

HOUSE COMMITTEE ON HUMAN RESOURCES

SUBCOMMITTEE ON BOARDS AND LICENSES

Tuesday, April 6, 1999 Hearing Room E

5:30 P.M. Tapes 8 - 9

MEMBERS PRESENT: Rep. Knopp, Chair

Rep. Jeff Kruse

Rep. Jerry Krummel

Rep. Mike Rep. Lehman

Rep. Jackie Taylor

MEMBER EXCUSED:

STAFF PRESENT: Cletus B. Moore, Jr., Administrator

Kevin E. Wells, Administrative Support

MEASURE/ISSUES HEARD: HB 2109 Public Hearing and Work Session

HB 2175 Public Hearing and Work Session

HB 2179 Public Hearing and Work Session

HB 2131 Public Hearing and Work Session

HB 2178 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 8, A		

003	Chair Knopp	Calls the meeting to order at 5:35 P.M. Opens a public hearing on HB 2109.
<u>HB 2109 PUBLIC HEARING</u>		
006	Jim Stembridge	Committee Administrator. Explains HB 2109 changes the definition of clinical psychologist.
020	John Socolofsky	<p>Public Member, Board of Psychologist Examiners. Supports HB 2109. Submits and presents written testimony (EXHIBIT A). Explains the bill makes minor changes:</p> <ul style="list-style-type: none"> • Clarifies the practice of psychology to be consistent with legislative intent and current practice • Simplifies administration of the Board by modifying the licensing process for psychologists associates <p>Explains the need for these changes.</p>
080	Rep.Kruse	Asks if there is opposition to the bill.
081	Beth Ann Darby	Indicates that they know of no opposition to the bill.
086	Phil Barnhart	Psychologist Member, Board of Psychologist Examiners. Supports HB 2109. Agrees with Socolofsky's testimony.
089	Chair Knopp	Closes Public Hearing HB 2109. Opens Work Session HB 2109.
<u>HB 2109 WORK SESSION</u>		
093	Rep. Lehman	MOTION: Moves HB 2109 to the full committee with a DO PASS recommendation.
		<p>VOTE: 5-0</p> <p>AYE: In a roll call vote, all members present vote Aye.</p>
		<p>Chair Knopp</p> <p>The motion CARRIES.</p>
103	Chair Knopp	Closes Work Session HB 2109. Opens Public Hearing HB 2175. Asks for staff summary.
<u>HB 2175 PUBLIC HEARING</u>		

130	Stembridge	Summarizes HB 2175 and the ñ1 amendments (EXHIBIT B). Explains the bill narrows the scope of practice for clinical laboratories and modifies the fee schedule for licensure of clinical laboratories.
140	Mike Skeels	Director, State Public Health Laboratories, Health Division. Supports HB 2175 (EXHIBIT C). Explains the licensure process for laboratories. Reviews the federal law that regulates clinical laboratories, the Clinical Laboratory Improvement Amendment (CLIA). Notes that ORS 438 allows the state to regulate laboratories in a manner consistent with CLIA. Adds that Washington and Oregon are the only two states that are exempt from CLIA due to strict state regulations. Discusses the provisions of the bill.
180	Skeels	Discusses the current fee structure and the proposed increase of fees (EXHIBIT C). Explains the federal government charges an exemption fee. States that the fee is being fought by Oregon and Washington.
230	Skeels	Discusses the future funding needs of Oregonís clinical laboratories (EXHIBIT C). Explains the need to change state law concerning moderate to high complexity testing to ensure quality of operation.
300	Skeels	Concludes by stating that HB 2175 makes state regulation consistent with federal law and sets fees at a level adequate to fund programs.
315	Rep. Krummel	Asks where in the amendment is the provision to allow moderate complexity laboratories to perform 3 high complexity tests a year.
319	Skeels	States that it was in the original legislation. Adds that the provision needs to be removed.
337	Rep. Krummel	Asks if labs in small clinics will be exempt.
340	Skeels	Explains that no laboratories are exempt under federal law, so state law cannot exempt small laboratories.
355	Rep. Krummel	Asks about Medicaid or third party reimbursement.
357	Skeels	Explains that to receive Medicaid or Medicare a lab must be licensed under CLIA or licensed by an exempt state.
360	Audrine Horton	Program Manager, Laboratory Licensing. Explains that when the state licenses a clinical laboratory, that facility is issued a CLIA number that authorizes reimbursement from Medicaid and Medicare.
380	Rep. Krummel	Asks for clarification on the ñ1 amendment.

