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**SPECIAL COMMITTEE ON HB 2954**

**May 29, 1997 Hearing Room 50**

**8:00 A.M. Tapes 8 - 9**

**MEMBERS PRESENT:**

**Sen. Ken Baker, Chair**

**Sen. Neil Bryant, Vice-Chair**

**Sen. Kate Brown**

**Sen. Joan Dukes**

**Sen. Eileen Qutub**

**MEMBER EXCUSED:**

**STAFF PRESENT:**

**Bill Taylor, Counsel**

**Gina Cross, Administrative Support**

**MEASURE/ISSUES HEARD:**

**HB 2954 Public Hearing and 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.**

| <b>Tape/#</b>                                  | <b>Speaker</b> | <b>Comments</b>  |
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| <b>Tape 8, A</b>                               |                |  |
| 003  | Chair Baker    | Opens the meeting at 8:15 a.m.   |
| <b><u>HB 2954 -<br/>PUBLIC<br/>HEARING</u></b> |                |  |
| 010  | Chair Baker    | Opens the public hearing on HB 2954.   |
| 013  | Larry Lewman   | State Medical Examiner<br>>Submits testimony and testifies on HB 2954 ( <b>EXHIBIT A</b> ).<br>>Deaths under this statute will need to be examined.<br>>The cost to taxpayers will be great.<br>>intrusive nature of law enforcement |
| 063  | Lewman         | Continues testimony.<br>>The Oregon death certificate has two different types: explained and unexplained.<br>>The prescribing doctor can't sign the death certificate.   |
| 073  | Chair Baker    | The prescribing doctor cannot sign the death certificate?  |
| 074  | Lewman         | Correct. This is not a natural death. This is a suicide. Continues testimony.  |
| 083  | Sen. Bryant    | Do you have a suggestion on how to fix this?   |
| 084  | Lewman         | >This act should be amended.<br>>The prescribing doctor should be allowed to sign the death certificate.<br>>This act needs to occur in a medical setting or home under medical care.  |
| 105  | Sen. Bryant    | We could require that this takes place in a specific setting, but that doesn't mean that it will happen that way.  |
| 107  | Lewman         | The way to get around this is to require the prescribing doctor to be there.   |
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| 110 | Sen. Bryant      | Otherwise they can't get a prescription?   |
| 111 | Lewman           | I don't know how else to do that.  |
| 121 | Kathleen Hailey  | Executive Director, Board of Medical Examiners<br>>The board has no position on the bill.<br>>We will be acting on complaints against licensees relative to the act.   |
| 136 | Sen. Qutub       | Does the board normally take or not take positions on various issues?  |
| 140 | Hailey           | The board does not usually take stands on issues.  |
| 143 | Sen. Qutub       | Does the board publicly take a stand on other issues?  |
| 151 | Hailey           | It really is our norm to be neutral. We need to maintain fairness and objectivity.   |
| 156 | Sen. Bryant      | Because the board stands as judge and jury, one side could complain.   |
| 163 | Rep. Ron Sunseri | State Representative, House District 22<br>>Submits testimony and testifies in support of HB 2954 ( <b>EXHIBIT B</b> ).<br>>Not all doctors should be attending physicians.<br>>Society isn't prepared for this.   |
| 213 | Rep. Sunseri     | Continues testimony.<br>>Should patients' legal guardians be notified?<br>>What about botched attempts?<br>>Since the 1994 election, there has been an abundant amount of information which sheds light on this issue.<br>>Is it unreasonable to send this back to the voters for them to look at all the information? |
| 263 | Rep. Sunseri     | Continues testimony.<br>>The twenty to twenty-five percent failure rate was not mentioned in the 1994 campaign.<br>>This act increases the suffering by all involved.  |
| 313 | Rep. Sunseri     | Continues testimony.<br>>Discusses "failure rate."   |
| 363 | Rep. Sunseri     | Continues testimony.<br>>The oral ingestion of drugs doesn't always work.  |
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| 413              | Rep. Sunseri   | Continues testimony.<br>>There is a consensus among psychiatrists regarding the ethics violations.<br>>We need to have a new vote on Measure 16. |
| <b>Tape 9, A</b> |                |  |
| 001              | Rep. Sunseri   | Continues testimony.<br>>By adding lethal injection, we would not be following the will of the people.   |
| 012              | Sen. Bryant    | Why didn't the House committee vote to correct some of the more obvious flaws?   |
| 015              | Rep. Sunseri   | We still would be left with a twenty-five percent failure rate.  |
| 025              | Sen. Bryant    | That still could have been left to the public to decide.   |
| 029              | Rep. Sunseri   | I don't know of any other bills we send out which have a twenty-five percent failure rate and let the public decide what to do with them.        |
| 040              | Sen. Qutub     | How could we amend and make a consultation with family members compulsory?   |
| 048              | Rep. Sunseri   | Some of the discussion centered around the doctor sending a letter to immediate family members.  |
| 050              | Sen. Qutub     | A note to the relatives?   |
| 051              | Rep. Sunseri   | The note would state that a prescription had been written for this act.  |
| 052              | Sen. Qutub     | How many hours or days would there be between this note and the death?   |
| 058              | Rep. Sunseri   | We did not discuss time frame.   |
| 062              | Sen. Qutub     | It would be difficult to deal with that portion of the law. I know of elderly people who don't want to be a burden to their family.              |
| 069              | Rep. Sunseri   | It is an emotional time for all involved. There is something to the "right to die," versus the "duty to die."                                    |
| 078              | Sen. Qutub     | Did the discussion of Health Management Organization's and our health care system come up on the House side?                                     |
| 085              | Rep. Sunseri   | We did not do this without compassion. HB 2700 deals with hospice care to all Oregonians. It is an important step.                               |
| 098              | Sen. Brown     | Do you know where HB 2700 is?  |
| 098              | Rep. Sunseri   | I know it is on the Senate side somewhere.   |
| 102              | Bruce Goldberg | Physician<br>>Help us improve the care of our dying.<br>>patient autonomy  |

