

SENATE COMMITTEE ON
HEALTH AND HUMAN SERVICES

March 6, 1995 3:00 P.M.

Hearing Room B
Tapes 31- 32

MEMBERS PRESENT: Sen. Stan Bunn, Chair
Sen. William McCoy, Vice-Chair
Sen. Lenn Hannon
Sen. Randy Leonard

MEMBERS EXCUSED: Sen. Bill Kennemer

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

MEASURES HEARD: SB 49 PUBLIC HEARING
SB 32 WORK SESSION
SB 33 WORK SESSION
SB 95 WORK SESSION
SB 53 WORK SESSION
SB 238 WORK SESSION

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TAPE 31, A

003 CHAIR BUNN: Convenes the meeting at 3 08 P M.
Opens PUBLIC HEARING on SB 49

Witnesses: Susan Wilson
Ron Baker
Lydia Taylor
Diana Godwin
Steve Wert
Dick Paulson
Eugene Regan

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014 SUSAN WILSON, Administrator, Health Division Licensing Programs:
Testifying IN

SUPPORT OF SB 49.

056 Finishes testimony.

057 RON BAKER, Chair, Sanitarians Registration Board: Testifying IN SUPPORT
OF SB 49.

137 BAKER: Finishes testimony.

149 LYDIA TAYLOR, Interim Director, Dept. of Environmental Quality:
Testifying IN

SUPPORT OF SB 49, with proposed amendments. 1EXHIBITS A, B-1, B-21
-The first proposed amendment, SB 49-1, would exempt DEQ staff from
registration, with
the exception of those working in the on-site sewage program, who we agree
it is
reasonable to register.
-The second proposed amendment, SB 49-2, would exempt any person employed

by a state

agency as an environmental specialist or a natural resource specialist unless they work in the on-site sewage treatment program.

198 CHAIR BUNN: First, there must be a significant difference in what the on-site sewage staff does and what the rest of the staff does. Could you explain that difference to us, briefly?

200 TAYLOR: The on-site sewage staff people are direct service people. In Oregon, counties typically deliver on-site sewage-permitting activities. In those counties that do not wish to offer that service, DEQ is required by law to do so. It is a direct service--the staff physically visit the site. Other staff at DEQ do other things, typically, establish standards by which water or air would protect human health or the environment. They would do analysis of hazardous waste sites and determine proper cleanup and perhaps contract for the clean-up of sites where hazardous waste had been spilled, etc.

223 CHAIR BUNN: When you hire the latter, the non-on-site staff, I would assume that you set up certain criteria in terms of their employability that they meet certain standards for doing the job that's involved. Is that right?

227 TAYLOR: That's correct. We would set minimum qualifications in order to apply for the job, which would include appropriate education, typically four or more years of college or equivalent, plus experience depending upon the level at which we were hiring the person. They would have to demonstrate expertise in their field before they qualify.

233 CHAIR BUNN: A comment I want to make before I ask the next question I don't accept the position that specialists create the problems that were testified to. My concern is, why should we exempt DEQ or state agencies if exactly the same kinds of people exist in private industry in similar circumstances? Why don't we deal with the whole issue at one time'?

243 TAYLOR: I think it would be very reasonable to do so. I'm just not in a position to speak for private industry about what all of their qualifications are. I didn't feel it would be appropriate for me to offer an amendment on their behalf.

247 ART WILKINSON, Committee Administrator: The two amendments would be an either/or situation, right? You aren't proposing both sets of amendments?

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249 TAYLOR: No, they're alternatives. The -2 amendment is broader, it relates to all state agencies. The - I amendment only relates to our agency.

259 TAYLOR: Finishes testimony.

272 DIANA GODWIN, representing Steve Wert, of Steve Wert & Associates:
Testifying 1N

SUPPORT OF SB 49, with proposed amendments.

338 STEVE WERT, Private Soil Consultant/Soil Scientist: Testifying IN
SUPPORT OF SB 49,

with proposed amendments. [EXHIBITS C, D1

388 WERT: Continuing testimony.

001 WERT: Continuing testimony.
017 Finishes testimony.
018 HANNON: Have you applied to take the examination through the Sanitarians

Registration

Board since 1980, when the Letter of Opinion from the Attorney General's
office came out?

