

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

January 21, 1999 Hearing Room B

8:00 AM Tapes 6 - 8

MEMBERS PRESENT: Sen. Bill Fisher, Chair

Sen. Frank Shields, Vice-Chair

Sen. Susan Castillo

Sen. Verne Duncan

Sen. Marilyn Shannon

MEMBER EXCUSED:

STAFF PRESENT: Sandy Thiele-Cirka, Administrator

Becky Albert, Administrative Support

MEASURES HEARD:

SB 422 Public Hearing and Work Session

SB 421 Public Hearing

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 6, A		
004	Chair Fisher	Opens meeting at 8: 12 AM and opens public hearing on SB 422.
<u>SB 422 PUBLIC HEARING</u>		
008	Grover Simmons	Represents Adult Foster Homes and members of the Adult Care Providers Association in Oregon. Comments there are approximately 2,200 homes that

		provide care for the elderly. SB 422 addresses the many adult foster care home providers that take private care residents into their home because Medicaid contracted residents do not have an adequate reimbursement rate. SB 422 allows a provider to accept one Medicaid resident without accepting additional Medicaid residents. States this bill provides good public policy. Presents (EXHIBIT A) .
050	Simmons	Explains he met with Cindy Hannum, Senior and Disabled Services Division (SDSD), and discussed residents currently in homes.
065	Chair Fisher	Comments on hand-engrossed amendments from Simmons.
070	Simmons	States those amendments incorporate the discussion with Hannum. Explains the amendments.
075	Sen. Shields	Asks what happens if multiple people in one home start to become Medicaid eligible.
079	Simmons	Responds it becomes difficult for the provider, but under law the residents are entitled to remain there. States some homes are all or mostly Medicaid resident homes and they are in an economically hard spot.
102	Sen. Shields	Asks, if residents were covered by Medicaid, if the government would assist in this economic situation.
108	Simmons	States he has not heard of such instances.
133	Chair Fisher	Discusses nursing homes' difficulty in maintaining expenses and quality of care. States the process can be difficult.
148	Simmons	States this is good public policy, and notes this bill could provide additional Medicaid beds throughout the state.
159	Dee Humphries	Owner/Operator of two adult foster care homes, president of local chapter of ACPO. Supports SB 422 and encourages providers to sign Medicaid contracts.
176	Chair Fisher	Asks how long she has been a provider.
178	Humphries	Responds nearly 4 years. Explains providers do not always make money. Comments providers should honor the residents they already have by retaining them.
195	Sen. Shields	Comments that Simmons states providers are urged to take Medicaid residents.

199	Humphries	States it is a personal policy for her to take Medicaid residents, though if all her residents were Medicaid clients she would need to shut down.
216	Sen. Duncan	Comments that her place must be pleasant.
219	Humphries	Agrees it is comfortable and they provide activities for the residents.
226	Chair Fisher	Asks where her businesses are located.
228	Humphries	Responds Silverton.
243	Chair Fisher	Thanks her for her testimony and her attitude towards being very good at taking care of residents.
263	Cindy Hannum	Manager Long Term Care Quality for Senior and Disabled Services Division (SDSD). Presents written testimony based on the first draft of the bill (EXHIBIT B). Explains Medicaid law requires those with Medicaid contracts to retain those residents. States that is the policy of the division, but they do not force providers to accept each and every Medicaid resident.
290	Sen. Castillo	Asks about the obligation to accept more than one Medicaid resident into their home.
294	Hannum	Responds they are not required to take Medicaid residents into their home. States those who already live in the home are covered by Medicaid.
328	Chair Fisher	Comments on and discusses managing all aspects of the finances, even when Medicaid does not cover the full costs.
375	David Nebel	Representing the Oregon Law Center and member of Citizenís Coalition for Quality Long Term Care. Comments on the original version of the SB 422. Describes transfer trauma and states concern with the proposed amendment.
399	Meredith Cote	Director, Office of Long Term Care Ombudsman. That agency advocates for and investigates and resolves concerns and complaints with long term care facilities throughout the state. Opposes SB 422 as submitted. States the amendments do not address her concerns.
TAPE 7, A		
005	Cote	Continues testimony. Notes concern with the wording of "accept" versus "admit" for clarity.
024	Sen. Duncan	Asks for clarification.

