

HOUSE COMMITTEE ON COMMERCE

February 27, 1997 Hearing Room 357

8:30 A.M. Tapes 10 - 11

MEMBERS PRESENT:

Rep. Eldon Johnson, Chair

Rep. Cynthia Wooten, Vice-Chair

Rep. Ron Adams

Rep. Roger Beyer

Rep. Richard Devlin

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Jackie Taylor

Rep. Tom Whelan

STAFF PRESENT:

Keith Putman, Administrator

Julie Neburka, Administrator

Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD:

Health Care Licensing Board Issues - Informational Meeting

HB 2040 - Work Session

HB 2257 - Work Session

HB 2258 - Work Session

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
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Tape 10, A		
004	Chair Johnson	Calls meeting to order at 8:37 a.m. and opens the informational meeting on health care licensing board issues.
<u>HEALTH CARE LICENSING BOARD ISSUES - INFORMATIONAL MEETING</u>		
010	Kevin Mannix	Salem, former state representative and attorney in private practice, outlines public policy issue areas relating to professional licensing in the health care field, and testifies in support of an oversight board for health related professions.
		* There will always be tension between interests of practitioners regulating themselves and the interest of the public.
		* Oregon Supreme Court regulates lawyers; all judges are elected to the regulatory position.
		* Some health care professions are regulated by other professionals.
		* There is no oversight authority to look at the public policy perspective or public interest.
		* Pre-session filed four bills and would not suggest any one of them is the best thing to do, but if the ideas are processed, it is possible to come up with a conceptual piece to allow the regulation of health care professionals and protect the public interest.
		* The conceptual bill being proposed would allow each profession to have its own licensing board and adopt rules establishing disciplinary procedures for acts that threaten public health or safety. There still would be minimum competency requirements established through their own board consisting largely of members of their own profession and with public representation on their board.
060		* Each board would have public members.
		* Appointments to the boards would be by the governor with confirmation by the Senate.
		* Each board should have diversity as to geography, genders, ages, races, and ethnic groups, and persons with abilities or disabilities to provide a broad range of perspectives.
		* Certain health care professionals would get their own boards to regulate the work they do.
081		

		* Unified board structure and administrative system can be a fairly efficient structure.
		* Question is how to empower the professionals and not disenfranchise the public.
		* Health Care Licensing Oversight Authority (HCLOA) would come in if a group of providers decide to start shoving the profession contrary to public interest.
095		* Oversight authority would adopt procedures to education public members of HCLOA and allocate funding for training.
		* There would be standardized administrative procedures and policies, and standardized budget procedures.
		* Would be important to monitor boards to ensure compliance with standardized procedures.
		* It would be necessary for the "super board" to resolve conflicts and recommend legislation on scope of practice issues and review disciplinary actions and procedures. The amount of authority to be given to the super board is undetermined--would it be an appellate body or should it just review the procedures and leave the disciplinary action up to the individual boards?
		* There would be a report to the legislative assembly.
		* The oversight board should have a majority of public perspective; rather than health professional perspective. The public people should have no ax to grind or specialized perspective.
		* The proposal sets out proportion of representation of professions and will be subject to negotiations.
144		* Oversight board would be funded by an annual fee on each licensed health care professional.
		* Oversight board would allow oversight and dispute resolution when scope of practice issues arise.
159	Rep. Adams	Believes professions have an aversion to having a super sitting group looking at their scope of practice, and asked Mr. Mannix how he would feel about an oversight group over the Oregon State Bar.
170	Mannix	Responds a tradeoff would be to have a statewide election, and explains it is different with lawyers because the judicial branch is separate.
198	Rep. Taylor	Asks if the proposal would preclude a public member of a board from having any interest in a pharmaceutical company.
	Mannix	Notes it is "direct financial interest."
215	Rep. Taylor	Asks Mr. Mannix his reaction to another layer of bureaucracy, and comments she believes the professions

