

HOUSE JUDICIARY
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

February 17, 1995 Hearing Room 357
10:00 am Tapes 22 - 25

MEMBERS PRESENT:

Rep. Del Parks, Chair
Rep. Bryan Johoston, Vice-Chair
Rep. Kate Brown
Rep. Chuck Carpenter
Rep. Lisa Naito
Rep. Eileen Qutub
Rep. Bob Tiernan

MEMBER EXCUSED:

STAFF PRESENT:

Milt Jones, Committee Counsel
Sarah May, Committee Assistant

MEASURES HEARD:

HB 2493 - Public Hearing and Possible Work Session
HB 2325 - Public Hearing and Possible Work Session
HB 2351 - Work Session

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 22, SIDE A

005 CHAIR PARKS: Calls the meeting to order at 8:38 am.

PUBLIC HEARING ON HB 2493

(HB 2493 requires that certain disciplinary proceedings of professional licensing boards be public, including records.)

Witnesses: Phil Keisling, Secretary of State
Les Zaitz, Public Records Advisory Council

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008 CHAIR PARKS: Discusses how HB 2493 has come about and why. We want disciplinary

records to be known for three reasons. 1) for who they employ 2) give to professionals to look at complaints 3) that if someone is accused that the testimony will prove they are not guilty.

080 P~L KEISLING, SECRETARY OF STATE: Testifies and submits written testimony in

support of HB 2493. (EXHIBIT A)
148 NAITO: Did your group consider people that are professionals such as police officers, who may be included in this list?

153 KEISLING: Cites double HH of bill. You are referring to the board of Public Safety Standards and Training.

160 LES ZAITZ, PUBLIC RECORDS ADVISORY COUNCIL: Testifies in support of HB 2493.

235 REP. JOHNSTON: People with different professions need different standards of confidentiality. People need to be treated differently, yet this bill treats everyone the same?

242 KEISLING: A charge of professional misconduct is the difference. It is either in the seriousness of that complaint or how it effects the consumer. Every profession thinks that their job is more vulnerable than others. We need to look at the substance of complaints rather than a law on a professional.

273 ZAITZ: If you continue to treat people differently, it raises the suspect of the state giving special privileges to one sector of the professional community as opposed to another. Gives examples.

287 REP. NAITO: How did you derive at the 10 year requirement on retaining records in Section 8 of the bill?

290 KEISLING: Public records are on a retention schedule, explains. Ten years is a reasonable amount of time to make sure the record is kept, but that isn't a critical time period if the committee wanted to modify it.

303 REP. BROWN: Cites Section 3 of bill about confidentiality. What would be "clear and convincing evidence" sufficient to warrant that confidentiality take place? Victims may not want to come forward because their name may be all over the press.

313 ZAITZ: Cites example of clear and convincing evidence where a person is physically fearful of the person they made the complaint against. Also explains the standards for cases where the nature of the conduct is so spectacular or sensational that there could be considerable harm of the complainant if specific information was disclosed.

367 HARVEY KLEVIT MD, MEDICAL DIRECTOR OF THE OREGON BOARD OF MEDICAL EXAMINERS: Testifies and submits written testimony in opposition to HB 2493.

- (EXHIBIT B)

TAPE 23, SIDE A

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028 CHAIR PARKS: Why would it be such a problem? There is no decision for you to make.

031 KLEVIT: The biggest problem is the intermingling in our files of investigatory information with the complaint itself.

037 CHAIR PARKS: In the bill, it provides that you are to make the results of the investigation available?

038 KLEVIT: Yes, but while the investigation is going on, the medical records, etc. would not be ascertainable by the public.

043 CHAIR PARKS: Do you send a form out to a person if they want to file a complaint?

047 KLEVIT: Yes. We get many phone calls inquiries and concerns about our licensees. We frequently refer complaints to the Medical Society.

055 CHAIR PARKS: Would you have a record of someone who called in a

complaint?

056 KLEVIT: We would have the name of the complainant for statistical tallying, but we would not open a file on a complaint like that.

059 CHAIR PARKS: If a file was opened, the initiating document would be a letter of complaint?

060 KLEVIT: Correct.

061 CHAIR PARKS: It would be easy for someone to open a file and find out that there was a letter that a complainant sent.

