

SENATE SPECIAL COMMITTEE ON THE OREGON HEALTH PLAN

June 10, 2003
4:00 P.M.

Hearing Room C
Tapes 30 - 31

MEMBERS PRESENT: Sen. Peter Courtney, Co-Chair
Sen. Jackie Winters, Co-Chair
Sen. Kate Brown
Sen. Margaret Carter
Sen. Bill Fisher
Sen. Lenn Hannon
Sen. John Minnis
Sen. Bill Morrisette

STAFF PRESENT: Marjorie Taylor, Committee Administrator
Megan Jensen, Committee Assistant

MEASURE/ISSUES HEARD: HB 3624 A - Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 30, A		
005	Co-Chair Winters	Calls the meeting to order at 4:15 p.m. and opens a work session on HB 3624 A.
<u>HB 3624 A – WORK SESSION</u>		
008	Marjorie Taylor	Committee Administrator. Provides a summary of amendments before the committee (EXHIBIT A), a section-by-section description of how the amendments fit into HB 3624 A (EXHIBIT B), a packet of the proposed amendments (EXHIBIT C), a section-by section description of HB 3624 (EXHIBIT D), and a staff analysis of HB 3624 A (EXHIBIT E).
017	Holly Robinson	Legislative Counsel. Provides a section-by-section overview of the proposed amendments to Section 2 of HB 3624 A (EXHIBIT B).
044	Robinson	Explains proposed amendments to Section 3 of HB 3624 A (EXHIBIT B).
067	Robinson	Explains proposed amendments to Section 4 of HB 3624A (EXHIBIT B).
080	Sen. Fisher	Ask for a clarification of mental health services by primary care physicians for at least prescriptions, if not services.
085	Robinson	Suggests the proponents of the amendment speak to the question.
090	Robinson	Continues explanation of the amendments to Section 4 of HB 3624 A (EXHIBIT B).
105	Robinson	Explains amendments to Section 5 of HB 3624 A (EXHIBIT B).
116	Robinson	Explains amendments to Sections 6 and 6a of HB 3624 A (EXHIBIT B, page 2).
126	Robinson	Explains amendments to Section 10 of HB 3624 (EXHIBIT B, page 2).
156	Robinson	Explains amendments to Section 11 of HB 3624 A (EXHIBIT B ,

182 Robinson **page 2).** Explains amendments to Section 12 of HB 3624 A (**EXHIBIT B, page 3**). Notes that the HB 3624-A12 amendments are not listed.

225 Robinson Explains amendments to Section 13 of HB 3624 A (**EXHIBIT B, page 3**).

241 Robinson Advises that no amendments have been proposed to Section 14 of the bill.

242 Robinson Explains amendments to Section 15 of HB 3624 A (**EXHIBIT B, page 3**).

247 Robinson Explains amendments to Section 18 of HB 3624 A (**EXHIBIT B, page 3**).

254 Robinson Explains amendments to Section 20 and the addition of new sections to HB 3624 A (**EXHIBIT B, pages 3 and 4**).

265 Co-Chair Courtney Announces that it is not his intent to take action on the amendments today, but will review the amendments and try to reach closure on the amendments tomorrow.

270 Sen. Fisher Refers to the HB 3624-A17 amendments to Section 4 on mental health services provided by a mental health organization, and asks if the amount of prescribing that is being done by the primary care physician is considered to be something that can only be done under a mental health organization, or if it can continue to be done under the primary care physician.

288 Sen. Minnis Comments he believes the question is whether or not the language is restrictive—that a primary care physician could not prescribe or do any sort of mental health work.

296 Robinson Replies that there is overlap in services by the mental health organizations and services provided by a fully capitated health plan provides, and prescription drugs is one of the overlaps. States she does not believe the amendment would restrict that.

311 Sen. Minnis Comments that the amendments seem rather restrictive because it says “all” and “shall be.”

312 Robinson Explains that there is no definition of mental health services in the bill or in statute but believes the contracts have a definition.

325 Sen. Minnis Suggests that the language should be clear because if it is litigated the courts will look at it what it actually says.

