

**B. HANSEN:** Thank you, Chairman Arch and members of the Health and Human Services Committee. You heard two nice, simple, easy bills and this is number three. Maybe, maybe not. My name is Ben Hansen, B-e-n H-a-n-s-e-n, and I represent District 16. Today, offer LB1249 to the committee to update the Medical Nutrition Therapy Practice Act. The Nebraska Academy of Nutrition and Dietetics asked me to introduce this proposal to modernize the statutes that have been in place since 1995, and importantly, to rename their professional license. Dietitians in Nebraska refer to them as LMNTs, Licensed Medical Nutrition Therapists, have a unique role in healthcare, and their skills, education, and population served are also unique. This bill is intended to update their practice and, and regulate how it is regulated, not to change how others practices are allowed to work. I am passing out an information sheet that shows the changes proposed by the bill. You might have that in front of you now. The Licensed Medical Nutrition Therapists' license is being converted to Licensed Dietitian Nutritionist to be consistent with the licensure terms that are used nationwide. Nebraska is the only state to refer to dietitians as LMNTs which cause confusion for patients and some insurance companies. An additional pathway for licensure is established for Licensed Nutritionists who are trained as certified nutritional specialists who do not currently have a pathway to licensure in Nebraska. There's a lot of acronyms here, so you got to follow with me here. Sorry. Also, medical nutrition therapy is better defined in the bill. The Nebraska Academy of Nutrition and Dietetics submitted its corresponding 407 application to DHHS in 2020, and the Technical Review Committee met six times over the course of five months to discuss the application. I believe you have that in front of you also. The 407 Technical Review Committee, the Board of Health, and Dr. Gary Anthone, the director of Public Health Division, all gave unanimous approval. I understand there's some misunderstanding around the complex language of the bill that has brought out some opposition from holistic healers, CrossFit leaders, and others. Lastly, I want to draw your attention to AM1728. After receiving communication from a local naturopath who is concerned about their ability to continue practicing under the new credential, the first change clarifies that any physician, not just a primary care physician, may consult with an LDN or LN. We also worked with the Nebraska Health Care Association, who is concerned about the cost of hiring LDNs or LNs at assisted living facilities. The second and third changes would ensure their facilities are not required to do more than they are doing today, and the third

change removes language also at the request of the NHCA to give more freedom to assisted living facilities. And we also understand after this amendment, the Nebraska Health Care Association still has some concerns, as I'm sure they'll share. We all know the reputation of scope of practice bills, which I'm sure we all love to have in front of this committee. And while the 407 credential review at DHHS does not help with the more technical aspects of healthcare or does help us with the more technical aspects of healthcare, the real work of compromise comes now, and we're open to continuing this work with all stakeholders on this important issue. So in saying that, I feel we, as legislators, need to listen to all stakeholders and people affected by our bills. And this bill is no different. Even though this bill has gone through the 407 process, I feel, and others, that this bill still needs work. I think right now this is a great opportunity to open up communication between those who are for the bill, those who are opposed to bill move forward and with that communication work over the interim and over the summer to come up with even a better bill next year. And so with that, I'm going to ask the committee that they do not move this bill forward this year because I feel like it needs more work, which I'm sure will happen over the summer and over the interim. So with that, I will take any questions, and I'm sure there will be others behind me to describe the process of this bill further, if needed.

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

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

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

**M. CAVANAUGH:** OK.

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

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

**B. HANSEN:** Or ask me later.

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

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

**ARCH:** Senator Walz.

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

**B. HANSEN:** From my understanding, which I'm sure they'll describe later, they use dietitians kind of in a different manner than maybe some other institutions might. And so this bill might negatively impact them where they have to be credentialed or licensed, or they may not be able to use them, have to send out somebody else to a licensed dietitian. And so that was some of the work that was done to the 407-- after the 407 process to, to work with them and try to alleviate some of their concerns, which they may not have done all the way.

