

SENATE COMMITTEE ON  
HEALTH AND HUMAN SERVICES

January 25, 1995 3:00 AM

Hearing Room B  
Tapes 8 - 9

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

MEMBERS EXCUSED:

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

MEASURES HEARD:  
SB 32 CONTINUATION OF PUBLIC HEARING  
SB 48 PUBLIC HEARING  
SB 95 PUBLIC HEARING  
SB 115 PUBLIC HEARING  
SB 161 PUBLIC HEARING  
SB 165 PUBLIC HEARING

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TAPE 8, A

000 CHAIR BUNN: Brings the committee to order at 3 05 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

Opens PUBLIC HEARING on SB 32

Invites Scott Gallant to come forward

008 SCOTT GALLANT, Oregon Medical Association: Testifying AGAINST SB 32 Refers to

EXHIBIT G from 1-23-95 SHHS meeting 1st page, line 30 substantive change in wording

SENATE HILALTH AND HUMAN SERVICES Janua~y 25, 1995 - Page 2 Refers to 1984 Attorney General's opinion regarding the ability of naturopaths to prescribe nonpoisonous plant substances.

050 GALLANT: Finishes testimony

051 CHAIR BUNN: Closes PUBLIC HEARING on SB 32  
Opens PUBLIC HEARING on SB 48

Invites Sue Wilson to testify.

056 SUE WILSON, Administrator, Health Division Licensing Programs: Testifying IN FAVOR

OF SB 48. Presents written testimony to committee [EXHIBIT A]. Begins testimony.

MCCOY: In order to make this a self-supporting board, how much would it cost?

083 WILSON: We have not done the fiscal impact regarding that. We would be willing to do so if the committee wishes to entertain that idea. We have kept records of the amount of expense.

084 MCCOY: How much so far?

085 WILSON: Approximately \$3,000-4,000 just for the paperwork, the stafftime there's no charge for facilities and phone costs.

087 MCCOY: Have you had many calls?

089 WILSON: The calls generally are coming in from potential registrants inquiring about the program. There have been no phone calls from school districts, athletic clubs, any potential employer of athletic trainers that we've documented.

096 HANNON: I understood by some earlier presentation that this was going to save us \$15,000. You indicated that it has cost about \$3,000. Where do you come up with the figure of \$3,000 versus the \$15,000 that this is projected to save the State of Oregon?

102 WILSON: I haven't done a detailed report of fiscal analysis. This has been our actual cost for paper and producing rules, having the rules hearing. It doesn't factor in facilities, the space, the phones...we did not factor that in, or staff that may be needed to answer any inquiries. I would have to do further study in order to come up with a fiscal impact statement.

110 HANNON: Has any consideration been given to meeting with the athletic trainers themselves to discuss what they themselves want in the continuance of a registration or licensure program, and if they would be willing to assess themselves fees to pay for this, to offset the costs rather than taking it out of a subsidy from the Health Division?

116 WILSON: Yes, this has been discussed with Mr. Krummel and we advised him that we would be very willing to talk about a fee, but that it is the Health Division's position at this time that we need to at least offer this piece of legislation for discussion. We would pursue developing a fee.

123 HANNON: Thank you

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124 KENNEMER: Did you indicate that your set-up cost for this is \$15,000? To write rules and get

this thing underway for fifty-seven applicants has run \$15,000?

128 WILSON: I am not aware of the figures you're referring to.

131 KENNEMER: Well, that's what I'm asking...I thought that you said that it cost quite a bit of money to create the rules?

134 WILSON: I have talked with Mr. Krummel. I don't think I've given him any indication that it's going to cost that much. I offered no specific amount. He asked, for programs of this size, what's the outside and what's the inside. I don't recall giving any figure of \$15,000.

141 KENNEMER: I'd be interested in your earliest itemization of projection.

143 WILSON: I'd be happy to provide that.

144 CHAIR BUNN: Calls Jerry Krummel to testify.

152 JERRY KRUMMEL, Certified and Registered Athletic Trainer: Testifying AGAINST SB 48

(noted on sign-in sheet that he is IN FAVOR of SB 48; requests it be corrected in the record).

