

HOUSE COMMITTEE ON HUMAN RESOURCES

March 7, 1997 Hearing Room H-170

1:00 P.M. Tapes 41-43

**MEMBERS PRESENT:**

Rep. Patricia Milne, Chair

Rep. Jackie Taylor, Vice-Chair

Rep. Richard Devlin

Rep. Jeff Kruse

Rep. Jane Lokan

Rep. Steve Harper

**MEMBER EXCUSED:** Rep. Kitty Piercy

**STAFF PRESENT:**

Lori A. Long, Administrator

Diane M. Quinones, Administrative Support

**MEASURE/ISSUES HEARD:**

**HB 2667 PUBLIC HEARING**

**HB 2666 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 41, A</b>		
001	Chair Milne	Calls the meeting to order at 1:05 p.m.
002	Chair Milne	Opens a public hearing on HB 2667.
<b><u>HB 2667</u></b> <b><u>PUBLIC</u></b> <b><u>HEARING</u></b>		
		Represents, Association of Adult Care Providers, Columbia Adult Foster Home Association, submits and presents written testimony

005	Grover Simmons	<p>in favor of HB 2667 (<b>EXHIBIT A</b>).</p> <ul style="list-style-type: none"> <li>* presents a brief overview of the adult foster care industry</li> <li>* defines "adult foster home" as a private residence that takes up to 5 frail and elderly individuals.</li> </ul>
070	Myrna Harrison, RN	Licensed Provider, Clackamas County, Chairperson, Legislative Committee for Providers of Oregon, submits and presents written testimony in favor of HB 2667 ( <b>EXHIBIT B</b> ).
090	Shirlene Ankrum	<p>Adult Foster Care Provider, Salem, submits and presents written testimony in favor of HB 2667 (<b>EXHIBIT C</b>).</p> <ul style="list-style-type: none"> <li>* explains the need for an amendment to include language addressing the "rights for the provider" in HB 2667</li> </ul>
132	Rep. Taylor	Asks if the amendment the witness referred to is in written form.
137	Simmons	At this time there are no formal written amendments.
140	Rep. Lokan	Asks for examples of the problems that the providers are experiencing.
143	Simmons	<ul style="list-style-type: none"> <li>* providers wished to expand their business and were refused permission by the state agency</li> <li>* anti-business bias prevalent throughout the state with respect to multiple home businesses</li> <li>* providers in Klamath Falls having problems with local licensers and inspectors</li> <li>* discusses meetings being held that allow providers a forum to explain their problems</li> <li>* refers to administrative rule by Senior Disabled Services Division instituted prior to 1995 session</li> <li>* ongoing turbulent relationship in Clackamas County between providers and Administrators</li> </ul>
199	Rep. Lokan	Asks for a definition of NIS.
203	Harrison	<p>Negotiating Investment Strategy</p> <ul style="list-style-type: none"> <li>* a program granted by Portland State University to teach providers how to bridge the gap</li> <li>* operational since Fall of 1996</li> </ul>
217	Chair Milne	Asks about the current process for providers to vent concerns and problems.
		* Inspectors write a complaint and provide the care-giver with a