027	Cote	States she could accept the "upon admission" language. Suggests further language. Comments she has seen the law widely misinterpreted. States she wants residents to have the assurance they will be able to remain with their provider.
055	Sen. Duncan	Comments on provider stress.
066	Cote	Clarifies the industry supports the notion that a Medicaid resident be allowed to stay. Comments there are some waived programs. Comments further on the risk to a provider if they accept a Medicaid resident.
075	Sen. Duncan	Asks if there have been problems with residents who spend down.
080	Cote	Responds there are specific requirements concerning transfers.
088	Chair Fisher	Asks if they have had instances where residents are unnecessarily worried.
092	Hannum	States some residents inquire, but the provider intervenes because of the required notification.
125	Sen. Shields	Asks if providers need to keep residents who spend down, even if they have no other Medicaid residents.
128	Hannum	Responds that all providers with Medicaid contracts do not necessarily accept Medicaid residents. States once the contract is signed any of the residents who spend down would need to remain with the provider. Clarifies under Medicaid law the provider may choose to discontinue the Medicaid contract, giving advance notice and proper transfer of residents.
151	Sen. Shields	For the record, clarifies if a person who never signed a contract and never had a Medicaid client then has a private client spend down they will not be retained by a provider.
158	Hannum	Agrees with that summation. States they would give notification of non-payment because there was no Medicaid contract.
161	Cote	Responds there are a lot of private facilities and residents who need to understand the nature of their retention in a home.
178	Sen. Duncan	Asks about current Medicaid reimbursement rates.
183	Hannum	States the division believes that the rate is adequate. Discusses the different contingencies, such as mortgage rates and the amount of care a specific resident would need.

206	Sen. Castillo	Comments on complaints about reimbursement rates. Asks if SDSD will assist a home if they become burdened by having too many Medicaid residents.
222	Hannum	Responds they would normally add onto the rate if the circumstances are extreme. States they will evaluate with the provider what additional help the resident may need, which may vary from money to additional staffing.
246	Chair Fisher	States they will address SB 422 as it is. States those concerned may work with Simmons to redraft acceptable amendments.
261	Sen. Shields	Asks Cote to repeat her concept.
265	Cote	Repeats language. Explains she would want it clarified that if a resident becomes Medicaid-eligible, while a resident in the home, they are entitled to remain at the Medicaid rate.
295	Chair Fisher	Notes objections. States there is no provision to increase their remuneration for doing this. States he does not want to clutter the current measure.
322	Sen. Shields	Asks for clarification.
323	Chair Fisher	States care homes in the state are not contractually doing this, now. Explains how Cote's request does not apply to SB 422.
369	Shirley Kelton	Multiple home operator and registered nurse with a Masters in Business. States the previous witnesses have already clarified her points.
395	Chair Fisher	Closes public hearing on SB 422 and opens work session on SB 422.
<u>SB 422 WORK SESSION</u>		
397	Sen. Duncan	MOTION: Moves to AMEND SB 422 as in the hand-engrossed amendments (EXHIBIT A).
400		VOTE: 4 ñ 0 ñ 1 EXCUSED: Castillo
	Chair Fisher	Hearing no objection, declares the motion CARRIED.
420	Chair Fisher	Closes work session on SB 422 and opens public hearing on SB 421.

SB 421 PUBLIC HEARING

TAPE 6, B

010	Simmons	Explains SB 421. Presents (EXHIBIT C). Reviews the problem of a person filing a false and unfounded complaint with the SDSO against an adult foster home provider and after the matter is investigated there is no way to hold the complainant accountable. Discusses disgruntled employees.
067	Chair Fisher	Comments on the hand-engrossed language in the exhibit.
070	Simmons	States SDSO will provide information relating to homes with inquiries and this will separate the false accusations from substantiated accusations.
097	Chair Fisher	As a matter of technical clarity, he explains the inconsistency between the wording of "department" and "division."
103	Simmons	States the correct language should be "division" and should be consistent throughout the measure.
118	Sen. Castillo	Asks how often unsubstantiated complaints are made.
121	Simmons	States he does not have those statistics.
135	Sen. Castillo	Asks if he has specific examples of unsubstantiated accusations and how the home was affected.
147	Simmons	Responds dozens of these cases seem to have occurred and witnesses are here to testify of their experiences.
163	Chair Fisher	Shares personal experience. States it is very difficult for facilities to protect themselves.
200	Sen. Shields	Refers to wording on page 2 of SB 421, lines 8-10, about the means of proving the complainant was "knowingly and intentionally false." States an employee with a low salary could not afford legal expenses to defend themselves.
215	Simmons	Refers to current law on page 2, line 4, already has some language that may help, as it refers to "good faith " as a standard.
275	Sen. Shields	Comments "good faith" is also a matter of interpretation. Asks what can be done when a complainant is legally threatened by a provider, even if the complaint is valid.

