SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

March 29, 1999 Hearing Room B

8:00 AM Tapes 66 - 68

MEMBERS PRESENT:

Sen. Bill Fisher, Chair

Sen. Frank Shields, Vice-Chair

Sen. Susan Castillo

Sen. Verne Duncan

Sen. Marylin Shannon

STAFF PRESENT:

Sandy Thiele-Cirka, Administrator

Andrew Morris, Administrative Support

MEASURES HEARD:

SB 16 Public Hearing

SB 762 Public Hearing

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

TAPE/#	Speaker	Comments
TAPE 66, A		
003	Chair Fisher	Calls meeting to order at 8:10 AM and opens public hearing on SB 16.
SB 16 PUBIC HEARING		
020	Scott Nehring	President, Oregon Optometric Association. Testifies in support of SB 16. Presents letters from optometrists **(EXHIBIT A)**. States the bill would allow

		Oregonians to receive direct access, and cost effective eye care without affecting the health maintenance organizations (HMO). States the bill will not increase health costs.
048	Sen. Castillo	Asks if optometrists are offering the ñ3 amendment.
071	Wayne Schumacher	Representing the Oregon Optometric Association. Presents testimony in support of SB 16 **(EXHIBIT B)**. Responds affirmatively and explains the ñ3 amendments to the committee. Comments on the hand-engrossed version. States the bill is a patient-orientated bill.
116	Sen. Castillo	Asks if optometrists treat people with diabetic retinopathy.
118	Nehring	Responds that they manage patients with diabetic retinopathy.
125	Sen. Castillo	Questions the treatment of diabetic retinopathy.
128	Schumacher	Responds that the patient would be referred to a primary care physician. States the bill does not change the current referral procedure.
146	Nehring	States there are different levels of diabetic retinopathy. Points out that the bill states all cases of retinopathy which is a concern because not all cases need to be referred to a primary care physician.
178	Chair Fisher	Refers to **(EXHIBIT A)**. Questions the diagnoses of diabetic retinopathy, and who may provide a diagnoses.
197	Nehring	Responds that there are times when the doctor treating the patient needs to make a judgement call, but that is an issue that does not require legislation.
210	Chair Fisher	States that there could be questions about the reporting procedure, which could lead to a liability issue.
230	Schumacher	States there could be an increase in liability. States the system is presently working well.
241	Nehring	States the primary physicians often refer patients to the optometrist to study the damage to the retina.
250	Nan Heim	Representing Oregon Academy of Opthalmology. Presents testimony in opposition to SB 16 **(EXHIBIT C)**. States that SB 16 is expanding the scope of practice for optometrists.
305	Jody Fischer	Representing the Oregon Academy of Opthalmology. Testifies against SB 16.

		States that optometrists cannot treat diabetic retinopathy. States that if retinopathy is detected, it should be referred to a primary care physician. Comments that SB 16 needs to be amended before it is passed. States that patients are currently allowed to make appointments with optometrists.
358	Sen. Duncan	Asks if diabetic retinopathy is within the current scope of practice.
363	Fischer	Responds that they do not believe diabetic retinopathy should be in the scope of practice for optometrists. Explains treatment of diabetic retinopathy.
394	Chair Fisher	States that Fischer is bringing up issues not involved with the bill.
409	Fischer	Discusses treatment of diabetic retinopathy.
435	Sen. Duncan	Asks about the wording of monitoring versus treatment.
446	Chair Fisher	Points out that it appears treatment is okay for a private person, but not for a HMO client.
TAPE 67, A		
000	Sen. Shannon	Refers to **(EXHIBIT A)**, and comments that people are convoluting the bill.
011	Nan Heim	States the amendment was proposed by the opthalmologists
045	Chair Fisher	Discusses the intent of the bill to address emergency optometric visits.
065	Schumacher	Addresses laser surgery for diabetic retinopathy. Notes objections to limiting the number of patient visits.
106	Sen. Castillo	Refers to surgical procedures. Asks if optometrists would have expanded abilities to perform surgery.
118	Schumacher	Responds no. States the bill retains the same issues that the HMOís address. States that the bill allows the primary care physicians to be consulted and cooperated with.
131	Sen. Duncan	Asks if the opthalmologists are the only ones who perform surgery.
137	Schumacher	Responds affirmatively.
148	Sen. Duncan	Asks if the opthalmologists understand the optometrists intent.

158	Fischer	States the bill opens up medical eye care to optometrists without a referral from a primary care physician.
180	Sen. Shannon	States the bill would allow the patient to seek care without a referral.
190	Chair Fisher	States the bill appears to benefit opthalmologists as well.
197	Schumacher	States the bill is becoming a "turf war." Comments that the intent of the bill is to allow access to direct eye care.
220	Charlie Cheek	Legislative Counsel. States he would be willing to work with a work group.
252	Linda Casser	Associate Dean, Pacific University. Testifies in support of SB 16. States that optometrists are trained to diagnose and manage diabetic retinopathy. States that earlier testimony clouds the intent of the bill. States that optometrists are trained to work with other health care providers in the care of patients.
327	Casser	States there are published standards of practice for optometrists.
348	Bruce Bishop	Representing Kaiser Permanente. Testifies against SB 16. States the bill deals with coverage, and with equal payment for equal services. States he would like to see wording to include covered services.
415	Sen. Shields	Questions the definition of eye care services as specified by the health care plan.
423	Bishop	Responds that his question concerning a health benefit plan, is if it "modifies only structure or if it modifies care of the eye, or modifies health care services."
444	Sen. Shields	States the health care plan would still be in charge.
TAPE 66, B		
014	Sen. Shannon	States that related structures should be included in the bill.
020	John Powell	Representing Blue Cross/Blue Shield. Testifies against SB 16. States that health plans are referring patients to specialists, and that referrals can be obtained by the phone.
070	Chair Fisher	Questions necessary changes to the bill.
072	Powell	Responds that the area regarding payment needs to be reviewed and modified.

