

HOUSE COMMITTEE ON JUDICIARY

May 2, 1997 Hearing Room 357

7:30 A.M. Tapes 27 - 28

MEMBERS PRESENT:

Rep. John Minnis, Chair

Rep. Floyd Prozanski, Vice-Chair

Rep. Roger Beyer

Rep. Jo Ann Bowman

Rep. George Eighmey

Rep. Lane Shetterly

Rep. Charles Starr

Rep. Ron Sunseri

Rep. Judy Uherbelau

Rep. Larry Wells

MEMBER EXCUSED:

Rep. Peter Courtney

STAFF PRESENT:

William E. Taylor, Counsel

Dave Amesbury, Counsel

Scott Lumsden, Counsel

Lauri A. Smith, Administrative Support

MEASURE/ISSUES HEARD:

HB 2968 - Work Session HB 2954 - Work Session

HB 2433 - Work Session HB 2744 - Work Session

HB 2432 - Work Session HB 2985 - Work Session

HB 2315 - Work Session

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

Tape/#	Speaker	Comments
Tape 27, A		
004	Chair Minnis	Calls the meeting to order at 7:34 a.m.
<u>HB 2433, HB 2432, and HB 2985 - WORK SESSION</u>		
005	Chair Minnis	Opens a work session on HB 2433, HB 2432, and HB 2985.
010	Rep. Sunseri:	MOTION: Moves HB 2433 to be RE-REFERRED to the House Judiciary Subcommittee on Criminal Law.
012		VOTE: 9-0-2 EXCUSED: 2 - Rep. Courtney, Rep. Prozanski
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
014	Rep. Sunseri	MOTION: Moves HB 2432 to be RE-REFERRED to the House Judiciary Subcommittee on Criminal Law.
016		VOTE: 9-0-2 EXCUSED: 2 - Rep. Courtney, Rep. Prozanski
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
017	Rep. Shetterly	MOTION: Moves HB 2985 to be RE-REFERRED to the House Judiciary Subcommittee on Civil Law.
020		VOTE: 9-0-2 EXCUSED: 2 - Rep. Courtney, Rep. Prozanski
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
020	Chair Minnis	Closes the work sessions on HB 2433, HB 2432, and HB 2985.
<u>HB 2968 - WORK SESSION</u>		
023	Chair	Opens a work session on HB 2968.

	Minnis	
024	Dave Amesbury	Counsel Reads a Preliminary Staff Measure Summary on HB 2968. Refers to the -4 amendments dated 04/22/97 (EXHIBIT A).
030	Rep . Shetterly	The proponents of the measure suggest a one word change on line 7 of the -4 amendments, by deleting "otherwise" and inserting "actually".
042	Rep. Shetterly	MOTION: Moves to ADOPT HB 2968-4 amendments dated 04/22/97 and that the measure be FURTHER AMENDED on page 01, line 07, by deleting "otherwise" and inserting "actually".
047	Rep. Eighmey	Why have any wording, "otherwise" or "actually" here on line 7, page 1 of the -4 amendments? It is either known or unknown.
050	Rep Shetterly	Responds by stating the intent was to include both constructive notice and actual knowledge of a liens whether on record or not on record.
065		VOTE: 10-0-1 EXCUSED: 1 - Rep. Courtney
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
068	Rep. Shetterly	MOTION: Moves HB 2968 to the floor with a DO PASS AS AMENDED recommendation.
073		VOTE: 10-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. Courtney
	Chair Minnis	The motion CARRIES. REP. UHERBELAU will lead discussion on the floor.
077	Chair Minnis	Closes the work session on HB 2968.
<u>HB 2315 - WORK SESSION</u>		
078	Chair Minnis	Opens a work session on HB 2315.
079	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary HB 2315. Advises conceptual language adopted by the subcommittee are not

