

CONFERENCE COMMITTEE ON SB 160

May 21, 2001
4:00 PM

Hearing Room B
Tapes 1 – 2

MEMBERS PRESENT: **Sen. Charles Starr, Chair**
 Sen. Peter Courtney
 Sen. Ted Ferrioli
 Rep. Vic Backlund
 Rep. Bill Morrisette
 Rep. Tootie Smith

STAFF PRESENT: **Jan McComb, Committee Administrator**
 Patrick Brennan, Committee Assistant

MEASURE/ISSUES HEARD: **SB 160B 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 1, A		
004	Chair Starr	Calls the committee to order at 4: p.m. and opens a work session on SB 160B.
<u>SB 160B WORK SESSION</u>		
009	Jan McComb	Committee Administrator. Provides a brief explanation of SB 160. Describes the differences between the House and Senate versions of the bill, specifically whether chiropractors should be allowed to perform examinations required for participation in interscholastic athletic activities. Indicates that the –B9 amendments (EXHIBIT A), and –B10 amendments (EXHIBIT B) have been submitted for the committee's consideration.
022	Sen. Ferrioli	Indicates that the language related to chiropractic physicians was inserted at his request. Expresses support to the –B10 amendments, adding that he believes an additional conceptual amendment is necessary. Suggests that chiropractors may not be qualified to perform diagnosis related to cardiopulmonary health. Says he would prefer that chiropractors be allowed to perform examinations in areas in which they have training and experience.
044	Rep. Morrisette	Asks whether chiropractors receive training that qualifies them to perform diagnostics.
050	Sen. Ferrioli	Describes the types of diagnostics used to determine whether a youth is ready to participate in a sport or athletic activity. Says the examinations are not invasive, but are related to general health, skeletal alignment and musculature.
063	Rep. Morrisette	Requests an explanation of why some chiropractors might be qualified to perform diagnostics while others may not be.
071	John Sanscom	Offers as an example a description of the diagnostic process for Marfan Syndrome, a genetic defect associated to laxity in the skin and connective tissues that is often found within individuals who have unusually long legs and arms. Says Marfan Syndrome is sometimes associated with cardiopulmonary difficulties such

		as heart valve problems. Indicates that the diagnostic process for Marfan Syndrom is problematic.
090	Rep. Morrisette	Asks whether chiropractors are trained to diagnose Marfan Syndrome.
092	Sanscom	Replies he does not know, adding that most physicians are trained to do so.
095	Rep. Morrisette	Asks whether nurses and physician assistants are qualified to make this type of diagnosis.
098	Sanscom	Replies affirmatively.
100	Larry Harvey	Oregon Chiropractors Association. Refers to testimony at a previous hearing that indicated that the academic preparedness for doctors and chiropractors is nearly identical, with the primary differences being related to physicians. Says that the solution is to ensure that the Oregon Board of Chiropractic Examiners (OBCE) shall make rules determining how training will be provided for these types of examinations.
133	Jim Anderson	Oregon Medical Association (OMA). States that an examination of the curriculum for chiropractic preparation indicates there is no training related to the diagnostic skills necessary to detect, treat, or diagnose cardiopulmonary problems.
145	Sanscom	Emphasizes that detection of cardiopulmonary problems is the most difficult part of the diagnostic process because they often present themselves in a subtle manner. Remarks that physicians listen to patient's hearts daily as part of their diagnostic procedure, and that the experience thus gained provides the critical tools to pick up subtle findings. Asserts that chiropractors are unlikely to gain the experiential skills in detecting cardiopulmonary problems even if they receive the requisite education. Reiterates that the goal is to protect student athletes from catastrophic injuries or health problems. Concedes that not all such occurrences may be preventable but that students should be given the best chance possible.
183	Rep. Morrisette	Asks whether physician assistants and nurses have the experiential skills to detect cardiopulmonary irregularities.
187	Sanscom	Answers affirmatively, as they perform heart examinations daily.
197	Sen. Ferrioli	Says the discussion illustrates his point, which is that whether an abnormality is detected by a physician assistant, nurse, or chiropractor, the end result will be a referral to a physician for diagnosis. Remarks that the person discovering the problem during the screening process need not treat the abnormality, as the goal is simply to detect the problem before it can result in a catastrophic injury.
229	Harvey	Concurs with Sen. Ferrioli. Mentions that even his personal doctor may not qualify to give a sports examination should the bill be passed in its current form. Asserts that those performing the examinations need not be trained to provide treatment. Suggests the issue is becoming a "turf battle" between physicians and chiropractors. Recalls that one student who had been found to have a defect was allowed to play anyway by his parents and died.
266	Rep. Morrisette	Asks again what qualifies chiropractors to make diagnoses of heart ailments.
275	Chair Starr	Recalls compelling testimony during previous hearings that chiropractors are qualified to make such diagnoses.