Presents written testimony to committee [EXHIBIT B]. Begins testimony.

175 KRUMMEL: I believe that this program should be self-supporting through fees assessed to the

people who are registered.

195 KRUMMEL: Finishes testimony.

197 HANNON: Have you determined what a fee might be, approximately, to obtain necessary funding? Has there been any discussion on that issue?

206 KRUMMEL: Yes, there has been. Since last April, I've had several conversations with Ms. Wilson of the Health Division. I've attempted to get a fiscal impact statement as far as what it would cost. That aside, finally in November, I did kind of press Ms. Wilson for some ballpark figures and the ballpark figure that she expressed to me was that she felt it would cost about \$15,000 in a biennium, not in a year.

218 HANNON: In a biennium? So \$7,500 a year?

219 KRUMMEL: Yes, that is correct. My own feeling is that I really question how it can cost that much. \$15,000 every two years seems a little steep to me.

230 HANNON: Thank you.

232 KENNEMER: You had indicated willingness of your members to pay fees of \$15,000. . .that would be about \$275 a week. Is that a fee that people are willing to pay?

234 KRUMMEL: I don't know that people would be willing to pay that much on an annual basis, or actually on a biannual basis. I think that that fee is a little bit steep. I'm sure that once the Health

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Division has an opportunity to put together a fiscal impact, they won't come up with a \$15,000 biennial expense.

248 KRUMMEL: Finishes.

250 CHAIR BUNN: Calls Rod Harter to testify.

255 ROD HARTER, Associate Professor at OSU/President of the Oregon Athletic Trainer's Society: Testifying AGAINST SB 48. Presents written testimony to committee [EXHIBIT C1.

325 HARTER: Finishes testimony.

326 KENNEMER: It sounds like you have an outstanding program.

329 CHAIR BUNN: Calls next two witnesses to come forth at same time as they are also both opponents of SB 48.

332 HANNON: To save some time, I have some proposed amendments I would like to present. These

people are aware of the proposed amendments. This bill was enacted last session. It was a voluntary registration at that time and we knew that it would probably be back for discussion of fees. It would be my intention Mr. Chairman, if you were so inclined, and the Health Division were

to work with this, to propose these amendments. The bill has a subsequent referral to Ways and Means. We leave the account blank without specifically setting a dollar amount. I think that the appropriate place to do it is Ways and Means. I think these people would be willing to accept the

proposed amendments and move the bill out of committee.

354 CHAIR BUNN: We will discuss that and if the two witnesses have any desire to add to the discussion they will be able to do so. Otherwise they will waive their testimony.

363 CHAIR BUNN: Temporarily closes PUBLIC HEARING on SB 48  
Opens WORK SESSION 011 SB 48

367 HANNON: (Addresses committee) I would propose now that the committee has in front of them a draft identified as Senate Bill 48-1, LC-815 [EXHIBIT D] dated 1-24-95.

(Committee did NOT have amendments in front of them; copies are passed out.)

378 HANNON: This proposed amendment would allow that on or before January 1, 1996 the Health

Department/Human Resources shall designate a state organization. It sets up the establishment

on

page 2, subsection 4 of section 1...(reads) I'd like to have the Health Division develop a budget that we can work with; a specific dollar amount that we can go to Ways and Means with and propose a license fee that is commensurate with raising the necessary type of revenue.

404 HANNON: I would move these amendments.

405 CHAIR BUNN: Sen. Hannon has moved the Senate Amendments on Senate Bill 48-1. Further discussion?

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408 HANNON: I think Ways and Means is the appropriate place to deal with the dollar amount I'd

like to pass this bill out of committee and send it on to Ways and Means.

413 LEONARD: Makes an observation about the number of registrants.

425 KENNEMER: (Interrupts) I believe the correct number is 57 registrants.

431 CHAIR BUNN: Anyone in the audience wanting to speak needs to come forward to the microphone.

435 HANNON: Responds to Leonard.

441 KRUMMEL: (Comes to witness stand to clarify for the committee.) There are 134 trainers in the

state that possess a national certification.

448 LEONARD: I see. The math on the 57 then is \$61. Given the testimony, I think the fee should be in the range of \$60, but I agree that the place for deciding that is Ways and Means.

