

SENATE COMMITTEE ON
HEALTH AND HUMAN SERVICES

January 23, 1995 3:00 P.M.

HEARING ROOM B
Tapes 6-7

MEMBERS PRESENT: Sen. Stan Bunn, Chair Sen. Lenn Hannon Sen. Bill Kennemer
Sen. Randy Leonard Sen. William McCoy

STAFF PRESENT:
Art Wilkinson, Committee Administrator Mary Gallagher, Committee Assistant

MEMBERS EXCUSED:

MEASURES HEARD:
SB 27 Public Hearing SB 28 Public Hearing SB 29 Public Hearing SB 30 Public
Hearing SB 31 Public Hearing SB 32 Public Hearing

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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 6, A

CHAIR BUNN: Brings the committee to order at 3:00 P.M The meeting will
begin in subcommittee as a full quorum is not yet present and will continue
in full committee when a quorum is present -Announcements -The committee
will adjourn promptly at 4:45 P M.

010 CHAIR BUNN: Opens PUBLIC HEARING on SB 27

012 ELIZABETH BUYS, Administrator- State Board of Clinical Social Workers:
Testifying IN
FAVOR OF SB 27. Presents written testimony to committee [EXHIBIT A]

036 BUYS: Finishes testimony

SENATE HEALTH A ~
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040 GAIL RYDER, Government Affairs Director for Oregon Newspapers:
Testifying AGAINST
SB 27. Presents written testimony to committee [EXHIBIT B]. Suggests that
SB 27 be
amended
to conform with the intent of SB 94 by amending Section 4 of SB 27 to
require disciplinary
proceedings and record of the Board of Clinical Social Workers be public.

072 RYDER: Finishes testimony

074 HANNON: Would the newspaper publishers be opposed to adding a provision
in the statute
that
if the charges are published in one location, the charges being dismissed
would be reported in
the
same identical location?

081 RYDER: Unfortunately, we don't have any influence over our individual
newspapers' editorial
policies. That particular part of it comes under a particular newspaper's
editorial policy, under

the

First Amendment.

090 HANNON: The damage is done, though charges are reported on the first page of the newspaper

right where the public will see them, but when charges are dismissed it is printed somewhere in the back of the newspaper. When suspect is brought upon a person's character, it is never reported fairly and equally that the charges were investigated, found to be unsubstantiated, and subsequently dropped. Charges themselves should not be front-page news; nothing should appear in the paper until the party is found to be guilty of those charges.

107 RYDER: Again references SB 94, and mentions another bill (does not note the number) that will address the problems that Hannon mentioned.

116 KENNEMER: How would you like Section 4 of SB 27 to read?

120 RYDER: We would either request that you remove that section and let whatever version of SB 499 from last session go forward, or make those proceedings/records/information public.

123 KENNEMER: How can it be in the best interest of the public to have misinformation passed on, jeopardizing people's reputations--particularly regarding the mental health professionals?

127 RYDER: References the Albert case in Portland (a gynecologist who was repeatedly having complaints made against him). Potential and current female clients had no way of knowing whether there were any complaints against him or not.

134 KENNEMER: There is a public safety issue. Possibly we could look into setting a time frame.

150 RYDER: Sen. Mannix sponsoring another bill that would call for a task force on certification/licensing that would set some standards for all boards and commissions regarding the disciplinary hearings process. We would wholeheartedly support the suggestion of a timeline.

163 RYDER: Finishes testimony

164 ART WILKINSON, Committee Administrator: Presents Fiscal Impact Analysis on SB 27 to the committee [EXHIBIT C].

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174 BUNN: Any questions on fiscal impact? (No questions.)

177 BUNN: Closes PUBLIC HEARING on SB 27
Opens PUBLIC HEARING on SB 28

179 BUYS: Testifying [N FAVOR OF SB 28. Presents written testimony on SB 28 to the committee
[EXHIBIT D].

201 KENNEMER: The Council on Social Work Education does not accredit doctoral programs?

204 BUYS: That's correct.

206 KENNEMER: What happens if you have a new applicant that does not have a Master's degree; that only has a Doctorate? Is that still covered in your licensing statutes?

