

SENATE COMMITTEE ON HEALTH CARE AND BIO-ETHICS

March 2, 1993      Hearing Room C 3:00 p.m.      Tapes 19 - 20

MEMBERS PRESENT:    Senator Bob Shoemaker, Chair Senator Jeannette Hamby,  
Vice Chair Senator Joyce Cohen Senator Bill McCoy Senator Gordon Smith

STAFF PRESENT:      Barbara Coombs, Administrator Dick Shoemaker,  
Administrator/Assistant Joan Green, Assistant

MEASURES HEARD:      SB 286 relating to health care decisions, WS

WITNESSES:            Ted Falk, Attorney, Oregon Health Decisions

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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 19, SIDE A

006    Chair Shoemaker: Meeting called to order at 3:16 p.m.

BILL INTRODUCTION

011    Barbara Coombs, Administrator: Reviews LC Drafts for Committee introduction.

025    Sen. Smith: Opposes LC Draft 3673.

034    Sen. McCoy: Opposes LC Draft 3661 and 3673.

035    Chair Shoemaker: Explains that introducing the Drafts does not indicate support of the Committee nor anyone on the Committee.

036    MOTION: CHAIR SHOEMAKER MOVED LC DRAFT 3631 BE INTRODUCED AS A COMMITTEE BILL.

041            VOTE: HEARING NO OBJECTION, SO ORDERED.

041    MOTION: CHAIR SHOEMAKER MOVED LC DRAFT 3630 BE INTRODUCED AS A COMMITTEE BILL.

042            VOTE: HEARING NO OBJECTION, SO ORDERED.

043    MOTION: CHAIR SHOEMAKER MOVED LC DRAFT 3675 BE INTRODUCED AS A COMMITTEE BILL.

044            VOTE: HEARING NO OBJECTIONS, SO ORDERED.

048    MOTION: CHAIR SHOEMAKER MOVED LC DRAFT 3661 BE INTRODUCED AS A COMMITTEE BILL.

049 VOTE: MOTION CARRIED, 5-0.

049 Sen. Cohen: Votes to introduce the bill, with notice that she will probably be a no on the bill.

050 Sen. McCoy: Votes to introduce the bill, but will be opposing the bill.

055 Chair Shoemaker: LC Draft 3661 comes in as a Committee bill, but clearly with the understanding that this does not indicate approval of

the bill.

058 MOTION: CHAIR SHOEMAKER MOVED LC DRAFT 3673 BE INTRODUCED AS A COMMITTEE BILL.

060 VOTE: MOTION CARRIED, 3-2. (VOTING NO: SEN. G. SMITH, SEN. McCOY).

WORK SESSION

SB 286 RELATING TO HEALTH CARE DECISIONS

065 Sen Shoemaker: I would like to deal with the bill, with the corrective amendments, and let additional work on the bill be done on the House

side.

070 Sen. Cohen: I would request ahead of time any amendments in writing.

090 Chair Shoemaker: The Oregon Association of Hospitals, Exhibit C and the Oregon Catholic Conference, Exhibit B have presented their amendments in writing.

095 Ted Falk, Attorney, Oregon Health Decisions: Submits and reviews newspaper article and proposed technical amendments, Exhibit A.

160 Sen. Hamby: Does anyone else have a problem with the term "can't" rather than "cannot".

170 General consensus to go with "cannot".

167 Falk: Continues with review of amendments, pg. 11, lns. 1-13, Exhibit A.

170 Sen. Cohen: If I do not sign all of them, what happens?

181 Falk: If you only sign the power-of-attorney part that is all you would have. If you only sign the health care instruction part, that is all

you would have. The two are completely independent.

182 Sen. Cohen: I'm concerned about leading people to believe that they don't have to be careful about where they sign.

188 Falk: It could be awkward.

192 Sen. Cohen: I would assume if they fill them out that they would sign them.

200 Chair Shoemaker: You are deleting the explanation because it is redundant?

209 Falk: Correct.

213 Sen. Cohen: I would prefer that it read "you must sign Part B and Part C . . .".

243 Chair Shoemaker: Maybe that can be worked on and taken up on the House side.

244 Sen. Hamby: What about someone who is more comfortable with signing only one, rather than both?

264 Sen. Cohen: That is what I am trying to accommodate, if you want both, you must sign both, if you want only one, sign that one only.

272 Falk: Perhaps large type warnings above the signature lines could be added on Pg. 13, ln. 26, "SIGN HERE TO APPOINT A HEALTH CARE

REPRESENTATIVE" and Pg. 16, ln. 13, "SIGN HERE TO PROVIDE HEALTH CARE INSTRUCTIONS".

320 Falk: Continues with review of pg. 1 of the amendments, beginning with pg. 12, ln. 6, Exhibit A.

388 Sen Smith: Suggests that on pg. 24, ln. 1, (3), Exhibit D, as part of comfort care we have something about the requirement for warmth and

appropriate lighting. I would like to see some language about "medication, warmth, appropriate lighting, positioning and other measures."

419 General consensus.

420 Barbara Coombs, Administrator: It would read: "medication, warmth, appropriate lighting, positioning and other measures"?