067 KLEVIT: While discouraging complaints of a frivolous nature, the passage of this bill could effect the boards ability to carry out it's statutory responsibilities, explains. Continues reading written testimony, EXHIBIT B.

076 CHAIR PARKS: You believe the act would discourage the filing of frivolous complaints?

077 KLEVIT: Yes. Continues with testimony.

082 CHAIR PARKS: Do you know of the case of Dr. Hung? What public information is available about that case?

085 KLEVIT: The entire transcript of the contested case hearing and any orders that flowed from the

board as a result of that hearing.

088 CHAIR PARKS: Is that a concluded case?

088 KLEVIT: Yes.

089 CHAIR PARKS: What is that group called that formed because they didn't think they were getting a fair hearing on that matter from the board of Medical Examiners?

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091 KLEVIT: I don't know.

092 SCOTI GALLANT, OREGON MEDICAL ASSOCIATION: I don't know what their name is. They have contacted all of the physicians who have been disciplined by the board to lobby a bill that would prohibit the board from disciplining a physician. If they receive a written consent they can then provide any alternative medicine procedure or device.

097 CHAIR PARKS: Does anyone know what that group of people are called?

099 REP. NAITO: The Schaumer family.

100 CHAIR PARKS: We should invite them in to testify.

102 GALLANT: The physician you are referring to, is now practicing in Vancouver WA. He was offered a settlement by the board, where his son who is a physician and he would be practicing together in order to cross check the practice. He chose not to accept that settlement.

109 CHAIR PARKS: Discusses case of Dr. Hung. Could you prepare a synopsis of your position on that?

115 KLEVIT: What Mr. Gallant just told you is a good example of confider~ality. I could not have BiVen you that information.

117 CHAIR PARKS: You could not have told us what he just told us?

118 KLEVIT: That is correct, it is protected information.

119 CHAIR PARKS: You don't let that man practice in Oregon now?

120 KLEVIT: He has no license to practice.

121 CHAIR PARKS: You felt he was a danger in some way to the public?

122 KLEVIT: The board felt that way.

123 CHAIR PARKS: That is why we are here. The board knows, as a physician, that a man like that shouldn't be practicing, but they can't tell people like us who might go to him.

126 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: Testifies and submits written testimony in opposition to HB 2493. (EXHIBIT C)

168 REP. BROWN: Your concern is that there was no determination on the issue of if the victim and the physician will have their name out in public?

173 GALLANT: Yes. You are going to have an accusation in the press that has not been thoroughly investigated or determined as to whether there is any validity to the accusation.

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176 REP. BROWN: Would your opinion be different if we changed that "public" piece until the investigation had been completed?

178 GALLANT: That would certainly improve the proposal substantially.

180 REP. BROWN: What would happen if we put the burden on the state to show that the victim's name could only be released if shown by clear and convincing evidence that it was in the public interest?

185 GALLANT: I'm not aware of what the standard is for making this determination. What this bill says, is that each of the 50 agencies will make their own determination in each instance. I don't think there will be consistency in determinations like that under this legislation.

205 CHAIR PARKS: That determination happens in everything that a government agency does.

Gives example.

212 GALLANT: Under the current process, it is very consistent. Under this bill, it would not be

consistent. The proponents want uniformity and consistency which you will not get by this bill.

218 KLEVIT: The process of the board is one that the complaints are screened by a smaller

committee of the board. The board determines if there is any violation of ORS 677. If they feel

that there is a violation, that licensee is invited in for an interview. The board, if at the time the

committee determined that there was a possibility of a violation, would be comfortable with public

disclosure at that point. Prior to that time, there is great fear that a doctor could be harmed.

Gives example of Dr. Albert's case.

240 REP. BROWN: In terms of the Albert case, my concern is the number of women who were victimized before it came to the public attention. Don't you think that the public knowing about this would have prevented the number of victims that occurred?

249 KLEVIT: His situation goes back to when he was a military physician at the air base in the 1950's. It took 20 or more years for people to come forward. I don't think they would have come forward any sooner if the complainants knew their name might be in the news.

259 CHAIR PARKS: What did you know, and when did you know it about Dr. Alberts?

262 KLEVIT: We knew in '93 that two women came forward and told the board that the doctor may have physically abused them in his medical office.

268 CHAIR PARKS: What did you do about it?

269 KLEVIT: It was investigated. In this type of complaint, there is no substantial evidence that this actually went on. Gives example of case.