TAPE 9, A

004	Stembridge	Clarifies what the amendment changes in HB 2175.
009	Rep. Kruse	Asks if the Archer amendment is likely to pass in Congress or if HB 2175 is purely a preventative measure.
014	Skeels	States that HB 2175 is good policy on its own, but the Archer amendment would make it necessary.
025	Rep. Kruse	States that it is unusual for Congress to release so many people from any form a regulation at once.
030	Skeels	Explains that organized medicine was not supportive of CLIA.
039	Rep. Kruse	Asks how they will track low complexity laboratories.
0445	Horton	Explains that each test, for purposes of reimbursement, is tracked. Adds that if anyone practices outside of their scope of practice they are denied reimbursement. Acknowledges that some laboratories can evade detection.
056	Rep. Kruse	Asks if a laboratory that does not bill Medicaid or Medicare can be detected.
057	Horton	States that such laboratories probably would not be detected.
058	Ed Patterson	Oregon Association of Hospitals and Health Systems. Supports HB 2175. Discusses the complexity of small labs. Explains that accreditation is expensive. Reviews the history of the fee schedule. Explains why the fee schedule needs to be changed.
109	Patterson	States that labs do not want the federal government to oversee their accreditation, so the state-licensing program is important. Asks that the legislature help fight prohibitive licensure costs.
140	Rep. Kruse	States willingness to oppose the federal fee schedule and an exemption charge.
145	Chair Knopp	Asks if the fee will increase from \$1,200 to \$10,000 for some large hospitals.
147	Horton	States that accredited hospitals pay up to \$8, 000 in fees now. Explains that those who currently pay \$1,200 will increase to \$8,000. Adds that non-accredited hospitals will have their fees increased from \$3,850 to \$11,000.
160	Rep. Kruse	A comment that either the state does this or the federal government does.

163	Chair Knopp	Asks what the fee will be for laboratories in doctors' offices.
165	Skeels	Discusses the federal licensing scheme for small laboratories.
182	Bruce Bishop	Kaiser Permanente. Supports HB 2175. States that while there will be a substantial increase in license fees, they want to retain the Oregon licensing program.
202	Rep. Krummel	Asks if the costs are for all Kaiser Permanente locations.
204	Bishop	States it is the cost for all their accredited labs. Explains why the federal process does not promote quality medical care.
226	Rep. Taylor	Notes that the fee is indexed to the federal fees. Asks if the primary concern is that the state remains as the licensing authority.
232	Bishop	States that the index to federal fees is a short term fix to maintain the state program. Adds that future legislation and action by Congress is needed to cap fees of exempted states.
255	Chair Knopp	Asks if there is any opposition to HB 2175.
256	Skeels	Replies that he has talked to many groups and is not aware of any opposition.
263	Chair Knopp	Closes Public Hearing HB 2175. Opens Work Session HB 2175.
<u>WORK SESSION HB 2175</u>		
269	Rep. Kruse	MOTION: Moves to ADOPT HB 2175-1 amendments dated 4/6/99.
273	Rep. Krummel	States that he does not support increasing fees. Expresses opposition to the fact that the state is charged for exempt status
280		VOTE: 5-0
	Chair Knopp	Hearing no objection, declares the motion CARRIED.
290	Rep. Kruse	MOTION: Moves HB 2175 to the full committee with a DO PASS AS AMENDED recommendation.

		<p>VOTE: 5-0</p> <p>AYE: In a roll call vote, all members present vote Aye.</p>
	Chair Knopp	The motion CARRIES.
300	Chair Knopp	Closes Work Session HB 2175. Open Public Hearing HB 2179. Asks for staff summary
<u>PUBLIC HEARING HB 2179</u>		
310	Cletus Moore	Administrator. Explains HB 2179 authorizes the Oregon Board of Nursing (OBON) to order evaluations of licensees and applicants and makes other related changes to statute.
350	Mary Amdall-Thompson	Program Executive, Professional Services (with OBON). Supports HB 2178 (EXHIBIT D) . Explains the bill increases the investigative authority of OBON.
400	Amdall-Thompson	Explains why clear authority to order evaluations of licensees is needed. Notes that nurses in denial of substance abuse problem often refuse physical or drug evaluations.
TAPE 8, B		
020	Amdall-Thompson	Explains why it is necessary to make clear when the psychotherapist privilege can and cannot be invoked as a defense. Comments that the defense has been used to cover the sexual abuse of children.
037	Rep. Lehman	Expresses concern about ordering mental and physical evaluations as an investigative tool.
049	Amdall-Thompson	Explains that mental health evaluations are useful for investigations of sexual misconduct.
052	Rep. Lehman	Asks for elaboration on why a mental health evaluation is needed to determine what someone did in such a case.
055	Amdall-Thompson	States that the evaluation is used to evaluate the propensity to engage in alleged behaviors, if they are a risk to patients.
059	Rep. Lehman	Asks if the license of those found guilty of sexual misconduct is terminated.