TAPE 9,A

025 KENNEMER: I guess the \$275 was based on a statement of a possible cost of \$15,000. That's reached by dividing 60 by \$15,000.

030 MOTION: SENATOR HANNON: Moves to ADOPT the SB 48-1 amendments dated 1-24-95.

VOTE: CHAIR BUNN: In a roll call vote, all members are present and vote AYE.

036 MOTION PASSES.

037 MOTION: SENATOR HANNON: Moves SB 48 AS AMENDED be sent to the Committee on Ways and Means in accordance with its prior referral with a DO PASS recommendation.

040 CHAIR BUNN: (Interjects) Do the witnesses want to testify? (Witnesses waive testimony.)

043 VOTE: CHAIR BUNN: In a roll call vote, all members are present and vote AYE.

048 MOTION PASSES.

050 CHAIR BUNN: Closes WORK SESSION on SB 48  
Opens PUBLIC HEARING on SB 95  
Calls Kris Hudson to testify.

055 KRIS HUDSON, Public Member, Oregon Board of Dentistry: Testifying in FAVOR OF SB 95. Presents written testimony to committee [EXHIBIT E1. With her is Betty Reynolds, Executive Director of OBD.

080 HUDSON: Finishes testimony.

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081 MCCOY: What's a "capper?"

082 BETTY REYNOLDS, Executive Director, Oregon Board of Dentistry: The Board's Assistant Attorney General has advised that that language be deleted because it is obsolete and archaic. It

was added to the statute in 1913 and we believe it may mean someone who draws in business and

we're not certain of the meaning of "capper" It is archaic and it's not applied by the Board.

089 CHAIR BUNN: Let's say that some state has standards that are phenomenally different from ours; requires things that we don't require. Would this bill allow you to take action against a person because they had action against them in another state with standards that are different from ours?

095 REYNOLDS: It's my understanding from our Assistant Attorney General that the Board could only discipline based upon grounds for discipline in Oregon. We can obtain clarification if you'd like.

099 HANNON: Has there been problems with this, or is this something that has just been recently uncovered and needs legislative correction? What is prompting this?

104 HUDSON: I am very new to the Board, but this is both dentists and hygienists and it is just to clarify language.

108 REYNOLDS: To answer your question regarding hygienists, there is certainly no increase in the number of complaints regarding hygienists. In fact, the disciplinary action regarding hygienists is

much lower. In general, it's advice from our Assistant Attorney General that the language would

clarify the Board's disciplinary capabilities. We can provide specific examples of complaints.

118 HANNON: Let me rephrase the question. Has there been a problem with someone from outside

this state coming to Oregon, and needing renewal or licensure, and the Board is unable to take

action against them so therefore we need to change the legislation?

122 REYNOLDS: Yes, there have been some cases where it has been unclear whether the Board can

proceed against someone who is also licensed in Oregon who wants to renew who was disciplined

in another state, or who wants to obtain licensure.

127 HANNON: Thank you.

129 KENNEMER: If the Board discovered that an applicant or existing member had some problem in

another state and the Board took action on that, do they have appeal rights then, to have that action

of the Board assessed so that they have a due process on that, or is it automatic?

134 REYNOLDS: Yes, if the Board finds that a dentist is at fault, the dentist always has the recourse of taking it to court.

139 HUDSON/REYNOLDS: Finish testimony.

141 CHAIR BUNN: Calls Jane Myers to testify.

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148 JANE MYERS, representing Oregon Dental Association: Testifying IN FAVOR of SB 95,

with suggested amendments. Presents written testimony/suggested amendments to committee [EXHIBIT F].

162 CHAIR BUNN: Interrupts; asks Betty Reynolds to come forward also. (She does.) My intent

is to get an assessment that allows the committee to decide whether they want to move the

amendments, and any other amendments we might have today so that we can go into work session.

170 MYERS: Continues testimony.

183 MCCOY: Aren't the dentists here guided by what happens nationally?

186 MYERS: Members of our association have professional ethics, but its based on their membership in a private association. There are no national standards, as I understand it. I'm sure there are national laws that are applied to all health care practitioners, but this is the regulatory device that both examines for licensure the dentists and dental hygienists and also disciplines them.

