

SENATE COMMITTEE ON PUBLIC AFFAIRS

May 19, 1999 Hearing Room B

7:00 P.M. Tapes 49 ñ 52

MEMBERS PRESENT: Sen. Gene Derfler, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Eileen Qutub

Sen. Charles Starr

Sen. Thomas Wilde

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: SB 728 Public Hearing and Work Session

SB 603 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 49, A		
000	Chair Derfler	Calls the meeting to order at 7:05 p.m. Opens public hearing on SB 728.
<u>SB 728 PUBLIC HEARING</u>		
008	Jennifer Webber	Representative, Oregon Workers' Compensation Attorneys (OWCA). Testifies in support of SB 728. States that OWCA has collaborated with the Management Labor Advisory Committee (MLAC) for the creation of the ñ2 amendments.
015	Jerry Keene	Representative, MLAC. Testifies in support of HB 728. Indicates there has been a great deal of confusion regarding workers' compensation litigation following the adoption of legislation in 1990. Describes the categories of workers'

		<p>compensation litigation, asserting that jurisdiction has become ambiguous. States that the amendments outline responsibilities for three categories of treatment disputes:</p> <ul style="list-style-type: none"> • Matters related to the compensability of a medical condition are to be determined by the board through litigation • Matters related to the effectiveness or appropriateness of treatment are to be determined by the department • Matters related to the relationship between proscribed treatments and diagnosed conditions are to be determined by the board through litigation
052	Chair Derfler	Submits that in matters of the third category, doctors would be a better judge than would the board.
054	Keene	Explains that the key issue in the third category is whether the treatment will be helpful or excessive. Mentions that physicians will still make medical diagnoses. Clarifies that the causation questions are more applicable to the litigation process than to searching through medical journals.
073	Chair Derfler	Concludes that the matter is more related to law than to medicine.
074	Keene	States it is a matter of what is true and not true, rather than what is best for the patient. Summarizes that questions related to whether a requested treatment is related to a medical condition are legal matters, while questions related to the appropriateness of a procedure are medical matters.
094	Sen. Starr	Wonders what currently happens in cases such as the ones being described.
099	Keene	Replies that the issue has been ambiguous since 1990, as statute merely sets forth principles without explaining the process. States that the ñ2 amendments clarify that claim disputes will be resolved by the board and the department through a joint approach. Asserts that such a process will protect the rights of workers.
137	Chair Derfler	Mentions there has been confusion regarding jurisdiction between the board and the department.
141	Keene	Concludes that the process will clarify jurisdictional matters up front.
142	Chris Moore	Attorney, Eugene. Testifies in support of SB 728. Discusses a court case in which arose a question of whether treatment administered was related to a prior condition or to a work related injury. Indicates that jurisdiction shifts in cases where time is lost. Mentions that the bill will not affect managed care disputes. Clarifies the bill does not affect the jurisdiction of the department in cases where the issue is whether treatments are excessive, inappropriate, ineffective, or in violation of administrative rules.
192	Chair Derfler	Suggests the bill would assist in determinations of jurisdiction. Closes the public hearing on SB 728 and opens a work session on SB 728.

SB 728 WORK SESSION

202	Sen. Starr	MOTION: Moves to ADOPT SB 728-2 amendments dated 5/29/99.
210		VOTE: 5-0
	Chair Derfler	Hearing no objection, declares the motion CARRIED.
212	Sen. Starr	MOTION: Moves SB 728 to the floor with a DO PASS AS AMENDED recommendation.
214	Chair Derfler	Requests that the board and department work together to develop the rules.
216		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Derfler	The motion CARRIES. SEN. CORCORAN will lead discussion on the floor.
221	Chair Derfler	Closes the work session on HB 728 and opens a public hearing on SB 603.

SB 603 PUBLIC HEARING

227	Sen. Qutub	Testifies in support of SB 603. Says a stipulation was passed during the previous legislative session requiring the reporting of complications related to abortion procedures. Indicates that reporting has so far been incomplete, due to a general lack of knowledge regarding the requirement to do so. Says the bill would bring abortion clinics under the same regulations as an ambulatory surgical center, which has higher standards for emergency situations.
277	Sen. Qutub	States that a clinic would need to perform over 100 abortion procedures in a calendar year and advertise the procedure in order to come under the bill's requirements. Offers a breakdown of the 39 Oregon facilities that performed abortions in 1998: <ul style="list-style-type: none">• Nine hospitals• Twenty clinics• Ten private physicians offices