		time frame to respond.
220	Harrison	* If care-giver disagrees with inspector, an administrative hearing can be scheduled.  * In her opinion the hearing officer, who is hired by the division, generally rules in favor of county.
240	Chair Milne	Asks if a report is created when there is a rule violation.
245	Harrison	Responds affirmatively.  * A report is sent to the provider indicating a time frame for response.
253	Chair Milne	Asks how files are kept.
255	Harrison	Public disclosure files are kept in Division offices.
263	Rep. Lokan	Asks about the arbitrator for Clackamas County.
265	Harrison	Mark Braverman, Attorney at Law in Lake Oswego works as a sub-contractor
272	Simmons	* Informs the committee of the bill's simplicity  * adds the word "provider" in about 7 places  * intends to take into account the interest of the provider
286	Rep. Taylor	Asks about Section 1-b and voices concern about broadening the Division's charge to protect the providers' health, safety, and well being.  Asks about the implications that this would create.
300	Simmons	Administrator's with the Division felt that they already protected providers.  * discusses restrictions and conditions that the Division imposes on providers for their own protection
340	Rep. Devlin	Asks if the witness's Association represents both single and multiple home owners.
349	Simmons	Responds affirmatively.  * The majority of care-givers have one home.
352	Rep. Devlin	Asks how many homes are managed by a resident manager.
370	Harrison	A guess would be about twenty five percent.
380	Chair Milne	Asks how the provider is protected by being included in page 1, Section 2-a.
386	Simmons	* The providers want the administration to recognize that there is another side to each issue involving a resident.

<b>TAPE 42, A</b>		
003	Chair Milne	Asks about page 2, line 9 referring to the department's obligation to remove a resident.  Voices concern about including providers in that section.
010	Simmons	It would be a unique case where the government might close a home down for the providers protection.
035	May Dasch	Represents, The Marys Peak Chapter of the Alzheimer's Association, submits and presents written testimony in opposition to HB 2667 ( <b>EXHIBIT D</b> ).
064	Chuck Sheketoff	Represents, Oregon Citizen's Coalition for Quality Long Term Care, United Seniors of Oregon, and the Oregon State Counsel for Senior Citizens, presents testimony in opposition to HB 2667.  * refers to SB 543 from the 1995 session increasing enforcement authority for Senior and Disabled Services Division (SDSD)  * discusses the budget of SDSD and "client based reimbursement"  * explains the results of a repeat audit from 1994 and defines "technical assistance." - homes receiving state dollars and staff help from SDSD.  * refers to SDSD manuals and publications created to help providers do a better job  * asks that no action be taken on any of the long term care bills until the agency monitoring report is finalized.  * reads 3 reports that have been released by SDSD  * explains that providers can deal with employees under existing employment statutes
148	Chair Milne	Asks about the agency monitoring report.
150	Chuck	* SDSD is the division that creates the report.  * The last word was that the report was a month away from being finalized.
161	Chair Milne	Asks for clarification on how information is collected for the report.
167	Chuck	* SDSD visits provider homes as well as collects survey information from the providers.  * Recommends that the committee ask the division directly

169	Rep. Lokan	Asks about areas of the state that may be more problematic than others.
175	Chuck	<ul style="list-style-type: none"> <li>* Is concerned that the "industry" reports contention existing all over the state, thus, exaggerating and fostering past issues.</li> <li>* The number of foster homes in Multnomah county creates a misperception that the county is out of balance with the rest of the state.</li> </ul>
185	Meredith Cote	<p>Director, Office of Long Term Care Ombudsman, presents testimony in opposition to HB 2667. Explains what her office is responsible for:</p> <ul style="list-style-type: none"> <li>* carries a federal and state mandate to investigate and resolve complaints and concerns brought by or on behalf of the residents of long term care facilities.</li> <li>* train and place volunteers to be a routine presence</li> </ul> <p>Adds a few comments to presented testimony:</p> <ul style="list-style-type: none"> <li>* Clackamas county is a hot spot of contention</li> <li>* meetings are attended by Mr. Simmons and 3-4 providers who direct hostility toward the regulator.</li> </ul>
217	Rep. Lokan	Asks for the regulator's name in Clackamas county.
225	Simmons	Patty Huntley is the regulator who attends the rule-regulation meetings in Clackamas county.
233	Cote	<ul style="list-style-type: none"> <li>* Voices concern that this bill would not address the problems facing the industry in regard to its relationship with the state.</li> <li>* This legislation may afford protection to a group of business people that other business people don't have.</li> <li>* There needs to be consistent interpretation, application, and enforcement of regulatory standards.</li> <li>* Voices concern about section 1-B and section 2-A and discusses the problems they may create.</li> <li>* Explains what happened with SDSO after the 1995 legislation and SB 543</li> </ul>
312	Chair Milne	Asks if there is a regulator in each county.
315	Cote	<ul style="list-style-type: none"> <li>* SDSO delegates the function of regulation to the local level, either to its own office or an area Agency on Aging Office.</li> <li>* There is a provision in the statute that allows some offices to have</li> </ul>

