SENATE COMMITTEE ON HEALTH CARE AND BIO-ETHICS

April 6, 1993 Hearing Room C 3:00 p.m. Tapes 42 - 45

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

EXCUSED: Senator Bill McCoy

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

MEASURES HEARD: SB 766 relating to health care, PH

WITNESSES: Jim Edmunson, District 39, Oregon State Representative Ed Patterson, Oregon Association of Hospitals Dave Houck, Diabetes Association, Oregon Affiliate Kate Brown, District 13, Oregon State Representative Amy Klare, Oregon AFL-CIO Rich Peppers, Oregon Public Employees Union Fred VanNatta, Oregon State Home Builders Association Brad Buvinger, Oregon Fairshare Ellen Pinney, Oregon Health Action Camp

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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 42, SIDE A

006 Chair Shoemaker: Meeting called to order at 3:17 p.m.

PUBLIC HEARING

SB 766 RELATING TO HEALTH CARE

VERBATIM TRANSCRIPTION

011 Jim Edmunson, District 39, Oregon State Representative: Yes, I appreciate it. I exited the House Judiciary Committee, which is hearing the health care decisions act right now. And I think we were beginning

a two hour testimony by one witness, so hopefully I will be able to

return before that is over. I expect I will. I'd like today to sort of

kick off, as a preface to SB 766 . . . share with the Committee some

thoughts that I gathered last Friday when I traveled with a group of

legislators to the nation's capitol for a briefing on the Presidential

Task Force on national health care reform . . . the First Lady's efforts

with the President to reform our health system. I was asked . . . the National Conference of State Legislatures assembled a group of legislators who had interest and expertise in particular areas. One of the areas in which I, as the Chair knows, have advocated for is the merger of Workers' Compensation medical coverage with health insurance; what we have called here 24 hour health care. There are bills introduced to do that. That concept has been incorporated, at least conceptually, in the President's proposal. The administration wanted to find out some of the problems that states might envision as they begin to deal with this new plan.

029 Edmunson: What I would like to do, because SB 766 really is on target with the administrations thinking at this point, I'd like to compare and contrast the policy issues that I see in 766 with the current version of the National Health Care Plan. I emphasize that what I and others were briefed on Friday is the best . . . or the most up-to-date . . . or the most timely, I guess is the word I'm looking for, version of it. This plan is developing, virtually daily, and the First Lady's absence for the last two weeks from the Capitol has given the staff . . . and there are about 500 employees of our federal government working on this double shifts . . . given them an opportunity to pull together some of the work they've done, and now they will move. She returned to the Capitol on Sunday; they will move into a more active phase. Paul Starr, from Princeton, moderated the meeting. Ira Magaziner, the Senior Domestic Policy Advisor to the President also was there, as well as John Hart from the White House. They informed us to expect a proposal in mid to late May from the Administration for Congressional action.

048 Edmunson: I see 766, as I said, as being very similar, but having some key differences to how the National Plan is shaping up. The elements that are in agreement, I believe, are the basic elements. That is why I said I think this bill is in the same direction. A guaranteed benefit package, without exclusions for pre-existing conditions. However the National Plan, as I mentioned, will include . . . or at least in its ultimate form the goal is to include occupational medical care, as well as Medicaid. So the National Plan is truly a Universal Plan which will require federal law changes which now prevent us, as a state, from

moving in those areas. Medicaid, as we all know, has been very difficult for the State to develop. And with the Oregon Health Plan we've truly gone farther than any other state has, and we're given credit for that as an experimenting state, as a laboratory if you will, which is very much on the minds of the national policy makers. Also the Employee Retirement Income Security Act, ARISA, prevents us from merging Workers' Compensation into health insurance. That point was reiterated by the U.S. Supreme Court in December in a case called the Greater Washington Board of Trade. We face severe constraints. I don't suggest this Committee include Medicaid and Workers' Comp. reform in SB 766. That is really something that has to come at the national level.

067 Edmunson: Also, as I understand the managed competition proposal in this bill it is community rated, with a guaranteed issue . . . an open enrollment aspect. That is also incorporated in the federal plan. It is a prepaid plan with a strong preventative care package. That is virtually word for word the description of the proposal being drafted.

072 Edmunson: The differences that I see is the federal plan is not voluntary. There is presumptive eligibility for every American. For those who do not participate in the plan; because of . . . through self-employment or non-employment or a person of wealth; they will become part of the plan when they seek health care. If an American seeks to avoid participating in the national plan and can avoid ever seeking health care they will basically stay out of it, but they will not . . . as soon as they see a doctor they'll . . . the government will know where they are. 078 Chair Shoemaker: I might comment that's not a difference.