		would begrudge the \$3 fee that would go to the superboard.
	Mannix	Responds the question is whether the tradeoff is worth it. It does raise a policy determination--will you gain enough benefits to make it worthwhile. The requirement that procedures be systematized would increase efficiency.
245	Rep. Devlin	Wonders how long the perception would hold with the public members on the professional boards because the public members would be looking at a profession when the public members would have no practical experience.
261	Mannix	Comments the question is whether the board is sufficiently large enough to cover all interests. The point was to avoid having a board which pretends to have expertise, but which has sensitivity to issues that arise through the licensed members, but is particularly sensitive to the public interest.
		The idea of having more public members than health care providers is very important. There could be up to 15 to 17 members. The mixture could be changed and positions be rotational. Believes the concept of oversight board is important and the number of public members is also important.
303	Rep. Devlin	Asks how many public members are on the Oregon State Bar.
	Mannix	Responds the Board of Bar Governors has at least 2 and maybe three public members. Would guess the total membership is around 20. Any disciplinary process is subject to review by the Supreme Court, not by the Board of Bar Governors.
316	Rep. Wooten	Comments this is not a well thought out proposal. Asks if there are an increased number of problems and complaints with the existing boards, whether there is a lack of accountability, or a lack consistency among the existing boards, or self-serving interests that can be demonstrated, and where the data is that supports the need for such a huge overhaul.
337	Mannix	Makes an analogy with tuning up a Jeep Cherokee with 100,000 miles and the change in professions, and comments Oregon has not changed the regulation of the professions and how they interact, but has added to the system without review. Gives examples: Board of Medical Examiners' unwillingness to be open minded about alternative health care providers and their incapability to sanction, the Board of Nursing Examiners' view they can interfere with the operation of hospitals by telling nurses how they should make supervisory decisions, the Board of Chiropractors Examiners was against certain

		chiropractors because the board did not like the way the chiropractors handled their practice.
TAPE 11, A		
	Rep. Wooten	Comments there is no compelling existing problem, the concerns of Mr. Mannix are anecdotal and suggests that an interim review in order to anticipate a tune up, rather than trying to overhaul the entire engine, might be more appropriate at this time.
015	Mannix	Responds his response is "no."
007	Rep. Wooten	Asks Mr. Mannix to give a brief analysis of what the implications of the reorganization are for managed health organizations and hospitals, and how this might be contributing to the national concern of the "de-"skilling" of the medical professional service providers.
017	Mannix	Responds he thinks Rep. Wooten's concerns would be excellent assignments to give to the new oversight authority.
025	Chair Johnson	Comments the committee will allow those who want to be heard to be heard, that the committee will try to resolve the issues, and explains the committee does not have a bill yet due to drafting and filing deadlines in the Senate.
043	Chair Johnson	Closes informational meeting and opens work session on HB 2040.
<u>HB 2040 - WORK SESSION</u>		
052	Rep. Beyer	MOTION: Moves HB 2040 as amended by the subcommittee back to the Subcommittee on Business for further work.
052		VOTE: 9-0
	Chair	Hearing no objection, declares the motion CARRIED.
059	Chair Johnson	Closes work session on HB 2040 and opens work session on HB 2257.
<u>HB 2257 - WORK SESSION</u>		
057	Rep. Devlin	Explains provisions of HB 2257 as amended by the Subcommittee on Business.
090	Rep. Devlin	MOTION: Moves HB 2257 to the floor with a DO PASS AS AMENDED recommendation.
090		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.