		operative provisions per Legislative Counsel. Refers to the -6 amendments on page 3, lines 6 and 9. The -6 amendments, therefore, will retain the original language.
098	Rep. Eighmey	MOTION: Moves to FURTHER AMEND HB 2315-6 amendments dated 04/29/97 on page 3, line 6 and line 9, by deleting the conceptual language adopted in Subcommittee on Family Law, by deleting "(8)" and restoring "(6)".
122		VOTE: 9-0-2 EXCUSED: 2 - Rep. Courtney, Rep. Prozanski
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
125	Rep. Eighmey	MOTION: Moves HB 2315 to the floor with a DO PASS AS AMENDED recommendation.
127	Shetterly	Was there any testimony in opposition to HB 2325-6 amendments?
128	Rep. Eighmey	None.
129	Rep. Sunseri	Discussion was retrospective and prospective on the -6 amendments. Rep. Beyer and Rep. Eighmey both worked on the measure to reach the -6 amendments.
136	Rep. Bowman	How does this effect a child in school who hasn't turned 21 years of age and is registered in college? Does the child support discontinue?
140	Rep. Eighmey	This measure will not change any existing court orders or agreements entered into prior to enactment. Either party could not use the new language to amend existing orders or agreements.
162	Rep. Bowman	However, I still have concern regarding the student who is attending college and turns 21 years of age, will the support stop?
167	Rep. Eighmey	If there is a court order that states child support continues until 21 years of age, it will continue. If there is no court order, there is no obligation for the child support payment to continue until 21 years of age. The child cannot extend child support payments until 21, if this measure is enacted.
173	Rep. Shetterly	Without a court order directing child support payment, the parent's obligation is discontinued at 18 years of age, anyway.
175	Rep. Eighmey	With an existing court order, parties could petition for an amended order due to a substantial change in circumstances. Where there is no original marital agreement or property agreement in existence, it would be rare to petition and be awarded a change in support obligation.
182	Rep. Bowman	Asks for clarification of when the support obligation actually stops to the child when there is no court order present versus when a current order or agreement is present.
187	Rep. Uherbelau	Gives example.

201	Rep. Wells	I have concern about the motive behind proposing this measure.
205	Rep. Eighmey	Responds by providing the intent of changing the language from 21 years of age down to 20 years of age.
220	Rep. Wells	Asks for clarification between paying for college education versus child support obligations.
226	Chair Minnis	If you are not divorced, there is no legal obligation to provide support for college education.
229	Rep. Shetterly	Where there is no divorce, the legal obligation to support discontinues after the age of 18. Children of divorced parents still receive support two years beyond children of intact families.
244	Rep. Sunseri	There is only a couple of states that provide support beyond the age of 18 with the exception of for a few states that provide education assistance. The measure is directed towards education assistance beyond 18 years of age and tying it grades received by the child. If the grades (C-average) are not maintained, the support payments cease.
254	Rep. Bowman	My concern stems from support payments stopping arbitrarily when the child has reached 20 years of age. This measure is more of an educational support rather than child support. Why should support stop when grades drop or the child turns 20 years old?
261	Chair Minnis	Gives example.
277	Rep. Uherbelau	This statute has been tied to education for a considerable length of time. The measure changes from 21 to 20 years of age. There were proponents who wanted the age lowered to 18 years of age.
285	Rep. Eighmey	Gives the policy behind changing the statute down to 20 years of age.
311		<p>VOTE: 9-1-1</p> <p>AYE: 8 - Rep. Beyer, Rep. Eighmey, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Uherbelau, Rep. Wells, Rep. Prozanski, Chair Minnis</p> <p>NAY: 1 - Rep. Bowman</p> <p>EXCUSED: 1 - Rep. Courtney</p>
	Chair Minnis	<p>The motion Carries.</p> <p>REP. BEYER AND REP. EIGHMEY will lead discussion on the floor.</p>
318	Chair Minnis	Closes the work session on HB 2315.
HB 2744 - WORK SESSION		