020 WERT: No, I have not.

021 HANNON: Why?

022 WERT: Quite frankly, the Registration Act has a test that asks me to
learn things that I will never use.

063 LEONARD: What you're contending is, that your profession is a
specialized profession that's related to some of the other areas that are
covered under this certification process?

067 WERT: That's correct.

068 LEONARD: Are you saying that the Sanitarians Registration Board is
balking at wanting to develop an exam that specializes in your field, for
some reason'?

072 WERT: To date, they have not offered to do that.

073 LEONARD: Have you asked them why?

075 WERT: I have had conversations with one of the Board members.

076 LEONARD: What's the reason that they won't support having a specialized
certification for your field?

078 WERT: Mr. Baker has expressed the need to have a very broad base in
order for a Sanitarian to do his work. I think that they want to hold that
position.

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083 DICK PAULSON, Building Services Supervisor, Clackamas County: Testifying
IN

SUPPORT OF SB 49 with amendments proposed by Steve Wert.

096 Finishes testimonN

. 100 EUGENE REGAN, President, Oregon Environmental Health Association:
Testifying IN

SUPPORT OF SB 49 with amendments proposed by the Board.

139 Finishes testimony.

141 CHAIR BUNN: Closes PUBLIC HEARING on SB 49
Onens WORK SESSION on SB 32

Witnesses: Scott Gallant Don Walker Dell Isham

148 WILKINSON: Addressing Chair Bunn regarding SB 32.

188 CHAIR BUNN: Asks Scott Gallant (AGAINST SB 32) and Dr. Don Walker (IN
SUPPORT OF
SB 32) to come forward and answer some questions.

195 One question I have is. if we pass this legislation as it's set up now.
have we shifted a control in some way'?

198 SCOTT GALLANT, Oregon Medical Association: it's our opinion that, in
fact, it does.

[EXHIBIT E1

210 CHAIR BUNN: What's wrong with the current mix?

211 DON WALKER, Past Chair, Naturopathic Board of Examiners/Present Chair,
Formulary

Committee: At the present time, there are just too many people on the committee. There are four people on the committee that hold pharmacy degrees. We would like to balance the committee out so that it's fair.

220 CHAIR BUNN: What's wrong with those people making the kinds of decisions that they make? Do they make unfair decisions or unsound decisions'?

224 WALKER: The pharmacy people on the Board are extremely unreasonable. They tend to argue on each item that we want. They have been very unfair.

233 CHAIR BUNN: One person's definition of fair is not necessarily another person's. This committee needs to be able to come to what we see as a reasonable balance.

237 SCOTT GALLANT: Addressing the committee re: a list of drugs that naturopathic physicians can use. Some of these may be considered dangerous---opium is one of them.

260 HANNON: What is it that's not working'? Do both sides have the same assumption that it's not working?

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263 WALKER: It just doesn't work at all. The pharmacists control it with four votes. They also have a medical doctor, and there's a great deal of prejudice against the naturopathic people on this Board. We would like to have a better representation so that we can continue to work. We haven't been able to meet since 1990 because the pharmacists on the Board would vote out the whole list that we would have on there.

278 HANNON: Who makes the appointments to this formulary board? Is it the Governor?

280 WALKER: No, the medical board appoints one medical doctor, the pharmacy board appoints two pharmacists, the naturopathic board appoints two people, and then the board gets together and finds a pharmacologist and a pharmacognisist who has had pharmacy training.

288 HANNON: What can be done so that you would be willing to come to a reasonable, middle ground solution?

292 WALKER: We would have two naturopaths, a pharmacist, a medical doctor. We'd have to getone more person on there, and we think this person should have an advanced degree in pharmacy, but to make it fair, we'd say that this person could have a license from a pharmacy board, but the naturopaths would like to pick this person so that the person would have some knowledge about our practice. Medical people have no knowledge of us.

307 CHAIR BUNN: You're basically saying that we need to stack the Board with naturopathic physicians. Why have it, then? If they're the ones who are going to decide things, and they'd

decide everything they want, why have a gatekeeper, so to speak? There are some politics here on both sides that I have trouble with. Why have it if it's controlled by your group and would basically set all the policies that your group wants?