060	Amdall-Thompson	States that is the case if the misconduct can be proven.
062	Rep. Lehman	Asks, since they cannot prove the act was committed, what grounds are there for using a mental health evaluation to determine propensity to commit a criminal or unethical act.
067	Kim Cobrain	Department of Justice. Asks if it is a question manufacturing evidence.
074	Rep. Lehman	Asks if there are problems with using a mental health evaluation as a basis for determining if a license holder committed an offence.
083	Cobrain	Explains that the issue is competency to practice.
091	Rep. Lehman	States that it is not a problem if the individual has been found guilty, but that it is a problem if there is no evidence of a crime.
101	Cobrain	Explains that in most cases are built on the word of one person against another. States outside indications are needed. Stresses that it is not the manufacturing of evidence, but rounding out information.
120	Rep. Lehman	Expresses concern about using these evaluations as an element of proof rather than merely determining qualification to practice.
128	Cobrain	Notes that this language is modeled on existing statute, ORS 677.420.
142	Rep. Krummel	Asks whose opinion it was that prevented charges being filed against licensees because they refused evaluations.
152	Amdall-Thompson	Explains how the decision was made.
162	Rep. Krummel	Asks about the case of the nurse covering knowledge of sexual abuse. Asks if it was first hand knowledge or if the abuser told the nurse.
182	Amdall-Thompson	Explains that the abuser told the nurse of the abuse. Stresses that the nurse was required to report the abuse.
189	Rep. Krummel	Asks if current statute did not allow OBON to pursue action against their license. Asks if HB 2179 clears up ambiguities.
193	Amdall-Thompson	States OBON wanted to determine if the incident was a one-time incident or a global practice, which has bearing on discipline.
203	Rep. Krummel	Expresses concern that evaluations could be used not to evaluate competency,

		but to pursue baseless allegations.
216	Amdall-Thompson	Reviews statistics concerning licensees being sent for evaluations.
230	Rep. Lehman	Notes a change between HB 2179 and the model statute.
241	Amdall-Thompson	States that they have not asked applicants to have mental health or physical evaluations. Adds that chemical dependency evaluations are occasionally ordered.
249	Rep. Lehman	States there is no problem with ordering chemical dependency evaluations for applicants.
257	Amdall-Thompson	States that it would be improbable that OBON would order a mental health evaluation for an applicant.
268	Rep. Taylor	Asks if the psychotherapist privilege allows psychotherapists to withhold information regarding child abuse.
270	Cobrain	States the defense cannot be used in that manner.
273	Rep. Taylor	Asks if that was the privilege cited to bar subpoena of records, which OBON wanted to review to determine the scope of the behavior.
280	Cobrain	Affirms the assertion.
288	Chair Knopp	Asks if there is any opposition to HB 2179.
290	Amdall-Thompson	States OBON is not aware of any opposition.
<u>WORK SESSION 2179</u>		
295	Rep. Lehman	States support to move 2179 to full committee for further discussion.
306	Rep. Kruse	MOTION: Moves HB 2179 to the full committee WITHOUT RECOMMENDATION to passage.
310	Rep. Krummel	States support if concerns are addressed.
313		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.

