. My technicians go to two years, probably at Curtis, and then they have to pass a very strict test. I would like the opportunity, as a veterinarian, to be able to manage as many technicians, when I am compounding, as they can. Senator Riepe, you said a very good thing. We have the thing set up to where two people look at it. It'd be nice if I could have my technician, when I'm measuring out the drugs, can verify my measures and we both initial it. I'd like to have a technician that can do that. Currently, in veterinary medicine, if a veterinary drug is compounded, it has to be done by a pharmacist who can manage his technicians or a veterinarian. Veterinarians have been able to compound since ever, I mean, for...this is old, old medicine for us. But I would like to have the safety check that you mentioned where I can have a technician work with me and verify my weights, my measurements, we're doing it right, we got the right drug with the right label, etcetera. So it'd be very beneficial if I could have a technician just like the pharmacist could. And I'm on red, I'm sorry. [LB37]

SENATOR CAMPBELL: Questions from the senators? Senator Cook. [LB37]

SENATOR COOK: Thank you, Madam Chair. So, Doctor, you would want a tech for compounding... [LB37]

KENT FORNEY: For veterinary medicine. [LB37]

SENATOR COOK: ...for veterinary medicine. Does this proposal, as you understand it, expressly prohibit you from having those for yourself, or you would like a proposal like this to also mandate that you have two people? [LB37]

KENT FORNEY: I'm not going to make it mandatory, because there's a lot of small animal veterinarians that can't afford to have a technician. But, like in my hospital, where we do, do compounding, I would like to have the capability of having a technician there to help me. In other words, if they could check my measurements, wash the dishes, sorry, but speed me up...and so all you have to do is just put pharmacist/veterinarian in that. [LB37]

SENATOR COOK: Okay. [LB37]

KENT FORNEY: And we could have, as a veterinarian then, I could have the same rights as the pharmacists. I think it was just an oversight, to be honest with you. And

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same with the other on the compounding from a manufactured. Historically, you've always been able to compound if you have a different flavor or a chewy versus a nonchewy. But it's just not spelled out. It's not in the law, and I don't want it to go to court where we have to bat it up with a bunch of...sorry, with lawyers, and fight it out. I mean, it should be spelled out here rather than in court. [LB37]

SENATOR COOK: Right. Thank you. [LB37]

SENATOR CAMPBELL: Any other questions? Senator Howard. [LB37]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you for your testimony and for coming to see us today. [LB37]

KENT FORNEY: Thank you. [LB37]

SENATOR HOWARD: I love it when vets come. (Laughter) [LB37]

KENT FORNEY: Oh, thank you. [LB37]

SENATOR HOWARD: I am a well-known pet lover. In regards to your issue on page 14 indicating that a pharmacist may supervise up to three individuals, right now in your Practice Act, is there anything that prevents you from supervising a specific number? [LB37]

KENT FORNEY: Yes, there is. It says that only a veterinarian or a pharmacist can compound for the medication. And so to make me legal within the law, I hired a pharmacist who works upstairs and she supervises the technicians. And that's fine and dandy, but I should be able to do that as well as a pharmacist. I'm actually having to teach her how to compound. [LB37]

SENATOR HOWARD: Are vet techs able to compound? [LB37]

KENT FORNEY: No. [LB37]

SENATOR HOWARD: No. Okay. [LB37]

KENT FORNEY: Well, they can, but they have to register as a pharmacy tech. And, see, my technicians go to Curtis and get two-year education and then have to pass the test. [LB37]

SENATOR HOWARD: Okay. [LB37]

KENT FORNEY: So they're better qualified than the pharmacy tech who just has to

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have a high school degree. [LB37]

SENATOR HOWARD: Okay. And so, your proposal would be, in Section 42, a pharmacist/a veterinarian. [LB37]

KENT FORNEY: Correct. [LB37]

SENATOR HOWARD: And there wouldn't have to be any changes to the definitions on page five where a veterinarian is listed as a practitioner instead? [LB37]

KENT FORNEY: You'd have to ask Joni on that one. [LB37]

SENATOR HOWARD: Okay, because that was my only question. Thank you, Senator Campbell. [LB37]

SENATOR CAMPBELL: Um-hum. Yes, of course. Senator Riepe. [LB37]

SENATOR RIEPE: Senator Campbell, thank you. Doctor, I was quite intrigued by the idea that you could have tuna-flavored pills. (Laughter) I might have some interest in that. [LB37]

KENT FORNEY: Oh, we have a whole list of flavorings. I mean, we have peanut butter. [LB37]

SENATOR RIEPE: And peanut butter was appealing. Yeah. [LB37]

KENT FORNEY: We have all sorts of them. [LB37]

SENATOR RIEPE: Right. [LB37]

KENT FORNEY: And I need that. [LB37]

SENATOR RIEPE: Yes. That's great. I...that's great. My question is, and I'm trying to understand the concept, I know you talked about the requirement to try to get one of the USP pills down. I was just curious, why does it have to be one pill? I mean, can it not be broken up into several pills and...please... [LB37]

KENT FORNEY: Can I take time to answer that? It's going to take about two minutes. [LB37]

