

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON FAMILY LAW**

**March 12, 1997 Hearing Room 357**

**1:00 PM Tapes 42 - 46**

**MEMBERS PRESENT:**

**Rep. Ron Sunseri, Chair**

**Rep. George Eighmey, Vice-Chair**

**Rep. Roger Beyer**

**Rep. Peter Courtney**

**Rep. Charles Starr**

**Rep. Judy Uherbelau**

**GUEST MEMBER: Rep. John Minnis**

**STAFF PRESENT:**

**William E. Taylor, Counsel**

**Brian Higgins, Administrative Support**

**MEASURE/ISSUES HEARD:**

**Measures pertaining to Oregon's Death with Dignity Act**

**HB 2838 - Public Hearing**

**HB 2955 - Public Hearing**

**HB 3362 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 42, A</b>		
005	Chair Sunseri	Calls the meeting to order at 1:05 PM

**HB 2838 , HB 2955**  
**AND HB 3362-**  
**PUBLIC**  
**HEARINGS**

006	Chair Sunseri	Opens public hearings
007	William Taylor	Committee Counsel >Reads provisions of bills
008	Chair Sunseri	Asks testifiers to consolidate their testimony to cover all of the bills they may be signed up on
018	Jenny Ulum	Peace Health, Bellevue Hospital >introduces Bridget Carney, Director of Ethics
031	Bridget Carney	Director of Ethics, Peace Health
		>comments on: autonomy and patient's life, patient's ability to refuse treatment, mercy vs. compassionate care, patient-physician relationship, passive vs. active euthanasia, withdrawing vs. administering treatment
081		Continues testimony
131		Continues testimony
158	Chair Sunseri	Asks for some discussion of Hippocratic oath
165	Carney	That is a real gray area because there are two professions with different interpretations.
179	Chair Sunseri	Will there be a new dilemma where doctors and caretakers believe yes and the facilities believe no?
184	Carney	In example, Peace Health has a stand of disallowing assisted suicide in our facility, but they can do this on their own time in a separate facility, like the person's home.
195	Rep. Minnis	How do you resolve conflicts between ethics and the law?
197	Carney	What is ethical and what is legal are not necessarily the same thing. >Law is codified ethics and values. >Laws are not a reflection of everyone's ethics, only society's.
220	Rep. Minnis	What we're trying to do is resolve some of these issues by determining the balance.
225	Carney	And it's not an easy task.
227	Ulum	We would support some clarification on the facility vs. physician issue, which would help in cases of flagrant violations.

250	David Fidanque	<p>Executive Director, ACLU Oregon</p> <ul style="list-style-type: none"> <li>&gt;support patient's right to have control over their own treatment</li> <li>&gt;has personal experiences of people close to him dying with terminal illnesses</li> <li>&gt;We were comfortable supporting Measure 16 because it is a statute and not a constitutional amendment.</li> <li>&gt;Measure will require oversight as it is implemented.</li> <li>&gt;We recognize the right of legislators to adjust the measure.</li> </ul>
300		<ul style="list-style-type: none"> <li>&gt;ACLU has conducted intervention of right to die on behalf of several patients.</li> <li>&gt;comments on women with breast cancer whose job it was to take care of terminally ill patients</li> <li>&gt;directs specific comments pertaining to residency requirements</li> <li>&gt;Currently, the Supreme Court is deciding whether there is a constitutional right to physician-assisted suicide.</li> <li>&gt;Many believe the Court will decide that there is no Constitutional right, and the states are free to regulate the practice.</li> </ul>
349	Rep. Minnis	There are two cases which are before the Supreme Court - one from New York and one from Washington.
352	Fidanque	They have been consolidated at the U.S. Supreme Court level.
355	Rep. Minnis	Aren't they based on the prohibition of physician-assisted suicide?
357	Fidanque	Yes.
358	Rep. Minnis	You said the Court will ultimately decide the Constitutional right to physician-assisted suicide?
362	Fidanque	<p>If the Court upholds those decisions, they can only do that by upholding that there is a Constitutional right to physician-assisted suicide.</p> <ul style="list-style-type: none"> <li>&gt;Both were previously overturned on the basis that there is no Constitutional right.</li> </ul>
372	Rep. Minnis	I'll need more clarification later.
		If the Court upholds the statutes of prohibition, this does not necessarily mean that Oregon will be free to add any additional impediments or whatever it wants to the Death with Dignity Act.