	Chair Knopp	The motion CARRIES.
325	Chair Knopp	Closes Work Session HB 2179. Opens Public Hearing HB 2131. Asks for staff summary.
<u>PUBLIC HEARING HB 2131</u>		
337	Moore	Explains HB 2131 changes the fee structure of the Massage Board to remedy existing inequities.
359	Bev Holzman	Board of Massage Technician. Supports HB 2131 (EXHIBIT E). Explains the current fee structure. Notes existing inequities. Explains how HB 2131 makes the fee structure more equitable.
TAPE 9, B		
003	Holzman	Continues to explain how HB 2131 changes the fee structure. Notes that the changes result in an overall revenue reduction.
028	Rep. Krummel	Asks what other licenses satisfy the endorsed application requirements.
033	Holzman	Explains that physical therapists, chiropractors, medical doctors, and others in health related fields can apply for an endorsed application.
035	Rep. Krummel	Asks if the goal of HB 2131 is to place the authority for changing fees under the Massage Board.
039	Holzman	States that is correct.
047	Rep. Taylor	Asks if it is wise to reduce a fee that exists. Asks if there is popular support for a \$20 reduction in the renewal fee.
054	Holzman	States there is no opposition to the HB 2131.
059	Rep. Kruse	Expresses a comfort level in any fee increase requiring the approval of the legislature.
063	Chair Knopp	Asks what their ending balance is currently.
064	Holzman	States that their ending balance is approximately \$420,000.

068	Rep. Krummel	Asks if the fees are covering the costs of the exams.
076	Holzman	States that, overall, fees do cover costs, but the issue is the inequity of renewal fees covering the costs of written and practical exams.
083	Rep. Krummel	Asks if people moving to Oregon, who are licensed in another state, still have to take an exam to be licensed in Oregon.
087	Holzman	States that if they have transcripts and proof of licensure, then they have to take only the practical exam.
094	Rep. Taylor	Asks how long massage technicians have been licensed in Oregon; is it a recent innovation.
097	Holzman	Responds that she is unsure of the exact beginning of massage therapist licensure.
101	Rep. Taylor	Asks if there is another board called "Massage Therapists."
103	Holzman	Explains that one of their bills changes their name.
108	Chair Knopp	Closes Public Hearing HB 2131. Opens Work Session HB 2131.
<u>WORK SESSION HB 2131</u>		
110	Rep. Lehman	MOTION: Moves HB 2131 to the full committee with a DO PASS recommendation.
		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.
Chair Knopp		The motion CARRIES.
118	Chair Knopp	Closes Work Session HB 2131. Opens Public Hearing HB 2178. Asks for staff summary.
<u>PUBLIC HEARING HB 2178</u>		
125	Moore	Explains HB 22178 modifies requirements for licensure by the Board of

		Radiologic Technology (BRT) and changes the fee structure of BRT.
132	Chair Knopp	Notes that the BRT, who requested HB 2178, has asked to withdraw the bill. Explains that others want to testify in opposition.
138	Gerri Krummel	Licensed Radiologic Technologist, Wilsonville. Opposes HB 2178 (EXHIBIT F). Reviews professional experiences and qualifications. Discuss the American Registry of Radiologic Technology (ARRT). Examines HB 2178.
190	G. Krummel	Continues to examine the changes proposed in HB 2178.
230	G. Krummel	Reviews the recent fee increase and subsequent legislative action. Explains that the board does not offer continuing education.
259	Rep. Taylor	Asks what she thinks the intent of BRT was in proposing HB 2178.
263	G. Krummel	Explains that they were trying to streamline their processes, but did not adequately represent their members.
273	Rep. Taylor	Notes that the staggered-fee was approved in past legislation (1997) for good reasons.
288	Chair Knopp	Explains that Ways and Means has revised the proposed fee structure. Adds that BRT asked that the bill be withdrawn, but that it is important to get the testimony on record.
310	Ann Warden	Oregon Society of Radiologic Technologists. Opposes HB 2178. Discusses ARRT continuing education requirements.
322	Randy Harper	President, Oregon Society of Radiologic Technologists. Opposes HB 2178. States the educational aspects of the bill are unclear.
353	Rep. Taylor	Expresses concern that the board is not doing a better job. Asks that BRT licensees get more involved in BRT's administration.
365	Moore	Distributes EXHIBIT H .
366	Chair Knopp	Closes Public Hearing HB 2178. Adjourns meeting at 7:20 p.m.

Submitted By, Reviewed By,

Kevin E. Wells, Cletus B. Moore, Jr.,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2109, written testimony, John Socolofsky, 2 pp.

B ñ HB 2175, LC amendment HB 2175-1 (4/6/99), staff, 5 pp.

C ñ HB 2175, written testimony, Michael Skeels, 3, pp

D ñ HB 2179, written testimony, Mary Amdall-Thompson, 2 pp.

E ñ HB 2131, written testimony, Bev Holzman, 3 pp.

F ñ- HB 2178, written testimony, Gerri Krummel, 4 pp.

G ñ HB 2178, written testimony, Randy Harp, 4 pp.

H ñ HB 2178, written testimony, James Davis, 1 p.