

February 17, 1999 Hearing Room 357

1:00 p.m. Tapes 37 - 39

**MEMBERS PRESENT:** Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

**STAFF PRESENT:** Aaron Felton, Counsel

Nancy Richards, Administrative Support

**MEASURE/ISSUES HEARD:** HB 2554

HB 2557

HB 2381

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 37, A		
004	Chair Shetterly	Calls meeting to order at 1:05 p.m.
<u>HB 2554 Public Hearing</u>		

011	Counsel Felton	HB 2554 limits civil liability of health practitioner who provides medical services without compensation.
018	<b>Scott Gallant</b>	<b>Oregon Medical Association (OMA)</b> Testifies in support of HB 2554. Discusses why OMA supports this bill and cites specific language that needs more definition.
071	Rep. Uherbelau	Did this bill originate out of the OMA?
073	Gallant	That is correct, and Rep. Mannix sponsored this bill.
080	Rep. Uherbelau	Does the OMA have any position on the standard of intentional tort?
088	Gallant	States that the preference would be the higher standard and we do recognize that it is gross negligence under the another statute.
093	Rep. Williams	Relates that the definition of Health Practitioner in the bill includes dentist. Discusses the bill he sponsored on behalf of Northwest Medical Teams and that it is similar to HB 2554.
102	<b>Kevin Mannix</b>	<b>State Representative, District 32</b> Testifies in support of HB 2554. Discusses situations where retired practitioners have dropped their malpractice insurance, have retained their license, but will not risk their savings by practicing because of liability risk. States that gross negligence is immediately subject to liability.
198	Chair Shetterly	Is it fair to shift the burden of the cost of repair to the patient if the doctor is liable for harm?
207	Rep. Mannix	Discusses the choices the person, who is seeking the service, has with regard to liability.
223	Rep. Uherbelau	Does this bill shield the provider from the requirement of getting informed consent?
229	Rep. Mannix	No, it would not shield them. If the provider didn't sign the form or didn't get the form, it would have to be decided if that was an intentional negligence.
238	Rep. Uherbelau	Under this law, would the practitioner be shielded if there is a question of what is an informed consent and what is not an informed consent?

243	Rep. Mannix	States that it is still negligence if the provider does his best to provide and process the forms, but then a mistake is made.
248	Rep. Uherbelau	Is the practitioner still held just as accountable if the care is free?
254	Rep. Mannix	Discusses the effect of this bill on the standard of care.
261	Rep. Uherbelau	Expresses concern that this bill would put the cost of liability onto the state and the taxpayer.
274	Rep. Mannix	States that if we want the practitioners to provide free service, then the state and taxpayers will have to bare some burden. Relates that if the practitioner stays licensed it will guarantee good quality care.
286	Gallant	Discusses the charity care provided by doctors today and the standard of that care.
345	Rep. Uherbelau	Believes this bill does hold a person accountable for not meeting the standard of care. Comments that there are many providers that donate their time and should have recognition.
359	Rep. Williams	Would this bill protect the provider organization like NW Medical Team?
376	Rep. Mannix	HB 2554 would have to be amended to include a provider organization.
387	Rep. Williams	Refers to the page two, section three, sub-section two and asks how this section are you concerned how that fits in with the Oregon Torte claim notice.
396	Rep. Mannix	Discusses how this could be changed to give the Attorney General enough time to respond.
423	Rep. Williams	Expresses his concern that this bill ties indirectly with the current torte claims notice provision and that the committee doesn't create confusion on how the bill is supposed to work.
433	Rep. Mannix	States that the bill is trying to provide the interposing of a defense attorney provided by the state.
443	Rep. Witt	Wouldn't it benefit the taxpayers to provide these services at no charge?
457	Rep. Mannix	Yes.
460	Rep. Wells	How are these volunteer practitioners accepted into the communities that already

		have providers?
474	Gallant	Most of the practitioners are already providing volunteer services in those communities.
493	Rep. Wells	Are volunteers undercutting the quality of health care?
<b>Tape 38, A</b>		
038	Gallant	Believes that providers receiving compensation will not be going to other communities to do volunteer service because of this bill.
044	Rep. Wells	Understands that the bill refers to volunteer practitioners that are retired, but still have their license.
051	Rep. Mannix	Discusses malpractice insurance that the retired practitioners cannot afford and how this bill protects them.
063	Rep. Lowe	If the concept of this bill was changed to upgrade the level of accountability from intentional tort to gross negligence, would that harm the volunteer program?
075	Rep. Mannix	States that these practitioners will still be licensed and have to qualify according to the licensing requirements.
086	Rep. Lowe	Asks if having the level of accountability be gross negligence, that it will encourage the practitioners to continue staying updated in their practice?
088	Rep. Mannix	Not really. Discusses the true standard of accountability that will be applied by this bill.
096	Rep. Backlund	Feels that the overall purpose of this bill is in the public's interest and that this is a good bill.
104	Rep. Williams	States that the NW Medical Team cannot get sufficient volunteer help in their mobile labs and clinics because of the threat of lawsuits. Feels this bill serves a worthy public service.
120	Chair Shetterly	Closes public hearing.
<b>HB 2557 Public Hearing</b>		
136	Chair Shetterly	Opens public hearing.