374	Fidanque	<p>&gt;issue of residency has reared itself on other issues, as in tuition</p> <p>&gt;Courts look at residency in a couple of ways: 1) flat requirement before benefits are allowed which, in general, have been overturned unless very short, and 2) certain benefits can not be obtained if sole purpose in going to the state was to get particular benefit.</p>
425		<p>&gt;This latter version is what appears in HB 3362.</p> <p>&gt;Courts also look at what is at stake.</p>
<b>TAPE 43, A</b>		
015	Fidanque	<p>The Death with Dignity Act has an urgency to it and the restrictions introduced in HB 3362 are too narrow to pass Constitutional muster.</p> <p>&gt;could be a possible violation of Constitutional right to travel</p> <p>&gt;no need to further restrict definition for this Act</p>
037	Rep. Minnis	If the Oregon Supreme Court denies the right-to-die, then the right to travel does not follow.
045	Fidanque	My understanding is that this is not a 14th Amendment nor equal protection issue; the right to travel is not explicitly spelled out in the Constitution, but it has been held out in cases to be an implied, fundamental right.
053	Rep. Minnis	I'm looking at two cases, which seem to be examples of the two potential types of restrictions, and both seem to go back to the 14th Amendment.
057	Taylor	<p>There are two cases in your packet in which equal protection was an issue - one concerning welfare, the other, voting.</p> <p>&gt;The bill wouldn't treat recent residents differently than long-time residents if the person can be shown not to be a sojourner.</p> <p>&gt;excellent chance of surviving Constitutional test</p>
074	Rep. Shetterly	<p>I agree with Mr. Taylor that the facts and circumstances test pertaining to residency is different than a durational test of residency.</p> <p>&gt;To codify facts and circumstances tests would be worthwhile.</p>
084	Rep. Eighmey	Facts and circumstances residency is one thing and durational tests would be impossible to adopt, but facts and circumstances applied to only one statute versus all others would be discriminatory.
		In cases of voting, there is a durational test and a facts and circumstances test, which is easier, than the test in HB 3362.

094	Fidanque	<p>&gt;Generally, if you plan to stay in Oregon, you may register to vote.</p> <p>&gt;Our reading of the cases suggests courts will look at the issue of whether there are other means of achieving those ends.</p> <p>&gt;What about those who live in Vancouver, WA and whose primary careperson is at OHSU?</p> <p>&gt;The higher the residency burden, the more skeptical courts will be.</p> <p>&gt;It is not necessarily going to be Constitutional to limit access to this process based on residency.</p>
133	Chair Sunseri	<p>One of the things that must be considered by the courts is that this is going to be very unique, meaning its not like welfare.</p> <p>&gt;We already have people calling to see if they can move here.</p>
144	Fidanque	I would urge you to look at other ways to resolve that problem.
150	Rep. Bowman	<p>The person moving to Oregon would have to have a physician in the state of Oregon willing to give this prescription.</p> <p>&gt;The reason that the law was passed was to have a 20-day waiting period because of a cult that moved into the state, so we don't need that law anymore.</p>
173	Fidanque	<p>I do not want to imply that, because there is one standard for voting, you cannot have a different standard under this measure.</p> <p>&gt;Courts are likely to believe that the reason those restrictions were put in, was to make the process more difficult to access.</p> <p>&gt;You must ask what the harm is that you are trying to prevent.</p>
194	Rep. Uherbelau	<p>We already have one durational statute which has passed muster.</p> <p>&gt;The current language of "true, fixed and permanent" won't fly with anyone, because it could be interpreted that no one could meet the test.</p>
208	Rep. Beyer	Currently, to get a hunting license, you must be a resident for six months.
212	Fidanque	Courts look at urgent needs, which is why it doesn't apply to hunting licenses.
232	Hildy Boespflug	<p>Registered Nurse, Marion County</p> <p>&gt;gives testimony of father's suicide attempts</p> <p>&gt;Measure 16 has no provision for family notification.</p> <p>&gt;Suicide, if passed, will be seen as an answer to people's problems.</p>