		Mentions that most of the facilities were located in the Portland Metropolitan area. Asserts that abortions are rarely performed in the offices of private physicians. Argues that women should have the same protections as others during medical procedures.
311	Chair Derfler	States that if it can be established that there is a need to protect the health of women he will consider supporting the bill. Says he has no interest in passing the bill as a way to prevent abortions, as the court system has already determined that they are legal.
323	Sen. Dukes	Asserts that banning abortions is not the issue. Expresses a desire to address the problem of health side-effects related to pregnancy termination.
327	Sen. Qutub	States that there are many medical procedures that are regulated by law.
355	Dr. Joanne Nielson	Medical Director, Clackamas Regional Health Systems. Testifies in support of SB 603. Explains that abortions are one of the most common and least regulated medical practices in the United States. Says clinics are not required to meet even the minimal standards for veterinary clinics. Argues that the reason abortion was legalized was to insure that the procedure would be performed in a safe, healthy environment. Reiterates that few doctors are aware of the method for reporting abortion complications.
405	Nielson	Outlines the possible complications of abortion, adding that women must be aware of them in order to make a legitimate choice whether to undergo the procedure. Asserts that bringing abortion clinics in line with ambulatory surgical facility guidelines will offer improved care for women.
437	Sen. Dukes	Requests an explanation of the difference between the process of undergoing a tonsillectomy and an abortion.
447	Nielson	Replies that a physician discusses procedures such as a tonsillectomy with the patient, including the risks involved and other related issues. Draws a contrast with abortion procedures, in which a patient often does not even talk to the physician until after the procedure has been performed.
464	Sen. Dukes	Asks if there is a difference in the types of facilities where the two procedures are performed.
465	Nielson	Responds that few physicians will perform a tonsillectomy outside of a hospital, while abortions are routinely performed in non-hospital settings.
466	Sen. Dukes	Wonders if it would be legal to perform a tonsillectomy in the office of a private physician.
468	Nielson	Replies that it is legal to perform that procedure in such a setting.

474	Sen. Qutub	Comments on the regulations regarding procedures performed in ambulatory surgical centers.
TAPE 50, A		
010	Dr. Richard Thorne	Obstetrician/Gynecologist (OB/GYN). Testifies in support of SB 603. Asserts that abortion should be "accessible, safe, and rare," adding that the bill is concerned solely for the safety of women undergoing the procedure. Offers an account of a woman who was turned away after preparations had begun for a second-trimester abortion due to insufficient funds to pay for the procedure.
053	Chair Derfler	Wonders why the doctor would send the girl home after only given half an abortion. Asks if the doctor still practices.
059	Thorne	Replies there are both good and bad doctors, as is the case in every field. Says he cannot divulge whether the doctor is still performing the procedure, for reasons of privacy. Describes the kidney failure and complications that resulted from the untimely halt to the procedure.
069	Chair Derfler	Wonders if the situation would have been different had the facility been regulated.
070	Thorne	Acknowledges that no amount of regulation will prevent "bad apples" from practicing. Suggests that a peer review process would have provided consequences for the actions taken by the physician.
076	Chair Derfler	Requests clarification that the physician suffered no consequences for the actions taken in the case.
077	Thorne	Confirms the chair's statement.
078	Chair Derfler	Asks whether regulating the facility would have allowed the physician to be held accountable.
080	Thorne	Replies that is not necessarily the case. Asserts that regulating such facilities is the first step in addressing the problem.
081	Sen. Wilde	Says there are certain standard practices for reporting the malpractice of a fellow physician. Submits that a physician who refuses to divulge information regarding malpractice by a colleague shares the guilt with the offender.
089	Thorne	Mentions that he testified for the plaintiff in the court case that stemmed from the incident.
100	Sen. Wilde	Wonders if Dr. Thorne took action on any other cases, such as filing a complaint

		with the Oregon Medical Association (OMA).
101	Thorne	Replies that he testified in two of the other cases, but did not personally file a complaint. Indicates that in each case he testified to the malpractice without making moral judgements.
103	Sen. Dukes	Asks whether the case described was performed in a setting where other physicians were present who could have completed the procedure.
110	Thorne	Replies that the incident occurred at a clinic. Indicates that he cannot elucidate further on the case. Reiterates that his primary concern is for the safety and welfare of women seeking abortions.
116	Sen. Dukes	Explains that the committee must be made aware of the conditions in clinics that resulted in such acts of malpractice taking place before a decision can be made as to how the problem should be addressed.
117	Sen. Qutub	Suggests the committee should focus on the complications, rather than the consequences to the physicians involved in the cases.
133	Chair Derfler	Inquires whether such complications could occur in a hospital setting.
135	Thorne	Responds affirmatively.
137	Sen. Dukes	Asks if the patient in the case would have suffered similar complications had the procedure been completed.
139	Thorne	Indicates that the complications resulted from only "half an abortion" being performed. Submits that the physician in the case performed the equivalent of a "back alley abortion" and acted in an "amoral" manner. Mentions that the woman in question lost her pregnancy as a result of the complications.
152	Thorne	Describes a second case, in which a woman who had an abortion suffered massive bleeding which prompted the performance of a hysterectomy. States that the woman was relieved when she found out she would no longer be able to become pregnant. Asserts that many problems are a result of women who, because of their low socioeconomic status, have few options available with regard to reproductive choice.
170	Thorne	Describes a third case, in which a woman suffered a perforated uterus as a result of an abortion, necessitating a hysterectomy. Says the clinic where the procedure took place continues to advertise the procedure without making known the potential for losing the ability to have children in the future.
177	Thorne	Describes a fourth case, in which a foreign student needed to undergo three separate procedures to complete an abortion. Indicates that post-abortive scarring now prevents the woman from being able to conceive.