285 CHAIR PARKS: What did you do about the Dr. Alberts case?

287 KLEVIT: There was still a lingering doubt as to whether these women were really abused at that point.

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289 CHAIR PARKS: So, you didn't do anything.

291 KLEVIT: He was put on a limitation of his practice where he was required to have a female chaperone in the examining room at all times. He was required to undergo psychiatric treatment with reports from his psychiatrist to the board on a regular basis. He was also required to undergo polygraphs at the request of the board. He was then required to come and visit with the board on a quarterly basis. There was still no firm evidence that he did do those things.

304 CHAIR PARKS: If I called and said that my wife was considering being treated by Dr. Alberts, do you have any information available to me to determine whether or not my wife should be treated by him?

309 KLEVIT: What I just told you is public information.

309 CHAIR PARKS: It would have been public information that he was being treated by a psychiatrist?

311 KLEVIT: That he was under voluntary limitation where he had to satisfy certain criteria. Those terms of limitation are public record.

318 REP. QUTUB: You mentioned earlier that there was evidence of this in 1950. At what point did that come out?

324 KLEVIT: That information came out after Dr. Alberts was placed on his restriction.

333 REP. NAITO: You believe that more serious complaints will not be brought because of the fear of loss of confidentiality. I believe the more sensitive and serious cases

will go forward if the
people believe that their case will be thoroughly investigated. Where do
you get the speculation
of people not bringing their cases forward?
352 GALLANT: Cites Section 4 of bill and explains language. Once you force
that immediate
confrontation between a licensee and the board, you will have quick legal
advice to go to a
legal
hearing. You will decrease the number of serious complaints because
individuals will not want
that sort of information in the public domain. The reason the statute was
designed was to
encourage family members and others who are aware of potential problems, to
file complaints.

TAPE 22, SIDE B

005 GAIL RYDER, OREGON NEWSPAPERS: Introduces Bob Caldwell.
008 BOB CALDWELL, OREGON NEWSPAPERS: Testifies and submits written testimony
in
support of HB 2493. (EXHIBIT D)
125 REP. BROWN: Because of the publicity given the case, Dr. Alberts brother
has basically lost his
practice. Can you respond to that?

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128 CALDWELL: It's a side effect of the public process. I don't think
secrecy would have helped that situation.

137 REP. BROWN: Discusses victim of sexual abuse by psychologist. If that
woman had wanted to keep her name private, in your mind would that have
been clear and convincing evidence to do so?

148 CALDWELL: There wouldn't have been any danger of her name going public
unless she went public herself. Most newspapers in the state have policies
that victims names are not used in sexual abuse cases.

156 REP. TIERNAN: Why is the public disclosure which you're talking about
good, but then why don't you put who wrote an editorial in the paper?

163 CALDWELL: The theory is that the person at the top of the page is
responsible for the editorial. It is no secret who is on the editorial
board, we just don't cite them.

188 LORA STUTEVOS, SELF: Testifies and submits written testimony in support
of HB 2493.

(EXHIBIT E)

220 CHAIR PARKS: You came forward, but not publicly? Do you mean before the
board of

Medical Examiners?

221 STUTEVOS: Yes. I would have gone to the media at the time if I would
have thought it would

have done any good.

224 CHAIR PARKS: What happened when you went in front of the board of
medical examiners?

225 STUTEVOS: They said they would do an investigation, but they never
invited me to be

interviewed. They interviewed me over the phone and I sent them a very

specific letter as to

what he had done. It took several months and then they told me he had done nothing wrong. I

asked them what their definition of an investigation was. It was his word against mine, but they

never asked me to give my word. Ultimately nothing was done.

248 JANE NASS, SELF: Test)files in support of HB 2493.

330 MICHELE NORMAND, SELF: Test)files and submits written testimony in support of HB 2493. (EXHIBIT F)

424 REP. JOHNSTON: Did you say that you found out in February of '94 as well about Dr. Alberts?

427 NASS: We were going to go before the judge to do an arbitration with Dr. Alberts and we

found out from his civil defense attorney that the investigation was over.

430 REP. JOHNSTON: Were your cases joined and was Dr. Alberts voluntary practice limitation a

result of your two cases?