		>My husband is a family practice physician and would not want to become a murderer.
293	Penny Schleuter	Pleasant Hill, Oregon >cancer patient in support of implementation of Oregon Death with Dignity Act >have volunteered for testing of Taxol as treatment >undergoing chemotherapy which is hard on bone marrow >currently buying time and not a cure >My quality of life improves if this bill passes.
343		>If the bill is delayed, my quality of life worsens. >might have to resort to illegal drugs to take life >The suggested amendments, which require a doctor's presence at death, is like making an appointment for death. >compares Measure 16 to an insurance policy
393		>The Act says doctors can not discuss Death with Dignity Act with their patients, only alternatives. >allows medical care providers to refuse to take part in this process for any reason >Opponents are religious groups which seek to codify their religion.
<b>TAPE 42, B</b>		
016	Schleuter	>Pain control is not possible in all cases. >What is dignified in requiring dying people to be forced to lie in bed and watch their bodies decay?
037	Rep. Eighmey	One of the implementing suggestions that I find attractive is the labeling of prescriptions.
043	Schleuter	I have no problem with including pharmacists as part of the health care providers, but I have mixed feelings about this part.
058	Rep. Eighmey	How about the facts and circumstances residency requirement?
		I suspect that needs to be clarified from a legal viewpoint, but that is

059	Schleuter	one of the things that could be done to make the Act impossible to use. >urges committee to look at who is proposing the amendments and why, before acting on them
070	Rep. Eighmey	There is nothing before us today to repeal this Act.
091	Dr. Joan Tanner	Family Practice Physician, Portland >The Act states that Death with Dignity is only an option. >allows patients to retain some control over their lives
141	Rep. Sunseri	We're trying to deal with the bill at hand and how to implement this measure.
150	Tanner	I would suggest that the public may not know what is meant by an attending physician. >Attending physicians are those who have been with the patient for some time and who have followed them through their illness, not someone who came on to assist them at the last moment. >This measure only applies to those with less than six months to live, so I'm not sure that people will be packing up and moving to Oregon in that condition.
165	Rep. Beyer	Where in the law does it say that an attending physician needs to be present?
166	Tanner	Not with them, no.
169	Rep. Beyer	Reads section from the bill
172	Rep. Sunseri	Are you suggesting then that there should be some time established before a person could be identified as an attending physician?
174	Tanner	In the medical community, this implies that an attending physician is someone who has been with the patient for some time.
179	Chair Sunseri	Do you know if there is any provision for that in the ORS?
180	Tanner	Not to my knowledge
181	Rep. Bowman	One of the amendments, which we're considering on HB 3362, requires the notification of a spouse or guardian. Can you comment on what the normal procedure would be?
190	Tanner	It would not be required, but you would very likely have communication, yes.
192	Rep. Bowman	Asks about confidentiality between patient and doctor
196	Tanner	I believe so.

197	Rep. Bowman	How, then, would this amendment be implemented, if adopted?
202	Tanner	These are very individual circumstances, so I cannot give a broad answer to that question.
214	Rep. Beyer	Are you saying, in regards to the attending physician, that we need to change the law to reflect the definition?
218	Tanner	If it's a legal matter, an attending physician is someone who has been taking care of the patient all along during the course of the illness.
223	Rep. Beyer	That doesn't look like what the law says.
226	Tanner	It looks like it is implied there, to me.
228	Rep. Beyer	It implies, to me, someone who has come on board to treat a terminal disease and not someone who has been around for a long time.
232	Dr. Calvin Collins	Surgeon, Salem >You can be attending a patient during an illness. >I see where your concern is because there may be circumstances where someone could be referred to an oncologist to help.
253	Tanner	The oncologist probably has been managing that patient for months, if not longer, in cooperation with the family practitioner.
259	Rep. Shetterly	You have probably dealt with patients who have been represented by guardians. >In looking at guardianship as defined in the protected proceedings statutes, there is a definition of incapacitated which deals with the person's capacity and impairments. >Given that definition, can you conceive of any circumstances where guardians can request assisted suicide?
282	Tanner	Responds that the number of cases, where all of these qualifications can be met, is going to be rather small
286	Rep. Uherbelau	In regards to yesterday's testimony about the presence of a physician, and the concerns for failure of the attempt, should there be someone in attendance, like maybe a home health care nurse?
308	Collins	I have thought about that, and it should be allowed as an option. >It would be unfortunate for most people to die without someone present, in my own opinion.
335	Tanner	Some physicians might want to be there, at their patient's approval, because their presence is a comfort to the person and family.
349	Rep. Uherbelau	So, I think I am hearing that this is something that should not be acted into law but part of the doctor-patient relationship.