**WALZ:** OK. All right, thank you.

**B. HANSEN:** Um-hum.

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

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

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

**B. HANSEN:** Yes.

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

**MEGAN HALL:** Good afternoon, Chairman Arch and members of the Health and Human Services Committee. My name is Megan Hall, spelled M-e-g-a-n H-a-l-l, and I am testifying in support of LB1249 as the president of the Nebraska Academy of Nutrition and Dietetics. I am a registered dietitian and due to my practice as a dietitian, I am licensed in 16 states, including Nebraska. I received my credentialing from the

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University of Nebraska-Lincoln and my required internship program at the Augusta Area Dietetic Internship in Augusta, Georgia. The Nebraska Academy of Nutrition and Dietetics is committed to improving the health of all Nebraskans and advancing the profession through research, education, policy, and advocacy. Our mission is to empower members to be Nebraska's food and nutrition leaders. First, we would like to thank Senator Ben Hansen for introducing this bill and recognizing the importance to the health and well-being of Nebraskans. LB1249 will update the scope of practice for practitioners of medical nutrition therapy to better align with the current realities of the provision of nutrition care in hospitals, healthcare facilities, private clinics, and even retail establishments that currently provide patients and customers with the services of a Licensed Medical Nutrition Therapist. Testifiers that follow me are experts in this field and have worked tirelessly on the details of the scope of practice for medical nutrition therapy, not just now, but also when the current laws were put into place in 1988. Paula Ritter-Gooder, is a member of our organization who has volunteered countless hours on behalf of our organization to shepherd our proposal successfully through the 407 credential review process at the Department of Health and Human Services. She will testify on that process and on the drafting of the legislative bill and can answer questions you may have. Toni Kuehneman, also a well-respected veteran in the practice of medical nutrition therapy, will provide you with the experiences highlighting the need for these reforms. I would like to highlight the letters of support from the Nebraska Hospital Association, the Nebraska Medical Association, Nebraska Academy of Family Physicians, and importantly, from many of our members who are currently practicing Licensed Medical Nutrition Therapists who support this bill as a protective of patient safety. Additionally, I would like to call your attention to letters of support from our national organization, the Academy of Nutrition and Dietetics, who has helped us and other organizations in several states to update their scopes of practice. On behalf of our 523 members at the Nebraska Academy of Nutrition and Dietetics, we respectfully request your support and advancement of LB1249 and thank you for your time and attention and I can answer any questions you may have.

**ARCH:** Are there any questions?

**WALZ:** Can I--

**ARCH:** Sure. Senator Walz.

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

**MEGAN HALL:** I will let Paula answer that question.

**WALZ:** OK.

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

**WALZ:** All right, thanks.

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

**MEGAN HALL:** Thank you.

**ARCH:** Next proponent for LB1249.

**WILLIAMS:** Welcome and good afternoon.

**PAULA RITTER-GOODER:** Good afternoon, my name is Paula Ritter-Gooder, P-a-u-l-a R-i-t-t-e-r hyphen G-o-o-d-e-r. I'm a Licensed Medical Nutrition Therapist with a PhD in nutrition, and I practice in skilled and long-term care facilities in Nebraska. I'm speaking here on behalf of the Nebraska Academy of Nutrition and Dietetics in support of the LB1249 to update and modernize the Medical Nutrition Therapy Practice Act that was passed in 1995, nearly 25 years ago and largely unchanged since then. The Academy of Nutrition and Dietetics, which is our national organization, actively engaged in supporting and drafting LB1249. Standards of practice and scope of practice documents published by the Academy were used in drafting the bill. We have worked diligently with key healthcare stakeholders to achieve consensus on workflow practice, scope, or statute language. Our bill was unanimously approved as said before in March 2021 by the Technical Review Committee and the Board of Health and the Director of Public Health Division. The purpose of our bill is to document the current scope of practice that registered dietitian nutritionists follow to provide medical nutrition therapy and to reduce healthcare costs. Medical nutrition therapists will be able to more effectively provide timely nutrition therapy to critically ill patients. For example, consider patients who are screened at risk of malnutrition, a common condition to older Nebraskans in poor health, and an increased healthcare costs for that. The medical nutrition therapist performs a