208 BUYS: Yes, it would be covered. We have not ever had anyone come to the board without a

Master's degree in Social Work.. If someone came to the board with a doctoral degree, the board has equivalency rules to take care of that.

216 BUYS: Finishes testimony

217 CHAIR BUNN: If time permits, I would like to come back to Senate Bill 28 after the rest of the bills have been heard, for a work session and if possible, to pass that bill out of committee.

221 CHAIR BUNN: Closes PUBLIC HEARING on SB 28
Opens PUBLIC HEARING on SB 29

227 MARJORIE MCGEE, State Coordinator for Deaf/Hearing Impaired Access Program (Oregon Disabilities Commission): Notes that David Powell of the ODC will be joining her in her testimony (he is not here at this time). Testifying IN FAVOR OF SB 29. Presents written testimony to the committee on behalf of the ODC, the Salem Audiology Clinic, the Oregon Association for Better Hearing, and SHHH (Self-Help for Hard of Hearing People) [EXHIBITS E-1 to E-4]. Concerned about the inadequacy of consumer representation on the Advisory Council on Hearing Aids.

269 MCGEE: Defers to David Powell.

290 DAVID POWELL, Chair of Oregon Disabilities Commission: Takes over ODC's testimony in favor of SB 29. Main point is that the ADHA needs to have hearing aid consumers on it in order to be fair to hearing aid consumers as a whole. At least three would be ideal.

317 POWELL: Continuing testimony

360 POWELL: Continuing testimony

398 LEONARD: Why would the hearing aid industry not support this proposal?

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404 POWELL: We don't know formally that there will be opposition. We feel,

however, that hearing aid dealers won't want to lose their majority power on the Council.

TAPE 7,A

000 POWELL: Still responding to Sen. Leonard's question

005 LEONARD: The Advisory Council---what kind of function does that play in the manufacture and sale of hearing aids?

025 POWELL: It doesn't actually play a function in the manufacture itself. It advises the Health Division, which by statute can regulate the hearing aid dispensing industry in several ways. For one, it devises a qualifying exam whereby people can be licensed to sell hearing aids and determines what the minimum standards are for passage of that exam. It actually licenses the individuals. It handles suspensions and revocations of those licenses. They also handle grievances about license procedures. (Continues to answer question)

030 LEONARD: Currently the one public Council member is not a consumer?

032 MCGEE: She is a consumer, but the law does not stipulate that she needs to be a consumer of hearing aids--she just happens to be one.

034 CHAIR BUNN: Calls John Gervais, Oregon Hearing Society (OHS) to testify

043 JOHN GERVAIS, OHS: With me is Scott Austin, President of the OHS. Testifying AGAINST SB 29. [NO EXHIBIT] The Hearing Council is not a policy Council; it is advisory only. It does not have the authority to dictate any kind of policy direction; rules or otherwise. OHS went through Sunset in 1985, asking for a change in the Council to include a public member. We have also worked with the Governor's Office to make sure that that public member is a person who does use hearing aids. OHS has been very careful in trying to ensure that there is a consumer on the Council. We think that the passage of SB 29 would talce too much of the technical expertise away from the Council.

075 SCOTT AUSTIN, President of OHS: Takes over testimony on behalf of OHS.

088 LEONARD: Would you agree with a compromise of two consumers and three dealers on the Council?

092 AUSTIN: Yes, I would agree with that. I do support that both consumers should be purchasers or consumers of hearing aids.

094 LEONARD: You would agree to the reduction of one dealer?

096 AUSTIN: As a compromise, I would agree with that. (Finishes testimony)

097 CHAIR BUNN: Calls Sue Wilson, Health Division to testify

100 SUE WILSON, Administrator, Health Division Licensing Programs: We agree to the removal of one technician from the Council and the addition of one consumer. We do agree to Sen.

