

HOUSE COMMITTEE ON
HEALTH AND HUMAN SERVICES

March 9, 2005 Hearing Room D

8:30 A.M. Tapes 47 - 48

MEMBERS PRESENT: Rep. Tom Butler, Vice-Chair

Rep. Carolyn Tomei, Vice-Chair

Rep. Deborah Boone

Rep. Kevin Cameron

Rep. Mitch Greenlick

MEMBERS EXCUSED: Rep. Billy Dalto, Chair

Rep. Gordon Anderson

STAFF PRESENT: Sandy Thiele-Cirka, Committee Administrator

Pamella Andersen, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2102 – Public Hearing

HB 2059 – Public Hearing

HB 2061 – Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/# Speaker Comments

TAPE 47, A

004 Vice-Chair Tomei Calls the meeting to order at 8:34 a.m. Opens a public hearing on HB 2102.

hb 2102 – PUBLIC HEARING

010 Rolf Olson Member, Oregon Board of Nursing. Submits and reviews written testimony (**exhibit a**). Explains difficulties with present background check methods for those seeking nursing licensure. Notes other states have ability to conduct fingerprints checks, but Oregon relies on self-disclosure.

095 Olson States since they issue more than one license, they would prefer the bill language read certificate holder wherever licensee is used.

116 Rep. Greenlick Comments on various bills requesting fingerprinting of license applicants, and questions whether there may be civil liberty issues.

141 Olson Confirms this is a concern, but justified on the basis of public safety.

164 Rep. Greenlick Asks what alternative methods the board has explored to achieve the objective and what other organizations are doing.

170 Olson States the board is unaware of other methods and has been reticent to move to fingerprinting.

181 Kim Cobrain Program Executive for Compliance, Oregon Board of Nursing. Responds the board has reviewed other options, and wishes to remain noninvasive. Reports others have indicated there is no equivalent database.

244 Rep. Butler Asks what database is being used other than the Law Enforcement Data System (LEDS), and what other states use.

252 Cobrain Responds Oregon uses no other database, and 30 percent of other states conduct fingerprinting while others do internal checks.

254 Rep. Butler

Reports personal experience being fingerprinted for accountancy license in California 35 years ago. Suggests such might be a crime deterrent. Recommends considering a voluntary program.

- 293 Sandy Thiele-Cirka Administrator. Questions if a nurse were being investigated who was also licensed in another state, would fingerprints allow Oregon to have access to the records there.
- 306 Cobrain Responds no, FBI parameters disallow re-disclosure of information, including within the same government. Notes Long Term Care accesses information through DHS.
- 347 Rep. Butler Asks how many people hold licenses through the board; how many new applicants annually; and how often are they renewed.
- 350 Cobrain Reports 60,000 present licensees, with about 7,000 future licensees per biennium subject to fingerprinting. The board will not require fingerprinting of existing licensees.
- 390 Andrea Meyer Legislative Director, American Civil Liberties Union (ACLU) of Oregon. Offers testimony in opposition to HB 2102, HB 2059 and HB 2061. States need for safeguards against FBI adding fingerprints of innocent people to their database, and concern a rehabilitated member of society would be limited by their past record. Notes electronic transmission makes it difficult to monitor fingerprint retention.

TAPE 48, A

- 003 Meyer Continues testimony. Mentions HB 2157, the omnibus bill in the House General Government Committee that also addresses fingerprinting. Discusses the issue of oversight; where one draws lines on safety; and which ancillary personnel should be included.
- 108 Meyer Notes several amendments are being drafted for HB 2157, and the safeguard issues can be addressed in the bill.
- 117 Rep. Boone States concern with those entering the state with criminal behavior patterns. Notes medical patients expect their personal financial information and health history to be protected.
- 163 Rep. Greenlick Relates personal story of spurious charge of criminal trespass in 1968 which was dismissed in federal court, and how the charge resurfaced

and created difficulties when a coworker recently applied for a position in Arizona.