nutrition assessment, identifies specific nutrition diagnoses and can then immediately implement interventions to resolve or improve the condition. Those interventions might be things like therapeutic diets, vitamin mineral supplements, oral nutritional supplements, and we continue to monitor and evaluate progress to achieve positive outcomes. So the bill is mainly comprised of three elements. The first element defines medical nutrition therapy and the nutrition care process and the terminology that our clinicians use in this day. Medical nutrition therapy is but one part under the umbrella of nutrition services, and it does not include general nutrition. Medical nutrition therapy is complex. Beginning in 2024, a minimum of a master's degree with supervised practice experience is required for all new applicants. Authorizations for therapeutic diet order writing are clarified and according to the Centers for Medicaid and Medicare Services, diet order writing can realize an annual cost savings of \$14.5 million in Nebraska. So ordering laboratory and medical tests to monitor our interventions, including enteral and parenteral nutrition, that be feeding through a tube or through the veins, and adjusting medications using physician established protocols are included. Allowing hospitals, nursing homes, and medical staff to benefit from our clinical skills retained is the requirement to practice with consultation of physicians as endorsed by the Nebraska Medical Association. The Nebraska Pharmacists Association assisted with statute wording. The second major component adds an alternate pathway to licensure. In the interest of being inclusive of a broader group of qualified nutrition professionals in protecting the public, we included a new pathway for licensing certified nutrition specialist who meet eligibility requirements. A large part of the bill addresses these objective qualifications, which include structured academic programs and prepractice supervisory experience criteria. We believe the requirements negotiated with the group are fair and necessary for the protection of public safety. The proposed class of qualified supervisors is more expansive that is typical in Nebraska to accommodate both the variety of licensure laws and exclusivity requirements and the variety of licensed and unlicensed practitioners that would supervise these candidates prepractice experiences. Thirdly, we terminated, as was said before, the credential of the Licensed Medical Nutrition Therapist, and we replace it with two credentials based upon the pathway to licensure: Licensed Dietitian Nutritionist or a Licensed Nutritionist. These credentials align with those adopted by other states and promote interstate compact agreements. Finally, LB1249 would not impact individuals promoting

general nutrition information if they do not treat or manage a disease or medical condition. It is critical to understand that medical nutrition therapy is used for diseased states, not nutrition, health and wellness promotion. The exemptions in our current bill were modified to, to provide this clarity. Am I out of time? I can't see for sure, they're all on.

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

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

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

**PAULA RITTER-GOODER:** Thank you.

**WILLIAMS:** --and finish your testimony.

**PAULA RITTER-GOODER:** Thank you. What I wanted to add is the exemptions in our current bill that we have now were modified in our new bill to provide clarity to who the exemptions are for. Exemptions exist for those providing general nutrition information and counseling, which is easily accessed from numerous government and official healthcare websites. Exemptions exists for trained facilitators who work, say, with patients with health conditions who have prediabetes or who require weight management when using curriculum, of course, that is approved by licensed health professionals. The bill does not regulate the sale of dietary herbal supplements. The bill does not limit health coaches, trainers, or gym employees from working with healthy Nebraskans to improve their general nutrition and fitness. Health coaches and trainers recognize registered dietitian nutritionists as a credible nutrition source. So in summary, the potential for direct or indirect harm due to delayed, inappropriate, or fraudulent medical nutrition therapy is real, real when you realize the level of acuity for patients who meet with medical conditions. So over, over-- overall modernizing this Practice Act will strengthen the Nebraska law for protection of health, safety, and welfare of the public and reduce healthcare costs. Thank you for your attention. Any questions?

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

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

**PAULA RITTER-GOODER:** Thank you.

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

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

**M. CAVANAUGH:** OK.

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

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

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

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

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

**M. CAVANAUGH:** Sure.

**PAULA RITTER-GOODER:** --or with obesity above a body mass index of 30.0, kind of how we define that in, in medical terms, anyway. It would be important to understand the medications, perhaps, that you are on to understand how they would interact with diet and nutrition to understand the metabolism of your system to create a-- an eating plan or guide you in appropriate and safe nutrition guidance and



counseling is, is, is maybe loosely used. A nutrition education can be done by many people. Counseling perhaps done by many people, too. But you need to really be trained in the behavioral theories of counseling as far as how to motivate and get a person internally incentivized to, to move beyond where they are to where they want to be. Was that an appropriate answer to your question?

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

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

**M. CAVANAUGH:** OK.

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

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

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

**PAULA RITTER-GOODER:** Oh, I, I, I did want to reply. Senator Walz asked about the assisted living facility and would this, this proposed bill

impact what they do? And my response to that is, no, unless they provide medical nutrition therapy in the form, say, of a particular therapeutic diet for a resident or a tenant who has celiac disease, food allergies. And you can see the necessity of that, so. They're not required to provide medical nutrition therapy.