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Leonard's suggested compromise. I am here to answer any questions you may have regarding this legislation

114 KENNEMER: I would like to know a bit more about the role of your agency in this matter and

why consumers might have a problem with the Council.

117 WILSON: The only problem I can point to is the posture of the Council in responding to consumers. We have listened to the concerns of the ODC and are willing to go along with adding

another consumer to the Council if they feel there is currently a problem.

125 MCCOY: Have you had many problems in the administration of the Council? Have there been

any comments/criticisms made to you?

130 WILSON: We have the benefit of a very proactive consumer who is a hearing aid wearer. She

has been very active and represents consumers quite well. I feel very fortunate with our current

Council make-up. NO, we haven't had any problems.

136 CHAIR BUNN: If you were going to characterize the main benefit you derive from this group, is

it the provision of technical expertise?

140 WILSON: We do rely heavily on the technicians to assist us in examination questions.

146 CHAIR BUNN: If what you're looking at in an advisory group like this is technical expertise, a

consumer may tend to have more expertise in a limited area and a provider greater expertise.

Do you have any reaction to that?

150 WILSON: Yes, I agree with that. The technical expertise that the practitioners bring to the Health

Division is something that we need in order to produce an examination that's keeping in pace with

the movement of the profession.

155 KENNEMER: As a point of information, I'd be interested in how many other boards and

commissions that are technical have more than one public member.

165 CHAIR BUNN: I can check on some background for that.

Closes the PUBLIC HEARING on SB 29
Opens the PUBLIC HEARING on SB 30

Reminds people who are testifying to state their name and occupation for the record, and state it again when alternating back and forth with other people testifying.

171 KEVIN WILSON, Naturopathic Physician/Chair of Oregon Board of Naturopathic Examiners: Testifying IN FAVOR OF SB 30. Presents written testimony to the committee
1EXHIBIT F-1]. The bill is primarily designed to correct or clarify the status of a few individuals
working at the naturopathic school's clinic. As it stands right now, residents are chosen for the program to help staff the clinic and to help teach other students while continuing their own education. They have the unfortunate possibility of not passing their board exams before their position there begins and it has been unclear what their legal status is. We propose that there is a

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limited, once in a lifetime licensure for them so that if they didn't pass their licensing exams they would not be guilty of practicing naturopathic medicine without a license or endangering the schools in terms of liability. This would protect the schools/clinics and would allow the residents to repay their student loans and make a living while they are waiting to pass their exams. It is a rare occurrence but it has happened and we want to clarify this situation.

207 MCCOY: It has only happened once?

208 WILSON: I don't know how many times it has happened. It doesn't happen very often. This year, all of the residents passed their exams the first time, but it is still a potential situation.

211 MCCOY: Nobody should be practicing without a license. It seems that you are asking us to change that idea, and let a person practice for how long without a license?

216 WILSON: The statute for the bill as we present it is eighteen months.

218 MCCOY: That's a year and a half Practicing a year and a half without a license? Why would someone go to the trouble of getting a license if they know they can practice without one?

225 WILSON: This is a very rarefied situation. Residents are under clinic supervision. They are not

allowed to practice naturopathic medicine outside the clinic anyway. I am
firmly in support of
regulating the profession. I do not want anyone out there practicing who is
not licensed. To me,
this
is an important, special situation that I want to encourage residency
programs. It makes for
better
doctors, for better student teaching clinic situations and it seems
appropriate to me.

235 MCCOY: In other words, you'd like to have an internship program and
have people get paid.

237 WILSON: Yes, have them get paid.

239 MCCOY: Do the interns get paid now?

240 WILSON: Yes, they do.

241 KENNEMER: As I understand this, in traditional medicine a person gets
their M.D. before they start their residency. However, in many other
clinical programs, residency may be completed prior to the completion of
the degree. In your situation, as I understand it, these people have a
licensing board exam which they can potentially fail and then they can take
it again.

