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Health and Human Services Committee
January 27, 2016

[LB680 LB813 LB859 LB901]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 27, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB859, LB680, LB813, and LB901. Senators present: Kathy Campbell, Chairperson; Sara Howard, Vice Chairperson; Roy Baker; Sue Crawford; Nicole Fox; Mark Kolterman; and Merv Riepe. Senators absent: None.

SENATOR CAMPBELL: (Recorder malfunction)...there. If you are testifying today, you'll need to fill out one of the bright orange sheets on either side, and write as legibly as you can. And when you come forward to testify, you can give your orange sheet to the clerk. If you have handouts, the pages will be glad to distribute them for you. We do use the light system in the Health Committee. And you have five minutes. It will be green for what seems like a very long time, and then it will go to yellow when you only have one minute. And if it goes to red, I'll probably be trying to get your attention. With that, I think that's all the announcements. We'll have the senators introduce themselves. Senator, start us out.

SENATOR FOX: All right. Senator Nicole Fox, District 7: downtown and south Omaha.

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

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

JOSELYN LUEDTKE: Joselyn Luedtke, committee counsel.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford from District 45: eastern Sarpy County, Bellevue, and Offutt.

SENATOR RIEPE: Hi. I'm Merv Riepe. I represent District 12, which is Millard and Ralston. Thank you.

ELICE HUBBERT: I'm Elice Hubbert. I'm the committee clerk.

SENATOR HOWARD: Would the pages like to introduce themselves?

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ASHLEE FISH: Ashlee Fish. I am a business administration major at the University of Nebraska. And I'm from Seward, Nebraska.

JAY LINTON: I'm Jay Linton. I'm a senior and econ major from Bellevue, Nebraska.

SENATOR HOWARD: Thank you. And with that, we'll open the hearing for LB859, Senator Campbell's bill to change cease and desist orders under the Uniform Credentialing Act.

SENATOR CAMPBELL: Thank you. Senator Howard and members of the Health and Human Services Committee, my name is Kathy Campbell, K-a-t-h-y C-a-m-p-b-e-l-l. I would like to assure my colleagues that LB859 is the shortest change in any legislation that I'll be offering this year. If you have taken a chance to look at the bill, we are adding very few words, but extremely important words. The Department of Health and Human Services' CEO, Courtney Phillips, came to see me about this bill and asked if I would carry it as a number of you are carrying bills for the Department. The importance of this bill is the fact that...well, maybe I should go back. A couple years I went to the National Conference of State Legislators, NCSL. Some of you have been to NCSL. And they began talking about a court case that they expected to go to the United States Supreme Court. And in that court case...it did go to the Supreme Court. And what the Supreme Court said was that the state's official department needs to have a role in looking at a cease and desist order to someone who is practicing without a license, and taking care of that information...that the board itself should not be doing that without the involvement of the department. So if you'll look at your bill...and we have someone from DHHS here, so they'll probably give you a far broader explanation. But if you'll look at your bill on page 2, you will see that what we are adding is that: the "director, with the recommendation of the" appropriate board. So, in other words, the board still can make a recommendation, but the director has to, you know, consult with them that...sign off on that action. And that's exactly what the United States Supreme Court said. So we need this legislation to make sure that Nebraska is legal in the actions that it takes. And we would not want to put the volunteers who serve on our boards in any legal situation. Now granted, they would probably be indemnified. And Joselyn did some research for me on that. But it's still...we should not put any of our people that do that in jeopardy for that matter. I have already talked to the Speaker about this bill and indicated to him that this is a legal situation that the state of Nebraska needs to take care of. And with that, that's my closing remarks. I'll take whatever questions you might have. [LB859]

SENATOR HOWARD: Are there any questions for Senator Campbell? [LB859]

SENATOR CAMPBELL: The Department is here, and they're testifying. So they'll answer. [LB859]

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SENATOR HOWARD: All right. And you'll be staying to close. [LB859]

SENATOR CAMPBELL: Of course. [LB859]

SENATOR HOWARD: Wonderful. Thank you, Senator Campbell. We'll open up the floor for proponent testifiers. Good afternoon. [LB859]

JENIFER ROBERTS-JOHNSON: (Exhibit 1) Good afternoon. Oh, I have one copy, sorry. Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Jenifer Roberts-Johnson, J-e-n-i-f-e-r R-o-b-e-r-t-s-hyphen-J-o-h-n-s-o-n. And I'm the deputy director of the Division of Public Health of the Department of Health and Human Services. I would like to thank Senator Campbell for introducing LB859 for the Department. LB859 will modify the Uniform Credentialing Act to change provisions relating to cease and desist orders, to bring Nebraska into compliance with a recent U.S. Supreme Court decision, which Senator Campbell referenced earlier. In February 2015 the U.S. Supreme Court decided North Carolina's State Board of Dental Examiners versus the FTC, relating to an action by a state regulatory board. The Court ruled that the cease and desist letter sent by the North Carolina Board of Dental Examiners to unlicensed individuals practicing dentistry, violated federal antitrust law because the board was not actively supervised by the state. Current Nebraska law also authorizes Nebraska professional licensing boards to issue cease and desist orders without active supervision by the Department of Health and Human Services. This legislative proposal would amend statutes in the Uniform Credentialing Act, Nebraska Revised Statute 38-140, related to cease and desist orders from Nebraska licensing boards, to prevent violations of federal antitrust law. LB859 provides that the Department will issue the cease and desist order with the recommendation of the appropriate board. The Department has met with the Nebraska Medical Association and the Attorney General's office on this legislative proposal. They are in agreement with the change in the Uniform Credentialing Act. I appreciate this opportunity to testify before you today, and I believe this bill will help DHHS continue our mission of helping people live better lives. I'm happy to answer any questions that you may have. [LB859]

SENATOR HOWARD: Are there any questions for Ms. Roberts-Johnson? Seeing none, thank you for your testimony today. [LB859]

JENIFER ROBERTS-JOHNSON: All right, thank you. [LB859]

SENATOR HOWARD: Our next proponent testifier? Good afternoon. [LB859]

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MILISSA JOHNSON-WILES: Good afternoon, Senator Howard, Senator Campbell, and members of the Committee of Health and Human Services. My name is Milissa Johnson-Wiles, Assistant Attorney General, appearing on behalf of the Attorney General's office today. We are here... [LB859]

SENATOR HOWARD: I'm sorry. Could you spell your name for the record? [LB859]

MILISSA JOHNSON-WILES: Sure. I'm sorry. Milissa, M-i-l-i-s-s-a, Johnson, J-o-h-n-s-o-n, dash, Wiles, W-i-l-e-s. [LB859]

SENATOR HOWARD: Thank you. [LB859]

MILISSA JOHNSON-WILES: We are here today to testify in support of LB869 (sic--LB859) and the amendments that are made to the Uniform Credentialing Act to allow for the director to issue cease and desist orders upon the recommendation of the appropriate board. Our office worked closely with Health and...I'm sorry...with the Department of Health and Human Services regarding this matter and have talked extensively over the past year since the decision came down from the United States Supreme Court, and feel that the change is warranted and will allow us to continue to protect public health and safety. So I don't have other comments. If you have any questions, I'd be happy to answer them. [LB859]

SENATOR HOWARD: Are there any questions for the testifier? Seeing none, thank you for your testimony today. [LB859]

MILISSA JOHNSON-WILES: Okay, thank you. [LB859]

SENATOR HOWARD: Good afternoon. [LB859]

KIM ROBAK: Good afternoon, Senator Howard and members of the committee. My name is Kim Robak, R-o-b-a-k. I'm here today on behalf the Nebraska Medical Association. When this Supreme Court Opinion came down about a year ago, we all read the Opinion, and we were a little surprised, and maybe fearful, that the state of Nebraska could be in the same situation that they were in, in North Carolina. So we were pleased to see that the bill was introduced that would resolve any potential difficulties that might exist. And we simply wanted to appear today in front of the committee to say thank you to the department and to Senator Campbell for bringing the bill, and to let you know that we're in full support. [LB859]

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SENATOR HOWARD: Thank you. Are there any questions? Seeing none, thank you for your testimony today. Anyone else in the room wishing to testify as a proponent? Seeing none, anyone wishing to testify in opposition? Anyone wishing to testify in a neutral capacity? Seeing none, Senator Campbell waives closing. Elice, are there any items for the record? [LB859]

ELICE HUBBERT: There are no items for the record. [LB859]

SENATOR HOWARD: Thank you. And this will close the hearing on LB859. [LB859]

SENATOR CAMPBELL: Thank you. Those are all the bills we wish to have every day, isn't it? Okay, that leaves us to go on to the next bill this afternoon, for our hearing, which is LB680, Senator Riepe's bill to change requirements for pharmacy technicians. Good afternoon. [LB859]

SENATOR RIEPE: Good afternoon. Thank you, Senator Campbell and members of the HHS Committee. My name is Merv Riepe, that's Merv, M-e-r-v, and Riepe is R-i-e-p-e. I represent Legislative District 12, which is Millard and Ralston in Douglas County. I am here to present on, or open on, LB680. LB680 was introduced at the request of the Nebraska Pharmacists Association and is a technical cleanup bill. Last year the Nebraska Legislature approved, and the Governor signed, LB37, a bill that updated the Pharmacy Practice Act, as requested by the Nebraska Pharmacists Association. Prior to LB37, pharmacy technicians were only required to register with the state; however, LB37 amended Section 38-2890, requiring pharmacy technicians to be registered and certified before they can work as a pharmacy technician in a facility in Nebraska. That begins on January 1, 2017. LB680 will require all currently registered pharmacy technicians to become certified by January 1, 2017, if registered with the Pharmacy Technician Registration (sic: Registry) on January 1, 2016. Additionally, after the passage of LB37, it was realized it was too high of a hurdle for pharmacy technicians to be registered and certified prior to working as a technician; therefore, lag time for certification is necessary. Under LB680, pharmacy technicians will have a year to become certified after they are registered with the state of Nebraska, beginning on January 1, 2016. This year lag time will help our pharmacies and hospitals, especially in rural Nebraska, with hiring and the employment of pharmacy technicians. I would defer any technical questions to Ms. Joni Cover who, with the Nebraska Pharmacists Association, who will be testifying in support of LB680. [LB680]