		<p>their own licensing.</p> <p>* Severe civil penalty sanctioning is done at the central SDSO office.</p>
358	Chair Milne	<p>Asks how the volunteers are trained and managed.</p> <p>Asks if there is a process for volunteers to report violations, problems, and/or concerns.</p>
368	Cote	<p>Explains the screening, training, and recommendation process for becoming an ombudsman.</p> <p>* Ombudsmen must initially pass a test, then fulfill a yearly requirement of eighteen hours continued education.</p> <p>* A field staff person is continually available in the office to handle complaints and problems as well as provide technical support.</p> <p>* Ombudsmen are trained as mandatory reporters under Oregon's abuse laws.</p>
<b>TAPE 41,B</b>		
001	Cote	Continues response.
010	Chair Milne	Asks about compensation for the volunteers including mileage.
012	Cote	In some circumstances, at the local level, volunteers will be compensated for mileage.
018	Rep. Kruse	Asks for information on Ms. Cote's office.
023	Cote	<p>* The office has been in existence since 1981.</p> <p>* There are 8 FTE and two hundred+ volunteers.</p> <p>* The office is an independent state agency.</p>
034	Rep. Kruse	Asks about training the volunteer screening committee.
036	Cote	<p>The office has a technical staff person.</p> <p>* develops training programs</p> <p>* creates the tools necessary for programs</p>
045	Rep. Lokan	Asks why Clackamas county is more of a "hot spot" for contention than the rest of the state.
051	Cote	<p>* Her office has not been involved in the issues relating to the relationship between care providers and administration.</p> <p>* She has been a witness of contention that takes place during meetings she's attended.</p>
066	Chair Milne	Asks whether Ms. Cote's office responsibilities would put her in a

		position to know what problems occurred in the industry.
070	Cote	<ul style="list-style-type: none"> <li>* A unique relationship exists between providers and regulators.</li> <li>* The ombudsman office is not a participant in this relationship.</li> <li>* Some problems are brought to the attention of her office because they affect the volunteers.</li> </ul>
080	Chuck	Clarifies the differences in responsibility and function between the Office of Long Term Care Ombudsman and SDSD.
098	Cote	<ul style="list-style-type: none"> <li>* Glad to see SDSD putting on its regulators cap.</li> <li>* Has not seen problems for ombudsman in Clackamas county either with the providers or the division.</li> </ul>
120	Chair Milne	Asks why Ms. Cote is in opposition to this bill if her office is not having any problems with providers or regulators.
126	Cote	* The kinds of problems the industry discussed in their testimony would not be addressed by the language of this bill.
139	Rep. Harper	Asks about solutions to existing problems that are not addressed in this bill.
145	Cote	<ul style="list-style-type: none"> <li>* The industry needs to accept that they are "regulated."</li> <li>* Both parties need to sit down and articulate problems with a mediator.</li> <li>* Solutions will not be found in a new law.</li> </ul>
166	Rep. Devlin	Asks if SDSD performs regulatory services directly with the provider, and the Ombudsman Office performs services that assist the resident.
193	Cote	Responds affirmatively.
209	Rep Devlin	Asks about the process of reporting by the volunteers.
215	Cote	<ul style="list-style-type: none"> <li>* Volunteers first report directly to her office.</li> <li>* Ombudsman are mandatory abuse reporters by law.</li> </ul>
225	Jacqueline Zimmer	<p>Director, Area Agencies on Aging , presents testimony that clarifies why Clackamas county and Multnomah county are experiencing more problems.</p> <ul style="list-style-type: none"> <li>* Both counties operate under higher, more restrictive standards.</li> <li>* The goal should be to bring other counties in line with Multnomah and Clackamas.</li> </ul>
287	Doreen Bryant	President, Clackamas County Chapter of Adult Care Providers of Oregon, submits and presents written testimony in favor of HB 2667( <b>EXHIBIT E</b> ).