325	Chair Minnis	Opens a work session on HB 2744.
328	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2744.
345	Rep. Sunseri	MOTION: Moves HB 2744 to the floor with a DO PASS AS AMENDED recommendation.
350		VOTE: 9-1-1 AYE: 9 - Rep. Beyer, Rep. Eighmey, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Uherbelau, Rep. Wells, Rep. Prozanski, Chair Minnis NAY: 1 - Rep. Bowman EXCUSED: 1 - Rep. Courtney
	Chair Minnis	The motion Carries. REP. STROBECK will lead discussion on the floor.
357	Chair Minnis	Closes the work session on HB 2744.
<u>HB 2954 - WORK SESSION</u>		
359	Chair Minnis	Opens the work session on HB 2954.
360	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2954.
368	Rep. Sunseri	MOTION: Moves HB 2954 to the floor with a DO PASS AS AMENDED recommendation.
380	Gary Snobel	Pharmacist and Compliance Director for the Board of Pharmacy >supports the -2 amendments in relation to the practice of pharmacy
409	Paige Clark	Chair of the Statewide Pharmacy Task Force on Measure 16 >task force stands neutral on assisted suicide >pharmacist must have notice on the prescriptions to allow opportunity to opt out of prescribing medications
450	Clark	>courts will likely determine viability of this law >concern with present Measure 16 in regards to pharmacist procedures
<u>Tape 28, A</u>		
		Continues testimony.

030	Clark	>asks for protection for Oregon citizens
034	Chair Minnis	Clarifies stance taken by committee in regards to Measure 16 related measures.
045	Rep. Uherbelau	Asks for clarification/confirmation of standing by pharmacists. Originally, pharmacists had been against Measure 16 and favored repeal or referral back to the voters. I am hearing today that pharmacists are steadfastly neutral on regards to Measure 16.
054	Clark	>neutral on the issue of assisted suicide >taking no stance on the issue of referral >focused solely on the inclusion that pharmacists must be notified on the face of the prescription >further defines health care practitioners to include pharmacists
059	Chair Minnis	For the record: Pharmacists are neutral today.
061	Clark	Pharmacists have always been steadfastly neutral on assisted suicide.
063	Rep. Sunseri	I don't believe there was ever any inconsistency on the position taken by the pharmacists. Shares comments.
073	Rep. Prozanski	"Mr. Chair, regarding these other possible options and changes we're talking about, does the Chair have a vehicle already in place to put those in? I not being on family law subcommittee."
074	Chair Minnis	There are 3 or 4 different vehicles in the committee.
077	Rep. Prozanski	Are these vehicles still within the subcommittee on family law and are they being put together now?
079	Chair Minnis	There are amendments in the subcommittee's possession from the Governor's office and from subcommittee discussions.
081	Rep. Sunseri	I made the statement in the initial informational hearings that the subcommittee would not hear measures that dealt with referral or repeal. The focus of the hearings were on the problems of implementation of Measure 16. Upon conclusion of the hearings the direction of the subcommittee was decided. Meetings were held with the Governor's office over proposed amendments. After those meetings the course of action was decided. So, I think everyone has kept their word and done exactly what they said they would do from the outset.
091	Rep. Bowman	After attending the information hearings, my concern is that I heard clearly that the subcommittee was not going to hear measures related to referral or repeal. So, Rep. Sunseri as Chair of the Subcommittee on Family Law, the intent now is to hear both, a measure to refer back to the voters and measures working on implementation?
095	Chair	States the position taken by the Judiciary Committee, which can be confirmed by the Governor's office, with regards to Measure 16 related