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|     |             | >We need to direct our efforts to making sure that everyone has health care.<br>>No medical procedure carries a one-hundred percent guarantee.  |
| 156 | Sen. Qutub  | Do you believe in capital punishment?   |
| 162 | Goldberg    | No.   |
| 163 | Sen. Qutub  | Would you agree that people should have an appeals process for capital punishment?  |
| 164 | Goldberg    | My beliefs about capital punishment are complicated. I think that having a state sanctioned death is very violent.  |
| 170 | Sen. Qutub  | So, you would want the full appeal process for this violent act?  |
| 173 | Goldberg    | Yes.  |
| 173 | Sen. Qutub  | Would you go and defend those people who want to be executed?   |
| 182 | Goldberg    | I believe in the appeals process. You can't equate capital punishment with physician assisted suicide. They are two different circumstances.  |
| 187 | Sen. Qutub  | One deals with a guilty person and the other an innocent person. There is a Hippocratic oath which doctors who agree with physician assisted suicide are not following. Doctors are supposed to be the healers and not those who bring us to the final end. |
| 219 | Sen. Brown  | What is informed consent?   |
| 221 | Goldberg    | In medical terms it is providing information about the procedure, alternatives, and risks.  |
| 231 | Sen. Brown  | Does that apply to all medical procedures?  |
| 233 | Goldberg    | It applies generally to most medical procedures.  |
| 234 | Sen. Brown  | What would be the appropriate treatment for a person who takes oral medications and doesn't die within six to eight hours?  |
| 242 | Goldberg    | The appropriate protocol would be to treat that individual like any other who is restless and in pain.  |
| 245 | Chair Baker | What is that protocol?  |
| 246 | Goldberg    | I would do everything to make the patient feel better.  |
| 256 | Chair Baker | Would you prescribe any long term sedatives for up to seventy-two hours?  |
| 258 | Goldberg    | It would depend on the situation.   |
| 259 | Chair Baker | If you were to prescribe some long term sedatives, would you also give some form of hydration?  |
| 260 | Goldberg    | I would be treating patients how they wanted to be treated.   |
| 262 | Chair Baker | Would you do this also for someone who attempted suicide under another doctor's care?   |
| 265 | Goldberg    | Doctors take care of people everyday who have attempted suicide.  |
| 271 | Sen. Qutub  | Referring to a prior testimony, do you have any comment on the fact that Measure 16 doesn't require informed consent?   |