280	Sen. Ferrioli	Opines that the verbiage used in the –B10 amendments suggest that nurses and physician assistants are capable of making a diagnosis, which is not the case. Asserts that a more accurate word would be “detection” rather than diagnosis. Asserts that the purpose of the bill is to detect ailments and report them to parents.
308	Rep. Smith	Suggests that the –B10 amendments create questions about whether some small towns in her district will have anyone qualified to make a diagnosis of a cardiopulmonary ailment. Posits that if the language is too tight then whoever performs the exams could be open to liability. Agrees with Sen. Ferrioli that detection and diagnosis are different. Remarks that there are not many cardiologists in Molalla.
341	Rep. Backlund	Solicits opinions regarding replacing the word “detection” with the word “diagnosis.”
351	Sanscom	Submits that there is little difference, as anyone not qualified to treat an ailment will doubtless refer the problem to someone who can. Emphasizes the need to ensure that children receiving the exams are in the hands of someone who will be able to find any problems that may exist. Reiterates that chiropractic training does not prepare one to detect cardiopulmonary abnormalities and that coursework cannot replace experience.
402	Harvey	Requests clarification as to the suggested language proposed by Rep. Backlund. Says chiropractors would not have a problem performing the physical examination. Asserts that the bill was not specifically designed to address heart disease, but rather to seek a solution to a string unfortunate occurrences that have occurred on the field of play.
TAPE 2, A		
016	Anderson	Indicates he does not object to changing “diagnose” to “detect.” Wonders whether the committee is confident that chiropractors are qualified to detect potentially dangerous heart ailments.
033	Sen. Courtney	Notes that there is already a form and protocol developed for the examinations, such as type and frequency, and stresses the need to make that form and protocol consistent across the state. Asks whether form and protocol dictate the answer the question at hand.
048	Anderson	Responds that form and protocol are two different things. Describes the difference between form and protocol.
067	Sen. Courtney	Says that form and protocol are germane to the discussion insofar as they relate to the examinations performed on student athletes.
078	Anderson	Mentions that there is a doctor on the Oregon State Activities Association (OSAA) Committee who helped to develop the form and protocol for the exams.
085	Sanscom	Agrees that form and protocol are important, but so are the quality and experience of the person performing the examination.
098	Sen. Courtney	Asks who should be making the final decision whether or not a student participates in athletic activity.
107	Sanscom	Disagrees with the assertion that few people are qualified to perform the diagnosis as it is written in the bill, as general practitioners perform such examinations daily. Says that pre-participation examinations can do little to prevent catastrophic on-field injury, but can be very effective at preventing

		cardiopulmonary failure.
147	Rep. Morrisette	Requests an explanation of the current rule and why it is necessary to change it
151	Harvey	Explains that parents make the initial determination as to whether a student may participate by signing a consent form, with a coach making subsequent determinations based upon the talent of the student. Indicates that chiropractors are already signing off on consent forms because there are an insufficient number of doctors in many small communities throughout the state. Says the –B10 amendments are consistent with current practice.
180	Rep. Morrisette	Wonders whether chiropractors would be placed at the bottom of the list of health care providers to consult for athletic examinations.
185	Harvey	Replies that the bill does not prioritize providers in that way.
190	Rep. Morrisette	Asks whether the bill merely legitimizes current practice and whether the removal of chiropractors could create a hardship for some small communities.
196	Sen. Ferrioli	Draws an analogy between how chiropractors can detect anomalies and how dentists and optometrists often discover ailments unrelated to their examinations and for which they are not trained to diagnose. Says the distinction is primarily one of education, practice, and scope of examination. Submits that chiropractors spend their days examining and treating patients for physical ailments, albeit in different manner than traditional doctors. Reiterates that if chiropractors cannot demonstrate competence in detecting cardiopulmonary defects they will not be allowed to perform the examinations. Says the burden of proof of competence will be on the physician.
265	Chair Starr	Mentions that the conference committee was required in order to consider the training of chiropractic physicians. Opines that it is appropriate for the training requirement be part of the bill.
304	Rep. Backlund	MOTION: Moves to AMEND SB 160B on page 1, in line 17, after "physician", insert "who has clinical training and experience in detecting cardiopulmonary diseases and defects".
324	Sen. Ferrioli	Restates the motion.
333	Rep. Morrisette	Concurs with the conceptual amendments. Acknowledges the validity of the points raised related to detection. Says he is concerned that prohibition against chiropractors performing examinations could hinder some smaller communities. Agrees that most chiropractors are less able to detect heart ailments and expresses hope that general practitioners will be the first choice for exams.
364		VOTE: 5-1 AYE: 5 - Backlund, Ferrioli, Morrisette, T. Smith, Starr NAY: 1 - Courtney
	Chair Starr	The motion Carries.
370	Sen. Ferrioli	MOTION: Moves SB 160B to the floor with the recommendation that the Senate CONCUR in House amendments and that the bill be FURTHER AMENDED by the –B10 amendments as conceptually amended and be

286	Sen. Courtney	repassed. Notes that the amended bill applies only to public schools, despite the fact that private schools compete and practice against public schools within the OSAA. Suggests that conceptually amending the bill to strike the word “district” would allow the bill to apply to private schools as well. Emphasizes the need to protect students in both private and public schools.
TAPE 1, B		
019	Sen. Ferrioli	Restates and clarifies the motion.
023		VOTE: 6-0 AYE: 6 - Backlund, Courtney, Ferrioli, Morrisette, T. Smith, Starr
	Chair Starr	The motion Carries.
026	Sen. Ferrioli	Asserts that the burden of proof of competence rests on the shoulders of the physician, nurse, physician assistant, or chiropractor who is to perform the examination.
037	Rep. Morrisette	Questions whether there is sufficient legislative intent.
039	Sen. Ferrioli	Asserts that the bill provides sufficient legislative intent.
040	Chair Starr	Adjourns the conference committee at 5:05 p.m.

Submitted By,

Reviewed By,

Patrick Brennan,
Committee Assistant

Jan McComb,
Committee Administrator

EXHIBIT SUMMARY

A – SB 160B, -B9 amendments, Rep. Phil Barnhart, 1 p.

B – SB 160B, -B10 amendments, staff, 1 p.