354	Rep. Bowman	How do we avoid unnecessary autopsies?
370	Tanner	Responds that these are terminal patients we're talking about
373	Collins	If someone dies at home, the local coroner or medical examiner has the discretion to require an autopsy.
385	Tanner	The next of kin owns the body and can agree or disagree to allow an autopsy.
392	Rep. Bowman	Unless there is a physical reason that compels an autopsy, the family would have the option of whether or not it would be acceptable.
399	Rep. Eighmey	<p>Reads definition of guardianship as it appears in ORS 125.300, subsection two</p> <p>&gt;In Oregon, the guardian is the same as the person, except in cases of Constitutional or specific statutory rights.</p> <p>&gt;It appears that the guardian has the capability to ask for assisted suicide under these circumstances.</p> <p>&gt;What would you say to placing something on the prescription denoting it is being prescribed in accordance with the statute?</p>
<b>TAPE 43, B</b>		
015	Tanner	<p>I don't see the need for it because they are not doctors.</p> <p>&gt;It is their duty to call the doctor if there appears to be any unusual prescription, etc.</p> <p>&gt;People have a tendency to hoard medications, if they are going to use them for this purpose, until the time is right.</p>
028	Rep. Eighmey	<p>There was testimony on the effect of hoarding medication for alternative purposes other than the intended.</p> <p>&gt;What do we say to the pharmacist about respecting their position to not put something on the prescription?</p>
053	Tanner	The pharmacist, in refusing to fill the prescription, is dictating to other people what his beliefs are, and that is not right.
058	Rep. Eighmey	But it is a fact.
059	Tanner	It might be fact, but following my reasoning, we shouldn't extend it.
		My opinion is that you are disclosing information that is private to

060	Collins	another person who may not be entitled to know that. >This is a breaching of the patient-physician contract.
066	Tanner	Comments on cancer patients and large, frequent prescriptions and the use of discretion on pharmacists' part
076	Dr. Susan Tolle	Director, Center for Ethics in Health Care, Oregon Health Sciences University >submits and summarizes written testimony and informational materials, <b>(EXHIBIT A)</b>
126		Continues testimony
176		Continues testimony
225	Rep. Prozanski	Asks about The Greenwall Foundation
227	Tolle	It is a private foundation in New York, whose focus is the care of the dying, which has not taken a stand on the issue of assisted suicide.
245	Rep. Prozanski	Do you know what the source of their funding is?
246	Tolle	It comes from Mr. Greenwall.
249	Rep. Prozanski	You had represented that the Health Science Center has not taken a position as to this legislation itself?
252	Tolle	That is correct.
256	Rep. Prozanski	So, your testimony is basically showing an alternative that physicians need to know about to provide, as a choice, to their patients that may be terminally ill?
259	Tolle	My intent was to show some of the things that are happening with care of the dying that people may not be aware of and that our Task Force is working on, as well as answering, any questions the committee might have about the issue.
265	Rep. Prozanski	I'm just making sure that the record is straight as far as the Health Science Center's stand on the issue is concerned.
270	Tolle	That's correct.
273	Rep. Prozanski	So, if a doctor is consulted by a patient and they choose to go with one of the proposals of the Task Force, I would assume the organization would take no position as to them providing that service?
283	Tolle	The Task Force is only operating, as it generates thoughts about the issue as if it were legal. >The presumption of the Task Force is that we are preparing to deal with this as if it were a reality.