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| 278              | Goldberg         | I would hope that you amend the current process and let everyone have informed consent.   |
| 287              | Sen. Qutub       | Do you see Measure 16 as a flawed measure as it stands?   |
| 289              | Goldberg         | I don't think anything is perfect. Let's not let the perfect be the enemy of the good.  |
| 301              | Bob Castagna     | Oregon Catholic Conference<br>>Submits testimony and testifies in support of HB 2954 ( <b>EXHIBIT C</b> ).<br>>The decision of this legislature will lay groundwork for other states. |
| 351              | Castagna         | Continues testimony.<br>>Measure 16 is flawed.  |
| 401              | Castagna         | Continues testimony.<br>>This will only work in every instance if a doctor is standing over the patient.<br>>The appropriate remedy is HB 2954 and HB 2700.                           |
| <b>Tape 8, B</b> |                  |   |
| 001              | Castagna         | Continues testimony.<br>>We have information now which we did not have in 1994.   |
| 056              | Chair Baker      | What is the status of Oregon Health Plan (OHP) funds being available for this?  |
| 058              | Castagna         | There is a provision in HB 2700 which would prohibit OHP funds from being used for physician assisted suicide.  |
| 064              | Gregory Hamilton | Physician<br>>Submits testimony and testifies in support of HB 2954 ( <b>EXHIBIT D</b> ).   |
| 093              | Chair Baker      | What role did the Hippocratic oath have in the Oregon Medical Association's (OMA) decision?   |
| 107              | Hamilton         | We did not review the Hippocratic oath when making the neutrality decision.   |
| 109              | Chair Baker      | You are all doctors. You all have studied the oath. Is this a standard oath which all doctors take?   |
| 112              | Hamilton         | It is a very common oath. Continues reading testimony.<br>>Goes over what happened at the OMA House of Delegates meeting.   |
| 148              | Chair Baker      | Can you summarize your written testimony?   |
|                  |                  | Continues reading testimony.  |

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| 154 | Hamilton        | >Terminal sedation requires an injection.  |
| 181 | Chair Baker     | Referring to Dr. Goodwin's testimony on Tuesday, an injection can be given to calm the patient down.   |
| 190 | Hamilton        | People of Oregon voted for an ingestion method, which doesn't work.  |
| 213 | Sen. Brown      | Are you saying that Measure 16 was unusual in the fact that voters always understand the ramifications of the ballot measures they vote for? |
| 217 | Castagna        | I am saying that information was forthcoming after the election date. Gives an example of a failure rate in the electronics industry.        |
| 225 | Sen. Brown      | Defective meaning they don't work?   |
| 226 | Castagna        | This legislation is defective. It won't work.  |
| 229 | Sen. Brown      | You are saying that voters always understand what they are voting on?  |
| 230 | Castagna        | I am saying that the voters didn't have the information they needed in front of them to make an informed decision.                           |
| 237 | Sen. Brown      | Why didn't you collect the signatures and go for a repeal on the ballot?   |
| 241 | Castagna        | The measure was in litigation. It is now before the Supreme Court. It was appropriate to let some time pass.                                 |
| 243 | Sen. Brown      | We should do a referral from the legislature while the measure is still in litigation?   |
| 245 | Castagna        | There is a time for the legislature to act as a result of the information which has come to light.   |
| 248 | Sen. Brown      | Wouldn't you agree that "failure rate" is a bad term? To me, regardless of how long it takes to die, the patient will still die.             |
| 254 | Castagna        | Referring to his testimony, about twenty five percent of assisted suicides fail.   |
| 271 | Peter Rasmussen | Oncologist<br>>Submits testimony and testifies in opposition to HB 2954 <b>(EXHIBIT E)</b> .<br>>Oregonians will benefit from Measure 16.    |
| 321 | Rasmussen       | Continues testimony.<br>>The AMA and the OMA are conservative groups.  |
| 371 | Rasmussen       | Continues testimony.<br>>The "failure rate" would be different in Oregon.<br>>Three hours is not the golden time frame.                      |
| 394 | Sen. Dukes      | What would you expect given the comfort care group you are with?   |
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| 399              | Rasmussen  | It is an untested procedure. A doctor needs to be present in order to make the patient more comfortable.  |
| 414              | Sen. Dukes | I wish the main reason for being there was for the patient and not for the studying that could be done. What is your view on how a person would be treated if he didn't die within a couple of hours? |
| 427              | Rasmussen  | One option for the patient is using a phentanol patch to relieve pain to minimize agitation.  |
| 445              | Sen. Dukes | Would that be administered about the same time as the oral ingestion?   |
| 447              | Rasmussen  | Yes.  |
| 448              | Sen. Dukes | I am concerned with who would and who wouldn't be able to ingest the large amounts of medication.   |
| 461              | Rasmussen  | The restrictions of Measure 16 clearly state that only those who are able to swallow large quantities of medication are able to have assisted suicide available.                                      |
| <b>Tape 9, B</b> |            |   |
| 001              | Sen. Dukes | The patient would have to obtain the prescription earlier than some would expect. Death would have to occur earlier than normal.  |
| 006              | Rasmussen  | The requirement is that the patient needs to be competent. It would have to take place days before the patient would actually die.  |
| 016              | Sen. Dukes | You could get the prescription months before the suicide takes place, so no one will know if the patient is really competent.   |
| 018              | Rasmussen  | We would not give the prescription until the day of the scheduled suicide.  |
| 024              | Sen. Dukes | Do you believe that should actually be part of the law?   |
| 024              | Rasmussen  | It should be part of good medical practice. Laws shouldn't tell doctors how to practice medicine. Society has to trust its doctors.   |
| 037              | Sen. Dukes | Even if that means that some doctors are giving prescriptions within a couple of weeks of being diagnosed and others are giving them the day of the suicide? The measure gives that spectrum.         |
| 041              | Rasmussen  | Yes, it does. For our purposes, we will only give the prescription the day of the suicide.  |
| 045              | Sen. Dukes | Who will fill the prescription?   |
| 046              | Rasmussen  | The doctor will go to the pharmacy and get the prescription.  |
| 051              | Sen. Dukes | The doctor will take the medication to the patient's home.  |
| 053              | Rasmussen  | Or the accompanying family member.  |
| 054              | Sen. Dukes | The doctor then stays with the patient until death?   |
| 055              | Rasmussen  | Yes.  |
| 056              | Sen. Qutub | Are you familiar with the research at the Dana-Farber Institute?  |
| 065              | Rasmussen  | I don't know if I have read it or not.  |
|                  |            | Cancer patients are more likely to oppose physician assisted suicide.   |