314 Gina Firman Director, Association of Community Mental Health Programs. Advises that Jim Russell will be arriving t 5:00 p.m. and can probably answer the questions much better. States her response is that the intention of this section. It is an attempt to describe what an MHO would provide. In talking with DHS, they thought a change in this language might help. Suggests it could say, “Mental Health Organizations will still provide mental health services under ORS 414.” States their intention was definitely to not restrict primary care physicians from doing mental health services. Most primary care physicians do not want to deal with severely and persistently mentally ill. Adds that they would be open to any language.

368 Sen. Fisher Comments he just wants to make sure we are not setting up something that would vastly change practices that are going on now.

371 Co-Chair Courtney Comments that the HB 3624-A17 amendments need work.

386 Co-Chair Courtney Recesses, and then reconvenes the meeting.

394 Rep. Alan Bates Refers to the HB 3624-A6 amendments (**EXHIBIT C**) and states that presently nurse practitioners are paid by the OHP under Medicaid. Under federal law, a nurse practitioner usually has to be signed off on

by a physician. It is not true in the commercial market but it is for Medicare and believes it is for Medicaid. Believes this has something to do with nurse practitioners practicing in a rural area and not being signed off on by a physician. Asks if that is correct.

Unknown voices Respond that Rep. Bates is not correct.

406 Rep. Bates Asks what the purpose is of the HB 3624-A6 amendments.

421 Robinson Explains it involves a situation where there is a fully capitated health plan in a rural area and there is a rural health clinic in the area. The practitioners at the clinic are not allowed to participate in the fully capitated health plan so in order to see OHP clients had to get their own supervising doctor. This would allow them to get paid as one way of resolving the situation.

437 Rep. Bates Asks if federal law requires they have a physician sign the charts in order to get paid.

440 Robinson Responds affirmatively.

442 Rep. Bates States that somebody has to pay the physician, either the nurse practitioners at the clinic or someone inside the OHP.

Robinson Responds affirmatively.

451 Sen. Fisher Comments he believes they have physicians that take care of their records but they do not have a method of billing because they are not allowed to practice in the hospital. Thinks this is a situation where they have to run through the doctor and the doctor takes a cut out of their pay. Adds that he doesn't think it is a necessary thing they have to do to match federal law.

480 Sen. Morrisette Comments it is difficult to get health care in rural areas and the nurse practitioners should not have to split their fee with the physician 15 miles or more away, and he supports the HB 3624-A6 amendments.

489 Sen. Minnis Asks if this violates federal law.

493 Robinson Responds, no.

TAPE 31, A

038 Robinson Explains provisions of the the HB 3624-A10 amendments (**EXHIBIT C**).

050 Sen. Brown Asks for clarification between the HB 3624-A10 and HB 3624-A15 amendments.

052 Robinson Explains there are two changes. The blank in the HB 3624-A10 amendments has filled in to be "80 percent of Medicare charges." The second change is the sentence of "80 percent of Medicare" in the HB 3624-A15 amendments has a period at the end. It gets rid of the reference to the "diagnosis related groupings (DRG) rates" in the HB 3624-A10 amendments, which makes it applicable to in-patient and out-patient rates. DRG rates are in-patient rates only.

066 Sen. Carter Asks why there would be arbitration if it is non-binding arbitration.

062 Robinson Responds the language is there because the proponents requested it. Thinks they thought it would help them if there was a neutral recommendation made and they could accept or not accept.

071 Sen. Carter Asks why Type A and B hospitals were exempted.

Robinson Responds they should have been exempted all along. There are statutory provisions that direct A and B hospitals be reimbursed at full cost.

076 Sen. Morrisette Comments he believes that nonbinding arbitration is an oxymoron and

mediation would be a better term.

075 Robinson Responds that the proponents wanted nonbinding arbitration and did not want mediation.

087 Sen. Minnis Asks if the Federal Arbitration Act plays a role when the word “arbitration” as opposed to “mediation” is used.

Robinson Responds that she does not believe so.

092 Robinson Explains the HB 3624-A11 amendments (**EXHIBIT C**).

093 Sen. Brown Asks if there is a fiscal impact or if the amendment would reduce the savings anticipated by the bill.

096 Robinson Replies that she does not know.

100 Sen. Fisher Clarifies that they are individual packages and medications are handled differently than bulk medications.