		>We are probing the issues in depth surrounding the predication that physician-assisted suicide would be legal.
304	Rep. Prozanski	So, if I understand this correctly, your organization, no matter what we do, is not going to take a position to whatever is decided.
309	Tolle	That's right.
318	Rep. Prozanski	Some of the things we're asking her may be premature, but I would hope we can bring her back later.
322	Chair Sunseri	We did ask that question and their neutrality is why they are here.
328	Rep. Eighmey	One of the areas in which I have concerns is the physician being present. What are the pros and cons?
333	Tolle	Responds that, as written, there is no requirement for the physician to be present nor a requirement that the physician personally give the medication to the patient  >We have talked about the possibilities of what could happen to a written prescription in its pathway to the patient.
351	Rep. Eighmey	Have you probed the situation as to making an amendment available to have a physician present?
356	Tolle	We're not prepared to write any amendments at risk of losing our neutrality.
357	Rep. Eighmey	No, I'm saying if there were an amendment that passed that said a physician would be required to be present, have you discussed that?
362	Tolle	We have not reached consensus on what we would recommend regarding guidelines on that.  >There are concerns about the distance between the physician and the patient as well as concerns of privacy for pharmacists.
385	Rep. Uherbelau	It might be useful, to the committee, to share the concerns that have been arrived at in consensus within your Task Force.
407	Tolle	The goal of the committee would be independent of your activities, but when the status of the legislation is clear, we could design some professional, published guidelines.
418	Rep. Uherbelau	I'm not asking you to suggest changes or amendments to the bill, but it appears that the work you have done is very valuable because you have looked at the Act as if it were a reality.
439	Tolle	Responds that there is a different approach that Task Force is taking, within the culture of medical practice, than the one this committee is taking
<b>TAPE 44, A</b>		
		Asks about the six studies being done on end-of-life issues

025	Rep. Uherbelau	>Are any studies being done about intractable pain?
036	Tolle	Responds that one of the projects was published in February, 1996 and was a state-wide survey of all physicians who would have been eligible under Measure 16 and what they would and wouldn't do
060	Rep. Uherbelau	Is our statute that we passed in 1995 on intractable pain part of the educational programs?
063	Tolle	Yes.
066	Rep. Bowman	In putting together this book on resources available in the community, did your committee look at the issue of costs and what the criteria would be for availability?
070	Tolle	We tried not to list for-profit groups, so the majority of what is listed is either the only resource in the area or ones with open access, etc.
081	Rep. Bowman	I would have to disagree with you as far as what is accessible.
085	Tolle	I thought you meant whether they would take people, but you are correct that there are areas that are underserved by health care on the whole, and this is no exception.
091	Rep. Prozanski	Could you provide to us some information on the Greenwall Foundation, as far as other organizations they fund?
092	Tolle	Would you like all of our other funding sources as well? They are all neutral on the issue; we have investigated this.
101	Rep. Eighmey	Do you believe that Measure 16, as currently written, can be implemented?
105	Tolle	We're taking into account the reality the number of assisted suicides we are aware of in the state now and the Task Force presumed only that it was going into effect and to deal with it and any of its imperfections.
117	Chair Sunseri	Announces the committee is in recess until 3:15 PM
126	Dr. Matt Gruber	Physician, Salem, OR >problem with the term doctor-assisted suicide >would like to leave measure as it is >sees Board of Medical Examiners as road-block to implementation
176		>can legally prescribe poisons to my patients >comments on hoarding of medications >should be some professional relationship with patients after they come to Oregon to seek treatment

		>What should or should not be covered under the Oregon Health Plan should not be the issue of this committee.
232		>asks committee to not adopt amendments so as to let the measure play out so that research can be done on how it will work in reality
261	Gary Schnabel	Pharmacist, Compliance Director, Oregon Board of Pharmacy >gives history of his practice in pharmaceutical field >have participated in the Task Force mentioned in Dr. Tolle's testimony but are not here as members of that Task Force
287	Joe Schnabel	Assistant Director, Pharmacy Services, Salem Hospital and President, Oregon Board of Pharmacy >submits and reads testimony, <b>(EXHIBIT B)</b>
337		Continues testimony
387		Continues testimony
417	Rep. Bowman	Asks about the notification of intent on the prescription
429	J. Schnabel	Oftentimes, the intent of the medication is written on the prescription. >Currently, there is no requirement to do this.
<b>TAPE 45, A</b>		
016	Rep. Uherbelau	Are you saying that every time a physician should be required to put on the prescription what it is going to be used for?
033	J. Schnabel	We're responding only in regards to this specific Act.
035	Rep. Uherbelau	What I am saying is that we may be opening a door that we do not want to go through.
037	D. Schnabel	There are occasions where it is important that the pharmacist know about the intent, but it is not required.
048	Taylor	Directs committee to the explanation statement in the voter's pamphlet that states that: "This measure does not authorize lethal injection."
055	Rep. Uherbelau	He brought up a valid point that the language specifies the physician but that the people themselves are not prohibited from lethal injection.
062	Chair Sunseri	Would the patient have to actually insert the needle in themselves to use that device?
063	J. Schnabel	The needle could be inserted by a nurse or physician.