189	Thorne	<p>Describes a fifth case, in which a woman received a 6th month abortion, a procedure that requires 2-3 days to complete. Says the woman collapsed upon returning home as a result of perforation of the uterus. Indicates that she underwent an emergency hysterectomy, but still suffers brain damage as a result of hypoxia.</p> <p>Acknowledges that severe complications occur infrequently, but adds that the public is generally unaware that they occur at all. Argues that an update on procedure codes for abortion clinics would begin to address the problem.</p>
227	Chair Derfler	Inquires whether passage of the bill could prevent such incidences from occurring.
232	Thorne	Replies that such instances would likely still occur, but adds that response would be improved. Explains that hospitals and surgical centers require physicians to submit "quality assurance" reports. Argues that unified action is required to protect the welfare of women who have abortions.
256	Chair Derfler	States that evidence must be forthcoming that SB 603 will in fact protect the welfare of women.
261	Thorne	Suggests that quality assurance will allow those with honest complications to receive appropriate follow-up. Indicates that a primary dilemma is that many women suffering complications seek treatment at another medical facility, meaning that the clinic or physician who performed the procedure is unaware that anything has gone wrong. Asserts that quality assurance through questionnaires can provide necessary data.
284	Chair Derfler	Asks if reporting is currently required.
285	Sen. Qutub	Replies that reporting is required, but that the Health Division does not inform physicians who perform follow-up procedures and examinations that they are to report complications. Indicates that there are plans to provide a bulletin of such cases to each physician.
295	Thorne	Says that a recent OB/GYN meeting at Salem Hospital discussed the issue and that most of the doctors and nurses were unaware of changes to the form.
301	Chair Derfler	Inquires how reporting requirement changes are disseminated to physicians. Suggests that doctors would be likely to make mistakes if they failed to keep up with current regulations.
305	Thorne	Replies that such information is often lost in the paper shuffle, leading to just the kind of mistakes referred to by the chair.
308	Sen. Qutub	Submits that the Health Division should be questioned as to what types of notification they send to physicians. Recalls that on a previous occasion many OB/GYNs were not notified of regulatory changes.

322	Sen. Wilde	Clarifies that it is important for members of a profession to police one another. Mentions the parallel issue of vaginal delivery versus caesarian section, saying that there are risks of complications that are not widely known. Submits that there should be similar regulations for midwives who would deliver babies in residential settings.
366	Thorne	Recounts a situation similar to that described by Sen. Wilde, in which a physician lost his license due to malpractice. Explains that most facilities have credentials committees that curtail doctors for violation of regulations. States that doctors can only testify regarding the practices of their colleagues at their own institutions.
386	Sen. Wilde	Wonders why midwives should not be regulated for vaginal deliveries if abortion doctors are regulated for pregnancy terminations.
407	Thorne	Replies that abortions are surgical procedures and should be regulated as such, while vaginal deliveries are non-surgical.
415	Sen. Qutub	Indicates that there are 1.1 fatalities per 100,000 vaginal deliveries, compared to 10 per 100,000 for caesarian section deliveries.
419	Sen. Wilde	Comments that the statistics are unclear as to whether they deal with the death of the mother or of the baby. Argues that in cases where complications are a possibility there should be regulation. Expresses doubt that many parents would choose at-home childbirth if they were made aware of the potential danger to mother and child.
454	Chair Derfler	Expresses appreciation for Dr. Thorne's testimony.
456	Thorne	Indicates that the reason the five examples were given was to illustrate the fact that many facilities have failed to change their practices.
TAPE 49, B		
001	Dr. Ben Wilson	General Surgeon, Salem. Testifies in support of SB 603. Defines a surgical outpatient facility as a location where physicians perform hernia repairs, orthopedic repairs, tonsillectomies, and other procedures requiring the patient to be under anesthesia for less than two hours. Explains that the use of general anesthetic requires monitoring of vital signs and observation of patients for a period of time following the procedure. Indicates that there are three such facilities in Salem, with another three under construction.
050	B. Wilson	States that state law currently provides an "absolute out" for abortion providers. Wonders why legitimate abortion providers would wish to be exempt from guidance and review by the Health Department. Submits the procedure must be regulated if it is to be considered safe.
087	Sen. Wilde	Inquires how a physician could gain access to an ambulatory facility for the

		purpose of performing abortions.
098	B. Wilson	Replies that there is a credentials committee at each center that reviews the education, training, and experience of physicians applying to use the facility. Adds that malpractice insurance is usually required as well.
113	Sen. Wilde	Asks how a physician comes to be part of a facility's staff.
121	B. Wilson	Replies that a request for privileges would need to be made. Indicates that a fee is required to be on staff at some surgical centers. Explains that once credentials are received there is a period of monitoring for a few months, after which the physician receives "privileges" that allow him or her to schedule applicable procedures at will. Describes the peer review process that raises the quality in medical care.
152	Sen. Qutub	States that the criteria within SB 603 require a surgical facility to be open to public review.
166	Chair Derfler	Asks how many people have had serious complications that could have been prevented had SB 603 been law at the time.
172	B. Wilson	Replies that the first example described by Dr. Thorne would have placed the facility at risk of being shut down.
180	Chair Derfler	Interjects that the incident would still have occurred, although repercussions would have been more serious.
181	B. Wilson	Agrees that the incident may well have occurred, adding that it would happen only once.
182	Chair Derfler	Asks if multiple related incidents could occur in a clinic under SB 603.
183	B. Wilson	Explains that there is currently no recourse for the state to take action against a facility. Says there should be mechanisms for "running [bad doctors] out of the state."
194	Chair Derfler	Wonders how many lives might have been changed had SB 603 been law at the time.
195	Dr. Ken Wilson	Hand Surgeon, Salem. Testifies in support of SB 603. States there are no statistics to support an answer to such a question, as there are no regulations for pregnancy termination requiring the reporting that is necessary to study the problem. Says reporting requirements provide quality assurance and force physicians to do patient follow-up.