107 Sen. Carter Asks the proponents to explain the HB 3624-A11 amendments.

115 Paul Cosgrove Explains that the institutional pharmacies supply people who are in institutional residential care nursing facilities, adult foster; they do not do a retail pharmacy business. As such they have special requirements including 24-hour-7 day week, multiple deliveries, bubble and blister packs. The care of people in those facilities is outside of OMAP, except for the pharmacy services. This just recognizes the totally different system.

159 Robinson Explains the HB 3624-A12 amendments (**EXHIBIT C**).

161 Sen. Morrisette Asks if those persons listed on page 2 of the HB 3624-A12 amendments would not be covered because they are already covered.

167 Robinson Explains that the HB 3624-A12 amendments were written as a gut and stuff of the bill. The new language regarding Native Americans shows up in two places, page 2, lines 12 and 13 and it is further defined on page 3, lines 2-9.

178 Sen. Morrisette States that they are already covered.

179 Robinson Explains there are duplications in HB 3626 A and the HB 3624-A12 amendments. When the bill came to the Senate the department had authority, by rule, to exempt them from the mandatory enrollment requirements.

183 Sen. Morrisette Asks why they are exempt.

Robinson Explains these were individuals whom the department and others believed should remain in the fee-for-service payment system.

193 Robinson Explains the HB 3624-A13 amendments (**EXHIBIT C**).

205 Sen. Minnis Comments that Robinson may want to address some of the discussions in Legislative Counsel Committee with respect to the administrative rule drafted by the DHS with respect to SB 819 (2001) and prior authorization. States that Legislative Counsel agrees that the rule adopted by DHS is contrary to the law adopted in SB 819. To some degree, by including this amendment in the bill would clarify by law what the law is There is embedded in the HB 3624-A13 amendment a concept known as the Muse study from the 2001 session. This is a codification of what was in SB 819 and hopefully the department will move to write their administrative rules consistent with it. States that soon information will be provided to this committee that will show that the Muse study as written in this bill will save up to \$28 million.

240 Sen. Brown Comments she agrees with the concept and would like to see verification of savings gained from the provision.

259	Robinson Rep. Bates	Explains the HB 3624-A14 amendments (EXHIBIT C). Clarifies that it takes away the ability for the managed care plan to manage antidepressants and moderate tranquilizers and opens it up for fee-for-service. States that in commercial plans, the drugs are managed and on OHP we have not, and thinks there might be some significant cost savings in managing the drugs, other than antipsychotics.
250	Robinson	Responds that this section retains the status quo.
273	Rep. Bates	States it is a significant change from the original bill and it takes the plan away from looking like a commercial plan back to the old way of doing things.
277	Sen. Minnis	States that the HB 3624-A14 amendments are consistent with SB 819 (2001).
	Robinson	Comments that she does know that mental health diagnoses were specifically carved out in SB 819. There was a catch-all phrase that talked about chronic, on-going, and serious conditions. There was also a nonexclusive list. Mental illness is not on that list but it would qualify as a condition under which SB 819 would apply.
	Robinson	Reviews the differences in the HB 3624-A15 and HB 3624-A10 amendments (EXHIBIT C).
304	Sen. Morrisette	Asks why the figure is 80 percent and not 75 percent.
	Robinson	Responds that the requestors asked for 80 percent.
313	Sen. Minnis	Asks what the effect is of putting in 80 percent as opposed to leaving a blank.
	Robinson	Responds that she thinks someone wanted a target to start the conversation.
323	Sen. Minnis	Comments the question is whether or not 80 percent is wise choice and whether this committee wants to entertain the discussion, or whether it is better suited for Ways and Means.
323	Sen. Carter	Asks what the current law is on payment.
328	Robinson	Explains that DHS has developed rates with assistance of their actuary. There are two rates. One is a fee-for-service rate of something under 60 percent. They have a rate they have calculated and some FCHPs and hospitals have it individually and for other rates. Does not believe the rates are set by administrative rule; they are out there and are just used by the department. There is nothing in statute regarding hospital or other rates.
342	Sen. Carter	Requests information on rates.
343	Co-Chair Winters	States that she would like to further discuss the percentage of the rate because we may or not be able to fulfill a full percentage rate. States she is concerned about having something come to Ways and Means that cannot be implemented.
330	Co-Chair Courtney	Asks if Sen. Winters would like to have a blank.
	Co-Chair Winters	Responds that she wants a blank.
358	Co-Chair Courtney	Asks if there is a relationship between 10 and 15.
363	Sen. Minnis	Comments he facilitated drafting of this amendment with the 80 percent and asks the proponents to share their rationale for the 80 percent.
345	Jeff Heatherington	Representing the fully capitated health plans. Explains it changes HB 3624-A by putting in a payment methodology for paying hospitals. It