	Chair	The motion CARRIES. REP. DEVLIN will lead discussion on the floor.
096	Chair Johnson	Closes work session on HB 2257 and opens work session on HB 2258.
<u>HB 2258 - WORK SESSION</u>		
099	Rep. Devlin	Reviews provisions of HB 2258 as amended by the Subcommittee on Business.
115	Rep. Hill	Asks if there is a mechanism to rely on the entirety of the document, and who maintains the entire document.
123	Rep. Devlin	Notes the descriptions that must be included within the memorandum and that there must be a statement that the complete mortgage or trust deed is available upon request.
130	Rep. Adams	Questions whether the language on page 4, beginning in line 4, is clear or whether "is" should be inserted to have it say, "that information is required to appear on the front page....".
	Rep. Beyer	Comments it seems clear because it refers to the statute where the information is required to appear is listed.
149	Chair Johnson	Advises members the concern has been said on the record and if there is a dispute, the proceedings will be used.
153	Rep. Hill	Comments there does not seem to be a verb that directs it.
158	Rep. Devlin	MOTION: Moves HB 2258 to the floor with a DO PASS AS AMENDED recommendation.
159		VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES. REP. DEVLIN will lead discussion on the floor.
161	Chair Johnson	Closes work session on HB 2258 and reopens the informational meeting on health care licensing board issues
<u>HEALTH CARE LICENSING BOARD ISSUES - INFORMATIONAL MEETING</u>		
176	Scott Gallant	Director, Government Affairs, Oregon Medical Association (OMA), submits letter from the Hospital

		Association regarding letter sent to all committee members, and comments he is aware of the conceptual amendments and the outline of those concepts. States "The proposal does not substantially change the substance of my correspondence to the committee members nor the substance of comments and testimony today" (EXHIBIT A).
		* Proposal does create another bureaucracy.
		* Previous estimate given to the committee is that there are 110,000 health care practitioners in Oregon and in order to fund the program, there would be at a minimum \$6 fee for every practitioner over the biennium in order to pay for the functions of the new authority.
223	Gallant	* There are a number of statutes currently on the books regarding standardized procedures.
232	Gallant	* An issue not addressed in the concepts and previous drafts is power to enforce and standardize procedures without defining what they are. That gives the authority substantial power over all the aspects of each licensing entity and has a major impact.
244	Gallant	* Every practitioner will be peer reviewed at least once each biennium. The individualized competency assessment per review costs approximately \$3,500, and would cost approximately \$22.75 million in total.
253	Gallant	* Advises he wrote to Maine Medical Association regarding the Pew Commission recommendation and has received a letter stating that Maine has not undertaken any legislation, and the same response has been received from Colorado and Arizona (EXHIBIT B).
272	Gallant	Adds there is a statute that requires that anyone proposing scope of practice issues to be considered by the legislature submit a report that talks about the efficacy, appropriateness and costs; the legislature's only obligation is to enforce the statute.
283	Rep. Hill	Asks if OMA has any problem with increasing public membership on the existing boards.
	Gallant	Responds OMA has supported the addition of public members to the Board of Medical Examiners, but believes it is important there be a substantial number of professionals in the majority. OMA has introduced SB 436 to make significant changes in the process of the Board of Medical Examiners. SB 235 provides for an ombudsman who would have authority to oversee boards and commissions to make sure they are appropriately doing their job.
302		

	Rep. Wooten	Comments she will affirm that the OMA would not be opposed to a substantive interim review of the existing boards' structures and/or responsibilities and standards.
305	Gallant	Responds OMA would support the interim review.
319	Chuck Bennett	Chiropractic Association of Oregon, outlines his association's position on the proposal.
		* Has reviewed House and Senate bills and the association has found a number of issues they support. Under this concept there is a range of issues that make good sense and would support an interim review by either a board as proposed or a legislative committee because a number of questions have been raised that are worthy of discussion. SB 115 would increase the public membership on the Board of Chiropractic Examiners
339	Bennett	Outlines concerns with conceptual single bill:
		* Makeup of the board and how it is determined, should be creation of categorical group.
		* Any language resolving scope of practice should be dealt with very carefully; it should not be resolved in this bill at this time. Currently, scope of practice issues are resolved by the attorney general, who, through opinion, determines what the law says. Would hope if language is developed, that the legislature would charge the attorney general to come back with a proposal for a method of resolving scope of practice that has been worked out. Language in the bills does not resolve the issue. Offers to work on any bill or concept.
TAPE 10, B		
009	Louise Shores	Education Consultant for the Oregon State Board of Nursing, submits three written statements, one prepared for the hearing last week based on analysis of the original bills (HB 2293, HB 2294, HB 2295 and HB 2296) (EXHIBIT C), a response to the concept paper (EXHIBIT D, and a report of the Board of Nursing's record in response to issues that have been raised (EXHIBIT E).
023		Notes she is also speaking in opposition to the concepts for the Board of Naturopathic Examiners, Board of Licensed Dietitians, Board of Massage Technicians, Board of Examiners of Nursing Home Administrators, Board of Radiologic Technicians, the Occupational Therapy Licensing Board, Physical Therapist Licensing Board, and the Board of Medical Examiners. Adds that other boards are not represented because she did not have an opportunity to contact representatives.
032	Shores	