217	Chair Derfler	Argues that evidence must be given to support the assertion that SB 603 is the correct solution to the problem.
219	K. Wilson	Says there is a general consensus that a problem exists, but that no one understands the problem due to a lack of information. Clarifies that abortion clinics are not necessary surgical centers, and that to become such they must meet safety standards such as emergency resuscitation. Reiterates that veterinary clinics have more stringent requirements than do abortion clinics.
233	B. Wilson	Argues that some of the examples given by Dr. Thorne could have been prevented through the use of standard medical practices.
241	Sen. Qutub	Mentions that even tattoo parlors are regulated in Oregon. Asks for a good reason why abortion clinics should not be regulated at least as stringently as veterinarians or tattoo parlors. Asserts that regulations are often passed based on a single case, mentioning that five cases have been presented to the committee. Argues that women deserve the protection that SB 603 would provide.
277	B. Wilson	Says that tragic results can occur when doctors are held accountable.
306	Sen. Dukes	Assumes that the Health Division inspects hospitals and surgical centers.
314	B. Wilson	Concurs, adding that the offices of physicians performing outpatient procedures can also be inspected.
319	Sen. Dukes	Asks whether the Health Division can currently inspect abortion clinics.
325	Dr. Grant Higgins	State Health Officer and Deputy Administrator, Oregon Health Division. States that he does not currently have the authority to inspect clinics or the private offices of physicians. Says the Health Division can investigate any facility where there is probable cause, although the Board of Medical Examiners usually performs such inspections.
353	Sen. Dukes	Wonders if there are other types of medical facilities that are exempt from review by the Health Division.
357	Higgins	Responds that the Health Division licenses and reviews hospitals, birthing centers, and ambulatory surgical centers.
366	Sen. Dukes	Asks if long-term care facilities are performing surgical procedures.
370	Higgins	Replies that he knows of none that are doing so.
374	Sen. Wilde	Requests clarification of the difference between the physical structural requirements of doctor's offices, ambulatory surgical centers, and abortion

		clinics.
385	Higgins	States that for ambulatory surgical centers there are requirements for ventilation, room size, staffing, certification, and credentials. Indicates there are very few structural requirements for doctor's offices or abortion clinics.
397	Sen. Wilde	Notes that bringing an abortion clinic up to code as an ambulatory surgical center may be an expensive process, or altogether impossible.
412	Thorne	<p>Indicates that the Oregon Health Division dictates the written policy requirements for ambulatory surgical facilities. Says a facility is required to have a manager who is either a physician or a nurse and to have a written policy regarding the following items:</p> <ul style="list-style-type: none"> • The types of procedures performed • The types of anesthesia that are used • Criteria for evaluating patients prior to and following discharge • Nursing service activities • Infection control • Visitor conduct requirements • Content and form for medical records of procedures performed • Procedures for storing and dispensing of clean and sterile supplies • Disposal of pathological tissues, infectious waste, and contaminated supplies • Procurement and dispensation of drugs • Cleaning of soiled linens • Policies on routine testing • Policies on emergency procedures, including life-saving procedures <p>Indicates that this policy would be required in written form only and would therefore present only a minor burden. Explains that additional, more stringent facility requirements are required for facilities where general anesthetic is used.</p>
TAPE 50, B		
004	Thorne	Explains that an exception is made for four types of abortion procedures.
006	Chair Derfler	Asks who made the exceptions.
007	Thorne	Replies that the board made the exceptions for Dilation and Curettage, Suction Curettage, Sharp Curettage, and Dilation and Extraction. Says that the Oregon Health Division defines Dilation and Curettage as a procedure that can only be performed at a Type 1 surgical center. Asserts that Dilation and Extraction should not be allowed in non-surgical settings.
044	Chair Derfler	Inquires how passage of SB 603 would make abortions safer for women.
047	Higgins	Replies that the bill would increase the number of facilities that are inspected by the Health Division.

054	Chair Derfler	Asks if the inspections would make abortions performed in clinics and doctor's offices safer for women.
057	Higgins	Responds that the inspections could improve the issuing of credential and quality assurance. Indicates that it is difficult to determine whether it would prevent complications, other than by preventing repeat offenders. Suggests that there could be a reduction in the availability of abortions, which would cause an increase in late-term and illegal abortions.
068	Sen. Dukes	Asks if an abortion provider must be a licensed medical practitioner.
071	Higgins	Replies that is the case.
074	Sen. Qutub	Wonders whether the Health Division has the authority to inspect hair salons.
075	Higgins	Replies that the division can inspect any facility where there is a suspected health problem.
076	Sen. Qutub	Recalls that the Health Division used to license and inspect her hair salon, including the performance of surprise visits.
085	Higgins	Clarifies that the division has a Board of Hairdressers licensing program, adding that he does not believe the program performs inspections.
086	Sen. Qutub	Asks if tattoo salons are inspected.
087	Higgins	Replies that such facilities are also licensed, but that he is not aware of an inspection process for them.
088	Sen. Qutub	Wonders how a facility can be licensed without some knowledge of the cleanliness of the operation.
094	Higgins	Indicates that the division is primarily concerned with licensing the practitioners, rather than the facility where they work.
095	Sen. Dukes	Draws a comparison between inspections and recent ear-piercing legislation.
098	Sen. Qutub	States there are specific Health Division requirements for sanitation. Asks how the division could possibly know that licensed practitioners are performing the procedures and that they are being done in an appropriate environment if there are no inspections to verify information.
110	Higgins	Replies that the Health Division cannot know for sure. States those issues are resolved by follow-ups on complaints. States that the only recourse is to monitor