is different than using the OMAP fee-for-service rates. They use the 80 percent because that was a target figure based on calculations and if they need to redo them, they would say use the blank for Ways and Means because there are some significant differences in what it does to various plans. With Family Care, it will probably cost one-quarter million dollars. In independent practice, it would cost \$3.5. The HB 3625-A15 amendments maintain the mandate that hospitals have to see all Medicaid patients, and the HB 3624-A10 amendments do not. That is fairly significant as far as they are concerned because at this point they have not been able to reach any agreements with other parties about making sure they can get their patients into the hospitals, particularly in the Portland area.

- 412 Ken Rutledge President, Oregon Association of Hospitals and Health Systems. States they have a problem with the mandate to treat. They have done an analysis of the 80 percent. It is still 20 percent less than the Medicare program, which does not pay costs, but they would have no objection to working with the blank so the committee can understand the ramifications of what it means in dollars.
- 426 Sen. Brown Comments that the HB 3624-A15 amendments also applies to in-patient and out-patient rates, not just in-patient. Asks why that is important.
- 432 Rutledge Explains that when one looks at hospital services, out-patient probably represents 30 to 40 percent of all utilization. There is now a Medicare “prospected” payment system along the lines they have for in-patient. It makes sense if the committee is going to take a look at an equitable payment rate, they should look at it for both in-patient and out-patient because it represents such a significant portion of business.
- 447 Rep. Bates Comments that the committee has heard from both sides of the question with Heatherington talking about the FCHPs and Rutledge talking about the hospital position. States they were trying to bring the two parties together to get them to talk to each other on capitation and thereby provide better access to patients at the best cost we can get. The language is bits and pieces of that. They show the Medicare rates because the Medicare rates are set by the federal government and are commonly accepted across the United States and by each individual hospital. Some hospitals will argue they barely cover costs.
- 467 Rep. Bates Further explains that the fee-for-service rates set by OMAP are about 50 or 60 percent of the true cost of seeing those patients, which they feel is an unfair burden and results in cost shifting. On the other hand, the plans feel they cannot live with higher rates unless their capitation rates change and reflect that also. The two forces are fighting and the result is we do not get contracts signed. The language is designed to force the two groups together and work together instead of fighting with each other.

TAPE 30, B

- 036 Co-Chair Courtney Comments that there are obvious problems with the HB 3624-A15 amendments.
- 038 Sen. Morrisette Asks about a disadvantage in Lane County with the 80 percent.
- 043 Heatherington States that in figuring the difference between a percentage of Medicare against what is current practice of using the OMAP fee-for-service rate by the plans, in the Portland area, you can come in at about 78 percent of Medicare on average for all the hospitals. However, in Eugene they are currently using 58 percent of Medicare.

That is the OMAP fee-for-service schedule. It is complicated to try to figure out how to tie this to Medicare or to a percentage of OMAP fee-for-services. They need more time to figure out the number because they are trying to make sure they do not tip over a plan. Eighty percent would probably work for everyone in Portland, but they would put Lane Independent Physicians Association (LIPA), a fully capitated health plan, out of business in Eugene.

067 Sen. Minnis Asks if it is a choice between the HB 3624-A10 and HB 3624-A15 amendments, or if it is something else. States he is sensing the committee agrees there ought to be a blank with respect to the figure on line 15 in the HB 3624-A15 amendments, but there are other issues with respect to the mandate. Asks if the committee wants to decide on the mandate today.

073 Co-Chair Courtney Responds that the committee will not make the choice today.

075 Co-Chair Courtney Comments that the committee has issues with the HB 3624-A17 amendments and that he has red-lined it.

077 Robinson Explains the HB 3624-A18 amendments (**EXHIBIT C**).

088 Robinson Explains the HB 3624-A19 amendments (**EXHIBIT C**).

Robinson Explains the HB 3624 A20 amendments (**EXHIBIT C**).