**ARCH:** But if they do?

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

**ARCH:** OK. All right. Thank you.

**PAULA RITTER-GOODER:** Thank you.

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

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

**ARCH:** Good afternoon.

**TONI KUEHNEMAN:** --and the members of the Health and Human Services Committee. My name is Toni Kuehneman, T-o-n-i K-u-e-h-n-e-m-a-n, and I am a registered dietitian and a Licensed Medical Nutrition Therapist in Nebraska, and I am in support of this bill. As one of my colleagues stated, I'm the veteran. I worked on the first licensure bills at this-- before this committee in the 1990s. And let me tell you, there was much of the same confusion there is now. The same groups of people were opposed to our bill then, and they are now. They fear that our profession was attempting to stop their businesses or services. We were not then and we are not now doing this. Ultimately, we were able to craft exemptions that worked for those involved while still holding the importance of medical nutrition therapy provided by the dietitian and the treatment of specific disease. It is interesting to me to note that for over 25 years, our current statute has worked for our practice and for the groups who are currently opposing us now. We have coexisted all these years without problems to the best of my knowledge, and I did serve for five years on the Nebraska's Licensure Board, where no complaints were received. As an outpatient dietitian,

I have also worked with assisted living facilities and the opposition that you may hear, even as Senator Hansen has presented an amendment to you that we wrote with Nebraska Health Care Association, they continue to think that this new bill will require facilities to hire staff they are not currently using. That is not the case because Nebraska does not require assisted living facilities to provide therapeutic diets. Most of these facilities contract with food service providers, and they employ-- these food service providers employ dietitians to write weekly menu patterns and weekly menu plans. These menu plans follow the USDA guidelines and the MyPlate food plans that tend to be lower in sodium and saturated fat. I want to make a special note of language that we are offering the opponent groups that we know of right now. We address their concerns. First, we want to return or put back in, into the current exemption language found in Section 26 of the bill. This would be on page 13, line 19 of your bill, and this would now reinstate what we currently have: A license shall not be required for persons who provide information and instructions regarding food intake or exercise as part of a weight control program. Secondly, this would be on page 5, Section 12 and 13, or line 16 [SIC] and 19 of the bill. We also suggest striking the definition of and references to medical weight control and nonmedical weight control to remove any confusion and concern that those two terms seem to be causing. With these additional changes in the bill, we think that licensure necessarily remains for those who are treating disease through medical nutrition therapy and licensure is not required for those providing nutrition advice or services. Finally, while Senator Hansen noted our willingness to continue working with interested parties before the Practice Act change moves forward, the Nebraska Academy of Nutrition and Dietetics requests this committee to consider one small part of the bill to be moved forward this year. Nebraska is the only state that license dietitians as, as Licensed Medical Nutrition Therapist. It would relieve confusion, ease payment problems, and align Nebraska with other states if we were allowed to change the name of our license and change the statutory references from Licensed Medical Nutrition Therapist to Licensed Dietitian Nutritionist. Thank you for your time and I'm happy to answer any questions.

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

**TONI KUEHNEMAN:** Thank you.

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

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

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

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

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

**WALZ:** OK.

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

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

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

**SARAH BOUSE:** Hello.

**ARCH:** Hello.

**SARAH BOUSE:** So my name is Sarah Bouse, S-a-r-a-h B-o-u-s-e, and I am currently a Level 2 CrossFit trainer. So I am coming together just

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

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

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

**SARAH BOUSE:** To the change of names?

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

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

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

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

**WILLIAMS:** Thank you.

**ARCH:** Senator Cavanaugh.

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

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

**M. CAVANAUGH:** Sure.

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

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

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

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

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

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

**SARAH BOUSE:** Um-hum.

**ARCH:** Other questions? There's-- there have been a number of terms that have been used today: education, nutritional education, therapy,

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counseling, guidance. What do you-- how do you, how do you describe in CrossFit what you do in relationship to nutrition?

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

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

**DANNA SEEVERS:** Hello.

**ARCH:** Hello.

**DANNA SEEVERS:** My name is Danna Seevers, D-a-n-n-a S-e-e-v-e-r-s. I oppose the LB1249 for a multitude of reasons which I cannot state in five minutes because the bill is so long. I've been in the health and wellness industry for over 30 years. I'm currently a private health coach and wellness educator. I hold the title of nutritional therapy practitioner, which I earned from the Nutritional Therapy Association. I'm one of the oldest professional nutrition training programs in the United States. Under the current law, I'm free to practice within the scope and training of my education through the NTA. The current law is three pages long. This bill proposes 23 pages of new legislation. It actually might be one of the longest nutrition bills of any state in the country. When I found out about this bill just six days ago, I quickly flipped to the exemptions to make sure I was still OK to practice. Unfortunately, the new exemptions and the radically expanded definitions, seven pages worth to be exact, appear to no longer allow me to practice within the scope of my education and training. And worse yet, I was shocked to see my actual title of nutritional therapy practitioner listed as a title that no person shall use unless they are a licensed dietitian. So I'm just wondering what I'm supposed to do. Just abandon all my clients and close up my business? I'm trying not to take this personal, but with all this, plus what happened to my colleague in Omaha, I'm starting to feel like dietitians really don't want NTPs to be in business at all. A dietitian in Omaha actually reported an NTP to the Department of Health for providing nutrition services under a licensed doctor while using our title. The NTP was subsequently drug through a six-month investigation before everything was finally and completely dropped. According to their website, there are about 600 registered dietitians in Nebraska. I'm being very