TAPE 23, SIDE B

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006 NASS: No, I think his voluntary practice limitation was after the Oregonian ran their first article.

007 NORMAND: No, that was months before.

007 REP. JOHNSTON: So, we don't know. Both of you were waiting for something to happen?

009 NASS: It is my understanding that the board is trying to say that they had no knowledge of prior abuse. In 1973, Dr. Alberts came under investigation for the same conduct. He was also required at that time the same limitation of practice, but no one ever watched him.

016 CHAIR PARKS: How do you know that?

016 NASS: A women's complaint that was similar to ours, said that it happened to her in 1973

and that he was given a limitation of practice then.

020 REP. TIERNAN: The open records is one problem. A bigger problem is the process the

medical board uses to investigate the complaints that are filed.

024 STUTEVOS: They have agreed to change their process.

029 CHAIR PARKS: That is one of the things the bill is trying to address.

032 REP. JOHNSTON: Would any of you had failed to address the board of medical examiners

if you had been told upon your initial call that they wouldn't be able to keep your name

confidential?

036 STUTEVOS: I didn't know that mine was being kept confidential.

038 NASS: That was never an issue for myself.

040 NORMAND: I believe that women didn't come forward before because they were scared that they wouldn't be believed. Some of those instances happened years ago when women didn't talk about things like that.

045 STUTEVOS: The only thing that would have kept me from coming forward is

not trusting

that anything would have been done about it. Had I thought that nothing would come about

from me coming forward, I wouldn't have come forward.

050 REP. BROWN: I can't imagine the kind of courage it must have taken to come forward the

way you did.

056 STUTEVOS: I settled out of court with my insurance company. His claims representative

believed me and my story, but others didn't.

061 CHAIR PARKS: That was after you knew the board of medical examiners wasn't going to do

anything in connection with your case.

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062 REP. QUTUB: I also appreciate your coming forward.

066 NORMAND: The Oregonian had an article in the paper. People at the Woodland Park hospital knew that Dr. Alberts had a problem, it was not a secret. Why was the BME protecting him? The problem is that is they have the power to do so.

073 CHAIR PARKS: There is a false assumption that citizens won't want to come forward if they

will be publicized. I am deeply appreciative.

WORK SESSION ON HB 2351

(HB 2351 prohibits prosecution of person and civil forfeiture of property for same conduct unless law specifically allows forfeiture as part of criminal prosecution action. EXHIBIT G)

097 MOTION: REP. JOHNSTON: Moves HB 2351 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 6-0 MOTION PASSES

AYE: Carpenter, Johnston, Naito, Qutub, Tiernan, Parks

NO: Brown

EXCUSED: None

PUBLIC HEARING ON HB 2325

(HB 2325 creates magistrate division in Oregon Tax Court. EXHIBIT G1)

Witnesses: Lucille Shepard, Self
Edward Miska, Portland General Electric

126 LUCILLE SHEPARD, SELF: Testifies and submits written testimony in support of HB 2325.

(EXHIBIT H)

166 REP. TIERNAN: There is a bill that freezes property tax assessments for people that are 65 and

over and retired. Is that something that would be favorable?

172 SHEPARD: I was told that I made \$200 too much a year to be eligible for anything like that.

175 REP. TIERNAN: If your assessment was frozen at a level that they couldn't go up anymore,

would that help you keep your home?

177 SHEPARD: Yes. I was going to recommend putting the value of a home back to 1990 standard,

and then when you sell the home, then taxes could be raised. But every time a tax statement

comes up, they are raised. Continues with testimony.

215 REP. JOHNSTON: Was the bank of Newport the appraiser you were talking about? Discusses

EXHIBIT H. Did you agree with that appraisal?

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222 SHEPARD: I was objecting to what they stated for property taxes. Continues with testimony.

240 REP. JOHNSTON: You think this bill is good because it would allow you to appeal to someone other than the Department of Revenue (DOR).

243 SHEPARD: Yes. The Department of Revenue were the ones that said they had to include the

five percent increase on the assessment.

250 REP. JOHNSTON: The question is how much weight should the DOR give the appraisal? The

person who wrote the opinion from the Department of Revenue indicated how much weight they

gave it, which wasn't very much.

261 REP. TIERNAN: Do you have other neighborhoods that were taxed out of their homes?

263 SHEPARD: Yes, cites examples.

268 REP. JOHNSTON: When they do sell, are they getting near what the Department of Revenue

says they are appraised at?