		and follow-up on complaints.
118	Chair Derfler	Asks if there have been a significant number of complaints that indicate that there is a problem that must be addressed.
121	Higgins	States they have not received a lot of complaints about abortion procedures. Indicates that abortions have a complication rate comparable to other types of procedures performed in doctor's offices. Asks if the committee would want to designate other types of procedures that are just as invasive as Dilation and Extraction abortions and prohibit them in clinics or private offices.
139	Chair Derfler	Asks if SB 603 would reduce complaints and occurrences of complications.
145	Higgins	States he is not qualified to answer those questions at this time. Recalls that a law was passed during the 1997 session that required the manager of a facility to report of abortions to the Vital Statistics Unit within 30 days. Indicates that there were provisions in that legislation regarding follow-up reporting requirements but that the reporting was only required if the patient returned to the facility where the abortion procedure was performed.
194	Chair Derfler	States that abortions are an invasive process. Asks how Oregon can regulate hair and tattoo salons without regulating abortions.
198	Higgins	Replies that he must do additional research on the subject to make such a judgement.
206	Sen. Starr	Says there is "an obvious disconnect" between the initial abortion and the follow up to deal with complications due to a lack of reporting. Expresses frustration that the Health Division is not more informed about the implications of abortion complications.
229	Higgins	Explains that the Health Division does not collect information regarding complications related to any types of surgery, including abortions.
231	Sen. Starr	Interjects that the division sets criteria regarding sanitation and certification for other types of surgical facilities but not for clinics.
243	Higgins	Expresses a desire to have access to more information on a variety of subjects, including abortions. Asserts that gathering additional information would require a great deal of regulation and resources.
249	Chair Derfler	Mentions that nine inspections were required to put a bathroom into a warehouse. Expresses surprise that there is no requirement for inspection for such an invasive medical procedure as the termination of pregnancy.
253	Sen. Qutub	Cites the statute that says the Health Division has the power to inspect tattoo parlors.

255	Higgins	Asks if the statute indicates that the division is required to inspect them prior to licensing.
257	Sen. Qutub	Clarifies that the division has the power to inspect such facilities and persons who carry out tattooing and electrolysis.
260	Higgins	Indicates that he is not familiar with the regulations imposed on tattoo parlors or hairdressers, since his area of expertise is medicine.
270	Sen. Dukes	Wonders why the Health Division does not have the same authority to inspect abortion clinics as it does to inspect tattoo parlors.
272	Sen. Qutub	Replies that they are not licensed and therefore not inspected.
284	K. Wilson	Explains that the bill would allow the Health Division to determine the complication rate. Asserts that such knowledge is vital to a patient giving informed consent for a procedure.
287	Sen. Qutub	Asks if women undergoing a late-term abortion receive a general anesthetic.
290	Higgins	Defers the question to other health care providers.
310	Dr. Elizabeth Newhall	OB/GYN, Medical Director, Downtown Women's Center. Testifies in opposition to SB 603. Explains that she performs abortions in both a hospital and office setting, usually without the aid of general anesthesia. Indicates that her clinic and office are inspected by the Occupational Safety and Health Administration (OSHA), and are equipped with all the necessary equipment.
360	Newhall	States that the primary outcome of SB 603 would be to increase the cost of abortions from \$300 in an office to \$2,500 in an ambulatory surgical center, without increasing safety. Notes that the bill redefines abortion to exclude miscarriages, the procedure for which is identical to an abortion. Explains that the procedure is actually more dangerous for miscarriages and that it makes no sense to regulate the less dangerous abortion procedure more stringently.
380	Sen. Qutub	Expresses willingness to include miscarriages in the bill.
382	Newhall	Indicates that completing a miscarriage would be made far more costly if it had to be performed in an operating room rather than in her office.
384	Sen. Qutub	Asks whether the process is riskier when performed in an office, as opposed to an operating room.
386	Newhall	Replies that the difference in risk is "infinitesimal." Says the requirement would force many women to undergo general anesthesia against their will. Indicates

