

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL  
ADMINISTRATION

April 13, 1993                      Hearing Room 357 1:00 p.m.                      Tapes 71- 72  
MEMBERS PRESENT: Rep. Tom Brian, Chair Rep. Ken Baker Rep. Jim  
Edmunson Rep. Tom Mason VISITING MEMBERS:                      Rep. Cedric Hayden STAFF  
PRESENT: Carole Souvenir, Committee Counsel Melanie Thompson,  
Committee Clerk MEASURES CONSIDERED:                      SB 286 - Health decisions

These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Only text enclosed in quotation  
marks report a speaker's exact words. For complete contents of the  
proceedings, please refer to the tapes.

TAPE 71, SIDE A 001 CHAIR BRIAN: Calls the meeting to order at 1:17 SB  
286 PUBLIC HEARING Witnesses: Janna Starr, The ARC of Oregon Tina  
Kitchen, Developmental Disabilities Services Beth Murphy Bruce Bishop,  
Kaiser Permanente Bob Castagna, Oregon Catholic Conference Nancy Doty,  
Registered Nurse Jeff Brandon Sen. Jeannette Hamby Holly Berman,  
Multnomah County Public Guardian

SB 286 combines the power of attorney form for health care and advance  
directive into a single form and the form includes directions regarding  
tube feeding; Repeals the presumption in favor of consent to artificial  
nutrition and hydration; Establishes procedures for withholding and  
withdrawing life sustaining procedures; Requires that comfort care be  
administered following the withdrawal or withholding of life sustaining  
procedures; Recognizes health care directives executed in other states;  
Repeals sunset on Oregon's Patient Self-Determination Act. House  
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008 BOB CASTAGNA, GENERAL COUNSEL, EXECUTIVE DIRECTOR, OREGON  
CATHOLIC CONFERENCE: Reviews and continues testimony from the previous  
hearing on SB 286 on April 6, 1993. Addresses various parts of SB 286  
and various conflicts with the bill. (EXHIBIT A, B, C, & D) 189 REP.  
MASON: Asks if a safeguard was discussed on the Senate Floor regarding a  
patient being able to petition a court rather than limiting the  
patient's options. 190 CASTAGNA: No. 192 REP. MASON: Discusses that  
a relative could not bring forth a lawsuit if someone has already made  
one. 198 CASTAGNA: Discusses a list of people who have an interest in  
the patient. 203 REP. MASON: Discusses suits made by the health care  
representative. 213 REP. HAYDEN: Addresses line 34, and asks what the  
highest standard most protective to the patient would be of the  
following: a petition filed by one, a petition filed by anyone, a  
petition filed by any or all. 217 CASTAGNA: Content with leaving the  
statute as it is. 222 REP. MASON: Discusses who can bring a suit  
forward. 240 CASTAGNA: Addresses page 17, lines 33-46. Discusses  
conscious clause provisions.

305 REP. HAYDEN: Asks if hospitals are subject to abandonment suits.  
309 CASTAGNA: Explains in the particular case discussed that the  
patient did not want care. Continues with testimony. Discusses page 22  
of SB 286 and the Oregon Self-Determination Act. 342 REP. HAYDEN: Asks  
if it is a federal mandate to hand out the forms, and if Oregon passed  
parallel legislation. 345 CASTAGNA: Explains the federal law requires  
information about the state statute and the Oregon Self-Determination  
Act requires the actual forms to be handed out. Addresses page 23 of SB  
286 and the drivers license notation amendment. Addresses Exhibit B.  
TAPE 72, SIDE A

032 CASTAGNA: Addresses disclaimer attached to the advance directive form. Discusses Exhibit C. 112 LANNA STARR, EXECUTIVE DIRECTOR, THE ARC OF OREGON: Submits and reviews testimony in support of SB 286 with amendments reflecting ARC issues.

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186 CAROLE SOUVENIR, COMMITTEE COUNSEL: Addresses the amendments prepared by the Developmental Disabilities Services. Asks what happens if one of the adult children objects, who makes the decision. 192 TINA KITCHEN, DEVELOPMENTAL DISABILITIES SERVICES: Explains a group of people get together to decide who is the best decision maker for the adult child. 201 CAROLE SOUVENIR, COMMITTEE COUNSEL: Asks if the group cannot arrive at a decision as to who is the best decision maker does the attending physician make the decision.