079 Edmunson: Oh well then . . . I just . . . I noted Senator . . . Mr. Chair, a provision in the bill that is on page 4, 15, paragraph 2, "a resident is not covered . . . seeks treatment the health care may be refused if it is ethical and that there be a lien." I guess I was interpreting that there was some option there, but clearly under the federal plan there is no option.

082 Chair Shoemaker: Here it is intended that everyone will have health care, if somehow you manage to evade it, as you described, these are the consequences.

084 Edmunson: Well very good. And I might say that you . . . if that's the case then you've gone a little farther in thinking than the federal plan has. Because when asked what would be the consequences of whether a

person would be billed for the service or billed for past due premiums

plus penalties; we were basically told that would be up to the state.

They may not give us the answer to that. As I said the federal plan

includes Medicaid and Workers' Comp. There are no deductions in the

federal plan. There are co-payments for particular services such as in

vision, eyeglasses . . . and there are also co-payment of premium, based on income level. For low income people there would be in essence no

co-payment for the lowest income levels. For the highest income levels

there would be maximum co-payments, perhaps as much as 20%. Again those numbers are soft. There is malpractice reform envisioned as part of the national plan, however it was not specified at this time, and indeed I

don't think that the administration has agreed or settled on a

preferred. The federal plan envisions rather large purchasing

cooperatives, which may be multi-state. If they are regional the

purchasing cooperatives . . . the government would encourage states to

recognize geographic economic differences. For example the greater

Portland metropolitan area, including parts of Clark County, might be a region that would be distinct from the Willamette Valley, the coast or

eastern Oregon. I should say that it was re-emphasized over and over

again that the federal plan will incorporate great state flexibility.

Where the line is drawn between federal mandate and state option is

really in flux. I would encourage this Committee, and indeed the

Assembly, to carefully consider and begin this thought process on

managed competition because unless the sky entirely falls out of this

issue, which at this point there is no reason to believe it will, this

is the future that we're going to be dealing with very shortly, so I

recommend to the Committee careful consideration.

121 Edmunson: The background . . . and I took about 20 pages of

notes in about a 5 hour briefing schedule and have condensed those into some

brief remarks, and I'm about half way through here. To give you some

background, as I said 500 people are working in approximately 30 policy areas, with the First Lady an active overseer and decision maker in

that. The window of state involvement is anticipated to begin in

mid-1995 with a final mandate that states be involved by 1997. The

consequence for a state that does not involve itself will be . . . it

will be ineligible for federal funding for any health program. Federal

funding will come through this program so Medicaid funds will not be

available and you can think of any other federal monies . . . this is

basically . . . there won't be a need for court orders, unless a state

is able to fund 100% of its programs independently it will not be able

to. There will be, as I said, considerable state flexibility in the

implementation; including the selection of the program that is chosen.

It may be a single payor system that the state . . . or the purchasing

cooperative agrees to fund. It may be a competitive bidding. It may be

a network of providers that are put together. It may be a private plan. It may be a state run quasi-public corporation. That decision of

structure will be left to the state. There will be federal guidelines

including minimum benefits that must be provided ant there will be

outcome evaluation. It is expected that the contracts that the

cooperatives enter into will be reviewed . . . will not be of a long

term duration in terms of years and years, but at least in the initial

stages will be reviewed annually or every two years and reviewed for

consumer complaints and how well the system functioned.

151 Edmunson: There will be a phase out of individual health programs such as Medicaid. The basis of this, as I said, is the managed competition

concept of a health insurance purchasing cooperative which would

negotiate a contract with the provider and hear consumer complaints

about coverage. The cooperative would hold money in trust . . . would

not necessarily generate its own money, but would work with the federal

government's grants as well as with the state or the region in . . . and the premium structure in how to combine various funds to pay for the providers contract. It would be a mandatory employee/employer participation. The current discussion is focusing on how large these purchasing cooperatives should be, or how small. I see in your bill you've really narrowed them into groups of counties. It sounded to me as though that would be probably on the small end of how the federal government is envisioning these cooperatives. Also how much federal requirement should there be on a competitive bidding on networks . . . multi-level where there should be a single payor? My sense is that the federal government tends to leave that up to the states. The federal funding is geared to allow low income persons to participate. It is not to subsidize the program at the state level, but simply to facilitate low income participation and access. The employed population will participate on a premium basis with benchmark premiums from employers, perhaps 80%.