	Minnis	bills.
127	Rep. Uherbelau	I would like to state that neither the Governor nor a member of his office have been present at any hearings of the Subcommittee on Family Law. Restates that it is her belief from Subcommittee Chair's statement made before the initial informational hearings, that there would not be any hearings which addressed measures on referral or repeal of assisted suicide. I believe, the statement mislead a lot of people including some members on the subcommittee. Shares concerns of her constituents.
148	Chair Minnis	States that the confusion may arise from the legislature repealing Measure 16, which is statutory, and the referral of the measure back to the people. I cite numerous news articles made by the Senate President and Speaker of the House indicating their preference to refer Measure 16 back to the people. A legislative repeal would more objectionable than referring the Measure 16 back to the people. Continues discussion with Rep. Uherbelau over position taken by the Judiciary Committee.
178	Rep. Eighmey	The Governor did state that he would not sign Measure 16 into law. >a case judicially delayed implementation of Measure 16 >legislature never needed to delay implementation of Measure 16 Shares comments over how the Chair of the Subcommittee stated his direction of the bills related to Measure 16 in the initial informational hearings. Based on this direction, I took steps to create amendments to aide implementation of Measure 16. Then the subcommittee hears a measure, HB 2954, requesting to repeal Oregon Death with Dignity Act and refer the measure back to the people.
220	Chair Minnis	The proponents of Measure 16 clearly stated that no amendments were necessary. The proponents would ask the Legislature to keep their hands off. I believe, that the genesis of the hearings to some extent has changed. Issues have been identified that are problematic with respect to the implementation of Measure 16. I have stated that it would be unconscionable for the legislature to leave this session without having dealt with some of the issues that are not clear within Measure 16. I still hold that same position. I believe, where the difference lies is whether this measure to repeal goes out to the people and whether the subcommittee continues to deal with the issues that would aide in implementing Measure 16. The concern maybe is whether to deal with the latter, before or after sending the repeal of Measure 16 out to the people.
241	Rep.	Shares comments on the direction taken by the committee. In an agreement with the Subcommittee Chair, I stated, I would take upon drafting amending legislation. Refers to the -2 amendments dated 05/01/97 (EXHIBIT B) . The -2 amendments cover every concern raised by the

	Eighmey	proponents in all hearings on bills related to Measure 16. Continues to share concerns over the direction taken by the Chair of the Full Judiciary in promoting a repeal of Measure 16.
263	Chair Minnis	Responds by stating his direction of the committee in regards to bills related to repealing Measure 16.
274	Rep. Eighmey	Shares comments over costs of placing Measure 16 before the voters.
277	Chair Minnis	Responds. I am not the steward over whether individuals want to spend that money or not to speak out on this issue or not.
281	Rep. Eighmey	Mr. Chair, you are acting as a steward, if you are giving a second chance to the people. Free speech has already been given by the voters of Oregon.
286	Rep. Uherbelau	<p>The process by which the committee is now hearing a measure which repeals and refers to the voters, inadvertent or however it arose, I feel created a very misleading situation on the part of some of the committee members and the public.</p> <p>I believe, personal beliefs have become interwoven in the legislative process. I believe, the committee is losing sight on Measure 16, the people voted to enact Measure 16.</p> <p>I believe that the legislature has arbitrarily and selectively stated on some measures that the people have voted, so we're not going to touch the measure. While on others, even though the people have spoken, the voters didn't know what they were speaking to, so the legislature is going to handle. This concerns me.</p>
332	Chair Minnis	<p>That is the net result of the political process. Shares comments on his legislative style.</p> <p>Refers to an article written in the October issue of the Oregon Pharmacists magazine where the Board of Directors House of Delegates of the Oregon State Pharmacy Association (OSPA) who voted unanimously to oppose Measure 16.</p>
353	Clark	The pharmacists are neutral on the issue of assisted suicide. The pharmacists have stood firmly on the fact that there is problems with language within Measure 16.
358	Chair Minnis	The Oregon Pharmacist article seems contrary to your statement being made today as to the position of the pharmacists.
365	Clark	The statewide pharmacy task force was convened by OSPA and holds a neutral position on Measure 16.
368	Chair Minnis	Today, the pharmacists are solidly neutral on Measure 16.
370	Clark	Prior to the election, the pharmacists did oppose Measure 16. After the election, the task force was convened and have taken a neutral position on Measure 16.
	Chair	