SENATOR CAMPBELL: Okay. Questions for Senator Riepe? Nothing? Thank you, Senator. Did you have a question, Senator Kolterman? [LB680]

SENATOR KOLTERMAN: No, it's technical. He can't answer it (laughter). [LB680]

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SENATOR CAMPBELL: Oh. That's why we're waiting for the expert, right. [LB680]

SENATOR RIEPE: I'd like to respond. I only take the very tough questions. The easy questions I give to Ms. Cover at this time (laughter). [LB680]

SENATOR CAMPBELL: We will assume that Senator Kolterman's question is an easy one. [LB680]

SENATOR RIEPE: Thank you. [LB680]

SENATOR CAMPBELL: Thank you, Senator. Our first proponent? [LB680]

JONI COVER: (Exhibit 1) Senator Campbell and members of the Health and Human Services Committee, my name is Joni Cover; it's J-o-n-i C-o-v-e-r. I'm the CEO of the Nebraska Pharmacists Association, and I'm here today to testify in support of LB680. And I'd like to thank Senator Riepe for introducing the bill. As Senator Riepe explained, LB680 will change Nebraska Revised Statute Section 38-2890 to allow a pharmacy technician one year between the time they become registered with the state of Nebraska to when they need to achieve certification. And we've been working with the Nebraska Hospital Association and the Department of Health and Human Services on the legislative change. So since LB37 passed last year, we've been working on that. I handed to the committee clerk a letter of support from the Nebraska Hospital Association. They weren't able to be here today, so I said I would deliver the letter for them. I'd like to just give you a little bit of background about pharmacy technicians. I don't know how familiar you are with technicians, but they assist pharmacists in the preparation of medications for both the administration and dispensing of meds. They work...all the work they do is supervised and verified by pharmacists. And they're really vital to the process. They also do lots of other things like dealing with insurance and helping with stocking and ordering and things like that. Nebraska has started allowing pharmacy technicians back in the early nineties; at that time they were called supportive pharmacy personnel. And then in 2007 we did a 407 review because we felt the need to do...to have some oversight over the technicians, and we created the registry. So now we have a technician registry of the state of Nebraska. At that time, we really started hearing more about drug diversion, not by just technicians, but really healthcare in general, and so felt that that was a step in the right direction. Over the last ten years, there have been a lot of states that have passed pharmacy technician regulations, including, you know, registration and certification. And really, certification is just much more of a formalized education process specifically designed for pharmacy technicians in their role that they play in assisting pharmacists in all kinds of healthcare settings. There are currently two national certifying entities; one is the Pharmacy Technicians Certification Board, and the other one is the Exam for the Certification of Pharmacy Technicians. And then we also have one state program

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that's been approved by the Board of Pharmacy through the...through UNMC. And all of those are programs that are allowed to certify pharmacy technicians for the state of Nebraska. We also have programs like Southeast Community College and Nebraska Methodist, who have training programs that help those technicians become educated to pass the certification exams. So, like Senator Riepe said, we passed LB37 last year, and we realized, after we passed the bill, that we do need some more lag time between the time they get registered and the time they need to be certified. And, primarily, this is going to help us with some of our more rural communities, where you don't have a huge supply of workforce. So by making them become registered with the state, giving them a year to get certified, it does a couple things. It helps them get educated to become better technicians, but it also kind of makes them decide whether they really want to go down this path. So...and with, you know, so many changes in healthcare and the rules in healthcare continuing to evolve, we felt that this was a step in the right direction. I believe that Iowa, Kansas, and, I think, Colorado is considering certification too. So it's a precedence; it's going on in other states. And if you'd like more information about that, I can certainly provide it to the committee. So we would ask for the advancement and support of this bill. It does have an E clause in it; we'd like to get it passed this year. I will just point out that there was a fiscal note that was surprising. It's a cash fund fiscal note. I was a little surprised to see that, because the provision passed last year in LB37, and there was no fiscal note on that. So just, you know...so anyway, I would appreciate the support of the committee getting it advanced and getting it moved as quickly as we can. And, hopefully, we can make it a consent calendar bill. So I'm happy to answer any technical questions or easy questions you have. [LB680]

SENATOR CAMPBELL: Senator Kolterman and then Senator Howard. [LB680]

SENATOR KOLTERMAN: Thank you, Senator Campbell. Ms. Cover, I appreciate you bringing this. [LB680]

JONI COVER: Um-hum. [LB680]

SENATOR KOLTERMAN: I probably had a dozen pharmacists or technicians contact me over... [LB680]

JONI COVER: Yeah. [LB680]

SENATOR KOLTERMAN: ...the summer, concerned about what we had done. [LB680]

JONI COVER: Right. [LB680]

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SENATOR KOLTERMAN: And you and I had talked. And you indicated that there would be some more legislation... [LB680]

JONI COVER: Right. [LB680]

SENATOR KOLTERMAN: ...coming to buy a little time. [LB680]

JONI COVER: Right. [LB680]

SENATOR KOLTERMAN: And I think that's needed, especially in the, as you said, the rural districts... [LB680]

JONI COVER: Right. [LB680]

SENATOR KOLTERMAN: ...where it's harder to find... [LB680]

JONI COVER: Um-hum. [LB680]

SENATOR KOLTERMAN: ...people that want to go through the certification process. [LB680]

JONI COVER: Yeah, we definitely found out that...the original request was to have immediate, you know, certification before you can work. But we don't have a huge population base all across the state, so we felt like this was a good way to achieve...we need the certification, but this gives you some time to get that achieved. And I have to say, you know, kudos to UNMC for stepping up, because they've created a program that is a virtual program. They can take it. And it's really geared to the practice setting of a pharmacy technician. So if we've got a technician that's working really just in retail or a community pharmacy, and they don't really want to know more about what's going on in the hospital side, they can gear their education specifically to that. So UNMC has done a fabulous job in putting their program together. So kudos to them. [LB680]

SENATOR KOLTERMAN: Thank you. [LB680]

JONI COVER: You're welcome. [LB680]

SENATOR CAMPBELL: Senator Howard. [LB680]

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SENATOR HOWARD: Thank you, Senator Campbell. Thank you for your testimony today. Can you...what are the fees for registering? [LB680]

JONI COVER: That's a really good question. To get certified or to register with the state, I think the set...I think there's \$75 to register with the state of Nebraska. And the certification exam varies, depending on which one of these entities that you use. I think it's \$125 for the PTCB exam. I'm not sure what the ExCPT exam is. And I don't know for sure what the final fees were that UNMC decided to charge. So I know that there are fees for the certification. [LB680]

SENATOR HOWARD: Well, I'm sort of trying to dig into the fiscal note to see if... [LB680]

JONI COVER: Oh. [LB680]

SENATOR HOWARD: ...the fees that you're collecting will match the cost of the (inaudible). [LB680]

JONI COVER: Well, typically what happens is that the...and I defer this to Health and Human Services. But what I've been, what we've experienced in the past is that the pharmacy fees are...pharmacist fees are higher than the technician fees, so the pharmacist fees help offset the low cost of the technician fees. So that's typically what has happened in the past. So I don't imagine that the technician fees will go up, because again, the pharmacist fees subsidize that program. [LB680]

SENATOR HOWARD: Okay. And then, is there an E clause on this? You mentioned... [LB680]

JONI COVER: Yes, yes. [LB680]

SENATOR HOWARD: Okay. Where? [LB680]

JONI COVER: I thought there was. Maybe it didn't get put on there. Yeah, it's on Section 3, line 27 (inaudible). [LB680]

SENATOR HOWARD: So is that already in statute? [LB680]

JONI COVER: No. [LB680]

SENATOR HOWARD: Because it doesn't have it underlined? [LB680]

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JONI COVER: No. I don't know that...do they underline E clauses? [LB680]

SENATOR CAMPBELL: I don't know. [LB680]

JONI COVER: I don't think so. [LB680]

SENATOR HOWARD: Okay. [LB680]

JONI COVER: I don't think so. [LB680]

SENATOR HOWARD: I just wanted to make sure. [LB680]

JONI COVER: No. The E clause is in Section 3. So... [LB680]

SENATOR HOWARD: Okay. Perfect, thank you. [LB680]

JONI COVER: Yeah. [LB680]

SENATOR CAMPBELL: I don't think they do. Ms. Cover, I have a question. [LB680]

JONI COVER: Okay. [LB680]

SENATOR CAMPBELL: How many, just generally, techs would we have in the state? [LB680]

JONI COVER: I think the last I heard, we had over 3,000 technicians in the state of Nebraska. [LB680]

SENATOR CAMPBELL: And repeat for me when the registry came into effect. [LB680]

JONI COVER: 2007. [LB680]

SENATOR CAMPBELL: 2007. [LB680]

JONI COVER: So I have absolutely no idea how many there were prior to then. [LB680]

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SENATOR CAMPBELL: So most of the technicians in the state would already be registered. [LB680]

JONI COVER: Yes. [LB680]

SENATOR CAMPBELL: So this gives a year for, basically, those 3,000 people, if they're not certified. [LB680]

JONI COVER: Right. [LB680]

SENATOR CAMPBELL: And some of them would've done the certification on their own, would they not? [LB680]

JONI COVER: I would say we probably have about 1,200 right now that are already certified. [LB680]

SENATOR CAMPBELL: Oh, okay. [LB680]

JONI COVER: So like, for example, the technicians that work at Walgreens...Walgreens requires certification when you work there. A lot of our hospitals require certification as a condition of employment. We're starting to see more of that. Some of our payers require personnel to have extra credentials, and certification is one of those requirements for technicians. So this isn't a new concept to everybody. There's a lot of our providers that are already doing it. [LB680]

SENATOR CAMPBELL: And the reason for the questions where I'm doing the same thing that Senator Howard is...and I'm looking at the fiscal note. And it may be that we will ask the legal counsel to confer with... [LB680]

JONI COVER: Okay. [LB680]

SENATOR CAMPBELL: ...the Fiscal Office, because if you have 3,000, and there's been a registry since 2007, it begs the question of why they need a .5 FTE to do all of this. Now I'm assuming that there is going to be some work with certification, but I think we need to check that out. So that's nothing for you or the senator. The bill is fine. I just want to make sure on that fiscal note. [LB680]