174 Edmunson: Self-insured employers are envisioned to continue, however. The employees of self-insured employers may opt out into a larger plan. They were not real clear . . . and we asked them will self insurers

really be in a plan if they're not in the purchasing cooperatives plan, and if not than why not, and again this is an area of self-insurance that is yet to be defined. States will participate either on . . . on two basis, either on a date certain where the state will come into full compliance or full blown at the time of entry or on a phase-in program by program basis; which I tend to think will probably be the way they will structure it. For example the most commonly discussed would be a kids first program where the first purchase would be for a childrens health program and then getting in, for example, larger or smaller businesses and building until eventually the entire population is included.

191 Edmunson: On budget there is no preferred revenue scheme at this point. I think that is probably the work that will be done in the next month.

We hear talk of a value added tax on a federal basis; provider tax,

commodity taxes, excises on things like cigarettes and alcoholic beverages. We were told that it has simply been excluded from the discussions to this point. We emphasized that states, as they look for funding mechanisms, really need to know what the federal government is going to do so we can have some ideas for a strategy we should pursue. The United States presently spends 14% of the gross domestic product, and the President has . . . his only message to his Task Force is that percentage cannot increase, but must decrease.

204 Edmunson: The conflict that is yet to be resolved is between state flexibility and state efficiency.

198 Sen. Cohen: You sort of left out this one little thing that people tend to ignore, which is Congress. They can either muck it up or . . . I just saw Kopetski in the hall here a moment ago.

202 Edmunson: Our whole delegation is here in the state and it might be an appropriate time for them to be listening in, since my representative is as eager as anyone to find out what was going on since they have not been apparently . . . a lot of briefings have been done at the Congressional level. I think that is, as you point out Sen. Cohen, a obvious element here when you talk about massive amendments to ARISA. This simply cannot be done by administrative regulation. The dynamics of the health care question. I wouldn't begin to second guess Congress on how important that will be seen or what sort of compromise will have to be made. It will be fascinating to watch, as we all will. The proposal is expected in May, perhaps the later part of May with implementation . . . the states . . . the earliest date for states to participate is mid-1995. So I think what they are envisioning is probably a full year or maybe 18 months of Congressional debate before a program would emerge. What we were briefed on is basically where they are at this point with the proposal. It is anyones guess where they will end up. Finally, and I can go into more detail on this if you would like Mr. Chair, but the benefit package . . . the goal is simply to be comprehensive enough to provide a full range of services so there

will not be a need for wrap around or supplemental insurance. It will include dental, mental and vision coverage. The emphasis is preventative care, primary care. The guideline is not likely to exclude provider groups, but will be based on procedure . . . procedures will be allowed by any licensed provider so long as the procedure would be a medical procedure if performed by a medical physician. And again great state flexibility is expected in the regulation of professions. States will be allowed to design wrap around packages if the federal package is not comprehensive. One question that I ask on behalf of Oregon, given our innovations and work we've done in health care and Workers' Compensation is "What should we do in the meantime while the administration and Congress is trying to figure out how to proceed, should we go ahead?" The message back was certainly that the nation is watching Oregon as a leader . . . innovator in the laboratory out there and as we succeed and test ideas it'll be very important signals to the nation about what works and what doesn't work. Ira Magaziner concluded by saying . . . encouraging our continued experimentation and as far as addressing the concern that we would somehow be burdened by a plodding federal system he said . . . the last words of the briefing were "fear not that we will slow you down." I think that the message is that the expectation from the White House is that the health plan, once delivered to the Hill, will be vigorously presented and pursued and that we should expect significant changes in a year and a half.

END OF VERBATIM

262 Sen. Smith: As I understand the bill, this works in harmony with the Oregon Health Plan, but in the event that we are not successful in funding that, what Rep. Edmunson is saying is that this also could work in harmony with whatever the Clinton administration will propose. Is that accurate?

268 Edmunson: Responds.

273 Sen. Smith: If the federal administration wants to experiment with us why did they lock us in? Why didn't they allow some flexibility based on the Oregon taxpayers ability to pay?

315 Edmunson: Responds.

334 Sen. Smith: I see us being subject to Vice President Gore's comment. We are accounting for the rationing that goes on in everybody's

individual budget. I think I hear you saying that we may have the opportunity to get more flexibility as we go along, but it is trust us. What I hear from the Vice President I don't think we have any flexibility at all anymore and the Oregon Health Plan has been fundamentally changed by the waiver.