208 KITCHEN: If a decision cannot be reached within the group, then the group needs more time and a decision worked through. 229 CHAIR BRIAN: Discusses a concern of an adult friend being able to make the decision. 242 STARR: Agrees. Explains the amendment requires evidence of frequent contact and the adult friend would be the last resort to make the decision. 246 CHAIR BRIAN: Clarifies that the amendment does not say "evidence of frequent contact" the language is "evidence by frequent contact". Asks how frequent contact is determined. 250 KITCHEN: Discusses people who are outside of the relatives of the patients. 269 CHAIR BRIAN: Gives example. Asks how is frequent contact determined. 273 KITCHEN: Discusses the possibility of a case manager being the decision maker. 279 CHAIR BRIAN: Discusses concern with the language. 290 REP. BAKER: Addresses Section 21 of SB 286. Asks why did they suggest a change of order in decision maker, moving the spouse to a second position. 299 KITCHEN: Explains the change and addresses concerns in separated or divorced situations. 321 REP. HAYDEN: Asks what kinds of nourishment are considered artificial by hydration. 324 STARR: Tube feeding. 330 REP. HAYDEN: Asks if the individuals are conscious. 331 STARR: Correct. 344 BETH MURPHY: Submits and reviews testimony in opposition to SB 286. (EXHIBIT F) 416 CHAIR BRIAN: Asks what "no code" means. House Committee on Judiciary Subcommittee on Civil Law and Judicial Administration April 13, 1993 - Page 4

417 MURPHY: Explains it means not trying to resuscitate, or limited medical attention for the patients with that code. 424 CHAIR BRIAN: Asks if "full code" means doing all things possible. 425 MURPHY: Yes. 447 REP. HAYDEN: Asks if within the facilities there is an option for a limited or partial code where the patient could select what they wanted. 450 MURPHY: Explains the patients had a power of attorney form but the form was not always looked at in an emergency.

TAPE 71, SIDE B

112 BRUCE BISHOP, KAISER PERMANENTE: Submits and reviews testimony in opposition to SB 286. (EXHIBIT G)

198 REP. HAYDEN: Asks if the patient records at Kaiser Permanente have a line showing if the patient has an advance directive.

201 BISHOP: Believes so. 202REP. HAYDEN: Asks how the deletion of Section 26 of SB 286 would effect that.

204 BISHOP: Explains patients would still be able to execute an advance directive but the hospital would not be required at every admission to resubmit a new document.

220 LINDA HARRINGTON, EXECUTIVE DIRECTOR, OREGON RIGHT TO LIFE: Submits and reviews testimony in opposition to SB 286. (EXHIBIT H)

292 CHAIR BRIAN: Asks if "strong presumption" means absolute presumption or a strong presumption.

295 HARRINGTON: Explains there are three conditions that would allow the removal of provisions, 1) death is imminent, 2) food and water could not be metabolized by the patient, 3) the administration of hydration/nutrition would be excruciatingly painful.

303 CHAIR BRIAN: Discusses exceptions to the mentioned situations.

323 REP. BAKER: Discusses presumption of consent, ORS 127.580. Asks if the statute were not repealed (ORS 127.580), how would Oregon Right to Life feel about the bill. 330HARRINGTON: Explains there are secondary concerns. 332 REP. BAKER: Asks if the bill could be amended to where they would be satisfied. 333 HARRINGTON: Yes. 358 NANCY DOTY, REGISTERED NURSE: Submits and reviews testimony on SB 286. Discusses concerns. (EXHIBIT I)

447 JEFF BRANDON: Submits information and test)files on SB 286. (EXHIBIT J) TAPE 72, SIDE B

100 CHAIR BRIAN: Asks how the testimony relates to SB 286.

102 BRANDON: Explains that SB 286 and existing law do not cure the problem. Continues to address concerns, discusses where the language is unclear in the bill.

178 SEN. JEANNETTE HAMBY, DIST. 5: Testifies in support of SB 286 and submits exhibits. (EXHIBIT K & L) 281 HOLLY BERMAN, MULTNOMAH COUNT PUBLIC GUARDIAN: Testifies on SB 286, discusses concerns with SB 286.

450 REP. BAKER: Asks if Ms. Berman is aware of any training or program that physicians have addressing individual values versus the physician's values. 461 BERMAN: Explains there have been efforts to do that.

473 REP. BAKER: Adjourns the meeting at 3:54.

Submitted by: Reviewed by: Melanie Thompson Anne May Committee Clerk Committee Coordinator

#### EXHIBIT LOG:

A - Testimony on SB 286 - Bob Castagna - 36 pages B - Amendments to SB 286 - Bob Castagna - 1 page C - Newspaper article relating to SB 286 - Bob Castagna - 1 page D - Newspaper article relating to SB 286 - Bob Castagna - 1 page E - Testimony on SB 286 - Janna Starr - 1 page F - Testimony on SB 286 - Beth Murphy - 3 pages G - Testimony on SB 286 - Bruce Bishop - 10 pages H - Testimony on SB 286 - Linda Harrington - 3 pages I - Testimony on SB 286 - Nancy Doty - 2 pages J - Information relating to SB 286 - Jeff Brandon - 6 pages K - Poem relating to SB 286

- Sen. Jeannette Hamby - 1 page L - Testimony on SB 286 from Mike Edwards, M.D. - Sen. Jeannette Hamby - 2 pages