137	Counsel Felton	HB 2557 expands liability protection of certain land owners for use of owners' land by public for recreation, woodcutting or harvest of special forest products.
147	<b>Bruce Starr</b>	<b>State Representative, House District 3</b> Testifies in support of HB 2557. Introduces Bob Horning.
157	<b>Bob Horning</b>	<b>Owner, Horning's Fishing and Picnic Hideout</b> Testifies and submits written testimony in support of HB 2557 ( <b>EXHIBIT A</b> ). Discusses how this bill would open up more land which would protect landowners from wrongful lawsuits and would help the state by creating more recreational opportunities.
259	Rep. Uherbelau	Mr. Horning's business is no different than a neighborhood grocery store, so why would there be any difference regarding liability.
271	Horning	Explains the different landowners and how they are protected from wrongful lawsuits.
289	Rep. Uherbelau	Who pays for the harm done to a victim when there is negligence by the landowners, excluding ski resorts?
310	Star	Discusses the different businesses effected by this bill and the difference in a nature controlled area from a manmade controlled area.
335	Horning	This bill isn't to protect me against gross negligence, but to protect me from the someone else's own negligence.
362	Rep. Uherbelau	Defines and explains "negligence".
368	Rep. Witt	Do you charge people to use your land?
371	Horning	Yes, we charge for trout fishing and picnics.
374	Rep. Witt	Even if it was the understanding that it was the person's own negligence, is it still a liability for the landowner?
384	Horning	The way the law is now, even if someone slips on the grass, they could sue and hold the landowner liable.
391	Rep. Witt	Do you inform your customers of any liability limits?
396	Horning	No, we do not. We had a "release of liability" for horseback riding.

413	Rep. Witt	States that there needs to be public policy to make an exception for outdoor businesses. Why should we limit your liability when we don't allow it to other businesses?
421	Horning	HB 2557 is not only for myself, but for other landowners, so they can use their land for recreational use and there is a need for more recreational land-use. Discusses the difference in a grocery store and his business.
451	Rep. Witt	States that non-paying customers coming onto their property are protected by law from wrongful suits. So, HB 2557 will expand protection from lawsuits to customers that charge a fee.
458	Horning	Yes. Reiterates how landowners being able to open up their land, would also benefit the state.
498	Rep. Walker	How about those landowners that don't make their land safe?
<b>Tape 37, B</b>		
046	Horning	States that he would not want the bill to limit gross negligence.
057	<b>Don Schellenberg</b>	<b>Farm Bureau</b> Testifies and submits written testimony in support of HB 2557 ( <b>EXHIBIT B</b> ). Discusses how this bill will provide protection to the landowner to establish a fee without losing liability.
080	Rep. Witt	Is there anything keeping landowners from opening up their land for recreational use?
085	Schellenberg	The landowners do not open their land because of wrongful lawsuits.
089	Rep. Witt	This is a public policy because we want to protect all customers whether paying a fee or not.
100	Schellenberg	We are seeking to make the landowner comfortable whether or not they have to charge an entry fee, even if they have to increase a fee that would cover the chance of a wrongful law suit.
110	Rep. Witt	Do you think that people who bring customers onto their land, like any other type of business, could increase their fee to cover potential liability. Why should just one type of business be the exception?
113	Schellenberg	States that he has no answer.

