

**JOINT INTERIM COMMITTEE ON HUMAN RESOURCES**

**September 23, 1998 Hearing Room F**

**9:00 A.M. Tape 32 - 35**

**MEMBERS PRESENT:**

**Sen. Bill Fisher, Co-chair**

**Rep. Jeff Kruse, Co-chair**

**Sen. Lenn Hannon**

**Sen. Kevin Mannix**

**Rep. Richard Devlin**

**Rep. Frank Shields**

**MEMBERS EXCUSED:**

**Sen. Jeannette Hamby**

**Sen. Susan Castillo**

**Sen. John Lim**

**Sen. Thomas Wilde**

**Rep. Margaret Carter**

**Rep. Eldon Johnson**

**Rep. Jane Lokan**

**Rep. Patti Milne**

**STAFF PRESENT:**

**Anne Tweedt, Committee Administrator**

**Sandy Thiele-Cirka, Administrative Support**

**ISSUES HEARD:**

**Update on Therapeutic Class 7 and 11 Workgroup Activities**

**Barney Speight, Administrator**

**Office for Oregon Health Plan Policy and Research**

**Dan Harris, Executive Director**

**Health Resources Commission**

**Implementation of SB 21 (1997)**

**Insurance Division**

**Department of Consumer & Business Services**

**Update from Subcommittee on Long Term Care**

**Review of Subcommittee Meetings**

**Rep. Jeff Kruse, Chair**

**Long Term Care Insurance Tax Incentives**

**Jim Carlson, Executive Director**

**Gwen Dayton, Legal Council and Director of Governmental  
Affairs**

**Oregon Health Care Association**

**Peggy Anet, Health Insurance Association of America**

**Proposal: Limited Immunity for Use of Automated External Defibrillators**

**John Chism, Vice President**

**Public Information, Communications & Advocacy**

**American Heart Association**

**Oregon Affiliate, Inc.**

**Proposal: Direct Access to Optometric Care**

**Wayne Schumacher, Executive Director**

**Bill Cross, Representative**

**Oregon Optometric Association**

Tape/#	Speaker	Comments
<b>Tape, 32 A</b>		
005	Chair Kruse	Calls meeting to order at 9:14 A.M. Comments and discusses the Adoption Task Force \$200,000 budget note. Notes that this issue will be revisited in 1999 legislative session.
<b><u>Update on Therapeutic Class 7 and 11 Workgroup Activities</u></b>		
075	Barney Speight	Administrator, Office for Oregon Health Plan Policy and Research, provides overview and review of the workgroup activities.
102	Dan Harris	<p>Director Oregon Health Resources Commission begins presentation outlining the two components that the Health Resources Commission has used to develop the advisory policy recommendations (<b>EXHIBIT A</b>):</p> <ul style="list-style-type: none"> <li>• <b>technical phase</b> ñ medical technology assessment and guideline development process</li> <li>• <b>policy consideration phase</b> ñ provide assessment process including gathering and solicit policy input, conduct relevant analyses, and public hearings</li> </ul>
174	Harris	Continues presentation reviewing the two reports on anti-psychotic drugs and anti-depressant drugs ( <b>EXHIBIT A</b> ).
207	Sen. Hannon	Questions if the methodology review determined if a typical or atypical drug is more appropriate in treatment under specific circumstances.
216	Harris	Responds that in terms of efficacy, the panel determined that in most instances the typical and atypical responded well. Notes that the evidence supports that atypicals are better tolerated and have a higher effectiveness than a typical drug.
250	Sen. Hannon	Questions if he is aware of any case where a patient was prescribed a typical drug when an atypical drug should have been prescribed.
255	Harris	Responds that this type of situation is a clinical judgement determined by the practitioner. Notes that the practitioner has the responsibility to choose which agent is appropriate.
267	Sen. Hannon	Comments and discusses a constituent experience and notes that there are concerns associated with side effects to the patients.
286	Harris	Responds that those issues are addressed in the report. Provides clarification.