- 201 Meyer States the ACLU is concerned about establishing the criteria of rehabilitation and the destruction of fingerprints after use. Mentions recent report on Choicepoint who provides the service of collecting personal information and has contracted with the Department of Homeland Security.
- 267 Rep. Butler Returns to issue of health care and protecting the public. Asks to what level Oregon is willing to protect the public.
- 305 Meyer Urges the bills not be passed out separately, and notes there are other safeguards that need to be addressed.
- 315 Jim Carlson Executive Director, Oregon Health Care Association. Speaks to the bill, noting the need to coordinate the multiple criminal record check bills. Mentions Virginia's example of a central clearing house unit where all boards could conduct background checks. Notes need for expeditious processing.
- 382 Rep. Greenlick Mentions right to protect individuals from self-incrimination. States the need for testimony from the Oregon State Police (OSP) and FBI on the destruction of records.
- 436 Vice-Chair Tomei Closes the public hearing on HB 2102. Opens a public hearing on HB 2061.

hb 2061 – PUBLIC HEARING

- 441 Sandy Thiele-Cirka Administrator. Summarizes HB 2061.
- 460 Dave McTeague Executive Director, Oregon Board of Chiropractic Examiners. Supports HB 2061. Submits and reviews written testimony. Elaborates on their present fingerprinting procedure through the state police. Provides specific case of sex offender seeking licensure.

TAPE 47, B

- 015 McTeague Continues testimony. States need for specific statutory authority to access the FBI data. Notes the board does not intend to investigate certified chiropractic assistants.

- 040 Rep. Boone Comments when someone in Oregon applies to be on a board or commission they have to go through a background check. Asks how a criminal is followed and monitored when they leave their state.
- 055 McTeague States he is unsure of specifics.
- 061 Rep. Butler Reviews the impact of our inability to access records from other states. Suggests the statutory language allowing the Board of Chiropractic Examiners to request fingerprints should be considered in the omnibus bill.
- 091 Vice-Chair Tomei Closes the public hearing on HB 2061. Opens a public hearing on HB 2059.

hb 2059 – PUBLIC HEARING

- 097 Kathleen Haley Executive Director, Oregon Board of Medical Examiners. Submits and reviews written testimony (**exhibit c**) in support of HB 2059. Gives example of someone disciplined by another state board. Notes value of one entity confirming applicant qualifications. Reports OSP has indicated they destroy fingerprint cards. Mentions confidentiality agreements are signed by board members.
- 182 Rep. Greenlick Asks if the board has ever hired private firms to conduct background searches.
- 189 Haley Reports they have access to the actions of other licensing boards nationally.
- 199 Rep. Cameron Asks if Haley is privy to HB 2157.
- 202 Haley States the board would support being a part of that bill if it includes the specific language required by the FBI.
- 219 Patricia Whitfield Section Director, Identification Services Section, Oregon State Police (OSP). Addresses HB 2157. Notes federal law requires fingerprints to access a file for non-criminal justice purposes, and this can only be done through a state statute. Explains process when fingerprints have been received, and notes the database is fully contained within the OSP, is digitalized and is based on arrests.

- 378 Rep. Greenlick Requests clarification that the physical fingerprint card may be destroyed, but the digital is kept.
- 379 Whitfield Responds they have asked FBI to confirm they are also destroying the digital image, and will share that information with the committee when it is received. Notes OSP must provide criminal history to anyone who asks by means of a name search. Explains process.
- 463 Vice-Chair Tomei Asks how many such requests OSP receives per year.

TAPE 48, B

- 011 Whitfield Responds she will research and provide that information. Reports similar information can also be purchased from the State Judicial Network and the Department of Corrections. States the party being investigated is provided information on the inquirer, and receives a copy of what is released.
- 046 Vice-Chair Tomei Closes the public hearing on HB 2059. Adjourns the meeting at 10:03 a.m.

EXHIBIT SUMMARY

- A. HB 2102, written testimony, Kim Cobrain, 7 pp**
- B. HB 2061, written testimony, Dave McTeague, 1 pp**
- C. HB 2059, written testimony, Kathleen Haley, 3 pp**