123	<b>Terry Lamers</b>	<b>Oregon Small Woodland Association</b>  States no position on HB 2557. Expresses the concern that their association has with the liability issue that the current law provides. Discusses the difference in liability between a store and a forest. Discusses incentives that would help landowners open up their property.
167	Rep. Walker	Expresses her feelings about the difference of a grocery store and forest analogy and that they should be treated the same regarding public policy.
173	Lamers	Agrees that the negligence issue should not be eliminated for the landowner.
179	Rep. Wells	Discusses a 1975 bill called "the woodcutteris bill" that allowed people to come onto the land for free. Expresses that he would have trouble supporting HB 2557 unless an explanation between the difference in landowners and their liability can be made.
207	Horning	Discusses the public policy issue concerning opening up land for recreational use.
245	Chair Shetterly	Closes public hearing.
<b><u>HB 2381 Public Hearing.</u></b>		
250	Counsel Felton	HB 2381 prohibits unlawful use of cable television services.
278	<b>Mike Dewey</b>	<b>Oregon Cable Telecommunications Association</b>  Testifies and submits written testimony in favor of HB 2381 ( <b>EXHIBIT C</b> ). Discusses the existing penalties dealing with theft of cable TV services and how this bill would allow settlement. Discusses the cost of theft and how prevalent this type of theft is. Explains the Amnesty Campaign.
<b>Tape 38, B</b>		
040	Rep. Uherbelau	Asks about the language on page two, section three of the bill, regarding actual damage and why it is there?
051	Dewey	States that he wouldn't have a problem if that was taken out because actual damages are hard to document.
063	Chair Shetterly	Explains that it may be unnecessary to change language in HB 2381 because there is statutory damages and that lines 22 and 23 may be unnecessary.
066	Dewey	States that the actual damages would be difficult to prove.

069	<b>Craig Heiting</b>	<b>Vice President of Operations, Paragon Cable Service</b>  Testifies and submits written testimony in support of HB 2381 ( <b>EXHIBIT D &amp; E</b> ). Discusses the amount of cable service theft and the cost to the cable company. Discusses the new technology of theft in cable service and the cost of lost revenue. Displays and discusses some of the illegal equipment used.
169	Rep. Uherbelau	Asks if those customers that do not have premium service and do not have a box, are they able to steal cable service?
177	Heiting	Discusses the magazine converter and the stickers that say to notify your cable company of their use. Discusses the lists of people who have purchased the illegal chips to obtain illegal cable service.
206	Rep. Wells	Asks more about the lists that come from wholesalers that sells the illegal products?
208	Heiting	Explains where they get these lists of customers who bought illegal equipment.
212	Dewey	States that this list allows the cable company to disconnect their service.
216	Heiting	The list also provides a mailing list, so that cable companies can offer amnesty if the bill is passed.
219	Rep. Walker	If you catch all of these cheaters, are you going to reduce the rates for paying customers?
225	Heiting	Absolutely. Explains the company's cable rates and how this bill would effect these rates.
238	Dewey	Explains that because of the competition between cable companies, we want incentives that would allow us to lower rates.
251	Heiting	HB 2381 is the deterrent we need to stop this cable theft as the police do not have time to deal with this problem.
261	Rep. Edwards	Do you believe the \$3,000.00 fine would be a deterrent?
266	Dewey	Describes how they decided on this amount.
279	Rep. Wells	Discusses the two different kinds of cable theft. Does the cable company take out all of the wiring in the house when they discover theft?
295	Heiting	Explains that the cable company can't go into customer's homes to take wiring



		out, so it is easy to hook themselves back up to cable service. If you have the next level of service, it is easier to hook up the illegal devices.
315	Rep. Uherbelau	If we pass the bill and are successful in stopping cable theft will there be employees that lose their jobs?
320	Heiting	Not necessarily.
325	Rep. Lowe	Is there an incentive for neighbors to tell of illegal service?
336	Dewey	We don't give rewards, but maybe it is something to think about.
338	Heiting	Our company has a hotline for reporting theft, but no reward.
351	Rep. Lowe	Are you entitled to have more than one cable connection in your house?
367	Heiting	No, it is considered theft, but people make excuses that it is legal.
375	Rep. Lowe	Believes that a lot of people are not aware that they are committing theft and would be interested in more information about the amnesty program.
392	Dewey	States that this bill provides us with a tool to solve these theft problems.
400	Chair Shetterly	Explains that HB 2381 has a provision that states if someone has an illegal connection, a required notice is sent to them by certified mail.
419	<b>Gary Bauer</b>	<b>Oregon Telecommunications Association</b>  Testifies in support of HB 2381. Discusses what the internet advertisers offer in illegal equipment for theft of cable service. Discusses Federal Communications Commission requirements regarding illegal equipment.
470	Rep. Wells	What rights do you have to check cable equipment in the home?
480	Bauer	States that I do not know if we have the legal right.
<b>Tape 39, A</b>		
035	<b>William Baker</b>	<b>Paragon Cable</b>  Discusses the process of checking cable boxes in someone's home and the cable company's rights to remove the illegal equipment.

058	Chair Shetterly	Requests that the committee work on an amendment for HB 2381.
		Adjourns meeting at 3:00 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,  
Administrative Support Counsel

**EXHIBIT SUMMARY**

- A - HB 2554, Written testimony, Bob Horning, p. 7**
- B - HB 2557, Written testimony, Don Schellenberg, p. 1**
- C - HB 2381, Written testimony, Mike Dewey, p. 2**
- D - HB 2381, Written testimony, Craig Heiting, p. 3**