350 Edmunson: Responds.

352 Sen. Hamby: Have you spoken with the Executive wing at all to identify precisely what we have committed to in the way of constraints with the Clinton Administration?

353 Edmunson: Responds.

395 Sen. Hamby: I would like some of Sen. Smith's concerns clarified for the record by the Administration so we know in fact that we are working in a direction that is compatible with the constraints placed on us.

403 Sen. Smith: Do they have an appreciation for the financial box Oregon is in now? Are they aware of Ballot Measure 5?

410 Edmunson: Responds.

TAPE 43, SIDE A

022 Sen. Hamby: I would appreciate a listing of the constraints proposed under the waiver.

023 Chair Shoemaker: We have got those and I've requested that the Governor's office to provide that in a readable format.

033 Sen. Smith: The public has a lot to learn about what the waiver meant.

038 Ed Patterson, Oregon Association of Hospitals: Speaks to the bill, Exhibit A.

147 Dave Houck, American Diabetes Association, Oregon Affiliate: Speaks to the bill.

173 Chair Shoemaker: It would be my preference to have a financial adjustment, not a direction of the persons from one plan to another.

177 Houck: Responds. Continues with testimony.

190 Chair Shoemaker: Explains intent of the six month criteria.

192 Houck: Responds.

203 Amy Klare, Oregon AFL-CIO: Speaks in opposition to the bill, Exhibit B.

311 Chair Shoemaker: Clarifies the intention of the six regions.

312 Klare: Requests clarification on how the health plan coordinators would work. Could one large employer qualify as a regional health plan

coordinator? 334 Chair Shoemaker: Responds.

339 Klare: Continues with testimony, Exhibit B.

353 Chair Shoemaker: It is not intended to be a SB 1076 model in the respect of "high" deductibles. There would be "some" deductibles and

co-payments to further encourage consumer responsibility.

360 Klare: Continues with testimony, Exhibit B.

389 Rich Peppers, Oregon Public Employees Union: Speaks in opposition to the bill, Exhibit C.

TAPE 42, SIDE B

018 Sen. Smith: Are you saying managed competition is a contradiction in terms?

020 Peppers: Responds.

028 Sen. Cohen: We have universal budgeting now. How much do we have set aside for Medicare?

032 Chair Shoemaker: Responds.

033 Sen. Smith: Do I understand that you believe the cost should not be borne by consumer? If that is not where it should be, where ultimately

should it be placed?

036 Peppers: Responds.

046 Sen. Smith: You would not oppose a system whereby there was very little, if any deductible for preventative maintenance, but provide an

escalating participation for things over which there may be some control or are not cost effective?

050 Peppers: Responds.

056 Sen. Smith: My concern is that if we removed any responsibility and/or consequence for the individual I believe we would find medicine is in

very short supply.

062 Klare: Responds.

068 Peppers: Responds.

073 Chair Shoemaker: I don't contemplate high deductibles and co-payments, but some level of participation that is affordable, to achieve two

effects; to make a person think twice before going in and to bring down the monthly capitation rate.

097 Peppers: Continues with testimony, Exhibit C.

152 Chair Shoemaker: Responds to the percentages of "disposable income" and how it factors for all people. 163 Peppers: Concludes testimony, Exhibit C.

167 Sen. Smith: People are eventually going to pay this cost. It will somehow be passed on by business owners and it will trickle down. There will be a fiscal impact on all of us.

182 Peppers: Responds.

185 Kate Brown, District 13, Oregon State Representative: Speaks to concerns with 7 of the bill.

243 Fred VanNatta, Oregon State Home Builders Association: Speaks in opposition to the bill.

322 Chair Shoemaker: You don't feel the hardship provision allows enough latitude for the employers?

325 VanNatta: Responds.

395 Chair Shoemaker: What if the federal and state tax structure were to change so that the premium for the least expensive standard plan is

fully deductible, whether paid by the employer or employee?

402 VanNatta: Responds.

TAPE 43, SIDE B

023 Chair Shoemaker: It would be the Oregon Standard Plan.

025 VanNatta: Responds.

029 Chair Shoemaker: Speaks to concerns with Mr. VanNatta's universal health coverage proposal. Giving an employer the option of providing

health care or not can place an employer who provides health care at a

competitive disadvantage, and additionally has them paying a tax to help support the employees of those employers who are not providing health

care. I think it could tip the scale enough that in short period of

time you would have a single-payor plan.