321 WALKER: It has been controlled by the pharmacy board for the past six or seven years. The pharmacy people have had the dominant vote. We're not going to say that we want to control it; we just want to pick a person who is knowledgeable about our practice.

326 CHAIR BUNN: What's the role it's supposed to play for our state? What is it supposed to accomplish?

328 WALKER: References a compromise reached four years ago.

335 BUNN: And in the compromise, what's supposed to occur in this process that was good public policy'!

336 WALKER: We were supposed to publish a list that this committee thought was natural products.

338 CHAIR BUNN: And at the time that compromise was reached, was it felt then that the mix on the board was appropriate, or that's the best the various groups could get?

343 WALKER: That was the very best mixture that we could come up with because of the conflict that we had between the pharmacy board, medical board and our board. Senator Kennemer was on this committee at that time and he helped to formulate the board.

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349 GALLANT: When we agreed to the compromise in 1989, we designed the composition of the board to include various practitioners so that you would in fact have a board representation of individuals who in fact had expertise in pharmacy, pharmacology, practice of medicine, and naturopathy. So far, in fact, it has worked. In the one period of time that they have met, they in fact did come to an agreement on a list. The proposed legislation was in part a result of the Attorney General's opinion on rules that the board had adopted that some believed went well beyond the statutory ability of naturopathic physicians to use. In fact, the A.G.'s opinion said that. So this legislation was a response to that concern of both the board and the OMA, as was the composition. I don't think it's fair to say that, in speculation, over an almost five year period of concern, that new members of the formulary council might not come to full agreement with the Board of Naturopathy in what they believed ought to be added to the formulary list.

385 CHAIR BUNN: Let's assume that this legislative committee felt that there should be more restriction on substance use by naturopathic physicians than those physicians did. How do we get control of that issue, with the board controlled by naturopathic physicians?

395 WALKER: The Governor appoints the Naturopathic Board of Examiners. I think they'd have enough confidence that these people were going to abide by the state statute.

401 CHAIR BUNN: I have a problem with that because if the state statute

allows them to have an expanded list and they believe it should be expanded beyond what we believe, then my view is that if it's controlled by naturopathic physicians, there is no controlling factor there. I want to make it clear as I say that, that I believe in a role for naturopathic physicians as well as others in the health care area, but I also personally believe in some kind of gatekeeping role that might restrict the use of those substances more than naturopathic physicians would like.

TAPE 31, B

476 CHAIR BUNN: Still addressing Dr. Walker: I'm formulating an opinion as we go through this that we don't have that adequate protection with the formulary council controlled by naturopathic Physicians.

483 LEONARD: If we left it at five members and just rearranged who those members were from what is in the bill to two physicians licensed by the BME, two naturopaths and a pharmacist, do you feel that would give you a better balance than what you have now?

496 WALKER: The medical board has stated they know nothing about the practice of naturopathic medicine. They're not going to be able to find any doctors that have any knowledge of natural products and things like that. However, the pharmacy board and the medical board has always sided against us in all of the testimony and all of the bills we've ever tried to get down here.

500 LEONARD: I thought I heard you say some time back that the medical doctor on the board supported you.

502 WALKER: Dr. Hazel supported us, however, he's not around anymore.

504 LEONARD: But according to you, he came from a profession that is at odds with you. If you had a different mixture than what you have here, would that interest you?

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508 WALKER: I don't think an extra medical doctor on there would help. That would still give the medical doctors and pharmacists the dominate vote and they could wipe our whole list out. I don't think that would be a very fair thing to do. I would like to suggest that we pick a person who has a doctorate in pharmacy, who's licensed by the board of pharmacy

512 CHAIR BUNN: (Interrupts) It appears to me that there isn't any kind of compromise anywhere until you have a majority. That's what you're telling us. I would like this committee to be able to work with both sides. I don't like the impasses that go on because two groups can't get together and work successfully at something. We're going to take a break. The two of you need to visit together during the break and try to reach a compromise. If you've got anything when we come back from break, we can talk about it. If not, we'll have to bring it back later.