304	Sen. Hannon	Comments and discusses the summary ( <b>EXHIBIT A</b> ). Reviews the public hearing process.
310	Harris	Responds affirmatively. Continues review of the scope of these studies.
370	Harris	Continues review of cost and cost effectiveness. Notes the recommended clinical guidelines, page 17, ( <b>EXHIBIT A</b> ).
420	Harris	Continues review.
444	Sen. Hannon	Comments on the modality of treatment for this type of mental illness. Notes that legislative decisions are budget driven, questions past budget decisions have been considered.
470	Harris	Responds that cost effectiveness discussions were limited and that funding for public programs in Oregon was not discussed. Notes that the focus was to obtain technical assessment that could be presented to the commission.
493	Sen. Hannon	Questions if the December meeting will include the broader issue of how this issue fits with mental health.
<b>Tape 33, A</b>		
003	Harris	Responds affirmatively. Summarizes and concludes presentation.
040	Speight	Comments that these documents were developed as a tool for the legislature, with a broad view of policy and funding impact.
055	Chair Kruse	Asks how these guidelines differ from OMAP's case management guidelines.
058	Speight	Responds that OMAP did not develop guidelines but that they were planning on contracting with a pharmaceutical management company. Acknowledges the debate around OMAP's approach. Notes that this approach is about utilization management and a resource tool.
077	Harris	Comments on the review of existing federal guidelines and the comparison process used by the panel.
092	Chair Kruse	Comments that OMAP's decisions are driven by funding, not effectiveness.
102	Harris	Comments that the panels evaluated questions of cost effectiveness. Notes that the early evidence indicates that higher medication costs have lower overall costs.

109	Speight	Remarks in support of Dr. Harris's comments.
116	Sen. Hannon	Responds affirmatively. Notes that the legislature needs to be shown the effectiveness of the up front costs that may minimize costs later.
124	Speight	Acknowledges the political and policy judgements and decisions.
141	Harris	Notes that these reports are phase I. Notes that there will be further consideration at the December hearing.
147	Sen. Mannix	Questions the efficacy of the methodology regarding back-up, and has that been included in the discussions.
167	Harris	Responds that it has not been discussed in that fashion. States that cost effectiveness will be included in Phase II of this process.
188	Speight	Comments that guidelines need to be utilized within the entire state in order to determine their effectiveness.
204	Chair Kruse	States that this topic will be discussed thoroughly during the 1999 legislative session.
212	Scott Gallant	Representing Oregon Medical Association, acknowledges and comments in support of this process.
236	Co-chair Fisher	Introduces and welcomes Sen. Kevin Mannix as new member of the committee.
247	Sen. Mannix	Provides opening comments.
<b><u>Implementation of SB 21 (1997)</u></b>		
267	Ed Niebuurt	Manager, Rates and Forms, Insurance Division, Department of Consumer and Business Services, provides review and background of SB 21 (1997) <b>(EXHIBIT B)</b> .
320	Niebuurt	Continues presentation reviewing disclosure requirements <b>(EXHIBIT B)</b> .
370	Niebuurt	Continues review of disclosure requirements <b>(EXHIBIT B)</b> .
425	Niebuurt	Continues review of disclosure requirements <b>(EXHIBIT B)</b> .
475	Niebuurt	Continues review of disclosure requirements <b>(EXHIBIT B)</b> .

**Tape 32, B**

002	Sen. Fisher	Questions if the provider risk-sharing arrangement effects an enrollee with dual coverage.
005	Niebuurt	Responds that it is restricted to financial arrangements with the providers. Continues presentation.
052	Niebuurt	Continues disclosure requirements, clarification of referrals for specialty care and annual grievance activity ( <b>EXHIBIT B</b> ).
067	Sen. Fisher	Questions if the quantity and the type of grievance filed is required in the annual report.
069	Niebuurt	Responds affirmatively. Continues clarification of the annual grievance report.
076	Sen. Fisher	Questions if this report includes unsubstantiated grievances.
079	Niebuurt	Responds that the grievance statistics require that plans summarize every complaint that becomes a grievance and that they disclose where and how the grievance was resolved in the review process.
091	Sen. Fisher	Questions if issues regarding plan coverage or lack of plan coverage are filed and documented as a complaint.
099	Niebuurt	Responds affirmatively. Notes that these types of complaints are documented and reported.
114	Sen. Fisher	Notes concerns regarding frivolous complaints being documented.
130	Niebuurt	Responds that it was determined that it would be difficult to provide an acceptable definition for "legitimate" complaint.
144	Sen. Fisher	Questions if the industry supports this decision.
146	Niebuurt	Responds affirmatively. Notes that this was a difficult topic to address.
155	Sen. Mannix	Comments and recommends that discretion and common sense be incorporated into the administrative rules allowing for an "escape clause".
187	Niebuurt	Responds in support of the suggestion. Continues review of carriers providing annual reports to DCBS ( <b>EXHIBIT B</b> ).