SENATOR RIEPE: That's according to the Chair. [LB37]

SENATOR CAMPBELL: Sure. Go right ahead. [LB37]

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SENATOR RIEPE: Okay. [LB37]

KENT FORNEY: Pharmacists are held to a higher standard than manufacturers. We can be off 5 percent and the pharmacy's drugs can be off 10 percent. So what happens is, is if I need 100 milligram...let's say I have a 75-pound pet that I have to pill. I compound it for a 75-pound animal. Let's say it's a milligram for pound for simplicity. I make it 75 milligrams. What the manufacturers do for simplicity is, they make a 100 milligram and they make a 50 milligram. So then what owners are trying to do is score these tablets. And when I break this, you can see right there, I just broke it. It didn't break evenly. It didn't break down the score line. [LB37]

SENATOR RIEPE: Okay. [LB37]

KENT FORNEY: So this is very inaccurate, giving the manufactured drug versus the compounded drug. I used to work with the pharmacist that was on the Board of Health, and he's the one that helped me with a lot of this, and he taught at Creighton. He said when he started teaching compounding to the compounding students at Creighton, the first question he always asked is, would you rather have a manufactured drug or a compounded drug. At the end of the class, the final, the last question for bonus was, would you rather have a compounded drug for your family or a manufactured? And it was always compounded, because once the students went through and realized that this is safer, they wanted this for their family versus this. And that's what I need for my pets. I need safety. Sorry. [LB37]

SENATOR RIEPE: When you talked about it...first started and you talked about cats and then 75 pounds, I thought maybe we were talking about mountain lions. [LB37]

KENT FORNEY: Well, you might be. (Laughter) [LB37]

SENATOR CAMPBELL: That's not under the purview of the Health and Human Services. (Laughter) Okay. [LB37]

KENT FORNEY: I'm scared to tell you I'm a Commissioner. (Laughter) [LB37]

SENATOR CAMPBELL: Other questions from the senators? Good questions. Thank you. Thank you, Dr. Forney. [LB37]

KENT FORNEY: Thank you for the chance to testify. [LB37]

SENATOR CAMPBELL: And I am assuming... [LB37]

KENT FORNEY: Oh, and can I say that the NVMA and the Pharmacy Board are talking.

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And I've talked to Joni twice. I think this can be resolved. I just wanted the board to hear it. [LB37]

SENATOR CAMPBELL: Okay. Others in the opposition to the bill? Anyone in a neutral position? Okay. Senator Krist has waived closure. For the record, Brennen. [LB37]

BRENNEN MILLER: (Exhibits 5, 6, 7, 8, 9, 10) For the record, I have letters from the Nebraska Retail Federation, the Nebraska Medical Association, two letters from Creighton University School of Pharmacy students, DHHS Division of Public Health, and letter from the Nebraska Hospital Association. [LB37]

SENATOR CAMPBELL: And with that, we will close the legislative hearing on LB37. And the legal counsel will open for me because I have a another bill in Judiciary. So Senator Howard will chair the meeting. Okay. I'm off. [LB37]

SENATOR HOWARD: All right, we will now open the hearing on LB87, not LB887. [LB87]

JOSELYN LUEDTKE: Good afternoon, Senator Howard. I'm Joselyn Luedtke, legal counsel for the Health and Human Services Committee, here today to introduce LB87. LB87 would make a few changes in the statutes governing the Nebraska Children's Commission. First, the bill would add the Commissioner of Education or his or her designee to the nonvoting ex officio members of the commission. Because education is an important part of children's lives, it makes sense, we believe, to include the chief state education person in the Children's Commission. Second, the bill removes dates which the statute sets out as the commission's reporting deadlines. These dates are obsolete. LB87 replaces them with the requirement that there be a report to the Governor and to the Health and Human Services Committee on December 1, 2015. Third, the Children's Commission is scheduled to terminate on June 30 of 2016. However, the Legislature may choose to continue the commission. If it does, then under LB87, the commission would be required to issue a report annually on December 1 for as many years as the commission is continued by the Legislature. And Ms. Karen Authier, executive director of the Children's Commission, could not be here today, but she has provided a letter explaining the commission's support for LB87. And I'd be happy to answer any questions you may have. Thank you. [LB87]

SENATOR HOWARD: Are there any questions from the senators? Senator Riepe. [LB87]

SENATOR RIEPE: Senator, thank you. It appears to me this is a housekeeping, cleanup kind of thing. [LB87]

JOSELYN LUEDTKE: I would say, yes. [LB87]

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SENATOR HOWARD: Any other questions? Thank you, Joselyn. We would now open the floor for testimony. Are there...is there anyone wishing to testify as a proponent of this legislation? Seeing none, is there anyone wishing to testify as an opponent of this legislation? Seeing none, anyone wishing to testify in the neutral capacity? Seeing none, Joselyn, would you like to close? [LB87]

JOSELYN LUEDTKE: I'll waive. [LB87]

SENATOR HOWARD: She waives closing. We will now close the hearing on LB87. (See also Exhibits 1, 2) [LB87]

SENATOR RIEPE: Good job.

SENATOR HOWARD: All right. Thank you all for coming today.