064	Chair Sunseri	Would that be construed as participating in the injection then, which is prohibited by the Act?
065	J. Schnabel	The inserting of the intravenous line would not be; the patient would have to inject the medication through the device.
071	Taylor	I assume there is no prohibition from a doctor issuing a prescription in Oregon and having it filled in Washington.
074	D. Schnabel	I think it is in the statute that a controlled substance prescription written in another state can be filled in Oregon, if it is a contiguous state, whereas a prescription in Oregon would be subject to the rules of the Board of Pharmacy in the state where it was being taken.
082	Rep. Sunseri	The Oregon Right to Die, in the voter's pamphlet, says: "Measure 16 does not allow lethal injection, mercy killing, or suicide machines," so would that device be construed as a suicide machine?
086	D. Schnabel	This is a commonly used device and is not a suicide machine.
091	Chair Sunseri	We heard testimony that the medications that would be prescribed should vary because of different drugs patients may be taking, would you suggest that this would be the case or that there should be one universal drug?
099	J. Schnabel	I don't believe we could find one single medication that would be lethal to every patient.
110	Chair Sunseri	Is there a concern for underprescribing?
112	J. Schnabel	That is one good reason for the pharmacists to know the intent of the prescription.
120	Rep. Bowman	Are there occasions when pharmacists refuse to fill prescriptions that are legally prescribed?
125	J. Schnabel	I am aware that there are pharmacists which have religious reservations about dispensing certain types of medications.
135	Rep. Bowman	Is there a legal obligation to fill any legal prescription that comes to a pharmacist?
138	J. Schnabel	Not that I am aware of.
139	Rep. Bowman	Theoretically, a pharmacist could refuse a prescription and not tell the patient why they are refusing it.
143	J. Schnabel	That is my understanding, yes.
158	Dr. Phillip Leveque	Registered Lobbyist, AARP >submits and reads written testimony, <b>(EXHIBIT C)</b>
208		Continues testimony
258		Continues testimony

278	Rep. Bowman	Asks for AARP response to opponents concerns
296	Leveque	Responds that the Executive Board of AARP has discussed Measure 16 at length, and the result of a straw vote was that every board member had a horror story about the difficulty of obtaining medication
318	Chair Sunseri	What is the official national position of AARP?
320	Leveque	The national office does not direct the positions of the Oregon AARP.
331	Chair Sunseri	My understanding is that the national organization is neutral on this.
332	Leveque	Responds that he doesn't believe that to be true
340	Chair Sunseri	Asks for documentation from the national organization as to their position on Measure 16
344	Rep. Bowman	What is the feeling of members of AARP to the contention that people will line up to avail themselves of this law?
363	Leveque	There will not be a rush in any manner, shape, or form. >There were approximately 500 suicides in Oregon last year. >This type of assisted suicide is much like going to sleep under anesthesia, which is not painful.
<b>TAPE 44, B</b>		
007	Barney Speight	Administrator's Office, Oregon Health Plan
		>in attendance at the request of the committee >currently not within the scope of Oregon Health Plan as it is illegal >If it becomes law, it will be considered under OMAP. >Current federal regulations do not allow reimbursement.
057	Chair Sunseri	There are several million dollars from the general fund of the state which go towards the Oregon Health Plan, so could those funds go towards paying for physician-assisted suicide?
059	Speight	Yes, they could.
060	Rep. Uherbelau	Where can you draw the line as to which prescription is for physician-assisted suicide and decide not to pay for it?
068	Speight	I don't think we can make that determination now because there is no code to reference such treatment.