529 Calls 10-minute recess.

530 Re-convenes the meeting at 4:20 P.M.

532 GALLANT: What we've agreed to is reducing by one Subsection E, but still having that individual appointed by the council itself, therefore eliminating the new

language on lines 16 and 17 where it starts with "one member who holds a doctorate in pharmacy," etc. It will read "one additional member who is appointed by the Council who holds an advanced degree in either pharmacology or pharmacognacy". The rest comes out. On line 30, and continuing to line 1 on page 2, all of that language would come out. That would be our compromise.

548 DELL ISHAM, representing Oregon Association of Naturopathic Physicians:
Mr. Gallant
has described the amendments correctly.

552 MOTION: SEN. HANNON: Moves the amendments as described by Mr. Gallant and agreed to by Dr. Walker and Mr. Isham.

554 CHAIR BUNN: Re-states the amendments.

567 WILKINSON: I think the only other change would be

575 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

583 MOTION: SEN. HANNON: Moves that SB 32, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

585 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

SEN. MCCOY will CARRY the bill.

594 CHAIR BUNN: Opens JOINT WORK SESSIONS on SB 33 and SB 95

Witnesses: Betty Reynolds Jane Myers Dell Isham

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595 WILKINSON: Addresses Chair Bunn re: SB 33 and SB 95.

611 BETTY REYNOLDS, Executive Director, Oregon Board of Dentistry:
Testifying IN

668 SUPPORT OF CONSOLIDATING SB 33 and SB 95. [EXHIBIT F
Finishes testimony.

671 JANE MYERS, representing Oregon Dental Association: We support the amendments that were just described to you.

677 MOTION: SEN. HANNON: Moves that SB 33 BE TABLED.

680 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

683 MOTION: SEN. HANNON: Moves to AMEND SB 95 as outlined by Betty Reynolds.

689 VOTE: CHAIR BUNN: Hearing no objection motion CARRIES. SEN. KENNEMER is EXCUSED.

698 DELL ISHAM, representing Oregon Dental Hygienists Association:
Testifying IN
SUPPORT OF SB 95 with proposed amendment. Elaborates on the ODHA's proposed amendment.

718 CHAIR BUNN: Are dental hygienists licensed in the same way dentists are?

719 ISHAM: Not in the same way, but by the same board.

720 CHAIR BUNN: Is ~there any problem in doing this with people who get on the job training'?

722 ISHAM: There isn't any on the job training for dental hygienists.

723 CHAIR BUNN: Asks for Ms. Reynolds' and Ms. Myers' reactions to the proposed language.

726 BETTY REYNOLDS: It seems to be reasonable and consistent with our effort to conform standards.

731 JANE MYERS: I would disagree with them on this point: The amendments are not necessary because the statute already allows the board to discipline dentists who employ unlicensed dental hygienists.

746 ISHAM: It certainly wouldnt t do any harm to add the words or dental hygiene" to the statute.

750 CHAIR BUNN: What's the committee's desire on those amendments?

751 MCCOY: I don't see any problem in adding the language.

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758 MOTION: SEN. LEONARD: Moves the amendment be entered in the bill as outlined by Mr. Isham.

763 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

770 CHAIR BUNN: Is there objection to the bill as amended'? (No objections.) If not, the record will reflect a unanimous vote for the bill as amended. (In other words: Hearing no objection, SB 95 is sent to the Floor with a DO PASS recommendation. SEN. KENNEMER is EXCUSED.)

SEN. LEONARD will CARRY the bill.

783 CHAIR BUNN: Onens WORK SESSION on SB 53'

Witnesses: Chuck Bennett

796 CHUCK BENNETT, representing Chiropractic Association of Oregon: IN SUPPORT OF SB 53, with proposed amendments. Elaborates on the -3 and -4 amendments.

ART WILKINSON hands out -3 Amendments tEXHIBIT G1 and -4 Amendments lEXHIBIT H1.

822 CHAIR BUNN: To clarify: If we adopt the -4 amendments, they will be adopted in a form that in line 3, after the word "insurance", there is a period and the remainder of that line and the following line is deleted.