197 CHAIR BUNN: I suggest to the committee members that as we go through each of these amendments, that we review them item by item at this time for our possible selection or deletion, so I'll ask Betty to comment also as we go through each one. Betty, would you like to comment on this amendment?

202 REYNOLDS: Without an opportunity to review this and analyze it in detail, the grounds for discipline are enumerated in ORS 679.140 and they include suspension, probation, revocation, license limitation, and civil penalties. The Board has occasionally expressed a desire to impose lesser sanctions but it has been unclear about its authority and capabilities, or the methods for doing so. It's also been unclear that should it impose a lesser sanction, whether that sanction is reportable to the national practitioner databank. It was in that context that the Board decided to add reprimand/censure/admonition.

218 CHAIR BUNN: Change of plan: I don't want to put you in the position of having to comment on these without having had the chance to review them. We'll put this into a work session another day, after you've had time to review it

228 KENNEMER: I'd like to ask Ms. Myers what she finds objectionable about censure/reprimand admonish. As I've dealt with other boards, as a general rule, boards tend to take the safest route out. That is, if they do not have specific authorization, they probably will go with conservative perspective. The actions that Ms. Reynolds described sounded like relatively severe actions. I think there is often conduct that merits a lesser kind of reprimand or action. I would think that censure/reprimand/admonish would spell out really specific ways that the board might act.

249 MYERS: I would really like to understand the definition of censure/reprimand/admonish. Ms. Reynolds brings up another point about reports to the national practitioners databank. Exactly what those requirements are and how they relate to that language--I would like to take a look at that to give an informed answer to your question. We're not against the board taking some other



forms of discipline that they find appropriate. We'd just like to know what the process is and what

our members can expect.

261 KENNEMER: That was my point I think this helps spell it out more clearly.

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266 HANNON: Is it your concern that censure/reprimand/admonish in Oregon may be taken differently in one of the other licensure states from the standpoint that your licensees could receive

stricter disciplinary action in another state...that could damage them here in Oregon or elsewhere?

276 MYERS: I think that is a concern.

280 HANNON: Because other states have different licensure requirements so if it were treated one way in one state, how would it be treated in another state?

283 MYERS: We'd like to take a look at that question.

286 MYERS: Continues testimony. Discusses the board's desire to be removed from the Health Division.

319 MYERS: Finishes testimony.

320 MCCOY: In this day and time, when the climate is to bring things together for the sake of people knowing where to turn when they have a complaint against an agency or they want to get information, and due to the historical presence of this agency being where it is, why would you want to remove yourself?

334 MYERS: I think the effort is to try to make the agency more eff~cient. In light of the fact that there

are three other boards that are not under the Health Division and seem to be operating without too

much disturbance to people finding out how to access the board's services, we would like to recommend it.

350 CHAIR BUNN: Calls Dell Isham to testify.

360 DELL ISHAM, representing the Oregon Dental Hygienists Association:  
Testifying 1N

FAVOR OF SB 95, with an amendment. Presents written testimony/suggested

amendment to  
the

committee [EXHIBIT G].

377 ISHAM: Talks about proposed amendment. Under the current law, an  
unlicensed person practicing as a dental hygienist for a dentist can be sanctioned for that,  
but the employing dentist

cannot. The proposed amendment would change that.

394 ISHAM: Refers to certain places where "or dental hygiene" should be  
added, so that both  
the

dental hygienist and the dentist could be penalized if the dental hygienist  
were not  
licensed.

TAPE 8,B

476 ISHAM: Continuing testimony.

487 ISHAM: Finishes testimony.

488 KENNEMER: Do you have support from the Dental Association for your  
amendments?

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489 ISHAM: I have shown them to the Oregon Dental Association. I did not  
hear any objections,  
but

you cannot assume that that always means support.

492 MCCOY: What was the reference that you made?

493 ISHAM: I referred to ORS 680.100.

498 ART WILKINSON, Committee Administrator: Presents Fiscal Analysis on SB  
95 to the

committee [EXHIBIT H]. There is a fiscal impact, without taking any of the  
proposed  
amendments into consideration.