		there are comparable surgeries performed safely in office settings, meaning that abortions and miscarriage completions will be unnecessarily singled out and made more expensive. Mentions that only one patient at her clinic suffered serious complications during the past 12 years, adding that performing the procedure in a hospital would not have aided the patient in any way.
422	Chair Derfler	Requests clarification that Dr. Newhall's clinic has had only a single instance of serious complications during the past 12 years, despite the fact that over 3,000 procedures are performed there annually.
423	Newhall	Responds in the affirmative.
424	Chair Derfler	Asks Dr. Newhall if she considers the current arrangement to be a problem.
425	Newhall	States that it is not a problem. Mentions that the bill includes non-surgical abortion, such as through the use of RU-486. Wonders whether passage of the bill would require a woman to stay in the hospital for 2-3 days after such drugs were used.
446	Chair Derfler	Requests clarification that passage of SB 603 would increase the cost of an abortion from \$300 in an office or clinic to \$2,500 in a surgical center or hospital.
449	Newhall	Replies in the affirmative. Explains that surgical centers and hospitals charge a "facility use fee" that is not currently charged by clinics.
458	Chair Derfler	Inquires why there is such a drastic increase in cost between clinics and hospitals.
450	Newhall	Responds that the increase reflects the cost of equipment, the facility, and having an anesthesiologist present.
467	Sen. Qutub	Recalls testimony indicating that very few abortions require general anesthesia, meaning that bringing clinics into compliance with the regulations faced by surgery centers would have little impact on the cost of the procedure.
TAPE 51, A		
001	Newhall	Expresses doubt that any clinics will be able to come up to the standards of a surgery center in the near future.
002	Sen. Qutub	Considers Dr. Newhall's comment "a very sad commentary."
005	Newhall	Disagrees, saying that she practices medicine in an office at Emanuel Hospital that could not be brought into compliance with surgical center standards.

		Reiterates that OSHA reviews her office on a regular basis.
008	Sen. Qutub	Inquires what the bill would require that would be more stringent than the OSHA requirements already in effect, other than those related to general anesthesia.
014	Newhall	Replies that surgery centers are places where general anesthesia is practiced.
016	Sen. Qutub	Disagrees, saying that general anesthesia is not required to be present at surgical centers. Argues that clinics could be brought up to the specifications of surgery centers that do not use general anesthesia.
024	Newhall	Reiterates that most abortions do not require a general anesthetic.
026	Sen. Qutub	Asserts that the only additional requirements for a clinic to meet surgical standards, other than the requirements for general anesthetic, would be procedural in nature.
031	Newhall	Indicates that licensed physicians who practice in surgical centers are required to meet the same guidelines that she is required to meet in her office. Asserts that it is unreasonable to require her office to meet surgical center requirements. Says it would be necessary to take abortion patients to the operating room at the hospital, thereby drastically increasing the price of the procedure. Reiterates that the bill would delay the abortion process, increasing incidences of late-term abortions. Says it is not reasonable to ask women to stay in a surgery center for 2-3 days.
044	Sen. Qutub	Takes opposition to the assertion that an abortion, normally an outpatient procedure, would require a 2-3 day hospital stay.
049	Sen. Wilde	Inquires whether an anesthesiologist would be present for administration of a local anesthetic in a surgery center.
055	Newhall	Replies that in a hospital, there is an anesthesiologist present during the administration of local anesthetic when it is given in an operating room.
059	Sen. Wilde	Asks if the anesthesiologist is present at the request of the physician or according to the rules of the hospital or surgery center.
060	Newhall	Replies that some surgery centers use nurse practitioners to administer local anesthetic. Reiterates that all surgery centers require that an anesthesiologist or nurse anesthetist be on site while procedures are being performed.
062	Sen. Wilde	Inquires who currently administers local anesthesia in her office.
064	Newhall	States she would personally administer the local anesthesia.

067	Chair Derfler	Suggests that the requirements would be less stringent, since most clinics do not administer anesthesia for abortion procedures.
074	Newhall	States that some women choose to be asleep while the procedure is performed.
079	Chair Derfler	Explains that the requirements related to general anesthesia would not apply to a clinic if it were not administered to patients there.
082	Newhall	Indicates that all surgical centers have the ability to use general anesthesia. Says that the cost of procedures is higher in surgery centers and hospitals due primarily to the larger staff.
094	Chair Derfler	Asks if larger staffs would be required if SB 603 were to pass.
096	Newhall	Replies in the affirmative, adding that the cost of the procedure would rise accordingly. Adds that women would be compelled to undergo second-trimester abortions, which use general anesthesia more often.
102	Sen. Qutub	States the committee will become familiar with the surgery center regulations to better understand the issues. Suggests that Dr. Newhall is not familiar enough with surgery centers to make an informed judgement as to the cost of complying with surgery center rules.
118	Newhall	Indicates that the issue has been investigated in the past and that she would be aware if it were a common occurrence.
124	Dr. Lee Thornton	OB-GYN. Testifies in opposition to SB 603. States he has researched the complication rate for abortion in a variety of settings. Indicates that studies in Canada and Colorado have determined there is no difference between the complication rate in hospitals and doctors' offices. Wonders what advantage would be gained by requiring abortions to be performed at surgical centers if the availability of general anesthesia is not the goal.
161	Sen. Qutub	Replies that surgical centers are licensed, inspected, and have provisions for emergency procedures, as well as other requirements that are not currently applied to private offices or clinics.
167	Thornton	Says that clinics and offices are equipped in a manner consistent with operating rooms.
170	Sen. Qutub	Wonders why there is opposition to the bill if that is the case.
172	Thornton	Argues that the testimony given by the proponents of the bill suggesting that the procedure is dangerous when performed in a clinic or office has no basis in fact.