294	Simmons	Does not see the inconsistency.
301	Chair Fisher	States the home would not be in a position to threaten the complainant. States when complaints occur they are between SDSD and the provider.
317	Sen. Shannon	Explains complaints are powerful in the files of the providers and can be detrimental. Notes it is reasonable to separate out the substantiated complaints from the unsubstantiated ones.
370	Sen. Duncan	Comments on unsubstantiated complaints. Notes concern with the honest complainant being scared to file their complaint.
TAPE 7, B		
012	Chair Fisher	Comments that SB 421 puts people on notice that complaints should be filed honestly.
035	Simmons	Believes the proposed change in the law would be used only in the most stringent type of case where there were clearly false accusations.
060	Chair Fisher	Comments in support of legislation which encourages people to file honest, substantiated complaints.
072	Dee Humphries	Offers personal experience. Explains the reasons why the person filed the complaint should be discovered. States the SDSD workers may support her, but they will move on and she will still be there and people considering her care would only be left with her file.
126	Sen. Castillo	Appreciates Humphries' testimony. Asks if she believes there are cases with unsubstantiated complaints that are founded.
135	Humphries	Responds affirmatively.
151	Cote	Explains her office opposes SB 421, as written and as amended. Comments on intentionally filing a false complaint and the agencies having a difficult time monitoring facilities. Comments that noting the motivation is irrelevant if the complaint is founded.
195	Chair Fisher	Asks about fairness to the provider.
198	Cote	Comments on the investigation process.
228	Chair Fisher	States she seems to want to retain all complaints.

220	Cote	Responds that the office does not want to diminish opportunities for people to file complaints. States there is fear among those who file complaints and asks if it will affect future employment.
243	Chair Fisher	Notes the employer is not told who makes the complaint.
250	Cote	States many providers do know who the complaintants are because the provider is aware of who was present in certain circumstances.
296	Chair Fisher	Comments further on valid/unvalid complaints and that he would not want to hide a complaint that is filed.
313	Cote	Presents (EXHIBIT E). Discusses the complexity of the investigation process and reports. Many complaints are multi-faceted.
388	Sen. Castillo	Remarks that the unsubstantiated complaints are important to be considered by the consumer. Asks how often in an investigation determines an accusation is based on a lie.
TAPE 8, A		
000	Hannum	Presents (EXHIBIT D). States she is unaware of an instance where a lie was told. Notes that individuals have varying perceptions of what occurred.
010	Chair Fisher	Asks if the complaint report, as in EXHIBIT D , concerns an adult foster home.
012	Cote	Responds affirmatively.
013	Chair Fisher	Notes concerns with the report.
032	Cote	Comments on the complexity of the finding of fact and finding of wrongdoing.
049	Chair Fisher	Asks if SB 421 impinges on the ombudsmanis responsibilities.
056	Cote	States the office interacts with witnesses and the complaint.
077	Kelton	Comments on individuals filing false complaints. Explains that resident managers are informed that the provider is held liable for any wrongdoing. Requests something be put in statute for employees to be responsible for their actions.
127	Kelton	Continues testimony, giving an example of a situation with two nurses.

177	Kelton	Concludes and suggests a time limit on maintaining complaint files.
211	Chair Fisher	States that SB 421 will be rescheduled and adjourns meeting at 10:22 AM.

Submitted By, Reviewed By,

Becky Albert, Sandy Thiele-Cirka,
Administrative Support Administrator

Transcribed By,

Jennifer Peck,
Committee Coordinator

EXHIBIT SUMMARY

A ñ SB 422, conceptual amendments, Adult Care Providers Association, Grover Simmons, 1 p

B ñ SB 422, written testimony, Senior Disabled Services Division, Cindy Hannum, 2 pp

C ñ SB 421, written testimony and conceptual amendments, Grover Simmons, 5 pp

D ñ SB 421, written testimony, Cindy Hannum, 2 pp

E ñ SB 421, report, Meredith Cote, 4 pp