Sen. Carter Asks if other companies do mail order drugs for clients of the OHP.

128 Robinson Responds that the department has one contract to provide the services.

Sen. Carter Ask if it is legal because it sounds like protectionism to her.

133 Robinson Responds that she will research the issue.

143 Rep. Bates States that three of the FCHPs at the present time are doing 90 prescriptions through their PBMs, not through this organization. This is aimed at WellPartner, which is a good organization and has done a good job. They are in danger of losing lot of business if we move to managed care. Understands the issue Sen. Carter brought up because it ties the hands of the FCHPs so they have to break the contracts they already have and it makes it difficult for both parties. Also believes the issue needs to be researched.

158 Sen. Fisher Asks how long the contract is.

Rep. Bates Discusses the contracts and replies that they run for one to two years.

168 Sen. Fisher Comments he is not as concerned about the existing contracts as he is with the one with the state, and how long that runs. Adds that it may be that we would need to have something that would extend until all contracts have been satisfied.

178 Paul Nielsen WellPartner. Explains that WellPartner is an Oregon-owned and Oregon-based mail order pharmacy, which wanted to bid for fee-for-service Medicaid mail order delivery. States that WellPartner is apparently integrated with many, if not all of the PBMs that are likely to be doing business. Mail order in general is a very under utilized, if utilized at all as a tool for prescription drugs. Either the mail order is not working, and it would seem to be unlikely there would be an entanglement because of that. This is one of the aspects of a transitional policy that they would hope the committee would think about; it is one policy that could work a lot better than it does. It was started in the present environment under the fee-for-service and that is why they put in the transition to have a sunset on 2008 date; that is the

		demise date of the contract with WellPartner.
195	Sen. Brown	Asks if there are other mail order companies in Oregon.
197	Nielsen	Replies there are no other mail order companies that are free and independent in Oregon. Believes there is a mail order through one of the chain stores and is run by the chain store. Kaiser has a fairly sophisticated mail order operation but it is not free standing.
222	Sen. Minnis	Asks when the contract terminates.
208	Nielsen	Replies the contract expires in 2008 and for performance objectives, it is reviewed yearly..
210	Sen. Minnis	Ask Robinson if there is any exposure in terms of breach of contract.
234	Robinson	Replies they cannot sue, the contracts probably have the ability to bring in change and probably have an, escape clause for both parties to get out of it.
	Sen. Minnis	Says that a major policy change that adversely affects a company with an existing contract. That is different than a company that asks for a book of business or privilege they previously did not have. Thinks the committee should consider there is a business that does have a contract and there is an expectation that the business would continue. Thinks it is important that the state honor the contract to the extent it is practical to do so.
240	Nielsen	Replies that this is not just an issue of volume of business. Because of exemptions in the bill for psychotropic drugs, it dramatically changes the mix that they bid on in the first place. There are calculated losses within the contract on drugs that they cannot get the discounts on. If the bill should pass and if the psychotropic drugs are exempted, that flaws the contract in terms of the ways they can get the discounts.
278	Sen. Carter	Speaks in support Oregon companies, but she would not want to do that had there been another Oregon company in the same business.
286	Co-Chair Courtney	States there are issues with the HB 3624-A20 amendments.
287	Robinson	Explains the HB 3624-A21 amendments (EXHIBIT C).
308	Sen. Minnis	Notes the explanation that says the amendments require DHS to ensure that organizations provide certain services to enrollees. Asks what services are being referred to.
312	Robinson	Explains these are considered access standards. They would be contract requirements and they are also required under the federal Medicaid Act.
320	Robinson	Explains the HB 3624-A22 amendments (EXHIBIT C).
334	Sen. Brown	Asks why we would exempt DHS while they purchase medical supplies under the public contracting law.
340	Robinson	Responds that her understanding is they wanted a sole source bid for certain supplies. Their belief was that it would be cheaper.
352	Tina Kitchen	Medical Director, Department of Human Services, Seniors and People with Disabilities. States she is not the proponent of the amendment and may be the source of the confusion around the contracting rules. Clarifies that the issues is the ability to bid for a sole source, not sole source bidding.
375	Co-Chair Winters	Asks if the department has the ability to do that with this being in the statute.
	Kitchen	Responds she believes they do.
384	Rep. Bates	Comments that Section 10 was designed to deal with the cost of durable medical goods which they found were being purchased at

extremely high prices compared to the commercial market. This language is designed to take care of that. There is also language in the amendment to exempt certain individuals from the department rules. This was a way of helping contain the costs. The FCHPs did a good job of managing this. They have put language in to exempt certain individuals. The department would decide who the medically fragile people were so they would not come under this restriction.

