

SENATE COMMITTEE ON JUDICIARY

March 20, 2003
8:00 a.m.

Hearing Room HR 343
Tapes 64-65

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Ginny Burdick, Vice-Chair
 Sen. Ted Ferrioli
 Sen. Charlie Ringo
 Sen. Charles Starr
 Sen. Vicki Walker

STAFF PRESENT: **Craig Prins, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 194 Public Hearing**
 SB 743 Public Hearing
 SB 497 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 64, A		
004	Chair Minnis	Calls the meeting to order at 8:10 a.m. and opens a public hearing on SB 194.
<u>SB 194 PUBLIC HEARING</u>		
013	Floyd Lanter	Department of Consumer and Business Services. Submits testimony and testifies in support of SB 194 that revises securities law. (EXHIBIT A) .
034	Sen. Ringo	Asks for clarification of page 6, line 45 of the bill regarding investment advisors.
040	Lanter	Explains the two categories of investment advisors.
064	Chair Minnis	Closes the public hearing on SB 194 and opens a public hearing on SB 743.
<u>SB 743 PUBLIC HEARING</u>		
073	Tim Kral	Oregon Rehabilitation Association. Submits testimony and testifies in support of SB 743 that extends tort liability coverage through Oregon Department of Administrative Services to private community care providers that provide services to persons with developmental disabilities or mental illness (EXHIBIT B) .
098	Chair Minnis	Remarks that liability insurance is becoming more difficult for the caregivers of persons with developmental disabilities or mental illness.
119	Frank Moore	Oregon Department of Human Services. Submits testimony and testifies in opposition to SB 743 (EXHIBIT C) . Explains that

147 Chair Minnis the department cannot support it because it is not in the Governor's Balanced Budget. Closes the public hearing on SB 743 and opens a public hearing on SB 497.

SB 497 PUBLIC HEARING

170 Sen. Frank Morse Senate District 8. Testifies in support of SB 497 that authorizes physicians, hospitals, pharmacies and certain other health care providers to require person to sign waiver of certain damages as condition of providing health care services to person.

278 Dr. John Sattenspiel Family practice physician, Salem, Oregon. Testifies in support of SB 497. Says that this bill helps to remove the concerns of medical malpractice under the tort system.

353 Dr. Tom Clark Internist, Albany, Oregon. Testifies in support of SB 497. Discusses the increase in malpractice insurance and how it is going to be paid. Says lawsuits are a huge cost to the system.

TAPE 65, A

034 Dr. Debra Johnson OB/GYN. Testifies in support of SB 497. Talks about giving up her obstetric practice. Says Salem has lost 9 physicians this last year.

072 Dr. Sattenspiel Talks about a situation in John Day, Oregon where family physicians have stopped doing obstetrics because of the cost of liability coverage. Says he is having to turn people away.

097 Dr. Robert Poole Urologist, Corvallis, OR. Testifies in support of SB 497. Says Corvallis is losing their doctors. Says he has been actively recruiting for three years with no result. Provides an internet recruitment flyer to committee (**EXHIBIT D**).

192 Sen. Ringo Wonders if tort caps are the answer, and wonders if Oregon should implement a self-insure program. Asks if there is a willingness by physicians to consider this.

240 Dr. Sattenspiel Says Oregon's Northwest Physicians Mutual is being hit as hard as the doctors.

256 Sen. Ringo Asks for some statistical data. Contends that there is a need in our society to hold people accountable.

282 Dr. Poole Says there is no such thing as perfect medicine. States that there is accountability and then there is excess.

312 Sen. Ringo Admits this is a problem in our state and feels strongly about finding a solution.

319 Dr. Sattenspiel Says the system assigned to assess a value for injuries and damages is not working.

344 Sen. Ringo Responds that settlements are so large because it is so expensive to bring action.

360 Sen. Walker Asks how this bill addresses the tort system.

367 Dr. Sattenspiel Explains that this bill puts a contractual cap on the non-economic damages.

422 Sen. Starr Talks about his mother's knee surgery. Says he is very supportive of this bill and anything that will take this problem out of the tort system.

488 Larry Mullens President, Samaritan Health Services. Testifies in support of SB 497.

TAPE 64, B

118 Sen. Ringo Asks what the legislature should do to improve the peer review process.

124 Mullens Expresses the need for early reporting and follow-up.

158 James Dorigan, Jr. Northwest Physicians Mutual Insurance Co. Submits testimony

		and presents a power point presentation in support of SB 497 (EXHIBIT E).
255	Sen. Walker	Asks for an explanation of indemnity payments.
257	Dorigan	Explains that it is the payment made to an injured party.
262	Sen. Ringo	Asks if that includes defense costs.
266	Dorigan	Says, no.
281	Sen. Walker	Asks what percentage of cases filed are being paid out.
283	Dorigan	Says about 25% of the cases filed are paid.
294	Sen. Ringo	Asks what percentage of cases that go to trial are won by the defense.
299	Dorigan	Replies, about 75%.
315	Bill Joseph	Committee Counsel. Asks what happens to the cases that do not go to trial.
319	Dorigan	Says they are dismissed or not pursued. Continues testimony discussing a number of statistics.
405	Sen. Ringo	Asks if the financial records of Northwest Physicians Mutual are available.
419	Dorigan	Says he is happy to provide those records.
443	Chair Minnis	Asks about loss reserves.
446	Dorigan	Says 98% of premiums is set aside.
467	Sen. Morse	Comments that this is a policy issue that is adversely affecting Oregon.
TAPE 65, B		
025	Michael Alexander	Oregon Trial Lawyers Association (OTLA). Submits testimony and testifies in opposition to SB 497 (EXHIBIT F).
095	Sen. Walker	Asks about previous testimony regarding increases in costs.
100	Alexander	Says he does not see a crisis in making affordable insurance available to all physicians if they are willing to share the risks.
168	Chair Minnis	Believes there are areas of concern in the Professional Liability Fund (PLF).
177	Alexander	Says the PLF is there to protect lawyers and the public. Continues testimony in opposition to SB 497.
234	Sen. Walker	Agrees that this bill is not the way to reform.
250	Chair Minnis	Wonders about the insurance monopoly issue.
256	Dorigan	Says contracts are not upheld that seek to waive basic rights for the delivery of necessities.
375	Vice Chair Burdick	Asks if the PLF provides incentives to identify lawyers with problems and provide assistance.
392	Dorigan	Says, yes, the PLF is very aggressive in that regard.
421	Vice Chair Burdick	Wonders about medical specialties sharing the cost of premiums.
436	Dorigan	Explains that there are higher premiums for people with high claims.
460	Chair Minnis	Closes the public hearing on SB 497. Discusses his plans for further meetings on this bill. Talks about the public hearing on SB 742, and adjourns the meeting at 10:00 a.m.

EXHIBIT SUMMARY

A – SB 194, written testimony submitted by Floyd G. Lanter, 4 pp

B – SB 743, written testimony submitted by Tim Kral, 1 p

C – SB 743, written testimony submitted by Frank Moore, 2 pp

D – SB 743, Internet recruitment submitted by Dr. Robert Poole, 1 p
E – SB 743, power point presentation submitted by James T. Dorigan, 8 pp
F – SB 497, written testimony submitted by Michael Alexander, 1 p
G – SB 743, written testimony submitted by Jeffrey Davis, 1 p
H – SB 743, written testimony submitted by David Hartwig, 3 pp
I – SB 497, written testimony submitted by Rose Spears, 2 pp