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JONI COVER: Well, and I'll tell you one of the things that was surprising to me. So when a pharmacist does their relicensure, they have to attest to the fact that they have completed their continuing education. So they are required to take 30 hours of continuing education. And, unless they are audited, they don't have to prove that they've actually done that. And I guess I assumed that this would be the same sort of thing, where a technician is going to attest to the fact that, yes, they have completed their certification. I mean, once you become certified as a pharmacy technician, each one of these entities has mandatory requirements of how to keep that. And we want that to be kept. So it's really kind of...the onus is on the technician to make sure that that certification is maintained. So I assumed that there would just be an attestation, because I don't believe that we track where they work. It's not really so much about where they work; it's, if you're going to be a technician, and you're employed at a facility, then you need to do the certification. So I don't...the fiscal note was the first I had seen of this. We had not discussed this at all, up to this point. So I'm... [LB680]

SENATOR CAMPBELL: And I think that, you know, we may have a tendency to say, well, you know, this doesn't involve General Fund. [LB680]

JONI COVER: Um-hum. [LB680]

SENATOR CAMPBELL: And so we kind of go...but even that it's going to be paid on fees, I still think we should raise the question. [LB680]

JONI COVER: Right. Well, again, I was surprised because the certification requirement was put in last year when we passed LB37. And there was no fiscal note. [LB680]

SENATOR CAMPBELL: So... [LB680]

JONI COVER: There was a lot more involved with that than there was with this. [LB680]

SENATOR CAMPBELL: Absolutely. LB37 had a lot of components. [LB680]

JONI COVER: It did; it did. [LB680]

SENATOR CAMPBELL: Any other questions? Thank you, Ms. Cover. [LB680]

JONI COVER: Thank you very much. [LB680]

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SENATOR CAMPBELL: Our next proponent? Anyone in opposition to LB680? Anyone in a neutral position? Senator Riepe, we're back to you. [LB680]

SENATOR RIEPE: I would waive. [LB680]

SENATOR CAMPBELL: Items for the record? No items for the record. Thank you, Senator Riepe. All right. That concludes our hearing on LB680. [LB680]

SENATOR HOWARD: (Inaudible). [LB680]

SENATOR CAMPBELL: Oh. Elice, would you have gotten... [LB680]

ELICE HUBBERT: That's the one she was talking about. [LB680]

SENATOR CAMPBELL: It's a duplicate of what's probably in your packet. All right. The next hearing this afternoon is LB813, Senator Kolterman's, to permit certain persons to consent to donate plasma. Senator? [LB680]

SENATOR KOLTERMAN: Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. It is my pleasure to introduce LB813. LB813 would specifically authorize that any person 18 years of age and older may donate plasma. 18-year-olds may donate plasma in 41 of 42 states with plasma donation centers. Nebraska is the only exception, because our age of majority is 19. Last year the state of Alabama passed a law similar to LB813. The 533 plasma donation centers in 42 states collect plasma, which is used to produce life-saving plasma protein therapies. There are five plasma donation centers in Nebraska, three in Omaha and two in Lincoln. There are individuals who will follow me to explain the importance of making plasma available to citizens. In a nutshell, plasma protein therapies are used in everyday medicine, emergencies, and surgical medicine to treat burns, shock, trauma, major surgery, organ transplants, liver transplants, liver conditions, and other health conditions. They're also vital for individuals with rare, chronic conditions like bleeding disorders and primary immune deficiencies. I respectfully request that you advance LB813 to the floor of the Legislature so that plasma donation centers in Nebraska can continue to collect plasma, which will help ensure patients have access to life-saving plasma protein therapies. I would be happy to answer any questions this committee might have. [LB813]

SENATOR CAMPBELL: Questions, Senators? Easy or hard (laughter)? Senator Riepe. [LB813]

SENATOR RIEPE: This is not revenge. [LB813]

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SENATOR CAMPBELL: All right. Good. [LB813]

SENATOR RIEPE: Thank you, Senator Campbell. One of the questions that I have, and you may want to defer, is, rather than amending existing law, this is new legislation. Do you have a feel for that? [LB813]

SENATOR KOLTERMAN: No. [LB813]

SENATOR RIEPE: And did you feel it needed general cleanup, or... [LB813]

SENATOR KOLTERMAN: No, it's not new legislation. All we're doing is lowering the age from 19 to 18. [LB813]

SENATOR RIEPE: So you're amending existing law? [LB813]

SENATOR KOLTERMAN: Yeah. [LB813]

SENATOR RIEPE: Oh, okay. I had the wrong notes. [LB813]

SENATOR KOLTERMAN: Yes I am, or we are. [LB813]

SENATOR RIEPE: Good answer. Thank you very much. [LB813]

SENATOR KOLTERMAN: You're welcome. [LB813]

SENATOR CAMPBELL: Any other questions or comments? Our family became very aware of plasma therapy when our daughter had GBS. So we got a real education in plasma. Thank you, Senator. Oh, sorry, Senator Baker. [LB813]

SENATOR BAKER: Senator Kolterman, can a person 18 years old now donate plasma with permission? [LB813]

SENATOR KOLTERMAN: No, they cannot. No, they cannot. [LB813]

SENATOR BAKER: Not at all. [LB813]

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SENATOR CAMPBELL: Okay. Anything else? Thank you, Senator Kolterman. Our first proponent? [LB813]

BILL GRINER: Thank you, Madam Chair and other members of the committee. My name is Bill Griner, B-i-l-l G-r-i-n-e-r. And I'm the senior director of operations for Octapharma Plasma, Incorporated. Octapharma Plasma, Incorporated, operates two plasma collection centers in the Omaha area, one in Senator Howard's district and one in Senator Fox's district. Blood plasma is the liquid part of your blood. It carries red blood cells, white blood cells, and platelets. It consists mainly of water and proteins. Because it has so much protein in it, plasma is used to make lifesaving medicines to treat patients who have bleeding disorders, have trouble fighting infections because of immune diseases, and more. Donating plasma is similar to donating whole blood. Trained professionals in FDA-licensed collection centers screen every potential donor on every donation to make sure that they're suitable to donate plasma. During a donor's first visit, a simple health screening is performed, which includes a review of the donor's medical history and a medical history questionnaire. We also test protein levels, blood pressure, pulse, temperature, and weight on every donation to ensure that a donor is suitable and healthy for donation. After that, during each plasma donation, an employee will perform a similar suitability screening test. A trained staff member, called a phlebotomist, inserts a sterile needle into a vein in the donor's arm so the blood can be drawn into a sterile centrifuge device on an automated plasma collection machine. As blood cycles through this equipment, the plasma is separated from other parts of the blood. The plasma is then collected in a container, while the red blood cells are safely returned to the donor through the same needle. This process is called plasmapheresis. After the plasma is collected, samples of each plasma unit collected are sent to a lab for testing for viruses, such as hepatitis and HIV, to ensure its safe use for further manufacturing into lifesaving therapies for our patients. There are currently 500 plus FDA-licensed plasma collection centers across the U.S., with five in Nebraska. Each center employs between 20 and 100 employees, based on the size of the center, which creates local jobs in our local communities at each of these plasma center locations. Allowing 18-year-olds to donate plasma will allow them to participate in the process that provides lifesaving therapies that allow patients with disorders, such as hemophilia and primary immune deficiency, to live a more-normal life and allow more of those products to be available so those individuals who rely on plasma-derived products daily. Therefore, I hope you support this legislation. Thank you. Do you have any questions? I'd be more than happy to answer. [LB813]

SENATOR CAMPBELL: Thank you, Mr. Griner. Questions from the senators? Senator Crawford? [LB813]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you for your testimony. Could you explain what the contract is like? So this is to give them...they can consent to donate

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plasma. Do you develop a contract with someone when they come in? Is this a...can you explain what it looks like? [LB813]

BILL GRINER: No, we don't have contract with our donors. [LB813]

SENATOR CRAWFORD: Okay. [LB813]

BILL GRINER: We provide them with what is called an informed consent, which is, basically, a list of any risks associated with the process, and there's general instructions for them during the donation process. You know, if you feel light-headed during the process, which happens with whole blood donors and blood plasma donors, some basic instructions for them on who to contact, how to make sure that they keep us aware of their issues. But there's no formal contract between that. And the FDA does not allow that informed consent to be considered a waiver of any rights, as well. [LB813]

SENATOR CRAWFORD: Okay. [LB813]

SENATOR CAMPBELL: Go ahead. [LB813]

SENATOR CRAWFORD: So it is the case that someone would be providing informed consent to donate. [LB813]

BILL GRINER: Um-hum. [LB813]

SENATOR CRAWFORD: But there would be a payment back to them for donating. Is that correct? [LB813]

BILL GRINER: The payment is for their time. [LB813]

SENATOR CRAWFORD: For their time, okay. [LB813]

BILL GRINER: Absolutely. [LB813]

SENATOR CRAWFORD: Okay. That's not considered a contract. [LB813]

BILL GRINER: No, ma'am. [LB813]

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SENATOR CRAWFORD: Thank you. [LB813]

SENATOR CAMPBELL: Any other questions? Thank you, Mr. Griner, for your information. [LB813]

BILL GRINER: Thank you, thank you. [LB813]

SENATOR CAMPBELL: Our next proponent? Thank you. Good afternoon. [LB813]