051 VanNatta: Responds.

085 Brad Buvinger, Oregon Fairshare: Speaks in opposition to the

bill, Exhibit D. Presents testimony from Bonnie Reagan, Exhibit E, RuthAlice

Anderson, Exhibit F, Thomas Cropper, Exhibit G, Debra Schmitz, Exhibit

I, Charlie Treinen, Exhibit H.

135 Chair Shoemaker: Clarifies choice of plans available.

136 Buvinger: Responds.

139 Sen. Cohen: The state does not contribute the major part of your auto insurance, unlike health care.

153 Buvinger: Responds. 170 Chair Shoemaker: You do have a choice of doctors because you choose a system that has the doctor you like within it. The only thing you are

losing is the right to pick your own specialist and have total freedom

of choice in the marketplace. You can have that if your willing to pay

for it.

183 Buvinger: Responds.

260 Sen. Smith: My contact with physicians is that the single payor system is the greatest detriment to morale.

269 Buvinger: Responds.

288 Sen. Smith: What is the fundamental cost control that you propose in a single payor system?

291 Buvinger: Responds.

313 Chair Shoemaker: Either plan would essentially regulate fees.

330 Buvinger: Responds.

368 Chair Shoemaker: The control of costs though is on fee regulations.

372 Buvinger: Responds.

376 Chair Shoemaker: Your system does include regulation of fees?

381 Buvinger: Responds.

398 Ellen Pinney, Oregon Health Action Campaign: Responds to difference between a single payor system and a Health Plan Purchasing Cooperative

(HPPC).

409 Chair Shoemaker: There is no profit in a HPPC.

415 Pinney: Responds.

418 Chair Shoemaker: Isn't there a profit in the doctors who are

making themselves available for the consumers under a single payor system?

421 Pinney: Responds.

425 Chair Shoemaker: Aren't the hospitals going to be making a profit even if they're non-profit?

428 Pinney: Responds.

436 Discussion of non-profit versus for profit health care.

446 Sen. Cohen: Some non-profit board would dictate what piece of equipment is available to each doctor? 449 Pinney: Responds.

TAPE 44, SIDE A

029 Pinney: Speaks in opposition to the bill.

102 Sen. Smith: You are saying that if many employers provide more than the Oregon Standard Plan you feel they will soon just offer the Oregon

Standard Plan?

102 Pinney: Responds.

103 Sen. Smith: How do you pay for all of this under your plan?

107 Pinney: Responds.

116 Sen. Smith: I'm troubled with how we are currently financing this and it is a backhanded way of doing it. Employees don't see this as a cost

to them and it is a very real cost. Is there a better way to finance

all of these rights we have?

124 Pinney: Responds.

138 Buvinger: Responds.

152 Pinney: Continues with testimony. Addresses co-pays and deductibles.

172 Chair Shoemaker: Responds.

188 Pinney: Continues with testimony.

245 Exchange between Chair Shoemaker and Ms. Pinney as to what constitutes large employers and the intent of the bill.

260 Pinney: Continues with testimony. Refers to SB 766, pg. 3, ln. 32.

272 Chair Shoemaker: Responds.

279 Pinney: Continues with testimony. Refers to SB 766, pg. 4, lns. 20-22.

331 Chair Shoemaker: Responds.

338 Pinney: Continues with testimony. Refers to SB 766, 15 (2), who makes the decision of what is ethical?

398 Chair Shoemaker: Responds.

402 Pinney: Responds. Continues with testimony.

TAPE 45, SIDE A 007 Chair Shoemaker: The bill is drafted to make insurance affordable. SB 766, 15 (2) is to address people who are not accepting the personal

responsibility for their monetary end of the bargain.

025 Pinney: Responds. Continues with testimony.

Submitted by: Reviewed by:

Joan Green Dick Shoemaker Assistant Administrator

EXHIBIT LOG:

A - Testimony on SB 766 - OAH - 3 pages B - Testimony on SB 766 - AFL-CIO - 4 pages C - Testimony on SB 766 - OPEU - 6 pages D - Testimony on SB 766 - Buvinger - 5 pages E - Testimony on SB 766 - Reagan - 2 pages F - Testimony on SB 766 - Anderson - 3 pages G - Testimony on SB 766 - Cropper - 1 page H - Testimony on SB 766 - Treinen - 1 page I - Testimony on SB 766 - Schmitz - 2 pages