		Testifies, due to time constraints, in opposition to three points (EXHIBIT D):
		* 1) standardization and composition of board
050		* 2) creation of the health care licensing authority
077		* 3) definition of terms
107	Katrina Susi	President, Oregon State Board of Nursing, reviews board's handling of regulatory functions (EXHIBIT E).
150	Susi	Continues presentation.
166	Dr. Jim Warner	Oregon Doctors of Chiropractic and the International Chiropractic Association, testifies these groups have different concerns than those of Mr. Bennett and in some ways the association on the state and international level is excited about the legislation. Comments they do not like another layer of government, and hope the fiscal issues and the additional layers of government can be changed. System is not working well.
		* Notes the board has had scope of practice problems.
198		* Four months ago members had to challenge the board on advertising.
		* The public needs to have better access to all the boards and the legislature needs to be able to oversee what is happening in the committees and boards.
		* More public input is welcomed.
218	Lewis Blue	President, Oregon Board of Dentistry, testifies in opposition to the proposed oversight board (EXHIBIT F).
250	Blue	Continues presentation.
278	Dr. Carol Marusich	Oregon Optometric Association, testifies in support of some of the proposal; disagree with another costly layer of bureaucracy (EXHIBIT G).
320	Marusich	Continues presentation.
358	Jim Davis	Oregon State Council of Senior Citizens and United Seniors of Oregon, testifies that the boards of directors for both organizations have endorsed HB 2293.
		* Notes that senior advocates are particularly interested in the expansion of consumer involvement on state licensing boards.
		* The public needs to be informed of the development of public policy, especially around policy that affects their well-being and protection.
		* Advocates also like the greater effort to facilitate scope of practice and other turf battles between professions. Comments on turf battle between dentists and denturists.
		* Sees oversight authority as a facilitator, but not a body which would impinge upon the policy making authority of

		licensing boards or make changes in professions outside the individual boards
		* Does not support development of a superboard in the future. All existing boards should be involved in the process of developing final legislation.
411	John Lobdell	Citizen consumer, testifies in opposition to creation of a new authority (EXHIBIT H).
TAPE 11, B		
000	Lobdell	Continues statement.
050	Lobdell	Continues statement.
093	Chair Johnson	Announces there will be another opportunity for those who did not testify to do so at a later date, and adjourns the meeting at 10:05 a.m.

Submitted By, Reviewed By, Reviewed By,

Annetta Mullins, Keith Putman, Julie Neburka

Administrative Support Administrator Administrator

EXHIBIT SUMMARY

A - Health Care Licensing Board Issues, prepared testimony, Scott Gallant, 7 pp

B - Health Care Licensing Board Issues, letters, Scott Gallant, 3 pp

C - Health Care Licensing Board Issues, prepared testimony, Louise Shores, 2 pp

D - Health Care Licensing Board Issues, prepared testimony, Louise Shores, 5 pp

E - Health Care Licensing Board Issues, prepared testimony, Louise Shores and Katrina Susi, 3 pp

F - Health Care Licensing Board Issues, prepared testimony, Lewis Blue, 2 pp

G - Health Care Licensing Board Issues, prepared testimony, Dr. Carol Marusich, 3 pp

H - Health Care Licensing Board Issues, prepared testimony, John Lobdell, 7 pp