083	Chair Sunseri	We could create a code then.
084	Speight	I suppose we could, but the coding we used is based on a national system.
090	Rep. Uherbelau	As a practical matter, how would you be able to devise a system?
101	Speight	We wouldn't be able to due to the complex matter of coding.
107	Rep. Beyer	The legislature sets the line as to what the Oregon Health Plan will cover, correct?
110	Speight	They're ranked from the least to most important and through appropriations the line is drawn about what the benefits package will cover.
115	Rep. Beyer	Could it then, under administrative rule, say that the dignity is above such a line, without legislative action?
119	Speight	Physician-assisted suicide is a treatment and actually is the layperson's description of a treatment for numerous different conditions.
132	Rep. Beyer	So, you could begin covering it without legislative action.
135	Speight	<p>If a determination is made that it is legal, then the Health Services Commission would take that knowledge and make some determination as to what conditions would apply.</p> <p>&gt;The issue of reimbursement will have to be debated both in the state and federal legislatures.</p> <p>&gt;Abortion services are funded only by general fund appropriations.</p>
156	Taylor	You're saying you could or could not fund this with state money currently if the stay is lifted?
160	Speight	I am not the administrator, of the Oregon Medical Assistance Program, who is charged with carrying out the federal waiver, so there are some complicating issues we would have to look at.
166	Taylor	HB 2955, if enacted, would prohibit the Oregon Health Plan from using its funds.
173	Speight	OHP is statutorily defined to be more than the Oregon Health Plan's Medicaid program.
182	Rep. Eighmey	From what I hear, it appears the rankings are made by OMAP and then the Legislature muddles ranking through appropriation, right?
201	Speight	Correct. On line 269, cancer of the lung has 75 or 80 different recommended treatments, some of which includes pain medication.
221	Rep. Eighmey	But the fact remains that if that stamp is on there, that would give the sufficient guidance that this prescription would be covered.
225	Speight	I would like to have some time to talk to some people about the administrative issues involved in implementation.



234	Rep. Uherbelau	Under the Oregon Health Plan, the only way then is to get a prescription that has been stamped?
248	Chair Sunseri	What is the cost of physician-assisted suicide?
255	Speight	It would be relatively nominal.
256	Rep. Uherbelau	What if the attempt is unsuccessful and that person then needs to have long-term care?
267	Derek Humphry	Director, Euthanasia Research and Guidance Organization >submits and reads testimony, <b>(EXHIBIT D)</b>
317		Continues testimony
367		Continues testimony
417		Continues testimony
<b>TAPE 45, B</b>		
028	Bob Castagna	General Counsel, Executive Director, Oregon Catholic Conference >submits and summarizes written testimony, <b>(EXHIBIT E)</b>
078		Continues testimony
125	Rep. Bowman	Do you believe that people with money should be able to kill themselves if they desire?
126	Castagna	I believe that no one should kill themselves.
127	Rep. Bowman	Do you believe that poor people should have less rights than people with money?
128	Castagna	I believe we should all have equal protection of the law.
130	Rep. Bowman	Do you believe that the people didn't know what they were voting on when they voted to implement Ballot Measure 16?
132	Castagna	I truly believe the people of Oregon did not have all of the pertinent information about the measure before voting.
135	Rep. Bowman	Do you believe the people of Oregon were misinformed?
138	Castagna	Again, I assert that the people of Oregon did not have all of the information before them to make an intelligent and informed choice.
145	Rep. Bowman	Who do you think should decide what kind of medical care poor people should get?
148	Castagna	Asks for a restatement of the question
150	Rep. Bowman	As a poor person, should I be entitled to less health care than you?
151	Castagna	Everyone should be entitled to the same level of care.