412 Sen. Fisher

Comments on discussions a couple years ago surrounding sole sourcing durable medical goods and the problems involved, and states he would still oppose the provision unless they can show things are different than they were a couple of years ago.

TAPE 31, B

006 Jacqueline Zimmer

Area Agencies on Aging and Disabilities. Explains that all people with disabilities are not on Medicare. They are only on Medicare if they have a work history and established a practice or pattern where worked and paid into the system; therefore they do not fall under the category of exemptions for this bill. States that she does not know where the first part of the amendment came in but the second part is their amendment. The reason they are asking to maintain the existing system of exemptions for things like durable medical equipment is because familiarity breeds good service and fragmenting the system does not. States she is not sure there is any guarantee that an ASO will do a better job of serving the client than the system already does. Suggests the existing system should be strengthened instead of outsourcing it to someone who may not be familiar with Oregon's model of long term care.

043 Rep. Morrisette

Asks if the HB 3624-A22 amendments conflict with the HB 3624-A10 amendment, and if so, how.

047 Zimmer

Responds that she thinks the amendments conflict with the first line in the HB 3624-A19 amendments.

056 Co-Chair Winters

Comments there are problems with the HB 3624-A22 amendments.

061 Robinson

Explains the HB 3624-A23 amendments (**EXHIBIT C**).

065 Sen. Carter

Asks if this would be an appropriate place to use the 15-mile rule.

074 Robinson

Discusses the definition of reasonable access in the rural health context. States a decision for the committee is whether they want to apply the 15-mile rule across the board to every situation..

087 Robinson

Explains the HB 3624-A25 amendments (**EXHIBIT C**).

095 Sen. Carter

Asks for further explanation of lines 6-8 on page 1 of the HB 3624-A25 amendments.

098 Robinson

Explains that "any willing provider" provision is a provision that has been, historically, in a commercial insurance market. If the provider is willing to meet the terms and conditions, you have to let them in. That has been heavily litigated and resolved by the U. S. Supreme Court in April, 2003. This provision applies that same principal of conflict to FCHPs.

124 Sen. Fisher

Notes the language in Lines 3 and 4 of the HB 3624-A25 amendments and asks if there is a statutory definition of "residential facility."

122 Robinson

Explains that the definition of residential facility encompasses residential care facilities, assisted living facilities, residential training facilities, basically, any congregate living situation of less than five. This is the definition used in the licensing statute and is probably as

broad as it can be.

146 Sen. Fisher Comments that he wants to make sure it covers all those groups.

148 Sen. Brown Asks if there is any reason why anything in the HB 3624-A25 amendments can not be done by rule, or if they must be done by statute.

152 Robinson Responds she will complete the review then answer Sen. Brown's question. Continues discussing provisions in the HB 3624-A25 amendments. Explains which provisions should be done by statute instead of rule.

185 Sen. Fisher Comments on distrust at the state level of OMAP in the past. That is a good reason to support the HB 3624-A25 amendments.

191 Rep. Bates Asks if any one provider applies to Medicaid and Medicare plans whether Robinson thinks the Supreme Court will apply that to all plans.

195 Robinson Responds she will research the issue.

200 Rep. Bates Comments that he would like to hear from the plans what this might do to them.

205 Heatherington Representing the fully capitated health plans. Expresses concern that it seems to take away their ability to supervise the providers on the panel. In the first reading, it seems to be an odd combination of provisions. If some like some of the provisions, suggests that those be reviewed and put into the HB 3624-A26 amendments. States this is a goulash they have not been able to make sense out of and it doesn't seem to set right. Their concern is being able to manage their providers.

230 Sen. Minnis Asks if the court case applies to commercial insurance.

Robinson Responds affirmatively.

232 Sen. Minnis States if there is a subsequent case and there were an application to Medicaid program, the department would have to honor it.