098	Sen. Shannon	Asks if opthalmologists charge more for monitoring retinopathy, and why the HMO would not want to save money.
110	Powell	Responds that HMOís want to keep records of care with one provider. States the bill is unclear which health policies it would deal with. States that not all insurers would be subject to the regulations of the bill.
172	Powell	States the bill should be amended to include the Oregon Health Plan. States the language in the ñ3 amendment should be amended to allow contracting with individual practitioners. States the problems with the bill are broader than the scope of practice.
212	Sen. Castillo	States the purpose of the bill is to increase access to care. States the bill could help rural areas, and that direct care has been a problem for senior citizens.
237	Powell	Responds that HMOís cover emergency situations.
245	Chair Fisher	Closes public hearing on SB 16 and opens public hearing on SB 762.
SB 762 PUBLIC HEARING		
255	Sid Stuller	Parent of a developmentally disabled person. Presents testimony is support of SB 762 **(EXHIBIT E)**. States the process of outplacement of clients need to be examined. States that the Mental Health Developmentally Disabled Services Division (MHDDSD) rush clients through the placement process.
360	Stuller	Continues presenting testimony.
421	Stuller	States MHDDSD needs greater accountability. Comments that clients need to be placed in the best housing possible.
TAPE 67, B		
000	Stuller	Continues that the MHDDSD has been uncooperative and has only acted when threatened with court action. Reviews potential abuse situations.
047	Stuller	States there is no training required for non-profit organizations. States that a training time period be beneficial and would allow time for complete criminal background checks.
076	Ralph Rizzuto	Reads a letter from retired circuit court judge, James Goode, in support of SB 762.
131	H.B. McGough	Parent. Testifies in support of SB 762. States the bill will make MHDDSD more

		efficient and accountable.
148	Sen. Duncan	Questions the fiscal impact of SB 762.
155	Stuller	Responds he is unsure.
190	James Toews	Assistant Administrator, MHDDSD. Testifies against SB 762. Summarizes appeal rules **(EXHIBIT F)**. Explains and discusses the appeal process.
225	Chair Fisher	Asks about the notice of placement for a client and if MHDDSD would be willing to change the notice from 15 days to 30 days.
230	Toews	Responds that there is a 15 day notice, sent by certified mail. States it would not be a problem to increase the notice to 30 days. Continues explanation of the appeals process. Notes that a transfer and/or discharge cannot occur during an appeal.
297	Sen. Duncan	Asks if Stuller has any comments on the appeal process.
300	Stuller	Suggests obtaining testimony from individuals who have experienced the appeals procedure. Notes that some people do not understand the procedure.
330	Toews	Comments that the MHDDSD has included an additional step in the placement process to work with the families of Fairview clients. States there has been no appeal hearings requested.
393	Toews	Acknowledges that the language in letters referring to appeals can be difficult to understand. Comments that, in those instances, the division uses social workers to assist the family.
437	Sen. Duncan	Questions contested case hearings.
447	Toews	States that it is not required for attorneys to be present, but that is often what happens.
TAPE 68, A		
000	Stuller	Notes disagreement with Toews.
007	Chair Fisher	Asks if it is possible to go to circuit court now.
010	Toews	Responds the court would review and asses if the administrative appeals had been exhausted. Notes the burden of proof rests on the division.

033	Sen. Duncan	Asks if the court evaluates the division to determine if administrative rules are followed.
037	Toews	Responds affirmatively. States there are administrative rules which govern the community actions of the division. Reiterates the bill eliminates the administrative appeal process.
118	Sen. Duncan	Asks if Stuller is satisfied with the current process and if additional information is necessary to assist people in understanding the process.
135	Stuller	Responds that people do not understand the administrative rules, and the court system would assist people.
160	Toews	States the appeals process is extensive. States the division gives people information on who to call if they do not understand their rights.
186	Chair Fisher	States appreciation for testimony. Closes public hearing on SB 762 and adjourns the meeting at 10:30 AM.

Submitted By, Reviewed By,

Andrew Morris, Sandy Thiele-Cirka,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 16, Letter, Oregon Optometric Association, Scott Nehring, 3 pp

B ñ SB 16, Written testimony, Oregon Optometric Association, Wayne Schumacher, 8 pp

C ñ SB 16, Written testimony and ORS 683.010 through 683.060, Oregon Academy of Opthalmology, Nan Heim, 3 pp

D ñ SB 16, Letter from Eugene Organ, Staff, 1 p

E ñ SB 762, Written testimony and supporting information, Sid Stuller, 10 pp

F ñ SB 762, Administrative rules, MHDDSD, James Toews, 12 pp