248 WILSON: Correct.

249 KENNEMER: So what you have is the option instead of them being
unemployable and
leaving
your clinic in the lurch, they have the option of working under very close
supervision--is this
supervision by a licensed naturopath?

252 WILSON: Yes, absolutely.

253 KENNEMER: So they're being supervised in a clinic setting; they are not
in practice per
say?

255 WILSON: Correct.

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256 KENNEMER: So it's a supervisory training experience, and it really is a
residency, is it not?

258 WILSON: Yes, it is.

260 WILSON: Finishes testimony

263 DR. RITA BETTENBURG, Naturopathic Physician/Chief Medical Officer of
the Teaching

Clinic at the National College: The comment I'd like to make is that this
bill does not allow the
people that would come under this provisional license to practice on their
own. They would
only be

able to fulfill the duties of a resident, at all times supervised in the
clinic under the auspices of a
teaching program. A residency is still a teaching program. I hope that

helps to differentiate
them

from just being allowed to practice on their own, because they are not
allowed to do that.

275 DON WALKER, Past Chairman of the Naturopathic Board of Examiners: My
testimony is
very similar to the last two doctors testifying and I won't reduplicate
their comments.

280 KENNEMER: Dr. Walker: are you aware of how many problems this has caused
in the past?

282 WALKER: There have been few problems. We're just trying to prevent any
future problems
that
might arise.

284 KENNEMER: But there has been an instance or two?

286 WALKER: There has been an occasional problem. This would set it out in
the statute so we
knew right where the board stood.

288 KENNEMER: The board doesn't have any discretion at this point under
your current statutes to
provide a provisional license or residency status?

290 WALKER: There is no provision in the statute for any type of temporary
or partial license at
the
present time.

294 KEVIN WILSON: Presents written amendment to SB 30 [EXHIBIT F-2],
suggested by Dr.
David Young of the OEPP--circulates to members of committee at request of
Chair.

310 WILSON: Dr. David Young of the OEPP suggested this amendment. He is not
here to support
this amendment with his own testimony but I can discuss it.

345 WILSON: Still talking about amendment

347 CHAIR BUNN: Asks Wilson to get additional written information from Dr.
Young for the committee.

354 WILSON: Agrees. Finishes testimony

356 SCOTT GALLANT, Oregon Medical Association: Presents written testimony
for bills 30, 31
& 32 1EXHIBIT G1 together in a packet. Testifying AGAINST SB 30. Is against
allowing

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naturopathic students to practice for eighteen months without a license.

Believes this may have

an

impact on Medicaid reimbursement.

TAPE 6,B

477 GALLANT: As I have not yet seen the amendment which was submitted by Mr.
Wilson, I will
not

comment on it at this time. I would like a chance to review it.

481 CHAIR BUNN: You may provide written comments on the amendment if you
like.

483 GALLANT: Finishes testimony on SB 30

486 WILKINSON: Presents a Fiscal Analysis on SB 30 to the committee [EXHIBIT
H]

493 CHAIR BUNN: Closes PUBLIC HEARING on SB 30

Opens PUBLIC HEARING on SB 31

495 WILSON: Testifying IN FAVOR OF SB 31. Presents written testimony to the committee

[EXHIBIT I]

503 CHAIR BUNN: Interjects: It is now 4:00. We will take a recess until 4:10.

508 CHAIR BUNN: Re-convenes the meeting at 4: 10 P.M

510 WILSON: I believe the summary on SB 31 is fairly accurate and to the point on the changes that

we want. This is mostly a matter of modernizing the language. There is some confusion about why

SB 31 and SB 32 are coexisting. Our legislative council suggested that for a matter of language

agreement that made the changes of SB 32 inclusive in SB 31.