237	Niebuurt	Continues review of utilization review procedures.
265	Sen. Fisher	Questions if this utilization review requirement is a duplication within the process.
275	Niebuurt	Provides explanation and clarification of utilization review in the above categories. Notes that these reports will be provided and available upon request.
320	Sen. Mannix	Questions if data is available that indicates how many consumers have a choice versus how many employers have a choice.
324	Niebuurt	Responds no.
326	Sen. Mannix	Questions if the service providers have questioned who will be utilizing this information and will it require additional work by the service providers.
342	Niebuurt	Responds that the first reports have not been evaluated and that information is not available. Notes that the rule allows for flexibility with this requirement.
373	Sen. Mannix	Questions if a glossary of terms is available.
376	Niebuurt	Responds no. Notes that the statute provides some definitions.
383	Sen. Mannix	Comments and notes the importance of flexibility and caution in language use.
412	Chair Kruse	Questions if the health plan carriers have all the necessary information to begin reporting.
419	Niebuurt	Responds and explains that the division has not developed a formal format, the reporting format will be determined by the carriers. Notes that the rules require specific categories be addressed and that instructional guidelines will be sent to all providers before the end of the year.
449	Chair Kruse	Comments that the division won't know what information they will be receiving until the reports have been filed.
453	Niebuurt	Responds affirmatively. Continues presentation reviewing that OOHPPR has established a public/private consortium to develop a scorecard to evaluate the performance of managed care plans.
<b>Tape 33, B</b>		
020	Niebuurt	Continues review.

028	Sen. Mannix	Comments and discusses the implications when using the term "scorecard".
036	Niebuurt	Responds that the term has been used in the industry in the past.
043	Sen. Mannix	Comments on the subjective nature of these types of evaluations.
054	Sen. Fisher	Discusses the differences between plan premiums and the difficulty of how that could be scored.
073	Chair Kruse	Suggests providing additional information at a future meeting.
077	Niebuurt	Responds that he does not see the use of the word "scorecard" in statute. Reviews bill language and continues explanation.
087	Anne Tweedt	Committee Administrator, provides additional legislative background.
091	Sen. Fisher	Questions what the consortium is attempting to accomplish.
096	Niebuurt	Responds that it should address standardized performance measures of managed care plans. Continues review of items that generated the most discussion <b>(EXHIBIT B)</b> .
146	Niebuurt	Continues review of network provider lists, direct access providers and the annual reporting format.
175	Chair Kruse	Requests review of the external grievance rights.
181	Niebuurt	Responds with clarification and explanation. Notes that external grievance rights remains an issue.
215	Sen. Mannix	Questions if a statutory external arbitration process has been discussed.
228	Niebuurt	Responds that he does not have that information.
232	Chair Kruse	Comments on the federal activities in this area.
<b><u>Update on Long Term Care</u></b>		
243	Chair Kruse	Discusses the long term care summary.



271	Jim Carlson	Representing Oregon Health Care Association, provides opening comments.
292	Peggy Anet	Representing Health Insurance Association of America, begins discussion reviewing principles in developing proposed legislation: <ul style="list-style-type: none"> <li>• create tax credits as incentives to encourage individuals to purchase long term care insurance at an earlier age</li> <li>• reviews the costing model components being developed with Legislative Revenue Office that would provide options for potential impact</li> </ul>
340	Anet	Reviews the third principle: <ul style="list-style-type: none"> <li>• the need to increase education about long term care and long term care planning.</li> </ul>
370	Chair Kruse	Questions if any states are currently providing these types of options.
372	Anet	Responds affirmatively. Notes 5-6 states have created different types of long term care tax incentives.
399	Sen. Hannon	Questions if the state has begun implementation of SB 979 (1997).
407	Anet	Responds that they are preparing for release of the RFP.
417	Sen. Hannon	Requests that the recommendation include a methodology to create mass purchase power into this type of programs. Notes that group rates will allow lower premium rates, which will create additional cost savings.
437	Anet	Responds and explains efforts being made to provide incentives for employers to receive a tax credit to accomplish this request.
456	Rep. Devlin	Questions how Oregon can continue to save federal dollars without losing the state reimbursement rate.
483	Carlson	Responds that Oregon has one of the most cost effective Medicaid systems in the country and that the state will be penalized for those efficiencies. Notes the importance of incorporating private resources into long term care. Continues discussion.
<b>Tape 34, A</b>		
018	Rep. Devlin	Remarks on the importance of federal recognition of Oregon's successful reforms.
025	Rep. Shields	Questions if the California initiative has produced real savings.