154	Rep. Bowman	If we start making determinations as to who or who should not be able to pay for health care, what is the next objection you would have to the state paying for poor people for health care?
159	Castagna	You're asking the wrong person. We opposed the Oregon Health Plan because of its potential discriminatory impact on poor women and children.
163	Rep. Uherbelau	You're not saying that the Oregon Health Plan should not continue to cover comfort care, correct?
166	Castagna	No, what we are objecting to is the state's use of the line item of comfort care to cover assisted suicide activities.
171	Rep. Uherbelau	What about the coverage of intractable pain?
180	Castagna	The principle of the double effect is one that has been in practice for many years and is not a new medical/ethical determination.
191	Rep. Uherbelau	How do you see that fine line on where you pay and where you don't?
203	Castagna	I think testimony tomorrow, by the medical experts, could better distinguish the application and prescribing of medication that would have this double effect.
214	Rep. Eighmey	I think we agree that the pills themselves, having a stamp from the physician, should not be covered under the Oregon Health Plan?
220	Castagna	Correct.
221	Rep. Eighmey	Asks about the double effect where a physician does not put the stamp on the pills, rendering that associated treatment could possibly be covered
231	Castagna	As I understand it, the principle of the double effect is that the doctor is prescribing medication with the intent of relieving pain, even if a possible side-effect is to shorten the patient's life.
243	Rep. Eighmey	In the preliminary period before prescribing, the oral request has been made, but if at the end of the 15-day waiting period the doctor chooses to prescribe, am I, as the physician, making a determination that this is leading towards implementation of Measure 16, so all of the preceding treatment would be covered under the Oregon Health Plan?
268	Castagna	What puts Measure 16 in motion is the first oral request. >What we object to is state tax dollars being used for these activities.
283	Rep. Eighmey	You've said what the patient has done, but I'm trying to look at what the doctor has done. Just because the patient has asked, does not mean the doctor has decided to prescribe.
298	Castagna	It is my understanding that the preferred course of action is for the patient to put this in motion, not the doctor.

317	Taylor	What you're saying is that you do not object to what the doctor does, but, rather, the state paying for it?
323	Castagna	We are opposed to any state tax dollar involvement.
327	Taylor	So, a doctor could say that these are your options: hospice, pain relief, and assisted suicide, but the doctor couldn't bill for it.
331	Castagna	That may be difficult under the financing mechanism of the Oregon Health Plan.
333	Taylor	Nonetheless, if we pass a law, he shouldn't be paid for it.
334	Castagna	Under managed care that would be difficult.
337	Rep. Bowman	Under the Oregon Health Plan and under most managed care programs, physicians are being paid a flat fee, so at what point would this person's treatment be singled out because the doctor is going to get paid the same that month regardless?
354	Castagna	What we are objecting to is the use of federal and state tax dollars to pay for the activities under Measure 16.
371	Edith Steinbock	Declares she is present today because she was married to Judge Irving Steinbock, a Multnomah County Judge >difficult to understand the issue without having been there >husband diagnosed with cancer in July, 1992 >relates the story of how her husband wanted to die
421		Continues testimony
<b>TAPE 46, A</b>		
015		>husband had one regret which was to leave wife alone >Blue Cross informed them that he could not stay in hospital. >never thought of this as a suicide
065		Continues testimony
107	Myriam Coppens	Assistant Professor, Oregon Health Sciences University >not here representing University, but as an individual >submits and reads written testimony, <b>(EXHIBIT F)</b>
157		Continues testimony
207		Continues testimony
232	Giustino Zarrotto	Oregon resident >Offers testimony on assisted suicide

282		Continues testimony
332		Continues testimony
380	Chair Sunseri	Closes public hearings on Measure 16 related bills >Declares subcommittee adjourned 5:25 pm.
		[Testimony submitted for the record but not referred to: Proposed amendments to HB 3362 (-1, -2, -3, -4, -5, -6), <b>(EXHIBIT G)</b> ]

Submitted by, Reviewed by,

Brian Higgins, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - Measure 16, Written testimony and informational materials, Dr. Susan Tolle, Oregon Health Sciences University, 46 pp.**

**B - Measure 16, Written testimony, Joe Schnabel, Oregon Board of Pharmacy, 2 pp.**

**C - Measure 16, Written testimony, Dr. Philip Leveque, 2 pp.**

**D - Measure 16, Written testimony, Derek Humphry, Euthanasia Research and Guidance Organization, 3 pp.**

**E - Measure 16, Written testimony and informational materials, Bob Castagna, Oregon Catholic Conference, 21 pp.**

**F - Measure 16, Written testimony, Myriam Coppens, 7 pp.**

**G - HB 3362, Proposed amendments (-1, -2, -3, -4, -5, -6), Staff, 8 pp.**