524 MCCOY: Which is the more comprehensive bill--SB 31 or SB 32?

526 WILSON: Actually I believe SB 31 is more inclusive. I'm not sure.

531 CHAIR BUNN: Check that and let us know in writing.

532 WILSON: I'd be happy to do that.

533 CHAIR BUNN: Any further questions at this point?

533 LEONARD: You want to substitute the word "substance" for "drug?"

534 WILSON: Yes,that'sright.

535 LEONARD: On the second page of the bill, lines 13 and 14 make reference to "drugless therapy."

539 WILSON: Thanks for pointing that out. It's a drafting error that last sentence should be eliminated.

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543 CHAIR BUNN: It's existing law and if anything's going to happen to it, we need to figure out

what to do to it. In the written comments you'll be submitting to us, comment on what you think should be done with that section of existing law.

546 WILSON: Agrees; finishes testimony

549 KENNEMER: I believe that this bill, unlike SB 32, fails to tell what happens to the former board

members in this transition. It would need an amendment for that. Also, we always have problems

with "turf grabbing". Does this expand your scope of practice? Does this allow you to prescribe

substances that you are not currently prescribing? How does this interact with the M.D.'s and the

D.O.'s in terms of competition? Are we grabbing turf?

559 WILSON: I think that's an important point. I don't believe that this increases our scope of

practice at all. What it does is clarify. For example, it used to say "plant and animal substances."

Now it says "plant, animal and mineral." It's already in the statute that we prescribe vitamins and

minerals. We just wanted minerals to be listed.

564 KENNEMER: So that's in addition to what you have, but it's what you've already been doing

and it's cited elsewhere?

566 WILSON: Yes. We also want to be able to administer oxygen in the office. We want it clear that

we can do that. I don't see it as an expansion of scope at all.

580 WILSON: We have never been a drugless profession. The wording is from the original 1927

drafting of the bill. We have been prescribing drugs all along--antibiotics, hormones, etc.

583 KENNEMER: Where's the language about nonpoisonous?

585 WILSON: It was going to be eliminated in the original Section 3 and substituted into what is now Section 7 under "substance."

587 KENNEMER: Where is it in the bill? I can't locate it.

588 WILSON: It's line one on page 2.

594 WILSON: Refers to and discusses Section 4, paragraph 2 on page 2.

609 LEONARD: What are the educational requirements for a naturopath?

613 WILSON: It's a 4-year medical school program.

615 LEONARD: A medical school as distincted from an undergraduate school of studies?

619 WILSON: Absolutely. It is a doctoral program.

620 LEONARD: Then there is a pre-requisite of a Bachelor's degree?

622 WILSON: There is going to be. There wasn't.

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624 BETTENBURG: Maybe I can answer that question. Right now, up until this year, the

requirements for admittance to the college were 3 years of an approved pre-med program. We have

changed that now to a full Bachelor's degree with pre-med requirements.

632 WILSON: We hope to replace "naturopathy" with "naturopathic medicine." That was passed in

the last session but was never printed up in our statutes.

643 WALKER: Similar comments; would also like to clarify the language and bring it up to modern

terminology.

648 KENNEMER: you don't believe this expands your scope of practice?

649 WALKER: No. I see no expansion at all. (Finishes testimony)

653 GALLANT: Refers to EXHIBIT G. Testifying AGAINST SB 31.

689 GALLANT: Continuing testimony

730 GALLANT: The change on lines 21-22--the deletion of administering or writing prescriptions for

or administering drugs is a major change from previous statutory law. The committee should look

at that very closely.

737 CHAIR BUNN: How is that a major change? Previous testimony has said there's no substantive

change; you're saying there are major substantive changes? Please clarify.

746 GALLANT: Responds

763 CHAIR BUNN: Go ahead vvith your testimony...we'll all have to get together later in work session and figure this out.

768 LEONARD: Assuming that it is a substantive change, why in and of itself is it a bad idea?

776 GALLANT: We would argue that naturopathy is a unique practice and that their proposals tend to move beyond what we believe to be their education and training. We believe that the public could at times be harmed by the expansion of these statutes.

789 CHAIR BUNN: Thank you; please continue with your testimony.

790 GALLANT: Continues testimony, referring to the 1984 Attorney General's
opinion (part
of

EXHIBIT G).