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

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

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

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

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

**ASHE SCHALLES:** Thank you.

**ARCH:** Next opponent for LB1249.

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

education company, we publish the Health Hotline, which is a, a 36-page science digest magazine, which we print and mail to over 500,000 customers. We have podcasts, video productions. We have trainings. And before the COVID, we have demonstration kitchens of classrooms in the store. We're dead serious about this. It's also very, very expensive program to run. Why do we do this? 1955, Margaret Ardley [PHONETIC] Isely, our founder is desperately ill, seven kids, can't get well, keeps taking all the medicines that the doctors are suggesting she take and get worse. Then she refocuses on nutrition, chemicals in her house, in her food, what is-- what she's really responding to and slowly gets better, regains her health. And then she becomes one of those people like me that are insufferable at dinner parties and starts asking you all the questions about what you eat. But in fact, she put her money where her mouth was and slowly, carefully built this company over time into 160 stores in, in 20 states that's providing all of these services to the community. The focus of this is empowering our customers so they have the knowledge, the science, and the understanding of the structure and function of the body and the chemicals in the food, contaminants and pathogens that are in the environment so that individually they can make the best decisions for themselves, for their children, and for the elders that they're taking care of. So this brings us to, to LB1249, just have great concerns about this, endless new definitions that are contradictory scopes of practice nested within exemptions. The rulemaking on a statute like this would be incomprehensibly difficult, and I do rulemaking for a living in 20 different states. I don't see how we unravel this and create any consistency. And in the end, I'm going to be very blunt. This is a very small group of nutrition professionals that wants essentially to control the conversations and the practices of all the other nutrition professionals. It's important to understand that there are hundreds of bachelor of science, master of science, and PhD degree programs in human biology and nutrition that provide a pathway to really effective, helpful nutrition, professional counseling, education, and intervention roles. The Academy for Nutrition and Dietetics, when asked, claims there's approximately 600 RDs, registered RDs in the state. They couldn't tell me how many were practicing and how many were fully employed, but most of them are already in institutional roles. So with 2 million people, how do 600 people provide the services they're claiming only they can provide, and the tens of thousands of people at CrossFit or Natural Grocers, the, the, the other chiropractors, health professionals, all of those people, weight loss clinics that are providing these key

educational services? This is not even practical in our minds. Now the last thing, as the yellow goes off, this is also not in isolation. I've been doing this work in nutrition advocacy for 12 years. And for 12 years, I've seen these bills in every state from the Academy for Nutrition and Dietetics. Everyone starts with a lot of beautiful, flowery language and it's earnest and it's honest, and these are professionals who do a really good job. Ultimately, they're developing an exclusive scope of practice for the people that are holding those degrees from that curriculum. This is the greatest concern for us because the services and that we provide to the communities, including our communities in Nebraska, we believe are critical and should not be excluded because one group believes it should have greater control or dominance within this profession. Thank you.

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

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

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

**MURMAN:** Thank you.

**ALAN LEWIS:** Yeah.

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

**ALAN LEWIS:** Yeah.

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

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

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

**ALAN LEWIS:** Absolutely. It's an intake process for reviewing their credentials and their personal abilities for, for interaction, record keeping, speech, communication, you know, responding to supervisors, right? But then there's an extended period where they are very careful oversight of their work. They are trained one-on-one with our senior people. Everything that they do is reviewed and there's this intensive feedback loop. You didn't do this well here. This was wrong. This was better. And very often one of the qualifications, Senator, is that people don't like that feedback loop, and they're not comfortable with this constant oversight and what, what may feel like criticism. But we

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also have 14 people on staff developing the curriculum, developing the training. Those are masters of science. Those are PhDs. One PhD who did the original microbiome research with the, with the rodents at University of Colorado, who have no pathogens or bacteria in their system with Rob Knight, who's now at San Diego. This isn't an ad hoc feel good nutrition education marketing tool. This, this is the real deal where we have really dedicated professionals who are undergoing constant improvement, updated on new science, and have really strong references that they depend on to keep themselves and there-- our customers and our staff well-trained and focused.

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

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

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

**ALAN LEWIS:** Thank you very much, everyone.

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