270 SHEPARD: No.

276 REP. TIERNAN: This should bother all of us. Senior citizens are being taxed out of their homes. I hope that the legislature does something about it.

289 SHEPARD: I agree. There isn't a native Oregonian who is an assessor.

295 REP. QUTUB: Thank you for being here. These bills recognize that people need to have their opinions heard.

320 EDWARD MISKA, PORTLAND GENERAL ELECTRIC: Testifies and submits written testimony in support of HB 2325. (EXHIBIT I)

364 REP. JOHNSTON: You did not appeal it?

365 MISKA: No, explains. Continues with testimony.

TAPE 24, SIDE A

WORK SESSION ON HB 2325

(HB 2325 creates magistrate division in Oregon Tax Court. (EXHIBIT J))

004 MOTION: REP. TIERNAN: Moves HB 2325 TO FULL COMMITTEE with a DO PASS recommendation.

006 CHAIR PARKS: There are some amendments first.

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007 REP. TIERNAN: Withdraws motion.
008 REP. NAITO: I'm concerned with the level of fees that are set in the
process. Cites page 3 of
section 6, line 19.
014 REP. JOHNSTON: Discusses and explains proposed amendments.
033 REP. TIERNAN: What is the status now? Would the attorney fees be waived
for the individual?
035 REP. JOHNSTON: That status is that only the individual can get an award
of attorney fees if two
things occur, explains.
043 REP. TIERNAN: Discusses testimony on calculation of property assessment.
049 REP. JOHNSTON: Discusses amendments and how they would apply to
attorney fees of tax payer.
057 MOTION: REP. JOHNSTON: Moves to ADOPT HB 2325 -1 AMENDMENTS.
VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brown is
excused.
060 MOTION: REP. JOHNSTON: Moves HB 2325 AS AMENDED TO FULL
COMMITTEE with a DO PASS recommendation.
063 REP. NAITO: Asks about jurisdiction of small claims procedure. If the
land is less than
\$250,000, you would be eligible for a small claim? I'm concerned about the
land being worth
\$500,000, but the piece of land that they are disputing about is only a
small portion of that. I
want to make sure that they would still be eligible to come into the small
claims court. If the
amount of controversy is less than \$5,000 would they still be eligible to
be in small claims?
080 REP. JOHNSTON: If it is under \$5,000, it would still be eligible for
small claims court.
083 VOTE: 60 MOTION PASSES
AYE: Carpenter, Johnston, Naito, Qutub, Tiernan, Parks
NO: None
EXCUSED: Brown

PUBLIC HEARING ON HB 2493

(HB 2493 requires that certain disciplinary proceedings of professional
licensing boards be public, including records.)

Witnesses: Bob Oleson, Oregon State Bar
Chris Mullman, Oregon State Bar
Matthew Gruber, Organization for Fairness in Medical Practice

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David Buchanan, Oregon Common Cause
David Myton, Teacher Standards and Practice Board
Susan King, Oregon Nurses Association

106 BOB OLESON, OREGON STATE BAR: Testifies and submits written testimony on
HB

2493.

(EXHIB11 K)

135 CHRIS MULLMAN, OREGON STATE BAR: I am here to answer questions that the committee might have. Explains what happens in instance of a complaint.

151 REP. NAITO: The bar also has an aggressive outreach program for drug and alcohol treatment programs. How does that mesh with the disciplinary process?

154 MULLMAN: We do have an aggressive program that is kept completely separate and conf~dential. If during a course of our investigation, an accused lawyer admits that they have a drug or alcohol problem, that is a public record.

164 REP. QUTUB: Are you in support of this bill?

166 MULLMAN: Our procedure works for us, but it is broader than this bill. Every~ing for us is public.

171 OLESON: That is one of the reason we are here. We want to work with the committee so as to not limit our openness.

177 CHAIR PARKS: We need to have one system for everyone, explains.

185 OLESON: Would it be ok if an organization wanted to go beyond the "openness" rules?

187 CHAIR PARKS: Yes, we don't want to prevent you from doing more. There are many programs in the statute that provide for voluntary treatment for drug or alcohol addictions. They

would not be affected by this bill at all. Discusses complaints in his town and that he monitored them. It takes the bar a long amount of time to come to a conclusion on a case. If that information is available, it will prod agencies to respond more quickly to complaints.