826 MOTION: SEN. MCCOY: Moves the -3 and -4 Amendments.

831 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

835 MOTION: SEN. MCCOY: Moves that SB 53, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

844 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

SEN. HANNON will CARRY the bill.

851 CHAIR BUNN: Onens WORK SESSION on SB 238

Witnesses: Dell lsham
Kathleen Haley

855 KEITH PUTMAN, Committee Researcher: Addresses Chair Bunn re: SB 238. Distributes -2 Amendments 1EXHIBIT I1 and clarifies them for the committee.

871 MOTION: SEN. HANNON: Moves the -2 Amendments.

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872 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

875 PUTMAN: Addresses Chair Bunn re: -3 Amendments. Distributes the -3 Amendments [EXHIBIT J1 and clarifies them for the committee.

TAPE 32, B

484 DELL ISHAM, representing Oregon Association of Naturopathic Physicians: We're requesting that the original language of the law as it appears on page 7, lines 29-30, be restored. We're concerned that acupuncturists not be given completely free discretion on this, but that there be some oversight on the part of the board.

500 KATHLEEN HALEY, Executive Director, Oregon Board of Medical Examiners: It's my understanding that the board members felt that they did not have the expertise to make that determination as to which text should be approved in this area.

516 MOTION: SEN. HANNON: Moves the -3 Amendments.

519 MCCOY: The medical doctors apparently do not want to deal with this area. They are telling us now to give it to somebody else. It has caused great grief to the acupuncturists, naturopaths and everybody else, so I don't know why we just don't cut it clean and let it stay here without the medical people.

532 HALEY: It's not that the board doesn't want to get into this, it's that we also have an acupuncture committee that meets regularly that could assist us in this, but they feel that there's a limitless list of these texts.

548 LEONARD: It would seem that with the language deleted, it would give your clients more

latitude in determining what pharmacopoeia they use. (Directed to Isham)

552 ISHAM: My clients are the naturopathic examiners, not the acupuncturists.

555 LEONARD: Why has having this language deleted been at odds with your goals?

556 ISHAM: We feel that someone with a doctor's degree should have some oversight function in this. We should not let the M.D.'s isolate themselves only to Western medicine.

666 MCCOY: Could you explain again what your group wants? (Directed to Haley)

668 HALEY: If you remove the area that we're proposing to remove, the pharmacopoeia would be based on the text used in the accredited schools, rather than have the BME do it, do it with the text that is being used in the schools. That makes the most sense, rather than turning it over to medical examiners who don't have the expertise in this area.

689 VOTE: CHAIR BUNN: Motion FAILS. SEN. LEONARD votes NAY, SEN. MCCOY votes NAY, CHAIR BUNN votes NAY. SEN. HANNON votes AYE. SEN. KENNEMER is EXCUSED.

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584 MOTION: SEN. HANNON: Moves that SB 238, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

587 VOTE: CHAIR BUNN: Hearing no objection, motion CARRIES. SEN. KENNEMER is EXCUSED.

SEN. LEONARD will CARRY the bill.

600 CHAIR BUNN: Adjourns the meeting at 4:55 P.M.

Submitted by, /

Mary Galagher ~J

Committee Assistant

Reviewed by,

Art Wilkinson
Committee Administrator

EXHIBIT SUMMARY:

- A - Written Testimony on SB 49--Lydia Taylor--3 pages
- B-1 -1 Amendments to SB 49--Lydia Taylor--2 pages
- B-2 -2 Amendments to SB 49--Lydia Taylor--2 pages
- C - Written Testimony on SB 49--Steve Wert--10 pages
- D - Hand-Engrossed SB 49--Diana Godwin--9 pages
- E - Written Testimony on SB 32--Scott Gallant--1 page
- F - Proposed Amendments to SB 33 and SB 95--Betty Reynolds-- 1 page
- G - -3 Amendments to SB 53--Art Wilkinson--3 pages
- H - -4 Amendments to SB 53--Art Wilkinson--1 page

- I - -2 Amendments to SB 238--Keith Putman--1 page
- J - -3 Amendments to SB 238--Keith Putman--1 page

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