030	Carlson	Responds that in California and Washington there has been high interest and participation from the public sector employee. Notes that there is no data available on the savings impact.
051	Gwen Dayton	<p>Legal Counsel, Oregon Health Care Association, reviews components of the proposal:</p> <ul style="list-style-type: none"> <li>• yearly tax credit to individuals and employers who purchase long term care insurance. The tax credit is 15% of the amount of the premium or \$500. Reviews the considerations utilized in determining these figures.</li> <li>• Recommends that Senior and Disabled Services Department (SDSD) and the Department of Consumer and Business Services (DCBS) educate Oregonians on the importance of long term care insurance.</li> </ul>
088	Sen. Hannon	Questions what the federal tax credit level is.
091	Dayton	Responds that the federal level does not have a tax credit but a deduction that varies depending on the age. Notes that Oregon has a tax deduction for individuals 62 years and older.
101	Sen. Hannon	Comments on this two-fold system. Questions if the 15% credit for a younger individual is equal to the tax deduction available to an older individual, has an analysis been done. Discusses the importance of participation in these programs at a younger age.
113	Dayton	Responds in agreement. Notes that a tax credit will be more beneficial than the tax deduction.
120	Sen. Mannix	Comments and discusses the importance of broad based participation. Acknowledges support of the tax credit and reviews other incentive options.
144	Carlson	Responds in support of alternative approaches to providing this coverage.
159	Anet	Responds that professional organizations are providing long term care to members of their organizations.
168	Rep. Devlin	Questions if portability has been addressed.
174	Anet	Responds that it has been addressed. Discusses how it is addressed in the proposal.
185	Carlson	Provides additional comments relating to group coverage being extended to individuals that may otherwise be excluded from individual plans. Addresses additional tax incentives for providers who have 70% or greater of average annual caseloads are Medicaid clients.

220	Chair Kruse	Questions if the models can be developed including both concepts.
229	Carlson	Responds affirmatively. Notes that revenue estimates will determine the model development.
255	Rep. Shields	Questions when a document, with parameters, is going to be available.
261	Carlson	Responds that a LC draft will be available at the next committee meeting.
278	Chair Kruse	States that the next meeting will be October 29 <sup>th</sup> , and the majority of that meeting will be addressing long term care issues.
285	Rep. Shields	Questions if long term care insurance is purchased and the premium has been paid and the insured reaches a ceiling, is there any way to create an incentive that the individual will not have to spend down to receive Medicaid benefits.
322	Carlson	Responds that the government allowed states, for a limited time, to experiment with that model. Currently, that is not available. Discusses the down side of this model, the reimbursement formula to providers is very different between Medicaid and private policies.
362	Sen. Hannon	Explains and discusses that the principle of insurance is to spread the risk. Medicaid was not developed to spread risk, but provide assistance.
375	Anet	Comments that long term care has been tied to the federal definition as well. Notes that consistency is a concern in developing any concept.
395	Rep. Shields	Suggests meeting with these individuals outside of the committee.
408	Chair Kruse	Announces the cancellation of the October meeting.
426	Sen. Fisher	Questions if there has been any discussion about treating long term care insurance in a similar fashion as life insurance or a combination of the two policies.
461	Carlson	Responds with policy options that are currently available.
498	Sen. Fisher	Discusses the importance of obtaining these types of plans at a younger age.
<b>Tape 35, A</b>		
009	Carlson	Responds that the insurance industry should assist with educating the public.