425 Sen. Smith: Concurs.

TAPE 20, SIDE A

009 Falk: Continues with review of pg. 2 of the amendments, beginning with pg. 27, ln. 31, Exhibit A.

102 Chair Shoemaker: I'm uncomfortable with the language on pg. 35, ln. 2, Exhibit A.

113 Sen. Cohen, Sen. Smith express comfort level with it.

117 Falk: Continues with review of pg. 2 of the amendments, beginning

with pg. 35, lns. 4-5, Exhibit A.

131 Chair Shoemaker: I would add it at the end of ln. 14 before the comma to read "An adult designated by the others listed in this subsection who can be so located, if no person . . ."

138 Sen. Cohen: There's no way to make it clearly understood about "so located" in all of these instances, rather than repeating it in every

sentence?

144 Falk: Responds. Continues with review of pg. 2 of the amendments, beginning with pg. 36, ln. 5, Exhibit A.

180 Chair Shoemaker: The reference to ORS 127.635 (1) to (3) doesn't have to do with confirmations does it?

182 Falk: It doesn't. I don't know what that reference is to.

185 Chair Shoemaker: This is to impose an absolute on the attending physician, as opposed to a safe harbor. The physician has to determine, with medical confirmation, the following: 1) that the patient has one

of the conditions that would permit withholding or withdrawal. 2) To say that an appropriate person has been selected from the list. And 3)

If not, he has that authority.

200 Falk: I thought that got into a domain that is difficult for the attending physician to be in a position to verify.

204 Sen. Cohen: Direct me to language?

206 Chair Shoemaker: Refers to 22, pg. 36, lns. 9-10, Exhibit D.

222 Sen. Cohen: We are debating the deletion of (1) [to (3)]? Do we care about "been met" or "occurred"?

239 Falk: Responds.

243 Sen. Cohen: If we reject Mr. Falk's deletion of "(1) [to (3)]" should we reject "[been met]" and return to "been met"?

252 Falk: Agrees. If you want the attending physicians's job to ascertain that all of the conditions of (1) through (3) are met than the existing last line is correct.

262 Sen. Smith: Can I suggest we replace "met" with "completed" or "accomplished" or "satisfied"?

266 General consensus to leave it.

271 Chair Shoemaker: The changes indicated by Mr. Falk for the final line will be made. The section will read "Before withholding or withdrawing

life-sustaining procedures under authority of ORS 127.635, the attending

physician shall determine that the medical confirmations required by Section 11(1)(a) of this 1993 Act and ORS 127.635 (1) to (3) have been met."

295 Falk: I thought that rather than "medical confirmations" you wanted the attending physician to verify all of the conditions".

298 Chair Shoemaker: That is what I intend.

299 Sen. Cohen: We have "and ORS 127.635 . . .". We are doing that.

308 Chair Shoemaker: On pg. 36, ln. 12, Exhibit D, after "health care" add language ", directive to physicians". A change to be made throughout

the form, beginning on pg. 15, ln. 8-17, etc. I think there needs to be consistency in each set of choices. I would suggest it be in the negative.

352 Falk: Would you suggest making a similar parallelism to the third item in each triad where it says "I DO NOT WANT tube feeding" and "I want NO life support." We have a lack of parallelism there.

356 Chair Shoemaker: Agrees.

359 Sen. Cohen: I'm concerned about the possible red flags this could raise. I am comfortable with it as is.

366 Chair Shoemaker: Agrees to leave it as is.

374 Coombs: On pg. 35, ln. 27, Exhibit D, did we add " . . . then life-sustaining procedures may be withheld or withdrawn upon the

direction and under the supervision of the attending physician in consultation with a patient advocate or ethics committee or ethics consultant."?

390 General consensus.

395 Coombs: Then pg. 35, ln. 27, Exhibit D, after "under the supervision of the attending physician" we would add "after consultation with an ethics committee, patient advocate or ethics consultant".

406 MOTION: CHAIR SHOEMAKER MOVED THE SB 286-2 AMENDMENTS, EXHIBIT D, AND THE PROPOSED CONCEPTUAL AMENDMENTS BE ADOPTED.

426 VOTE: HEARING NO OBJECTION, SO ORDERED.

TAPE 19, SIDE B

010 Sen. Smith: Are we going to hear Mr. Castagna's amendments, Exhibit B, or will those be left to the House?

011 Chair Shoemaker: I was going to leave them to the House. If you

wish to hear them I will be glad to do so. I prefer the bill in its amended

form.

045 MOTION: SEN. COHEN MOVED SB 286, AS AMENDED, BE SENT TO THE FLOOR WITH A DO PASS RECOMMENDATION.

052 VOTE: MOTION CARRIED: 4-1. (VOTING NO: SEN. McCOY).

Submitted by:

Reviewed by:

Joan Green  
Administrator

Dick Shoemaker Assistant

EXHIBIT LOG:

A - Proposed Technical Corrections on SB 286-2 Amendments - Falk -3 pages  
B - Proposed amendment to SB 286 - Oregon Catholic Conference - 1 page  
C - Testimony to SB 286, 21 - Field - 4 pages  
D - SB 286-2 amendments - Staff - 40 pages