353	Rep. Harper	Asks about the existence of advocacy for the providers.
361	Bryant	* There is no advocacy for the providers. * Comments on Meredith Coty's testimony.
400	Chair Milne	Closes the public hearing on HB 2667.
401	Chair Milne	Opens a public hearing on HB 2666.
<b>TAPE 42, B</b>		
010	Simmons	Submits and presents written testimony in favor of HB 2666 <b>(EXHIBIT F)</b> .
071	Rep. Harper	Asks if two committees exist that deal with the issue of long term care.
075	Simmons	* The Ombudsman Advisory Committee is older. * The new committee is called the Medicaid Long Term Care Quality and Reimbursement Advisory Council. (543 Council)
100	Lee Hazelwood	Representative, Governor's Commission on Senior Services, submits and presents written testimony in opposition to HB 2666 on behalf of Phyllis Rand <b>(EXHIBIT G)</b> .
160	Cote	Submits and presents written testimony in opposition to HB 2666 <b>(EXHIBIT H)</b> . * explains the charge of her office * maintaining credibility * responding to complaints and concerns * examples of study conducted on complaints against ombudsmen
247	Hazel Simms	Chair, Long Term Care Advisory Committee, presents testimony in opposition to HB 2666. * describes the process for committee appointment * explains the responsibilities of her committee * asks the Human Resource committee to allow the Advisory committee to perform its duties before new laws are passed.
282	Rep. Lokan	Asks if the ombudsman training could be part of the problem.
300	Cote	* The training mission is to be objective in terms of gathering facts. * The volunteer's priority is to act as the advocate for the resident. * The training motto is "fair, firm, and friendly."



327	Rep. Lokan	Thinks that the ombudsman must also consider the concerns of the provider. Urges the two sides to work towards solutions and conflict resolution.
374	Betty Johnson	Co-Chair, Medicaid Long Term Care Quality and Reimbursement Advisory Council (543 Council), submits and presents testimony in opposition to HB 2666 ( <b>EXHIBIT I</b> ).
<b>TAPE 43, A</b>		
010	Marcelle Robinson, Ph.D.	Member, Long Term Care Advisory Committee, presents testimony in opposition to HB 2666.  * discusses the rapid growth of Adult Foster Care  * transitions have not been made by adult foster care providers from "place of home" to "place of business"  * the industry must accept being monitored and regulated
042	Jean Williams	Member, Long Term Care Advisory Council, submits testimony in opposition to HB 2666.  * Concurs with testimony presented today in opposition.
055	Chair Milne	Closes the public hearing on HB 2666.
056	Chair Milne	Adjourns the meeting at 3:00 p.m.

Submitted By, Reviewed By,

Diane M. Quinones, Lori A. Long,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A - HB 2667 written testimony in favor, Simmons, 6 pp.**

**B - HB 2667 letter in favor, Harrison, 1 p.**

**C - HB 2667 written testimony in favor, Ankrum, 1 p.**

**D - HB 2667 written testimony in opposition, Dasch, 1 p.**

**E - HB 2667 written testimony in favor, Bryant, 2 pp.**

**F - HB 2666 Ombudsman statutes beginning with 441.100, Simmons, 4 pp.**

**G - HB 2666 letter in opposition from Rand, Hazelwood, 1 p.**

**H - HB 2666 written testimony on Ombudsman in opposition, Cote, 4 pp.**

**I - HB 2666 written testimony in opposition, Johnson, 4 pp.**