175	Sen. Starr	Explains that the public has no such evidence, as there is currently no way to review clinical facilities. Mentions that veterinarians are held to higher standards than are clinics.
183	Thornton	Reiterates that the industry sets its own standards, requiring monthly inspections and meetings.
187	Sen. Qutub	Wonders why Dr. Thornton is averse to licensing clinics and allowing the public to see for themselves that the facilities are safe.
193	Thornton	Explains that the procedures performed in surgical centers are over \$2,000 more expensive than the exact same procedure performed in a clinic. Submits that the higher cost will prevent many women from receiving an abortion until such time as complications will be more likely to occur, specifically the late second trimester.
203	Sen. Qutub	Argues that there is a need to verify the rules for surgery centers regarding anesthesiologists, in order to clarify whether the cost would increase accordingly. Suggests the procedure would be safer in a surgical center.
215	Chair Derfler	Asks Sen. Qutub if the bill is designed to require both procedural and equipment compliance.
219	Sen. Qutub	Replies that both should be required. Says clinics should not oppose additional oversight.
233	Chair Derfler	Says he would question the motives of the bill if it would unnecessarily raise the cost of the procedure. Submits that the same facilities should be used, with only the procedural changes imposed.
239	Sen. Qutub	States that she did not know the clinics were not even licensed prior to the testimony given at the hearing.
245	Newhall	Explains that practitioners, not facilities, are licensed. Mentions that she has three separate locations at which she performs procedures.
253	Sen. Qutub	Asks who oversees the activities at each facility.
254	Newhall	Replies that the medical staff at Emanuel Hospital provides oversight.
255	Sen. Qutub	Asks who oversees activities at her clinic.
256	Newhall	Replies that any complications that occur at the clinic are referred to Emanuel Hospital.

258	Sen. Qutub	Inquires about staff requirements and peer review for office and clinic visits.
263	Newhall	Replies that there are no such requirements.
265	Chair Derfler	Clarifies that all practitioners are licensed, but that the facilities are not licensed or inspected.
268	Newhall	States that the facilities are inspected by OSHA and by representatives of insurance companies. Comments that abortion clinics are regulated the same way as "every other physician in town."
275	Thornton	Takes exception to the assertion that the rate of complications increased during the 1970s, following the legalization of abortion. Says that prior to 1973 he had seen "a whole hospital ward full of septic abortion patients."
295	Sen. Qutub	States that there has been a 500 percent increase in complications since the advent of reporting requirements.
299	Thornton	Acknowledges that there are still instances of minor complications.
305	Sen. Qutub	Clarifies that she is merely stating that there are complications that until recently have not been reported.
311	Thornton	Says there may be a way to create a study of incidents, which would be useful if they are reported regularly.
314	Chair Derfler	Asks if passage of the bill would make a difference.
315	Thornton	Replies that the bill would not make the procedure any safer.
318	Dr. Mark Nichols	Medical Director, Planned Parenthood. Testifies in opposition to SB 603 (EXHIBIT A) . Acknowledges that the incidences of death increased briefly after the <i>Roe v. Wade</i> decision of 1973, as a large number of inexperienced providers were performing the procedure. Says there has been a steep decline in mortality since 1974 that continues through today. Asserts that the incidence of complication is very low, especially for first trimester abortions performed under local anesthetic.
368	Nichols	Compares the mortality rate of abortion to similar medical procedures, such as appendectomies and tonsillectomies. Explains it is simpler to compare mortality cases, since forensic investigations are administered. Understands the motivation behind trying to make medicine as safe as possible, but says adding regulations to first-trimester abortions is unnecessary. Reiterates that clinics are regularly inspected for insurance purposes.

418	Chair Derfler	Inquires whether the insurance company performs the inspections.
420	Nichols	Explains that Planned Parenthood is self-insured and therefore inspects its own facilities. Indicates that the standards set forth by Planned Parenthood must be met in order to maintain coverage.
436	Chair Derfler	Wonders if the insurers keep records of problems occurring in abortion facilities.
440	Nichols	Replies that inspections are kept on record and that Planned Parenthood requires reporting of complications for records as well.
446	Chair Derfler	Asks if there are repercussions for failure to report complications.
451	Nichols	Responds that a clinic could be shut down in the event of a lapse in reporting.
456	Chair Derfler	Asks what entity would have the authority to close an abortion clinic for violations of reporting or inspection requirements.
457	Nichols	Replies that the Planned Parenthood Federation of America would strip the facility of its certification as a Planned Parenthood clinic. Mentions that the National Abortion Federation also provides national-level peer review.
TAPE 52, A		
001	Nichols	Describes a survey of 550 physicians regarding invasive procedures performed in office settings, referring to the list of procedures in the presented materials. Indicates that there were only five procedures (marked with an asterisk on the exhibit) which were deemed to be less invasive than first-trimester abortions. Echoes the cost concerns mentioned by other opponents of the bill.
028	Chair Derfler	Comments that the inspections performed by OSHA are also borne by the industry, adding that additional inspections would not be too costly.
032	Nichols	Concurs, adding that there are costs associated with SB 603 other than the cost of inspection.
036	Chair Derfler	Acknowledges that the additional cost must be determined.
037	Nichols	Reiterates that the "vast majority" of abortions are performed under local anesthetic, making surgical center requirements excessive.
044	Chair Derfler	Requests confirmation that the requirements would entail more equipment being present in clinics.