BILL SPEIR: (Exhibit 1) Good afternoon, Madam Chair. I'd like to thank you for including this bill on your agenda. My name is Bill Speir, B-i-l-l S-p-e-i-r. I'm the senior director of state affairs for the Plasma Protein Therapeutics Association. I'd like to thank Senator Kolterman for sponsoring this important legislation. I'd also like to thank the committee members for their time in hearing this bill. I've provided you all with a packet. And that packet includes some information on plasma protein therapies, the donation process...that's what the DVD is. I'd also draw your attention to a letter from the A-PLUS, which is the American Plasma Users Coalition. It's a coalition of national patient organizations that support this bill because they represent the individuals who need these plasma protein therapies. I see this as a clarification bill. The age of majority here is 19, but you have 18-year-olds who are allowed to contract. So I would suggest to you that 18-year-olds can donate today. I know Senator Crawford asked the question about the contract, but I'm stuck on the old law school...I have a law degree...bargain for legal detriment. If you compensate me for your time, that's a contract. That's a contract under any definition. And in fact, our lobbyist, Bill Mueller, asked me why we needed this legislation, because he thought 18-year-olds can contract. And I said, well, my member company general counsels completely disagree with me. But I see this as a clarification. And I think it's important that 18-year-olds donate plasma, because donating plasma is the essential starting material for plasma protein therapies. And these are unique biologics used to treat thousands of Americans whose plasma proteins are deficient or damaged. So what the plasma protein therapy does is give them the protein they need. It gives them whatever it is they need...like somebody with primary immune deficiency gets the immunoglobulin, and that contains the immunities that they need that are contained, because they lack certain antibodies. A-PLUS estimates that there is 125,000 Americans who use these therapies. And without it, they would not have daily lives. In fact, life expectancy for people with bleeding disorders, hemophilia specifically, has gone from about 20 before the advent of plasma protein therapies to...now they're living normal lives. Somebody with hemophilia, their life expectancy is now that of a normal human being. And individuals who rely on these therapies include people with primary immune deficiencies, which are a group of rare chronic disorders. It can take as many as 130 donations to manufacture enough therapy to treat one patient with primary immune deficiency. People with antitrypsin deficiency also benefit from plasma protein therapies. It's more commonly known as genetic emphysema. It takes as

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many as 900 donations to manufacture enough alpha-1 to treat them. People with bleeding disorders, as I've mentioned, use these therapies. It can take as many as 1,200 plasma donations to make enough therapy for one patient with hemophilia in a year. These conditions are extremely rare, as I've mentioned. For example, it's estimated that there are 35,000 individuals with primary immune deficiency who rely on immunoglobulins. But because of increased awareness of these conditions, more Americans are being diagnosed with these conditions. Additionally, scientists are discovering more conditions that benefit from treatment with plasma protein therapies. Therefore, there is a real need for more plasma donors. I hope you will support this good bill. Thank you, and I'm prepared to answer any questions you may have. [LB813]

SENATOR CAMPBELL: Questions for Mr. Speir? Senator Crawford. [LB813]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. And thank you for your testimony. Do you have a projection of what kind of increase you would tend to get in the state, when you allow 18-year-olds to donate? [LB813]

BILL SPEIR: No, but it was funny. I had that question last night. And I did not know the answer. [LB813]

SENATOR CRAWFORD: Hmm. [LB813]

BILL SPEIR: But a member company reached out to me today to let me know that they deferred 100 people who attempted to donate last year, because of this issue. They were 18-year-olds who wanted to donate, 100 of them, and so they did not donate. [LB813]

SENATOR CRAWFORD: Okay, thank you. [LB813]

BILL SPEIR: Um-hum. [LB813]

SENATOR CAMPBELL: Senator Fox? [LB813]

SENATOR FOX: Thank you so much for your testimony. Would you say that there is a shortage of donors in the state? [LB813]

BILL SPEIR: I would...well, the FDA gets nervous when any trade association uses the word "shortage." But I would say there's certainly a need for more donors, because there's always more demand for plasma protein therapies. [LB813]

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SENATOR FOX: Okay. [LB813]

SENATOR CAMPBELL: Anything else? Thank you very much. [LB813]

BILL SPEIR: Thank you. [LB813]

SENATOR CAMPBELL: Our next proponent? Anyone who wishes to testify in opposition to the bill? All right. Anyone in a neutral position? Okay. Senator Kolterman waives closing. All right. We're setting a trend today. Gentlemen, thank you for coming. All right. Well, we'll proceed to our next bill on the agenda this afternoon, LB901, Senator Kolterman's bill to change dental assistant and licensed dental hygienist provisions. [LB813]

SENATOR KOLTERMAN: Once again, good afternoon, Senator Campbell, members of the committee. [LB901]

SENATOR CAMPBELL: Good afternoon. [LB901]

SENATOR KOLTERMAN: (Exhibit 1) I'm pleased to be able to introduce LB901 today. Generally, when someone comes to you with a scope-of-practice bill, your first inclination is to run as fast as you can, as far away as possible (laughter). I believe that LB901 is different. That is why I agreed to carry the bill on behalf of the Nebraska Dental Association, the Nebraska Dental Assistants Association. LB901 is a scope-of-practice bill, but this bill is an example of how scope-of-practice bills should work, as a result of a tremendous amount of work on behalf of the dentists, the dental assistants, and the dental hygienists. These people have met over four years, discussing, and ultimately reaching, an agreement between expanding the scope of practice for dental auxiliaries. While there are still some disagreements about the points in the bill, generally there is agreement about much of the bill and about the fact that there should be increased scope for both the dental assistants and the dental hygienists. The Nebraska Dental Association House of Delegates unanimously supported this effort. That's something that you don't see very often, the profession promoting a scope-of-practice increase for their auxiliaries. Rather than wait for a piecemeal attempt at scope changes over the next few years, the dentists, the assistants, and the hygienists all convened to discuss how to best provide care across the dental continuum. The goal was to create safe and quality care at the least cost and to be able to allow Medicaid providers the ability to appropriately delegate functions to allow for more care, again, at the least cost. Once some sort of consensus was reached, the dentists and the dental assistants took the proposed changes through the 407 process at the Department of Health and Human Services, their applications approved at all three stages of the 407 process. The hygienists had a separate 407 that was not approved. I won't go into the detail about what is in LB901. David O'Doherty, the executive director of the NDA, will do that. But I do want to give

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you a broad overview of what is in the bill. I have provided a spreadsheet that outlines the new responsibilities and duties included with this bill. First, a general overview of the revisions to the scope of practice for dental assistants. The bill leaves dental assistants as they currently exist, in order to allow dentists who do not want to delegate responsibilities to function without any change. A new level of dental assistant is created, the licensed dental assistant, with increased education requirements and increased duties. In addition, a licensed dental assistant with additional education and testing, can apply to receive permits to perform expanded functions. Second, the bill increases the scope of practice for dental hygienists. Just like licensed dental assistants, with additional education and testing, the licensed dental hygienists can apply to receive permits to perform additional expanded functions. Third, the public health dental hygienists have an increased scope of practice, as well. In a public health setting, again, with education and testing, the licensed dental hygienist can perform additional tasks for seniors or children. These duties may be performed without supervision by a dentist. This team approach to the dental practice is an important step forward in providing the highest quality of service at the least cost. I want to commend all the parties for getting together and working on a compromise to bring to the committee and to the Legislature. There will be several testifiers to explain the bill and talk about it and how it will benefit the Nebraska dentistry. Thank you for your consideration. I ask for your yes vote on this bill. And I would be happy to try and answer any questions that I'm capable of answering. [LB901]

SENATOR CAMPBELL: Questions, Senators? Senator Crawford. [LB901]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. And thank you, Senator Kolterman. The one question I would give you a chance to comment on is, there's a point in the fiscal note, where it talks about whether or not there would need to be General Fund funds for dental hygienist training. [LB901]

SENATOR KOLTERMAN: That's a very good question. I think it's \$203,000. That was brought to my attention this morning, because it was just added. [LB901]

SENATOR CRAWFORD: Um-hum. [LB901]

SENATOR KOLTERMAN: And we're going to be looking into that, because it's my understanding that the educators at the University of Nebraska dental school already are training these people in this area, and we feel that it's probably an inaccurate fiscal note. We don't see the need to hire two more additional teachers and pay them each \$75,000 plus benefits. So we think that's inaccurate, and we're going to continue to research that. But that's a very good question. [LB901]

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SENATOR CRAWFORD: Thank you. [LB901]

SENATOR CAMPBELL: Other questions? Senator Kolterman, this must be a new suggestion. Has it been reviewed by the Fiscal Office, this \$203,000? [LB901]

SENATOR KOLTERMAN: That's new. [LB901]

SENATOR CAMPBELL: Pardon? [LB901]

SENATOR KOLTERMAN: That's new, from what I understand. [LB901]

SENATOR CAMPBELL: Okay. But that's from the university. But there's not...I don't know that I see an update from the Fiscal Office. They may not have seen that. [LB901]

SENATOR KOLTERMAN: We're working...we're trying to convene the two to get that worked out. [LB901]

SENATOR CAMPBELL: Okay. I'm just going by what I've got in the folder here. [LB901]

SENATOR KOLTERMAN: Yeah. But what you have in the folder is as up to date as we have. [LB901]

SENATOR CAMPBELL: Okay. That's great. And I appreciate your willingness to check in with the Fiscal Office. [LB901]

SENATOR KOLTERMAN: Yeah. [LB901]

SENATOR CAMPBELL: Anything else, Senators? Thank you, Senator Kolterman. [LB901]

SENATOR KOLTERMAN: Thank you. [LB901]

SENATOR CAMPBELL: Our first proponent? [LB901]

DAVID O'DOHERTY: (Exhibit 2) Good afternoon, Senator Campbell and members of the committee. My name is David O'Doherty, O-'D-o-h-e-r-t-y. I'm the executive director of the Nebraska Dental Association, representing over 70 percent of the dentists in the state of