504 CHAIR BUNN: Closes PUBLIC HEARING on SB 95

Calls a 10 minute recess.

508 MCCOY: Re-convenes the meeting as Chair Bunn has not yet  
returned.

Opens PUBLIC HEARING on SB 115

Calls Bonnie Wilson to testify.

513 BONNIE WILSON, Administrator, State Board of Psychologist Examiners:  
Testifying  
IN

FAVOR OF SB 115. Presents written testimony to the committee [EXHIBIT II].

534 WILSON: Finishes testimony.

535 LEONARD: Asks for clarification about the "amendments" Ms. Wilson  
referred to.

537 CHAIR BUNN: These are amendments to existing law.

540 DEAN FROST, Professor, Portland State U. Department of Psychology:  
 Testifying AGAINST SB 115. Presents written testimony to the committee [EXHIBIT J].  
 FROST: Finishes testimony.

587 KENNEMER: What do your graduates call themselves now?  
 589 FROST: Our graduates cannot currently unless they apply for a license  
 refer to themselves professionally as a Psychologist.

594 KENNEMER: I see. And the current statute would require them to have a  
 Doctoral degree for them to refer to themselves as Psychologists?

597 FROST: The distinction between the Masters and the Doctoral graduates  
 has existed for some time. I don't have any problem with that at this time. I'm primarily  
 talking about the Doctoral level.

602 CHAIR BUNN: Closes PUBLIC HEARING on SB 115  
 Opens PUBLIC HEARING on SB 161

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Calls Joan Bouchard to testify.

610 JOAN BOUCHARD, Executive Director, Oregon State Board of Nursing:  
 Testifying IN FAVOR OF SB 161. Presents written testimony to the committee [EXHIBIT K].

645 BOUCHARD: Finishes testimony.  
 647 CHAIR BUNN: Calls Gail Ryder to testify.  
 651 GAIL RYDER, Director of Government Affairs, Oregon Newspapers:  
 Testifying AGAINST SB 161. Presents written testimony to the committee [EXHIBIT L].

679 RYDER: Finishes testimony.  
 682 CHAIR BUNN: Closes PUBLIC HEARING on SB 161  
 Opens PUBLIC HEARING on SB 165  
 Invites Hersh Crawford to testify.

690 HERSH CRAWFORD: Testifying IN FAVOR OF SB 165. Presents written  
 testimony to the committee [EXHIBIT M].

760 CRAWFORD: Continuing testimony.  
 790 CRAWFORD: Continuing testimony.  
 805 CRAWFORD: Continuing testimony.  
 807 CRAWFORD: Finishes testimony.  
 809 CHAIR BUNN: Calls Eugene Organ to testify.  
 820 EUGENE ORGAN, Executive Director of the Oregon Disabilities Commission:  
 Testifying IN FAVOR OF SB 165. Presents written testimony to the committee [EXHIBIT N].

845 ORGAN: Finishes testimony.  
 863 JANE MYERS, Director of Government Affairs, Oregon Dental Association:  
 Testifying AGAINST SB 165. Presents written testimony to the committee [EXHIBIT O].

TAPE 9,B

470 MYERS: Continuing testimony.

490 MYERS: Continuing testimony.

503 MYERS: Finishes testimony.

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504 CHAIR BUNN:  
be on Monday.

There will be no meeting of the committee on Friday. The next meeting will

511 CHAIR BUNN: Adjourns the meeting at 4:45 P.M.

Submitted by,

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Mary Gallagher  
Committee Assistant

EXHIBIT SUMMARY:

Testimony on SB 48-Susan Wilson-1  
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B - Testimony on SB 48-Jerry Krumrnel-1 page  
C - Testimony on SB 48-Rod Harter-2 pages  
D - Proposed amendments to SB 48-Senator Hannon-3  
pages  
E - Testimony on SB 95-Kris Hudson-1 page  
F - Testimony on SB 95-Jane Myers-3 pages  
G - Testimony on SB 95-Dell Isham-4 pages

H - Fiscal Analysis Statement on SB 95-Art Wilkinson-1  
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N - Testimony on SB 165-Eugene Organ-2  
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Reviewed by,

Art Wilkinson  
Committee Administrator

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