239 Robinson Affirms and clarifies that any willing provider language has to expand your panel of providers but still supervise them the same way as the current panel.

246 Sen. Morrisette. Asks what is meant by the language in the explanation of the HB 3624-A25 amendments (**EXHIBIT A**) that says, requires annual reporting of an aggregate amount of pharmaceutical rebates by the FCHPs. ..."

235 Tom Holt Oregon State Pharmacists Association. States that the HB 3624-A25 amendments are their amendments. Clarifies the rebate language, which will require the plans on an annual basis to report to the state how much in rebates, in total, that they are expecting to receive or have received for that year's business. At the same time it says the plans would not have to report the particular rebate agreement with a certain manufacturer for a certain product because those individual agreements are contractual matters that are worked out with a great deal of confidentiality. However, they think it is important for the state to be able to evaluate what rebates the plans are getting under their contracts and look at how that plays into the capitation rate and how it compares to fee-for-service costs. In the fee-for-service arena generally there are the highest rebates possibly available—a minimum of 15.1 percent by federal law.

285 Holt In response to Sen. Brown's question on whether these amendments could be done by rule, states they technically a number of them could

301	Holt	<p>be, however, there is a lack of confidence that these things would be carried out by rule.</p> <p>In response to Sen. Carter’s concern regarding any willing provider language, states that the contentious issue in any willing provider for a number of years has been mainly dealing with the question of ERISA and where the federal government’s regulation of insurance takes place versus state-level of insurance. From their perspective any willing provider is important for a couple of reasons, mainly to make sure we maintain community access to services. In some areas of the state it is not unusual to have 40 or 50 percent of a pharmacy’s book of business be OHP. Under this bill that will all go to managed care. If a managed care plan decides they are going to exclude a pharmacy, in effect that is a death sentence for the pharmacy because they would lose so much business. They want to protect against that risk in the health plan.</p>
331	Sen. Fisher	<p>States that Section 18 of HB 3624-A12 amendments speaks to, the time the waiver would go into effect. States that he understands we must have a plan in place on September 1 in order to get the maximum amount of return from the new program as a continuation of what we have been doing. Asks if that needs to be included in this bill, perhaps in Section 18.</p>
346	Robinson	<p>Responds that she understands the question is whether we have to tie together what the state will be doing in order to be eligible for the new federal money and the provisions of this bill. States she believes the answer is no, the department will do certain things in anticipation of the money, but this bill is not directly tied to it.</p>
356	Sen. Fisher	<p>Comments we won’t find ourselves out on a limb and getting only a portion of what we would have coming from the federal dollars because somebody did not have everything done by September 1. Asks if it should be n another bill.</p>
	Robinson	<p>Replies that the state does not have to do anything to be eligible for the money so there is no bill necessary to address the issue.</p>
378	Sen. Carter	<p>Asks if there will be more amendments.</p>
382	Co-Chair Courtney	<p>Asks if there are other concerns to be brought before the committee today.</p>
389	Sen. Minnis	<p>Comments that the only part of the HB 3624-A25 amendments that appear rational is the reporting requirement issues.</p>
370	Co-Chair Courtney	<p>Requests that Robinson prepare an amendment to address the last bullet on the HB 3624-A25 amendments (EXHIBIT A).</p>
405	Sen. Brown	<p>Comments that the committee needs to fix the Jacqueline Zimmer problem.</p>
428	Co-Chair Courtney	<p>Advises members that the committee will consider the amendments tomorrow and try to adopt some of them, closes the work session on HB 3624 A, and adjourns meeting at 6:15 p.m.</p>

EXHIBIT SUMMARY

A – HB 3624, summary of amendments, staff, 3 pp

B – HB 3624, section-by-section description of how the amendments fit into HB 3624 A, staff, 4 pp

C – HB 3624, HB 3624-A6, HB 3624-A10, HB 3624-A11, HB 3624-A12, HB 3624-A13, HB 3624-A14, HB 3624-A15, HB 3624-A17, HB 3624-A18, HB 3624-A19, HB 3624-A20, HB 3624-A21,

HB 3624-A22, HB 3624-A23, HB 3624-A25 proposed amendments, staff, 38 pp
D – HB 3624, section-by-section description of HB 3624-A, staff, 2 pp
E – HB 3624, staff analysis of HB 3624-A, staff, 2 pp