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Nebraska. I believe Senator Kolterman...I want to thank Senator Kolterman for introducing LB901. I believe Senator Kolterman has already handed out a spreadsheet of detailing. What you're getting now is my version; it's the picture version of the same thing. To explain, I know I'm...on this kind of blank side is the status of the dental auxiliaries, as we sit here today. We have a uncredentialed dental assistant on the left-hand side. They can either be on-the-job trained or go to a dental assisting program and come out. And that statute below is basically all we have for dental assisting, to assist the dentist in their clinical-related duties. This dental assistant can go back and get extra education to perform two duties; one is coronal polishing, or in taking x-rays. On the right hand of this sheet is the licensed dental hygienist, and those are the duties that are currently in statute. Back in 2007, and again in 2013, we were involved in creating the Public Health Authorization, which allows dental hygienists to go in public health settings to perform those three preventative measures unsupervised. So that's the current status. If you flip the sheet over to the...on the left-hand side of that dental assistant on the left, we've added placing local topical anesthesia and monitoring nitrous oxide. The middle piece, the licensed dental assistant, a new credentialed individual who, after they've been working as a dental assistant for 1,500 hours, they can take the exam. And once they become a licensed dental assistant, those four procedures underneath...impressions, minor denture adjustments, cementing primary crowns, or monitoring and administering nitrous oxide...they can take the education for any one or all four, as many as they need. After they've been practicing for 1,500 hours, they can go on and take an expanded function course in one of those three listed below. Two of them are related to placing restorations. That would be after the dentist prepares the tooth and carves out the decay and gets it ready for the filling; then the assistant could come in and place the restoration on the surface of the tooth. There are two classifications, simple and complex; it just depends on where it's located on the surface of the tooth. And then, cementing crowns would be the third one. On the right-hand side, to the existing dental hygienist statute, we've added three duties: interim therapeutic restoration, which my understanding...Dr. Meeske can fill this in more...it's kind of a temporary filling, no carving of the tooth is involved, a hand instrument would be used; writing prescriptions for mouth rinses and fluoride products; and...can't read upside down...administering and titrating nitrous oxide. All of these would require extra education. Under the...and once they've performed as a licensed dental hygienist for 1,500 hours, they can go on and take education for expanded function duties, which would be the two restoration procedures you see there. On the public health authorization, we've added three more duties: interim therapeutic restoration technique, writing prescriptions for mouth rinses and fluoride products, and minor denture adjustments. Those would all require extra education. So this is a big change. We've been working on this for more than four years, ever since I started twelve years ago. So I would ask...I'm not begging, but ask this committee (laughter) to move this on to General File. I'd be happy to answer any questions. [LB901]

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SENATOR CAMPBELL: Questions, Senators? I am going to give you high marks for the illustration (laughter). It really helps us to understand, because there are lots of parts to this. [LB901]

DAVID O'DOHERTY: There are lots of parts. Some people thought we were creating four or five different credentialed individuals. It's just one, new, the license. But the way that you'll hear the task force discuss this...by creating these in permits, it allows a lot of flexibility... [LB901]

SENATOR CRAWFORD: Hmm. [LB901]

DAVID O'DOHERTY: ...for dentists that might want someone who can do impressions, but not dentures. So like they did with the original dental assistant, they just wanted...like today, if they want a dental assistant to take x-rays but not coronal polish, they just pick that one course. So it gives the dental office a lot of flexibility. [LB901]

SENATOR CAMPBELL: Takes us into the future. [LB901]

DAVID O'DOHERTY: Yes. [LB901]

SENATOR CAMPBELL: Okay. Any other comments? Thank you, Mr. O'Doherty. [LB901]

DAVID O'DOHERTY: Thank you very much. [LB901]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB901]

CYNTHIA CRONICK: (Exhibit 3) Good afternoon, Senator Campbell and senators of the Health and Human Services Committee. I am Cynthia Cronick, C-y-n-t-h-i-a C-r-o-n-i-c-k. I'm the legislative cochair for the Nebraska Dental Assistants Association and a dental assisting educator in Omaha. As you've heard, LB901 is the result of many years of discussion, review, research, and collaboration. It began in February of 2010 with the task force formed by Dr. Jack Wesch, and we met one afternoon once a month, for over three years. There was a broad representation of dentists, hygienists, assistants, educators, practitioners from all over the state that participated. And we came up with a model that is now produced in front of you, in 2016, as LB901. The Nebraska Dental Assistants Association and I support this bill because it will increase the efficiency of the delivery of dental care in Nebraska. I see this as a win-win-win: a win for the productivity of the dental practice, a win for the availability of quality care to the patient, and a win to the career of dental assisting. Since dental assisting is near and dear to my heart, I would like to speak to you about the benefits to the dental assistant and the career of

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dental assisting that this bill will give us. First of all, flexibility...you've heard that mentioned. A current dental assistant can remain a dental assistant. No one loses a job; no one has extra criteria that they now have to scramble to meet. And if the dental assistant is content in her position, he or she is content in that position, they can remain status quo. Those that desire to get the education and testing to do more will now have that ability to do that and become an even more productive member of the dental team. Increased productivity will lead to increased earning potential, in proportion to the dental assistant's value to the practice. This will also lead to self-esteem, job satisfaction, and career longevity, which is also of benefit to the practice and the patient. We will have a career path in which a dental assistant will not have to leave the profession to advance. And we will not lose the best and the brightest among us to other careers in other states. Dental assistants will benefit greatly from the education required in this bill. Even though education is not currently required in the state, we have five accredited dental assisting programs producing graduates into the workforce every year. The credential is very important to dental assistants. And, even though there is no credential in Nebraska today, we have over 300 certified dental assistants in this state, people who have voluntarily taken a board exam and done continuing education to maintain that credential. Finally, dental assisting will not be just a job; it will be a licensed profession. I believe that this bill will be of great benefit to dental assistants, to the dental practice, but of most important, to the dental patients in Nebraska, and I thank you for your consideration of this bill. And I will attempt to answer any questions. [LB901]

SENATOR CAMPBELL: Thank you, Ms. Cronick. Questions from the senators? Do I have any questions? Okay, thank you very much. [LB901]

CYNTHIA CRONICK: Thank you. [LB901]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB901]

CHARLES BAUER: Good afternoon. Senator Campbell, members of the committee, thank you for having us. My name is Charles Bauer, C-h-a-r-l-e-s, Bauer, B-a-u-e-r, from Hastings, Nebraska. I am a member of the Board of Dentistry for the past six years. Today I am in...lets...very clearly, I am not formally representing the Board of Dentistry. Due to time constraints and the open-meeting laws, we only received notice of this particular meeting just a few days ago. And we require a couple of weeks to give notice that...so I am here just to tell you what the board has done and what our thinking is. We had a meeting July...or I'm sorry, June. We had a meeting January 15, this last month, and we did discuss LB901, and we took action. And I'll read what the action was: The board reviewed LB901 legislation regarding the credentialing of dental assistants. J. Thomas moved, second by Anderson, to send a letter of support for LB901. We've been monitoring this legislation for the past two or three years, and it's very important to us that this goes forward. Last year you heard testimony and supported LB80, the

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dental sedation act. And thank you for your support in moving that through. But one of the loose ends on this was monitoring and administration of nitrous oxide and also for dental assistants to monitor minimal, moderate, and deep sedation. This bill does take care of that loose end, so for that point, we're very interested in having this move along. Also, I think the bill itself is brilliant in how it gives you three separate entities for the dental assistants to advance their education and their skills. I also think it's wonderful for the hygienists, also, for the same. So without any further on that, are there any questions that I can answer, not representing formally the board, but what they might be thinking? [LB901]

SENATOR CAMPBELL: Questions, Senators? I don't have any questions either, sir. [LB901]

CHARLES BAUER: Very good. [LB901]

SENATOR CAMPBELL: Thank you very much for your testimony. [LB901]

CHARLES BAUER: Thank you so much, Senator Campbell. [LB901]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB901]

ERIN HALEY: Good afternoon. Senator Campbell and members of the committee, thank you for the opportunity to testify today. My name is Erin Haley, that's spelled E-r-i-n H-a-l-e-y. I am a registered dental hygienist here in Nebraska. I am currently the president of the Nebraska Dental Hygienists' Association. I grew up in Norfolk, Nebraska, and attended high school with my fellow Norfolk Catholic Knight, Mike Flood, for whom I share the admiration and respect of many here. I attended the University of Nebraska Medical Center College of Dentistry and received a bachelor of science in dental hygiene, with a minor in biological sciences, in 1995. In 2001 I received a master of science in health promotions and human resource management from Nebraska Methodist College, and I have completed 36 hours in orofacial myology, which is the science of orofacial musculature. I currently carry a public health dental hygiene permit in Nebraska and am CPR certified. I've been practicing dental hygiene clinically for 20 years, since graduation, so that means, on a daily basis, I assist the dentist in completing x-rays to complete examinations; I administer local anesthesia; apply fluorides to children and adults; complete periodontal therapies, which is a deep cleaning; perform prophylaxis, or teeth cleaning, which is a routine cleaning; educate patients on proper oral hygiene; blood pressure screenings; place dental sealants; monitor nitrous oxide on patients during treatment, to name a few. That's a lot of what I do. I have also strived to help educate patients on preventative health practices, in the hopes of helping to facilitate positive health changes to prevent other diseases, such as diabetes, heart disease, and other inflammatory diseases. We are here today to express our support of LB901, with certain qualifications. I have a colleague with me who will address those in detail.

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These misgivings notwithstanding, we would like to see this issue of the practice of dental hygienists and dental assistants resolved in this session of Legislature. And we think that, with the respective associations here and involved together, we are closer than ever we have before. We are mindful that, if we can resolve our few remaining differences regarding LB901, and having this hearing conducted without oppositional testimony...might be helpful in getting the bill accepted for consent calendar. We are trying to be cooperative. I want to make one thing clear: we are expecting to receive cooperation as well. We are pleased that LB901 does advance the practice of dental hygiene in Nebraska. It does contain several items that will generally enhance our practice and help provide needed services and care to certain special populations. While we are not yet in a position to give full and vigorous support to LB901, it is generally a good piece of legislation, and the concerns we have with it generally resolve around the fact that, in certain respects, the legislation treats hygienists and assistants as starting from the same place. In actuality, there's a great difference in our training and our educational process. I would be happy to answer any questions, and I would appreciate you giving time to Kalynda Kuhl, my colleague, later on today. Thank you. [LB901]

SENATOR CAMPBELL: Questions for Ms. Haley? Did you return an offer to...in a practice? [LB901]

ERIN HALEY: I did for a short time, as a temporary hygienist...actually for my dentist, growing up. Um-hum. [LB901]

SENATOR CAMPBELL: That must have been very interesting. [LB901]

ERIN HALEY: He was a great mentor. Um-hum. [LB901]

SENATOR CAMPBELL: Well, yes. There are a great many people who remember Speaker Flood. Absolutely. Any other questions? Thank you for your testimony. [LB901]

ERIN HALEY: Thank you. [LB901]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB901]

KALYND A KUHL: (Exhibit 4) Good afternoon, Senator Campbell and committee members. My name is Kalynda Kuhl, spelled K-a-l-y-n-d-a K-u-h-l, and I have worked as a private practice dental hygienist in rural Nebraska for more than a decade. I am testifying on behalf of the Nebraska Dental Hygienists' Association and serve as legislative chair, in support of LB901, with some well-reasoned changes. My education consisted of two years of prerequisite courses