372	Minnis	To confirm, the pharmacists are neutral on Measure 16.
373	Rep. Sunseri	Responds to statements made over the handling of bills related to Measure 16 in the informational hearing and clarifies the current direction taken by committee.
396	Chair Minnis	Responds to statements made by Rep. Sunseri.
410	Rep. Prozanski	MOTION: Moves to AMEND the motion "Moves HB 2954 to the floor with a DO PASS AS AMENDED recommendation" by substituting "Moves HB 2954 to be RE-REFERRED back to the House Judiciary Subcommittee on Family Law".
430	Rep. Prozanski	<p>Presents his reasons behind the motion to re-refer HB 2954 back to the House Judiciary Subcommittee on Family Law.</p> <p>HB 2954 needs enabling language before referral of Measure 16 to the people: 1) notification for pharmacists, 2) better definition for health care providers, 3) address residency requirements, 4) a consent form with understanding by the individual as to its purpose, 5) an opt out provision, and 6) mandatory counseling.</p> <p>Then bring forth both measures (one to enable and a second to repeal) before the full committee to deliberate.</p>
468	Rep. Eighmey	Apologies given to Rep. Sunseri.
Tape 27, B		
035	Rep. Eighmey	Shares comments over proceeding with a referral before exhausting all remedies in regards to implementation of Measure 16. Favors the motion to re-refer to the Subcommittee on Family Law.
060	Rep. Bowman	Shares comments over motion to re-refer HB 2954 back to the Subcommittee on Family Law. Will not support referring Measure 16 out to the voters of Oregon.
076	Chair Minnis	Shares comments in opposition of re-referring HB 2954 back to the Subcommittee on Family Law. I would want HB 2954 to go out for a vote and to deal with implementation issues separately.
098	Rep. Bowman	Continues to share comments over returning HB 2954 back to the Subcommittee on Family Law. The public thought that Measure 16 was already heard and decided. Why send the same ballot issue out again?
112	Chair Minnis	From my experience common sense tends to changes from year to year. Therefore, the decisions of the public at large may change.
119	Chair Sunseri	Shares comments in opposition of re-referring HB 2954 back to the Subcommittee on Family Law. Time available to cover all implementation issues is of concern by this legislature at this point in the session. Referring Measure 16 to the voters will provide all the material needed to make an informed decision. Not all issues were discussed before the voters

		of Oregon.
145	Rep. Beyer	Calls for the question.
144	Rep. Prozanski	MOTION: Moves to AMEND the motion "Moves HB 2954 to the floor with a DO PASS AS AMENDED recommendation" by substituting "Moves to re-refer HB 2954 to the House Judiciary Subcommittee on Family Law"
151		VOTE: 4-6-1 AYE: 4 - Rep. Bowman, Rep. Eighmey, Rep. Uherbelau, Rep. Prozanski NAY: 6 - Rep. Beyer, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Wells, Chair Minnis EXCUSED: 1 - Rep. Courtney
	Chair Minnis	The motion Fails.
152	Rep. Eighmey	MOTION: Moves to AMEND the motion "Moves HB 2954 to the floor with a DO PASS AS AMENDED recommendation" by substituting "Moves to ADOPT HB 2954 -2 amendments dated 05/01/97."
161	Rep. Eighmey	Share comments over sending a referral measure to the people of Oregon when all members on the full committee agree needs implementing legislation. Statutory documents do not need to be sent back to the voters. Our responsibility as legislators is to make Measure 16 work. I would, therefore, ask not to send a document that is not at least the best document, if the intent is to refer Measure 16 back to a vote. Refers to the -2 amendments dated 05/01/97 (EXHIBIT B).
199	Rep. Shetterly	Shares comments in opposition to the motion to adopt the -2 amendments and states reasons for support of HB 2954. For the record, it is my understanding that the committee will have the opportunity to on a future date make a workable Measure 16.
235	Chair Minnis	Refers to page 2, line 16, page 2 of the -2 amendments, it is my understanding that the statutes does not define "terminal sedation." What is meant by "terminal sedation?"
248	Rep. Eighmey	Terminal sedation is meant as "sedating to the end."
250	Chair Minnis	Is that by lethal injection?
251	Rep. Eighmey	No.
252	Chair Minnis	How does "terminal sedation" differ from lethal injection?