224 MULLMAN: You are right that there are some cases that are slower than others. Explains the method they use to process cases.

231 REP. JOHNSTON: I have had two complaints made against me both have not come to a claim.

We made distinctions between the drug and alcohol programs and the disciplinary programs. My

concern is that the medical profession has an area that legal profession doesn't have which is a peer review process. The conf~dentiality of the peer review process is very important and I'm

concerned at how this bill might impact that. What are your perceptions?

250 MULLMAN: I'm not familiar with that process.

252 CHAIR PARKS: Discusses a bill about confidentiality. Mr. Shipiro will provide information to each member of the subcommittee about what they would receive if they inquired about a lawyer.

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277 MULLMAN: We have a wide variety of responses, discusses.

282 CHAIR PARKS: I'd like the members to have an actual case account of what they would receive if they inquired about a lawyer.

288 MULLMAN: If there is a decision to prosecute a lawyer, are you

interested in that process as well?

294 CHAIR PARKS: Maybe, just summarize what would happen as a result of the prosecution.

307 MATTHEW GRUBER, MD, JD, ORGANIZATION FOR FAIRNESS IN MEDICAL PRACTICE:
Testifies in opposition to HB 2493.

411 CHAIR PARKS: What part of the bill suggests to you that an agency would ever be protected?

414 GRUBER: Every member of the board of Medical Examiners and it's staff.

415 CHAIR PARKS: This bill has a requirement that before anyone is granted confidentiality they must prove by clear and convincing evidence a compelling public interest to keep their identity secret. How would that ever apply to a board?

424 GRUBER: The board has government immunity. I feel that the immunity would take

precedence over this bill.

429 CHAIR PARKS: Immunity is different than confidentiality.

430 GRUBER: Because they are already given and are protected by immunity, why should they be kept confidential? Continues with testimony.

TAPE 2S, SIDE A

009 CHAIR PARKS: The intent of the bill is to protect the integrity and the investigatory process where if information was prematurely revealed, it would hamper them in arriving at a full investigation.

012 GRUBER: That is the reason that there should be a time limit on the investigatory process. Continues with testimony. Discusses diversion programs for doctors.

040 CHAIR PARKS: What is the name of your organization?

041 GRUBER: The Organization for Fairness in Medical Practice.

042 CHAIR PARKS: Who is in and what is your organization?

043 GRUBER: We send out 200 letters a month to patients, doctors, and people in alternative medicine.

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047 CHAIR PARKS: Is this the organization that discusses Dr. Hung's case?

048 GRUBER: Yes, cites many other cases. A bill of this sort would be a good bill, if many of the exceptions which make it gutless were removed.

055 CHAIR PARKS: Do you know the numbers of the bill that you said you got to be heard before the legislature?

058 GRUBER: They were just put into counsel Monday and Tuesday.

059 CHAIR PARKS: When you find out the numbers, tell Mr. Jones and we will be sure to take a look at your bills.

060 GRUBER: I will give you copies of them as they were submitted to legislative counsel.

062 CHAIR PARKS: It would be more helpful to have the bill numbers.
063 GRUBER: I will submit them as soon as we get them. We are in favor of
very open public files.
073 DAVID BUCHANAN, OREGON COMMON CAUSE: Testifies in support of B 2493.

097 REP. NAITO: Should there be a time line within which an investigation
should be completed by the board?

101 BUCHANAN: There is a problem only if the information is made public
while the investigation
is going on. Gives example of other boards changing there system and
standards.

127 DAVID MYTON, TEACHER STANDARD AND PRACTICE BOARD: Testifies and
submits written testimony in opposition to Section 7 of HB 2493. (EX-BIT L)

170 CHAIR PARKS: Who is Mr. McKeever?

171 MYTON: He is the Assistant Attorney General assigned to our agency.

Continues with

testimony. Cites Section 7.

188 CHAIR PARKS: Wouldn't most of the victims be processed through the
police system before

they came to the attention to the school authorities?

193 MYTON: There may have been a police report.

194 CHAIR PARKS: The law requires that if the board is the first to find
out, then they must report

that to the police. Why can't that information be used the same way that it
is in the court system?