046	Nichols	Confirms the chair's statement.
048	Chair Derfler	Inquires whether Dr. Nichols would oppose the bill if it did not require additional equipment, specifically that associated with general anesthesia.
050	Nichols	Replies that the bill would not be considered an "undue burden" under those circumstances. Expresses concern that some clinics that offer intravenous, conscious anesthetic will be forced to comply with the general anesthetic requirements. Argues that the focus should be on medical procedures with greater risk, mentioning that births in the home have 20 times the mortality rate of abortions.
088	Seth Jackson	OB/GYN, Portland. Wonders if performing abortions in non-surgical settings represents greater risk. Indicates that minor complications, which can be dealt with in a doctor's office, occur in 3-4 percent of abortions. Says a serious complication, requiring a hospital stay, occurs approximately once per 500-1000 procedures.
128	Jackson	States that abortions performed under general anesthetic are more likely to result in serious complications. Wonders if ambulatory surgical centers will be required to perform abortions should SB 603 become law. Explains that follow-up is complicated by patients who use false names and addresses when undergoing the procedure.
163	Sen. Qutub	Inquires if it is legal to perform abortion procedures at surgical centers, using local anesthetic, without an anesthesiologist present.
166	Jackson	Replies that it is legal to do so.
168	Sen. Qutub	Asks Dr. Jackson if he believes that passage of SB 603 would result in only one clinic providing abortions in Oregon.
184	Jackson	Clarifies that only one clinic currently would meet the requirements of an ambulatory surgical center.
186	Sen. Qutub	Mentions that abortions are performed in the private offices of physicians.
190	Jackson	Explains that all facilities currently providing abortions would need to be re-designated as surgical facilities. Submits that the primary problem would be to meet the requirements for ventilation associated with the use of general anesthetic.
207	Maura Roche	Representative, Planned Parenthood. Testifies in opposition to SB 603 (EXHIBIT B) . Indicates that the physical plant requirements for ventilation would need to be met by clinics in order to be certified as ambulatory surgical centers, whether general anesthesia is to be administered there or not. Echoes Dr. Jackson's assertion that only one clinic in Oregon currently meets those requirements. Contrasts the mortality rate of 0.4 per 100,000 abortions to the rate

		of 9.1 per 100,000 live births, adding that live births have an abdominal complication rate 25 times higher than the rate for abortion. Argues it makes no sense to hold abortion clinics to higher standards than birthing centers, considering the relative risk involved in the two procedures.
257	Roche	States that the complication rate for abortions in Oregon has remained relatively constant since 1989. Mentions that the leading complication is incomplete abortion, the occurrence of which is determined less by the operational setting and more by the skill of the physician. Reiterates that many procedures, such as liposuction, have a higher risk than abortion but need not be performed in a surgical center. Submits that the bill could erode women's safety by limiting the availability of abortion through increased cost and inconvenience.
302	Sen. Qutub	Indicates that the data mentioned by Ms. Roche refers exclusively to first-term abortions. Mentions that the mortality rate associated with second- and third-trimester abortions are 50 per 100,000 procedures.
317	Jackson	States that he is unaware of any facility where third-trimester abortions are performed legally.
322	Sen. Qutub	Says that the fact that there are statistics on the procedure indicates they are being performed somewhere.
326	Roche	Mentions that she has data compiled by the Centers for Disease Control (CDC) which differentiates between first- and second-trimester abortion. Acknowledges that second-trimester abortions have a greater risk than do first-trimester procedures.
337	Sen. Qutub	Asserts that second-trimester abortions have a higher mortality rate than natural childbirth.
340	Roche	Continues to contrast natural childbirth and abortions.
346	Sen. Qutub	Argues that childbirth is a natural occurrence, while an abortion is "an unnatural act" that utilizes invasive procedures and substances.
352	Roche	Clarifies that birthing centers would be held to a lower standard than would be abortion clinics, despite the fact that childbirth has a much greater risk than first-term abortions.
365	Lauren Winters	President, Oregon Affiliate Board, National Abortion and Reproductive Rights Action League (NARAL). Testifies in opposition to SB 603 (EXHIBIT C). Asserts that first-term abortions are one of the safest medical procedures performed in the United States. Mentions that over two thirds of abortion patients are satisfied with the care they receive. Argues that the five cases described earlier were cases of medical malfeasance and would not have been prevented had SB 603 been the law at the time.

397	Sen. Qutub	Wonders if NARAL would oppose licensing and inspection of abortion clinics by the Health Division similar to that of tattoo parlors.
402	Winters	Replies that the Health Division currently has the ability to inspect abortion clinics in the event of complications.
410	Sen. Qutub	Inquires whether NARAL would oppose licensure of abortion clinics instead of requiring them to meet the standards of ambulatory surgical centers.
414	Winters	Expresses willingness to consider such a requirement.
419		Additional testimony was submitted for consideration by the committee (EXHIBIT D) .
420	Chair Derfler	Closes the public hearing on SB 603 and adjourns the meeting at 10:05 p.m.

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EXHIBIT SUMMARY

A ñ SB 603, written testimony, Mark Nichols, 3 pp

B ñ SB 603, written testimony, Maura Roche, 2 pp

C ñ SB 603, written testimony, Lauren Winters, 1 p

D ñ SB 603, written testimony, staff, 5 pp