253	Rep. Eighmey	Since the statute is drafted to prohibit lethal injections, the legislature could not include the language "lethal injection."
256	Chair Minnis	So, the intent is not to allow for injection of a sedating drug that would cause the terminal condition to occur?
257	Rep. Eighmey	Physician assisted injection is not permitted by Measure 16.
258	Rep. Shetterly	Would this allow for administration of morphine, for instance, by intravenous application? Gives example.
271	Rep. Eighmey	These are issues that need to be discussed before the Subcommittee on Family Law.
275	Chair Minnis	Will this allow for the administration of various medications which would end the life of the patient?
290	Rep. Uherbelau	I would suggest other words other than "terminal sedation."
294	Rep. Eighmey	"Terminal sedation" is the last action of one's life. Sedating with barbiturates which allow the person to be relieved of pain and suffering, it is not euthanasia. These issues need discussed in the Subcommittee on Family Law where expert testimony could be heard.
316	Chair Sunseri	Moves the previous question.
319		VOTE: 4-6-1 AYE: 4 - Rep. Bowman, Rep. Eighmey, Rep. Uherbelau, Rep. Prozanski NAY: 6 - Rep. Beyer, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Wells, Chair Minnis EXCUSED: 1 - Rep. Courtney
	Chair Minnis	The motion Fails.
328	Rep. Beyer	Calls for the previous question to continue discussion of HB 2954.
332	Chair Minnis	Hearing only two objections (Rep. Bowman and Rep. Eighmey), declares the motion CARRIED. EXCUSED: 1-Rep. Courtney
		Calls the question:

340	Chair Minnis	MOTION: Moves HB 2954 to the floor with a DO PASS AS AMENDED recommendation.
345		VOTE: 6-4-1 AYE: 6 - Rep. Beyer, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Wells, Chair Minnis NAY: 4 - Rep. Bowman, Rep. Eighmey, Rep. Uherbelau, Rep. Prozanski EXCUSED: 1 - Rep. Courtney
	Chair Minnis	The motion Carries. MINNIS will lead discussion on the floor.
367	Rep. Eighmey	Serves notice of a possible minority report.
372	Rep. Shetterly	For confirmation, I would hope that this is not the last opportunity for the committee to address measures that will aide in implementing Measure 16. If the referral should fail at the polls, I believe, the committee needs to do our job to make Measure 16 workable.
384	Rep. Eighmey	I concur on Rep. Shetterly's statement.
389	Chair Minnis	Closes the work session on HB 2954. Adjourns the meeting at 8:55 a.m.
		Written statement from the United States President - William J. Clinton (EXHIBIT C) Written testimony, P. John Seward, MD (EXHIBIT D) Written testimony, Leigh C. Dolin, MD (EXHIBIT E)

Submitted By, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2968, -4 amendments dated 04/22/97, Staff, 1 page.

B - HB 2954, -2 amendments dated 05/01/97, Rep. George Eighmey, 9 pages.

C - HB 2954, written statement from the President William J. Clinton, Staff, 1 page.

D - HB 2954, written testimony from P. John Seward, MD, Staff, 1 page.

E - HB 2954, written testimony from Leigh C. Dolin, MD, Staff, 1 page.