Gives examples, of tape recordings, video tapes, etc. Why can't these be
utilized in your system?

213 MYTON: We could possibly use those. Discusses case they lost in Oregon
Supreme court

because the commission had relied on testimony of counselors, teachers, and
parents about what

young children had told them about being sexual abused.

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speaker's exact words. For complete con~nts of the prweedings, please refer
td the tapes.

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225 CHAIR PARKS: Talk to your Attorney General and have them draft a bill
that would allow for the use of that evidence by you in your procedural
hearings to the same extent that it could be used in criminal law. I will
also meet with your Attorney General.

246 SUSAN KING, OREGON NURSES ASSOCIATION: Testifies and submits written
testimony in opposition to HB 2493. (EXHIBIT M)

321 REP. BROWN: Discusses that herself and others have been discriminated
against. Discusses a
nurse bringing information against a doctor with the possibility of never
being hired again and

what the effects of that would bring. Could you address that?

337 KING: Gives examples of her own experience as part of her testimony. The
political

environment makes it very clear that your economic possibilities will be
effected if you came

forward. Continues with testimony.

409 CHAIR PARKS: How many complaints have been made to the board of nursing
about the

professionalism of nurses in the last two years?

417 KING: They have had about 400 complaints made against all categories
that the board of nursing

currently licenses in the last biennium.

423 CHAIR PARKS: What happened to the 400 complaints?

425 KING: I don't know. The mix of complaints was 75 percent chemical dependency and 25

percent of practice complaints. The mix, in recent years has shifted to less chemical complaints

and more practice complaints. There are some issues, by the nurses, of sexual abuse as well.

TAPE 24, SIDE B

010 CHAIR PARKS: Chemical dependency among nurses would seem to be a serious problem because of the access to the drugs. The board would then take some action on that? If threefourths were of those complaints had action taken, which is about 300 cases, it would look like that the vast majority of the complaints were being dealt with. But the 25 percent of practice complaints that hadn't been dealt with at all, is a problem that I see.

025 KING: The other thing to look at is that if the board was required to report types and number of complaints. If you looked at what the disciplines were for, you could easily match the types of complaints and the disciplines which occurred and judge for yourself if the board was meeting that test or not.

029 CHAIR PARKS: If in two years from now the legislature was reviewing and they saw these numbers and the law had not changed, you would tell us that it was confidential under your rules?

032 KING:- The board would tell you that the cases which did not result in discipline were closed because there was insufficient evidence on which they could take action.

035 CHAIR PARKS: Don't you see the problem we face? You tell us that there isn't enough

evidence, but the law actually gives that responsibility to the legislature. We then chose to give

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that responsibility to the professionals But we don't have any way to make any kind of a judgment if you are doing what you are supposed to do. There is no way for us to check on you.

043 KING: There would be ways to look into it We would be open to consideration of other avenues such as allowing a complainant the right to an appeals process. If the complainant believes that the board had adequate evidence but nothing was done, there is still the complainant out there that can cause scrutiny of that.

063 CHAIR PARKS Adjourns the hearing at 11:30 am
Submitted by, Reviewed by,

Sarah May Debra Johns
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Testimony on HB 2493 - Phil Keisling - 2 pages
- B. Testimony on HB 2493 - Harvey Klent - 3 pages
- C. Testimony on HB 2493 - Scott Gallant - 6 pages
- D. Testimony on HB 2493 - Bob Caldwell - 5 pages
- E. Testimony on HB 2493 - Lora Stutevos - 2 pages
- F. Testimony on HB 2493 - Michele Nonnand - 3 pages
- G. Proposed Amendments to HB 2351 - Staff - 11 pages
- H. Testimony on HB 2325 - Lucille Shepard - 13 pages
- I. Testimony on HB 2325 - Edward Miska - 5 pages
- J. Proposed Amendments to HB 2325 - 2 pages
- K. Testimony on HB 2493 - Bob Oleson - 2 pages
- L. Testimony on HB 2493 - David Myton - 13 pages
- M. Testimony on HB 2493 - Susan King - 1 page
- N. Testimony on HB 2325 - George Moore - 2 pages
- O. Testimony on HB 2493 - Elizabeth Buys - 7 pages
- P. Testimony on HB 2493 - David Plunkett - 1 page
- Q. Testimony on HB 2493 - Carol Fleming - 1 page

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