815 GALLANT: Continuing testimony
825 GALLANT: Finishes testimony

826 CHAIR BUNN: Closes PUBLIC HEAR[ING on SB 31
Opens PUBLIC HEAR[ING on SB 32

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844 WALKER: Presents written testimony/proposals to the committee

[EXHIBIT J]. Testifying IN

FAVOR OF SB 32.

TAPE 7,B

475 WALKER: On October 15 of 1990, the Board of Medical Examiners requested
the Attorney
General's office to review our proposed list. The A.G.'s office never
reviewed the list, as far as I
know. ,

480 MCCOY: You submitted it to the Attorney General's office October 15,
1990?

482 WALKER: The Medical Board requested the Naturopathic Formulary Council
to be reviewed
by

the Attorney General's office.

485 MCCOY: And you say you haven't heard back yet?

486 WALKER: I haven't heard anything about whatever happened to the Attorney
General's
opinion.

487 MCCOY: Have you followed up with letters to them?

488 WALKER: I have asked the A.G.'s deputy that's appointed-

489 MCCOY: (Interrupts) Who is that?

490 WALKER: Right now it's Armonica Gilford.

491 MCCOY: Okay. Thank you.

492 WALKER: Continues testimony

497 CHAIR BUNN: Interjects: We need to convene at 4:45; please move
quickly through your testimony-you may have two or three minutes more. Mr.
Gallant still has to testify.

502 WALKER: Agrees; continues testimony

522 WALKER: Finishes up testimony

523 CHAIR BUNN: Mr. Gallant: can you come back next meeting to finish your
testimony?

526 GALLANT: Yes

528 KEVIN WILSON: Takes over testimony. Presents written testimony to the
committee

[EXHIBIT K]. Testifying IN FAVOR OF SB 32.

545 WILSON: Finishes testimony

546 KENNEMER: This Formulary Council was created in 1991, is that right?

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548 WILSON: No, the session before that--1989.

550 CHAIR BUNN: With the understanding that we will bring this bill back on at the beginning of our

hearing on Wednesday, January 25th:

Closes PUBLIC HEARING on SB

32

Background items on Oregon Health Plan...Welfare Reform...keep those materials in a notebook of some type so that you can bring them to committee. We will let you know what items you need to bring to each meeting. Ask Mary if you need help. Keith Putman has joined the committee staff as a committee researcher. Reminder: get priority items to the chair ASAP so they can be accommodated. Next Wednesday: testimony on a series of bills. Next week: will go back to the OHP. Any questions? No.

585 CHAIR BUNN: Committee adjourned 4:45 P.M.

Submitted by,

Mary Agher
Committee Assistant

EXHIBIT SUMMARY:

Reviewed by,

Art Wilkinson
Committee Administrator

A - Testimony on SB 27-Elizabeth Buys-1 page
B - Testimony on Fil-7-Gail Ryder-1 page
C - Fiscal Analysis of SB 27-Art Wilkinson-1 page
D - Testimony on SB 28-Elizabeth Buys-1 page

E-1 - Testimony on SB 29-Marjorie McGee-2 pages

E-2 - Testimony on SB 29 (Salem Audiology Clinic)-Marjorie McGee-2 pages

E-3 - Testimony on SB 29 (Oregon Association for Better Hearing)-Marjorie McGee-1 page

E-4 - Testimony on SB 29 (Self-Help for Hard of Hearing People)-Marjorie McGee-1 page

F Testimony on SB 30-Kevin Wilson-1 page

F-2 -Amendment to Kevin Wilson- 1 page

G Testimony on SB 31, SB 32-Scott Gallant- 8 pages

H Fiscal Analysis of SB 32-Art Wilkinson-1 page

I Testimony on SB 31-Kevin Wilson-1 page

J Testimony on SB 32-Don Walker-5 pages

K Testimony on SB 32-Kevin Wilson-1 page

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