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| 066                                    | Sen. Qutub                 | Do you find that relevant in your practice?  |
| 074                                    | Rasmussen                  | I have never suggested assisted suicide. What they wanted is a doctor who wouldn't leave them.                       |
| 092                                    | Sen. Qutub                 | It sounds like it's different when the patient asks.   |
| 101                                    | Tom Bommer                 | Attorney<br>>I defended Measure 16 in court.<br>>Petitioners did what they were supposed to by changing the statute. |
| 131                                    | Dorothy Hogstraten         | Private citizen<br>>Submits testimony and testifies ( <b>EXHIBIT F</b> )<br>>Tells of her husband's death.           |
| 151                                    | Chair Baker                | Closes the public hearing on HB 2954A.   |
| <b>HB 2954A -<br/>WORK<br/>SESSION</b> |                            |  |
| 154                                    | Chair Baker                | Opens the work session on HB 2954A.  |
| 157                                    | Bill Taylor                | Explains the provisions of HB 2954A.   |
| 176                                    | Sen. Baker                 | <b>MOTION: Moves HB 2954A to the floor with a DO PASS recommendation.</b>  |
| 179                                    | Sen. Bryant                | I will not support the bill in its present form, because of the obvious flaws which the legislature should correct.  |
| 185                                    |                            | <b>VOTE: 3-2</b><br><b>AYE: 3 - Dukes, Qutub, Baker</b><br><b>NAY: 2 - Brown, Bryant</b>                             |
| 189                                    | Sen. Brown and Sen. Bryant | Serve notice of minority report.   |
| 191                                    | Chair Baker                | <b>The motion Carries.</b><br><br><b>SEN. BAKER, SEN. DUKES, SEN. QUTUB will lead discussion on the floor.</b>       |
| 196                                    | Chair Baker                | Adjourns the meeting at 9:55 a.m.  |

Submitted By, Reviewed By,

**Gina Cross, Sarah Watson,**

**Administrative Support Office Manager**

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**EXHIBIT SUMMARY**

**A - HB 2954, written testimony, Larry Lewman, 3 pp.**

**B - HB 2954, written testimony, Rep. Ron Sunseri, 7 pp.**

**C - HB 2954, written materials, Bob Castagna, 233 pp.**

**D - HB 2954, written testimony, Gregory Hamilton, 11 pp.**

**E - HB 2954, written materials, Peter Rasmussen, 6 pp.**

**F - HB 2954, written materials, Dorothy Hogstraten, 2 pp.**

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