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at the University of Nebraska-Lincoln and then two years at the University of Nebraska Medical Center College of Dentistry, where I graduated with a bachelor's degree in dental hygiene. Because dentistry, as well as dental hygiene, are ever-changing fields, it is important that Nebraska's laws keep pace with scientific, technological, and work force advancements. LB901 is necessary to finally establish a scope of practice and licensure for dental assistants, as well as expand upon the duties of licensed dental hygienists. We worked hard to come to a compromise at the Dental Association and feel we have made some real progress; however, I'm going to talk to you about five vital issues that must be addressed in this legislation to ensure public safety and improve access to care, the first one being the state registration requirement for the dental assistant. The on-the-job-trained dental assistant has a broad range of responsibilities, including instrument sterilization, direct patient care, and monitoring patients under nitrous oxide, a mood-altering drug. All of these services are done under indirect or general supervision, meaning no one is in the same room with them and possibly not even on the premises. Patients are in vulnerable positions, and on-the-job-trained dental assistants are given a high level of responsibility. It is important that dental assistants are a responsible age, at least a high school graduate, and registered with the state, which is the minimum requirement of the state Uniform Credentialing Act. This would allow for increased assurance to safety of Nebraska residents, because, as registrants under the Uniform Credentialing Act, you are required to disclose acts constituting unprofessional conduct. In short, these assistants are going to be engaging in acts of treatment on human beings. We ought to, at the very least, know their names, which hardly seems burdensome. The second one, being coronal polishing, should remain under indirect supervision for the dental assistant. Coronal polishing simply is not a procedure without any risk. There is no rationale for having this procedure performed under general supervision by a dental assistant as it is not a definitive procedure, meaning it's not a treatment. In addition, the education and testing currently for a dental assistant to perform this function under general supervision is inadequate. The third one being seating of permanent prostheses by the dental assistant and dental hygienist...neither a dental assistant nor a dental hygienist is adequately educated to seat permanent prostheses such as crowns and bridges. These procedures should be the responsibility of the dentist, who has the proper education and testing. There are many things that can go wrong with these procedures that can cause irreversible consequences for the dental patient. Some examples of these are: temporomandibular joint dysfunction and occlusion problems, periodontal issues from excess cement or improper placement, recurrent decay, or even tooth loss. We ask that this procedure in LB901, proposed under expanded function dental assistant, be removed. The fourth one being dental hygiene diagnosis...this term may be threatening to some, but it is, in essence, what it states. Currently, public health dental hygienists have their hands tied with certain procedures and referrals. This would help allow for better access to care, especially in the public health arena. The dental hygienist is a state-licensed oral health professional who has graduated from an accredited dental hygiene program in an institution of higher education. Both dental hygiene programs in Nebraska currently teach dental hygiene diagnosis as an integral part of their curriculum. Dental hygienists perform dental

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hygiene diagnosis every day, and it would be appropriate to add into Nebraska statute. The fifth and last issue is local anesthesia for the dental hygienist under general supervision. Dental hygienists in Nebraska receive more than adequate education to perform local anesthesia under general supervision. This includes a 16-week lecture course and lab, as well as over 100 live patient injections. To add, the education prepares the dental hygienist for proper patient selection and appropriate anesthetic selection to assure good outcomes. Dental hygiene education also includes management of a potential medical emergency. Dentists who are not comfortable with hygienists performing local anesthesia under general supervision simply would not authorize them to do it in their dental practice. This provision would allow dentists who desire to delegate local anesthesia administration to a dental hygienist the option to utilize it for their patients needing pain control. I thank you for your consideration, and I am pleased to answer any questions at this time. [LB901]

SENATOR CAMPBELL: Questions. Have the five issues here been discussed with Senator Kolterman? [LB901]

KALYND A KUHL: I believe so, briefly. [LB901]

SENATOR CAMPBELL: So this would not be, these five would not be new to him? [LB901]

KALYND A KUHL: No. [LB901]

SENATOR CAMPBELL: Okay. How many of the five were in...that touched upon your 407 for a hygienist? [LB901]

KALYND A KUHL: I believe all but one. [LB901]

SENATOR CAMPBELL: And which one would that be? [LB901]

KALYND A KUHL: Dental hygiene diagnosis. [LB901]

SENATOR CAMPBELL: Oh, okay. All right. If I'm understanding you correctly, you're saying that these are the reservations you have about the bill. [LB901]

KALYND A KUHL: Correct. [LB901]

SENATOR CAMPBELL: And you're suggesting that these five be changed in the bill. [LB901]

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KALYNDA KUHL: Correct. [LB901]

SENATOR CAMPBELL: If they are not changed in the bill, then would your position go from a proponent to opponent? [LB901]

KALYNDA KUHL: I don't know if I can answer that question, but I could get that answer for you. [LB901]

SENATOR CAMPBELL: No, I...oh, okay. Would...is it a matter of polling your association? Or...I'm trying to figure out if you're going to oppose the bill if these five things aren't changed or added or whatever. [LB901]

KALYNDA KUHL: Yeah, that would be an association decision. [LB901]

SENATOR CAMPBELL: Decision, okay. I'm asking that really so that Senator Kolterman knows that. Are these the last remaining dissension periods between statements, between the two, between assistants and dental hygienists? Do you think these are the last of concerns that you have? [LB901]

KALYNDA KUHL: Yeah, I think so. [LB901]

SENATOR CAMPBELL: Okay. So we're kind of down to the final level of five. Okay. Other questions? Senator...oh, Senator Crawford? [LB901]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. And thank you. So you mentioned that four of these were submitted to 407 process. So what is the current status of that process? Or if they're through, what was the result of that process on those four? [LB901]

KALYNDA KUHL: Our 407 process was not approved through that. [LB901]

SENATOR CRAWFORD: Okay. And the second question, I guess, I have is, were these four or five points part of the discussion that has been going on for about three years, that was mentioned? Or have you been in that discussion for three years? [LB901]

KALYNDA KUHL: I wasn't personally on the task force, but I think a lot of these issues were discussed during the years of the task force. [LB901]

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SENATOR CRAWFORD: Thank you. [LB901]

KALYNDA KUHL: Yeah. [LB901]

SENATOR CAMPBELL: Senator Howard? [LB901]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you for your testimony today. Could you tell me a little bit more about dental hygiene diagnosis and why it's important. If it wasn't in your 407, can you tell me, is it more about billing, or is it more about referrals? Why is it important? [LB901]

KALYNDA KUHL: Sure. It's about both. For example, the public health hygienist out on their own, say they see a patient with high blood pressure and they think needs to see a doctor. They don't have that in statute, to make that referral. In addition, the dental hygiene diagnosis would help us get screening and assessment codes and also caries risk codes by Medicaid covered by having that in statute. [LB901]

SENATOR HOWARD: Within your scope, you're already able to do screening and assessments. You're just not able to bill the codes? [LB901]

KALYNDA KUHL: Correct. [LB901]

SENATOR HOWARD: Okay, thank you. [LB901]

KALYNDA KUHL: Yeah. [LB901]

SENATOR CAMPBELL: So in Number 4, that is that you're not able to bill that. We just want to make sure we're real clear. [LB901]

KALYNDA KUHL: Currently, public health hygienists are having a hard time billing for screening and assessment codes. They're not...and caries risk... [LB901]

SENATOR CAMPBELL: Because it doesn't specifically spell out, anywhere in the credentialing, that that's what you have. Is that why you're not...why the codes...you're not getting paid for those codes or can bill for them, because it's not spelled out anywhere? [LB901]

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KALYNDA KUHL: Yeah, I think. I guess I'm not sure on that, what you're asking there. [LB901]

SENATOR CAMPBELL: Well, you want it included in the bill, in this bill, Senator Kolterman's bill, LB901, in order to be able to bill that... [LB901]

KALYNDA KUHL: Correct. [LB901]

SENATOR CAMPBELL: ...to Medicaid or Medicare or whoever you're billing for. [LB901]

KALYNDA KUHL: Um-hum. Right, Medicaid. [LB901]

SENATOR CAMPBELL: Okay. Because without that, that's what's calling into question that ability. [LB901]

KALYNDA KUHL: Correct. [LB901]

SENATOR CAMPBELL: Okay. Did that answer? [LB901]

SENATOR HOWARD: Yeah, that's great. Thank you. [LB901]

SENATOR CAMPBELL: I was confused myself. Okay. Do you plan to go back to the 407 with any different proposal? [LB901]

KALYNDA KUHL: No, not at this time. [LB901]

SENATOR CAMPBELL: Okay. Any other questions? Thank you for your testimony. [LB901]

KALYNDA KUHL: Thank you. [LB901]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB901]

CRYSTAL STUHR: (Exhibits 5-6) Good afternoon, Senator Campbell and HHS committee. My name is Crystal Stuhr, C-r-y-s-t-a-l S-t-u-h-r. I am here representing, as I'm a director of a dental assisting program here in Lincoln, Nebraska. I also am an instructor at that program; been there for 14 years. I've been a chair-side dental assistant in a general office and in a specialty office.