025	Sen. Mannix	Comments on the importance of not using restrictive definitions.
040	Carlson	Responds that market flexibility is an issue. Notes that this proposal is attempting to reach the average, middle class Oregonian who, at the end of their life, has to impoverish themselves to meet their long term care needs.
051	Rep. Shields	Questions what parameters of care would long term care coverage include.
059	Carlson	Responds that regulation improvements have occurred and currently there is more flexibility in determining covered services and products.
075	Anet	Notes changes in long term care in the past ten years.
<b><u>Proposal: Limited Immunity for Use of Automated External Defibrillators</u></b>		
093	John Chism	Vice President, Public Information, Communications & Advocacy, American Heart Association, presents proposal to provide limited immunity for use of automated external defibrillators (AED) ( <b>EXHIBIT C</b> ).
135	Chism	Continues presentation ( <b>EXHIBIT C</b> ).
153	Sen. Mannix	Comments in support of this proposed LC.
161	Sen. Hannon	Questions if the Elkís Lodge and those types of environments are places that an AED would be used.
167	Chism	Responds affirmatively. Notes that 1or 2 individuals would be properly trained in using an AED.
170	Sen. Hannon	Questions how much immunity is currently available to EMTís using defibrillators in Oregon and are these technicians required to have defibrillator training before receiving immunity.
175	Chism	Responds Oregon statute covers first responders and EMTís. Notes that the requirements vary between departments.
186	Sen. Hannon	Questions if mandated training is addressed in this draft concept, and is this service going to be self-sustaining.
201	Chism	Responds affirmatively. Notes a training course is available incorporating AED and CPR training.
206	Sen. Hannon	Questions if the establishment assumes the cost and financial responsibility

208	Chism	Responds that the establishment assumes the cost.
218	Chair Kruse	Questions why limited immunity is required.
225	Chism	Responds this is new technology and this is a preventative measure.
233	Sen. Hannon	Requests having this draft submitted to Legislative Counsel and have Mr. Chism review the final draft.
249	Sen. Fisher	Questions the initial cost of a defibrillator.
253	Chism	Responds that the equipment is about \$2,500-\$3,000. The cost is decreasing due to improved technology.

**Proposal: Direct Access to Optometric Care**

272	Bill Cross	Representing Oregon Optometric Association, reviews proposed legislative concept.
282	Wayne Schumacher	Executive Director, Oregon Optometric Association, reviews and summarizes intent of LC 297 ( <b>EXHIBIT D</b> ).
332	Sen. Hannon	Questions if the role of the primary care physician, currently, is to act as a gatekeeper.
342	Schumacher	Responds affirmatively. Comments that the primary care physician is not always referring patients for appropriate eye care.
350	Sen. Hannon	Questions if this bill is an attempt to give direct access to optometric services.
360	Schumacher	Responds affirmatively. Notes that a HMO member will be able to directly access a ophthalmologist or optometrist, that is on that provider panel, without requiring contact with the primary care physician.
385	Sen. Hannon	Comments that direct access does not maintain the role of managed care.
398	Schumacher	Responds that for any surgical procedure the primary care physician referral is required for authorization.
404	Sen. Hannon	Questions how costs will be maintained for individuals seeking new glasses.
415	Schumacher	Responds that vision coverage is not included in this concept. Notes this

		proposal addresses medical eye care coverage.
432	Sen. Hannon	Questions if the medical providers, primary care physicians, are supportive of this concept.
442	Schumacher	Responds he has not contacted primary care physicians individually, however, he has discussed it with staff of independent practice associations.
459	Rep. Shields	Questions if this concept is directed towards emergency situations.
477	Schumacher	Responds affirmatively. Provides additional examples.
493	Rep. Shields	Questions if this approach weakens the HMO concept.
496	Schumacher	Responds no.
<b>Tape 34, B</b>		
007	Rep. Devlin	Reviews the current HMO emergency situation.
022	Schumacher	Responds in agreement. Notes that if the gatekeeping role is reduced there is savings to the HMO plans.
031	Sen. Fisher	Recommends hearing from managed care providers.
035	Chair Kruse	Comments that these LCis will be addressed at the November meeting, Adjourns the meeting at 12:20 P.M.

**Submitted By, Reviewed By,**

**Sandy Thiele-Cirka, Anne E. Tweedt,**

**Administrative Support Committee Administrator**

**A ñ Technical Advisory Panel Reports, Health Resources Commission, Dan Harris, 75pp**

**B ñ Implementation of SB 21 (1997), Department of Consumer and Business Services, Ed Niebuurt, 2pp**

**C ñ Written Testimony, American Heart Association, John Chism, 17pp**

**D - Written Testimony, Oregon Optometric Association, Wayne Schumacher, 11pp**