

SENATE COMMITTEE ON HEALTH CARE & BIO-ETHICS

February 23, 1993 Hearing Room C 3:00 p.m. Tapes 14 - 15

MEMBERS PRESENT: Sen. Shoemaker, Chair Sen. G.H. Smith Sen. Cohen

MEMBER EXCUSED: Sen. Hamby, Vice-Chair Sen. McCoy

STAFF PRESENT: Barbara Coombs, Committee Administrator Dick Shoemaker, Committee Administrator/Cord. Stasi Kitchen, Committee Assistant

MEASURES CONSIDERED: EXECUTIVE APPOINTMENT - Marie Deatherage
SB 286 - Establishes Oregon Health Care Decisions Act,
PH & PWS

WITNESSES: Daniel Field, Oregon Association of Hospitals, (OAH) Joan Mahler, Sisters of Providence Scott Gallant, Oregon Medical Association Bob Joondeph, OSB , Health Law Section Tina Kitchen, MHDDSD Jeff Brandon Nancy Doty

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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. [--- Unable To Translate Graphic ---]

TAPE 14, SIDE A

001 CHAIR SHOEMAKER: Calls to order at 3:00 p.m.

EXECUTIVE APPOINTMENT

007 MARIE DEATHERAGE: Introduces herself and describes her reasons for being appointed. Son was born with a severe form of spineabifida.

020 Cohen: Are you aware of the time commitment and are you willing to make that commitment?

026 Deatherage: Yes.

037 Chair Shoemaker: Have you been sitting with the commission?

039 Deatherage: Yes, as a non-voting participant. 042 Chair Shoemaker: What is your background?

044 Deatherage: Responds.

050 Chair Shoemaker: What is your education background?

052 Deatherage: Responds.

053 Chair Shoemaker: Which slot do you serve on the commission?

057 Deatherage: Responds.

060 Chair Shoemaker: Having been with the commission for several months, are you still interested?

063 Deatherage: Yes.

081 Sen. Smith: What will your position be on the issue of the Oregon Health Plan?

085 Deatherage: Responds.

148 Chair Shoemaker: MOTION: To appoint md to Health Services Commission.

155 Chair Shoemaker: Motion approved 3-0.

SB 286 - SECTION 22

147 DANIEL FIELD, OREGON ASSOCIATION OF HOSPITALS (OAH): Provides testimony in support of SB 286 (EXHIBIT B).

222 Chair Shoemaker: Were you here when we discussed consensus?

227 Field: Responds.

261 Chair Shoemaker: You would prefer the third approach?

270 Field: Yes.

284 Chair Shoemaker: Would the designated representative from the list work?

292 Field: Yes.

329 JOAN MAHLER, SISTERS OF PROVIDENCE: Provides testimony in support of SB 286 (EXHIBIT C).

TAPE 15 - SIDE A

040 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: Provides testimony TO SB 286 (EXHIBITS D-1 & D-2).

140 Chair Shoemaker: Do you have the -1 amendments?

143 Gallant: Yes. Received this afternoon; have not reviewed.

148 Chair Shoemaker: Your testimony today is to the prior proposed amendments.

153 Gallant: Yes.

157 BOB JOONDEPH, OSB , HEALTH LAW SECTION: Presents testimony to SB 286 (EXHIBIT A).

210 Chair Shoemaker: No recommendation from the health law section regarding any of the policy issues in section 22?

214 Joondeph: Responds.

226 TINA Kitchen, MHDDSD: Provides testimony to SB 286 (EXHIBIT E).

260 Chair Shoemaker: You are concerned about those for whom there may not be anyone that is high on that prioritized list?

266 Kitchen: Responds.

283 Sen. Smith: What is a no code order?

288 Kitchen: Responds.

302 Chair Shoemaker: Are there patient advocates available to these people?

306 Kitchen: Yes.

308 Chair Shoemaker: Do they serve that role well?

311 Kitchen: Yes.

313 Chair Shoemaker: What are the qualifications for a case manager?

328 Kitchen: Responds.

334 Sen. Smith: There is a dilemma between hospitals and developmentally disabled.

344 Chair Shoemaker: We need to consider that.

356 JEFF BRANDON: Speaks in opposition to SB 286. 430 Sen. Cohen: More detail regarding due process?

435 Brandon: Responds.

TAPE 14 - SIDE B

008 Sen. Cohen: There used to be no process for notification to let people know that guardianship had been taken out on their behalf.

014 Brandon: Responds.

086 Chair Shoemaker: Guardianship works for terminally ill patients? The court appoints guardianship?

095 Brandon: Yes.

097 Sen. Cohen: Gives example of alzheimer patient who is turned down by the nursing home, then what?

100 Brandon: Responds.

117 Chair Shoemaker: Consider a situation where there is a guardian for an incapable or permanently unconscious, or terminal where death is eminent; in each of those three there is no power of attorney. You are saying in that situation we should rely on guardianship? How does that work? Someone initiates the guardianship?

134 Brandon: Responds.

137 Chair Shoemaker: Then an attorney is retained? Who pays?

140 Brandon: Responds.

144 Chair Shoemaker: Then there is a hearing?

145 Brandon: Responds.

150 Chair Shoemaker: Ultimately a guardian is appointed. As health care decisions are called for the guardian has the right to withdraw life support without going back to the court?

160 Brandon: Yes.

171 Sen. Cohen: Why are we arguing about SB 286 if all we have to do is turn it over to reasonable persons?

177 Brandon: Responds.

189 Chair Shoemaker: Present law has guardian second in line after spouse. Are you comfortable with that order of priority?

197 Brandon: Responds.

222 Chair Shoemaker: Only if the principal is capable, at which time you would not need a guardian.

228 NANCY DOTY: Provides testimony in opposition to SB 286.

241 Chair Shoemaker: Who are you with? Do your clients include institutions?

249 Doty: Responds.

270 Chair Shoemaker: What if you have witnesses to the fact that this person is incapable?

271 Doty: Responds.

332 Sen. Cohen: What do you mean by monitoring?

357 Doty: Responds.

377 Chair Shoemaker: You are saying that nursing homes deliberately ignore those legal requirements and have a third person create an unlawful power of attorney for health care and act upon that?

396 Doty: Gives example.

013 Chair Shoemaker: I don't think that is a good reason to change the law though.

014 Doty: We need to build in safe guards against this kind of abuse.

030 Sen. Cohen: Wants testimony from nursing homes.

054 Chair Shoemaker: adjourns 4:30

Submitted by, Reviewed by,

Timothy Marshall Dick Shoemaker Committee
Assistant

Committee Administrator

Exhibit Summary for SB 286:

A - Written testimony submitted by Joondeph, pp 3 B - Written testimony
submitted by Field, pp 2 C - Written testimony submitted by Mahler, pp 2
D1 & D2 - Written testimony and informative material submitted by
Gallant, pp 2 E - Written testimony submitted by Kitchen, pp 3