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And I'm also the colegislative chair for the Nebraska Dental Assistants Association. I was part of the dental task force that was represented with Dr. Jack Wesch in 2010, and I do want to make sure that everybody understands that task force was developed with a large group of people and kind of spread throughout the state. We had dentists there, dental hygienists, dental assistants, and we even had an on-the-job-trained dental assistant there from Central City, Nebraska. And that's how we kind of started in our discussions. We sat down, just like Mrs. Cronick stated, every month, Friday afternoon, for over three years, meeting and discussing tremendous amounts of duties for the dental assistant and for the dental hygienist. When we got down to about January of 2014, we started writing our 407 proposal; and, at that time, the Nebraska dental assistants and the Dental Association came together and wrote that proposal. And, as we wrote that proposal, our biggest thing was safety. The bottom line, per the code of the American Dental Association, is: To keep the patient safe, a dental assistant or a dental hygienist or any dental auxiliary should not be able to do any function that is something that cannot be reversed...meaning, if I am a dental assistant and I am delegated that duty, I should be able to do the best job I can, but yet the dentist will then need to check that, under that indirect level of supervision. And, if it's not correct, they could remove that restoration and place it back to the proper way and function, without taking any other tooth structure away, so it would be completely reversible. So that was one of our key factors, as we developed the which duties we felt were appropriate or which duties we felt were not appropriate. I do have here today...like I said, I'm an instructor...our students are so very excited about adding this as a profession in the state of Nebraska. They are ecstatic because right now, in dental assisting, you don't have to have formal education to be a dental assistant. And all of our students that are here today and many others and all over the colleges, they have choosing to make the difference. And they're choosing to try to make it become a profession, on a voluntary basis, which...I have in the back of the room nine students that are here, and they're going to be graduating in March. And they love the fact that they're not going to be in a stagnant profession. They're going to be in a profession that could have possibilities for growth and expansion. And so many times when I meet with dentists, they say: I have this dental assistant; I wish I could do more with her. I know she's going to leave the profession. I don't want her to leave my office. But if we have advancement for them, for them to encourage them to continue their education, engage into those different educational areas, complete those, all the testing and requirements, so they can keep them, keep them engaged and keep them within the program at their office. So I think it's a win for the patient; we can see more patients. I think it's a win for the dental assistant, because the dental assistant has advancements. And I think it's a win for the office. We like to see the same faces when we go to the dentist. I know the public is like, Wow...there's a new face there. Why is there always a new face when I go to the office? I like it when I see the same faces. And so, hopefully, that keeps some of that retention there. So, as we looked at all the other states, this is what we came up with. We felt like this was the best fit for us. I know we used the Missouri model a lot, based off of their expanded functions. And that's kind of where we geared everything, based off of the

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Missouri expanded functions that they're using today for dental assistants. Thank you so much for your time. [LB901]

SENATOR CAMPBELL: Thank you, Ms. Stuhr. Questions from the senators? Ms. Stuhr, just before you leave... [LB901]

CRYSTAL STUHR: Um-hum. [LB901]

SENATOR CAMPBELL: Were you involved in putting together, then, the 407? [LB901]

CRYSTAL STUHR: Yes. [LB901]

SENATOR CAMPBELL: Okay. And so you followed that process... [LB901]

CRYSTAL STUHR: Yes. [LB901]

SENATOR CAMPBELL: ...and you testified... [LB901]

CRYSTAL STUHR: Yes. [LB901]

SENATOR CAMPBELL: ...I'm assuming, for that. [LB901]

CRYSTAL STUHR: Um-hum, yes. Yep. [LB901]

SENATOR CAMPBELL: Okay. I don't think I have any other questions, thank you. [LB901]

CRYSTAL STUHR: Okay. Thanks. [LB901]

SENATOR CAMPBELL: Our next proponent? [LB901]

JESSICA MEESKE: Good afternoon. [LB901]

SENATOR CAMPBELL: Good afternoon. [LB901]

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JESSICA MEESKE: (Exhibit 7) Madam Chairwoman and members of the committee, my name is Jessica Meeske. It's spelled J-e-s-s-i-c-a M-e-e-s-k-e. And I'm a children's dentist; I have practices in Hastings and Grand Island. And I'm also a newly-elected national trustee for the American Academy of Pediatric Dentistry. I'm so thrilled to be here today, speaking in favor of LB901. I've also been a part of this process for a number of years. And allowing members of my dental team to be able to do more for my patients is going to make a huge impact on the kids we serve; 70 percent of those patient visits are children that are eligible for Medicaid. And pediatric dentists see a disproportionate amount of kids on Medicaid in our state. In Nebraska, in 2014, only 52 percent of the kids who had Medicaid ever saw a dentist or had a dental home, so we do have some access issues. And because Medicaid covers nearly half of the kids in our state, that demand for us to see those children is only going to increase. But, unfortunately, the reimbursement is not increasing, so allowing us to delegate those duties where the dentist's expertise is not needed, so we can be more efficient in how to deliver that care, it's going to have a huge impact. And it's a model that medicine figured out decades ago; we're just really behind. The proposal we've outlined maintains that the dentist always has responsibility for all aspects of patient care, but it allows us to delegate the simpler procedures. As a member of the original task force, I think we've got a great solution that fits our stakeholders, and it makes sense for Nebraska and our population. Part of my role on the task force is, I had to compile the research on quality outcomes, patient safety, cost efficiency, access to care. That research is here. And I understand, since none of you have any reading you have to do in the evenings (laughter), you can let me know if you'd like to see this in more detail. But that's what the 407 process did, and they did a really good job of trying to sort through all that information. There's only a handful of things that we know that can have as big an impact as this would to make a dent in access to care and oral health of Nebraskans. But, unfortunately, a lot of those things...they're just politically unattractive. And you might be glad that we're not here today talking about things like water fluoridation, increased Medicaid reimbursement, or soda pop taxes. You've sat through those hearings before. We know they work, but we're here with a solution that we think is a better tool, or another tool, in our toolbox. Having the ability to use our already-existing workforce of dental assistants and hygienists in more meaningful ways to take care of patients, it recognizes the unique skills that they have, and it allows them to advance their careers. So let me illustrate an example for you of how this would work with a patient in my office. We'll take "Sally." Sally is a well-behaved five-year-old, and Sally needs an amalgam filling. She's had many good dental visits in the past, and we know that Sally is a good helper. The way the law is now, my hygienist already comes over and numbs Sally up. Or should I say, gives Sally some sleepy water to numb her mouth? I am a pediatric dentist, remember. Then, while we're waiting for Sally's sleepy water to take effect, the hygienist explains what the procedure is, or the assistant may be explaining this. And they'll say something like this: Dr. Meeske is going to use Mr. Whistle...that would be the dental drill...to remove the sugar bugs in your teeth. And then she'll put a silver star...the silver filling...in its place. But if this new bill becomes law, what I'll do is go in, remove the decay as I always would, but then I can delegate to my trained staff member to come in and do

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the silver filling. Now I have to come back and check that and make sure that it's okay and the quality is good. And if something happens where that filling doesn't hold up, that's on me to go back and replace that and make it right. And if it's not done right, besides a negative clinical outcome, I get to be all over Facebook with all the other moms talking about how the care wasn't good. So there is many, many safety nets built in to assure that quality. Once Sally's filling is completed, and I check to make sure everything is good, Sally is a happy camper. She gets to go pick out her prize. But now Mom is a happy camper, because Mom didn't have to wait a long time to get that appointment scheduled because she has children with Medicaid and it's hard to find a dentist to get in. But she's also happy because I didn't get delayed during that time, because I got called over to take care of, now, an emergency patient that walked in. We'll call her "uncooperative Katie," who broke off her front permanent tooth in P.E. And now Katie needs a princess crown with some happy gas. That's not the thing I delegate; that's the thing the dentist is going to have to do. Several years ago I became so interested in this topic, I visited other dental practices in other states. The quality of the care was exceptional, and the dentist was able to spend more time with the patients, the parents, and listen. Thank you for considering advancing this bill. If passed, it will help pediatric dentists; it will help general dentists; it will help federally qualified health centers and public health clinics. And it's very important to what we do. Thank you. And I'd be happy to address any questions, including the five issues that were brought up. [LB901]

SENATOR CAMPBELL: Okay. I'm going to start with Senator Riepe. And then we'll just work around here. [LB901]

SENATOR RIEPE: Thank you, Senator Campbell. I wish my dentist would talk to me nicely about Mr. Whistle (laughter) and Princess Gas, and things like that, too. But it kind of cuts right to the point. Before I ask my question, too, are you the proud mother of the star basketball player? [LB901]

JESSICA MEESKE: Yes, I am. [LB901]

SENATOR RIEPE: Well, congratulations. [LB901]

JESSICA MEESKE: Thank you. [LB901]

SENATOR RIEPE: I understand that she set a number of records, and so... [LB901]

JESSICA MEESKE: Yes, she did. Thank you. [LB901]

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SENATOR RIEPE: Boy, bully for you. [LB901]

JESSICA MEESKE: Hmm. [LB901]

SENATOR RIEPE: I guess the question is, too, is Hastings now using fluoride in the water? Or is that... [LB901]

JESSICA MEESKE: No, we're not. [LB901]

SENATOR RIEPE: Is that an issue? Or...you're from Hastings, so I'm picking on you because of that. [LB901]

JESSICA MEESKE: Yeah. It's absolutely a huge issue. And you have no idea the number of hours and time I've spent trying to educate my community, my city council members. This would be the Number 1 thing that would have an impact on reducing dental disease in my community, but because of the political nature of the issue, it's just been extremely difficult to pass. So we were one of the 49 communities that opted out several years ago after the state bill was passed. [LB901]

SENATOR RIEPE: Um-hum. The one question I do have is, is I know there's some discussion on...we're all very keenly aware of fiscal notes...and I think the fiscal note here was based on the University of Nebraska's Med Center two FTEs. [LB901]

JESSICA MEESKE: Um-hum. [LB901]

SENATOR RIEPE: Do you have any reaction to that? Or do you... [LB901]

JESSICA MEESKE: No, I'll let Senator Kolterman, as he mentioned, and our lobbyist sift through that. I can tell you, you know, there's many of us that work in the community and have students in to our practices and do what we can to help the dental school. But, you know, that kind of came in the eleventh hour here, and we know that that has to be addressed further. But I don't work for the university. [LB901]

SENATOR RIEPE: I would also like to echo Senator Campbell's comments, I think from last year, that expressed our appreciation for being there in the center of Nebraska for the kids. [LB901]

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JESSICA MEESKE: Absolutely. [LB901]

SENATOR CAMPBELL: Senator Crawford? [LB901]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell. And thank you for your testimony. I wondered if you would speak to whether or not a state registration requirement for dental assistants was part of your initial discussion, and whether or not it was part of the 407 proposal that you evaluated. [LB901]

JESSICA MEESKE: Sure. I'd be happy to address that. And thank you for the question. Yes, when our task force was meeting, this was something that was brought up. And it was the first time we had thought about it. And I think, for the dentists on the committee, we thought: yeah, that's an interesting idea. That's maybe something we should think about and explore a little further. And there were two main reasons that that was not able to be accepted by the Nebraska Dental Association. The first was, is Dr. Wesch and myself, we went and met with Dr. Joann Schaefer when she was the Chief Medical Officer. And we talked about the initial concepts behind this proposal, and what did the department think in terms of how this would work with what they do. And she said she was just dead set against a registration process, because the department was already so bogged down with how many different groups they had to register and license. And she even went as far to say if it was up to her, she would not license the cosmetologist. She just doesn't feel there is a public safety issue. And so when we learned that, we thought, boy, this could be an uphill battle with the department being one more level of bureaucracy that they're going to have to go through for the thousands of dental assistants. The second thing that made us reconsider this was that many rural dentists did not want to register their dental assistants. They worked well with on-the-job-trained people. If they're fortunate enough to get somebody who's been formally trained, even better. But they felt the status quo was working great. And we haven't had patient safety issues from not registering dental assistants. So without really having the support of the dentists to get behind it, those of us that thought it could have been a possibility, we just were completely outnumbered, and we would not have been able to advance the proposal, had we had put that in. And it was addressed in the 407. [LB901]

SENATOR CRAWFORD: When you say it was addressed in the 407, what do you mean by that? [LB901]

JESSICA MEESKE: Well, it was...I believe it was brought up by the NDHA's proposal. [LB901]

SENATOR CRAWFORD: Oh, I hear what you're saying, okay. [LB901]

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JESSICA MEESKE: And their proposal was defeated. [LB901]

SENATOR CRAWFORD: Oh, I hear you. Okay, thank you. [LB901]

JESSICA MEESKE: Um-hum, um-hum. [LB901]

SENATOR CAMPBELL: Senator Howard. [LB901]

SENATOR HOWARD: Thank you, Senator Campbell. Nice to see you here again. [LB901]

JESSICA MEESKE: Nice to see you. [LB901]

SENATOR HOWARD: I'm glad we're not working on RAC audits this year (laughter). [LB901]

JESSICA MEESKE: I am, as well. [LB901]

SENATOR HOWARD: I wanted to clarify some of the billing, because billing was brought up previously. [LB901]

JESSICA MEESKE: Yes. [LB901]

SENATOR HOWARD: So you would be billing the same codes for the same service, only somebody on your dental team would be performing that service? [LB901]

JESSICA MEESKE: Yes. So the billing still goes out of whoever, in my practice, does the billing. And it still goes out under the dentist's name. [LB901]

SENATOR HOWARD: Okay. [LB901]

JESSICA MEESKE: If it were done through a public permit dental hygienist, I'm not sure how they would bill that out if they get paid directly; I believe most of them are contracted through district health departments and other public health entities in our state. But I think the issue that the NDHA was bringing up is this notion of a dental hygiene diagnosis and then the billing part of that. And what's really important to understand is that's what separates a doctor from a non-doctor, is the ability to diagnose. So if a hygienist or any other member of the dental team that's not the dentist is able to diagnose, what you're saying is they've been trained to understand what

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tooth decay looks like, how to diagnose it on an x-ray, how to diagnose periodontal or gum disease, and even how to recognize and diagnose things like oral cancer, dental trauma. I mean, there is a million different types of diagnosis within the mouth. Okay? So what happened is the American Dental Association designated two codes called dental assessment and dental screening. Those codes...it is acceptable for dental hygienists to say they are doing an assessment or they're doing a screening. As far as billing it out, private insurance is still looking at this issue. I can't control what Blue Cross or Delta Dental decides they're going to pay for. There's many things I wish they paid me for, but I don't get paid. But that's the direction it's moving. Specific to Medicaid, I chair the Medicaid committee for the Nebraska Dental Association, and in late December I met with Calder Lynch, and I specifically requested that dental hygienists in our state do receive reimbursement for both screening and assessment. Where that process is at is the dental Medicaid program is undergoing an RFP, so the dental will go into managed care. And the department is in the process of writing the RFP. The only thing I can do, at this point, is to make them aware that the Dental Association supports that hygienists be able to do that and be reimbursed. It will be up to the department, as well as the vendor, to decide whether or not they'll do that. [LB901]

SENATOR HOWARD: Perfect, thank you. [LB901]

JESSICA MEESKE: Um-hum. [LB901]

SENATOR CAMPBELL: Other questions? Dr., oh, sorry. Senator Riepe? [LB901]

SENATOR RIEPE: Thank you, Senator Campbell. How much influence or input will you have on the RFP, or is that part of the RFP that's already been issued and given back? [LB901]

JESSICA MEESKE: No, no. It's still in the process. And I feel that the Dental Association, through myself and the NDA president and our executive director, have been as proactive as we can be with our suggestions, what we'd like to see. In that proposal we've looked at best practices in other states, other Medicaid programs. [LB901]

SENATOR RIEPE: Hmm. [LB901]

JESSICA MEESKE: But, ultimately, it will be up to Calder Lynch and his team to put in that RFP what they want and what they think best meets the needs of the program. And the thing they have to consider is what's the fiscally responsible thing to do. As the dentist, I want everything in that program...you know I want to help every kid, with every tooth, every day. The bottom line is

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there's only a certain pot of money, and so we have to make it stretch as far as we can, treating the neediest kids with the worst problems, seniors, special-needs adults, etcetera. [LB901]

SENATOR CAMPBELL: Okay. [LB901]

SENATOR RIEPE: Very good, thank you. [LB901]

SENATOR CAMPBELL: Dr. Meeske, I'd add my thank you. I mean, when I came to the Legislature, I met you. And I know you've been working on this a long time and really have been a voice for dentists taking Medicaid patients. That's just commendable. At one point in your testimony you said: if you would like me to go through the five points...I would like you to go through the five points. [LB901]

JESSICA MEESKE: I think two of them we've covered. [LB901]

SENATOR CAMPBELL: I think we covered the state registration issue. [LB901]

JESSICA MEESKE: Um-hum. Right. [LB901]

SENATOR CAMPBELL: I think you answered that one. Coronal polishing should remain under indirect supervision for the dental assistant. [LB901]

JESSICA MEESKE: Right. And my understanding is, this is something that the Nebraska Dental Association would be willing to cooperate on. [LB901]

SENATOR CAMPBELL: Okay. [LB901]

JESSICA MEESKE: That's a small issue. And if that's something that we can come together on...I will say I think it's a loss to the public health permit hygienists. In other words, if that individual is serving children in a low-income school, and she has dental assistants under her, he or she would not then be able to have them clean patients' teeth without that. But that's something we're willing to work together. [LB901]

SENATOR CAMPBELL: Okay. And the next one is seating of permanent prosthesis by the dental assistant and dental hygienist. [LB901]

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JESSICA MEESKE: Okay. So the first thing I want to do is be really clear. Pediatric dentists don't seat permanent fancy crowns and bridges. We're the princess crown people, remember? The stainless steel crowns, things like that, more on primary teeth. So, but this is what I do know about this, is, first of all, dental assistants who are already trained to make the temporary crowns, and that's a very technique-sensitive issue. I remember that from my training in dental school. I wasn't very good at it; that's probably why I'm doing what I'm doing. And so they're making the temporary crown while the permanent crown impression has been sent to the lab. And then it comes back. And then the dentist would cement it to the tooth. No dentist is going to delegate cementing something that they feel that there could be a significant enough error that they're going to have to take their time and spend their own money to have that crown remade, because those crowns are made of such precious materials...gold, porcelain, and things like that. Plus the lab cost to do it, they will be very careful before they delegate that. And then, also, making sure that it's done right...the dentist really assumes the risk in all of that. And the dentist is going to check it when it's done to make sure it's right, the bite is correct, it feels okay. And it's just like anything else. If your patient is not satisfied, it doesn't feel right...you know...you're going to do everything you can to make it right; otherwise the word on the street is going to be you're no good. [LB901]

SENATOR CAMPBELL: Okay. And I think we may not have covered that for you. The dental hygiene diagnosis...I think we covered it. [LB901]

JESSICA MEESKE: I think we covered that. [LB901]

SENATOR CAMPBELL: And the local anesthesia for the dental hygienist under general supervision. [LB901]

JESSICA MEESKE: Right. Okay, so this issue was also something that was discussed by the task force. And you have to remember the task force is this loose group of people that have a common idea that we want to move forward and try to figure this out and keep the politics out of it and things like that. So we were just thinking, pie in the sky, what might be the best model we could look at. But then reality comes into play, and each of these groups have to go back to their respective associations. That was a big day for me, with all the time that we had put into this bill...those dentists that were on this task force...that was one of the things that we simply could not get the dentists to buy into, and particularly the oral surgeons. They just felt there was too much risk to patient safety, that if you had a medical emergency...you had a medically-compromised adult who's on ten different medications...maybe they have a substance-abuse issue. Now you have a hygienist who has given an injection; something happens to the patient in the office; the dentist is not on the premises. It was an absolute no-go. And, at some point, you have to decide, as you're all aware of in your current roles, do you say I'm not going to budge, or

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do you say we'll have to come back and look at this at another time because, clearly, we cannot move this forward without the support of our oral surgeons. And we had many oral surgeons and general dentists that just said: no way; we can't get behind it if it has this in here. [LB901]

SENATOR CAMPBELL: Okay. Follow-up questions by the senators? Thank you, Dr. Meeske. [LB901]

JESSICA MEESKE: Thank you. [LB901]

SENATOR CAMPBELL: Our next proponent? Okay. Those who oppose the bill? Those in a neutral position? Okay. Senator Kolterman, I'm back to you. [LB901]

SENATOR KOLTERMAN: Senator Campbell, once again, thank you for the opportunity. It looks like we have our work ahead of us yet on a few issues. Sounds like some are going to be able to move forward and some are not, but that's what we do every day around here. So we'll continue to work at that. And we'll find out about that fiscal note. [LB901]

SENATOR CAMPBELL: Okay. [LB901]

SENATOR KOLTERMAN: Thank you for your time. And I'd really like to thank all the hard work from the people behind me that have gone into this, including the dentists, the dental hygienists, dental assistants, and the lobby that's worked hard to get this through. So thank you. [LB901]

SENATOR CAMPBELL: I had the opportunity, very early in that process, to be invited to a Friday afternoon. And I left that Friday afternoon. I said, I think I'll let you all work this out (laughter). And obviously, they have been working since then. So we appreciate it. Thank you, Senator Kolterman. That concludes our hearings for the day. Thank you, everyone. [LB901]