

SENATE COMMITTEE ON HEALTH CARE AND BIO-ETHICS

April 15, 1993      Hearing Room C 3:00 p.m.      Tapes 52 - 55

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

EXCUSED:                    Senator Jeannette Hamby, Vice Chair Senator Bill  
McCoy

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

MEASURES HEARD:        SB 149 relating to health, WS SB 577 relating to  
mental health services, PH/WS SB 578 relating to mental health services,  
PH/WS SB 579 relating to mental health services, PH/WS SB 580 relating  
to mental health services, PH/WS SB 859 relating to declaration for  
mental health

treatment, PH

WITNESSES:    Burt Kaplan, Coos County Mental Health and  
Association of Oregon Community Mental Health Programs Mike Katz,  
American Civil Liberties Union John McCulley, Oregon Psychiatric  
Association Al Levine, Chair, Subcommittee on Local In-Patient

Issues, Civil Commitment Work Group/Lane County Mental Health Supervisor  
Nancy Terry, Legislative Co-Chair, Oregon Alliance For The Mentally Ill  
Bob Joondeph, Oregon Advocacy Mary Byrkit, Mental Health Consumer Sandra  
Millius, Executive Director, Mental Health of

Oregon Barry Kast, Assistant Administrator for Mental Health, Office of  
Mental Health Services Nelly Fox-Edwards, Vice President, Oregon  
Alliance For The Mentally Ill/President, Mental Health

Association/Co-Chair Legislative Committee Richard Lippencott,  
Assistant Director, Human

Resources Administrator for Mental Health and

Developmental Disability Services Division Brett Asmann, Program  
Specialist, Crisis and Civil

Commitment Services, Office of Mental Health Services

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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 52, SIDE A

006 Chair Shoemaker: Meeting called to order at 3:13 p.m. The SB 580 -2 amendments, Exhibit I would consolidate the four bills into one.

Request all testimony be directed to SB the 580-2 amendments, Exhibit I.

PUBLIC HEARING

SB 577, SB 578, SB 579, SB 580 RELATING TO MENTAL HEALTH SERVICES

043 Nelly Fox-Edwards, Vice President, Oregon Alliance For The Mentally Ill/President, Mental Health Association/Co-Chair Legislative Committee: Speaks in support of the bill.

072 Nancy Terry, Legislative Co-Chair, Oregon Alliance For The Mentally Ill: Speaks in support of the bill, Exhibit A.

107 Richard Lippencott, Assistant Director, Human Resources Administrator for Mental Health and Developmental Disability Services Division:

Speaks to the bills, Exhibit J.

211 Chair Shoemaker: Presently you can hold a person for three days without court process to decide whether they should be civilly committed?

214 Lippencott: Responds.

216 Chair Shoemaker: This expands that to fourteen?

218 Lippencott: Responds.

226 Chair Shoemaker: It is a conceptual process?

227 Lippencott: Responds. Continues with testimony.

277 Barry Kast, Assistant Administrator for Mental Health, Office of Mental Health Services: Speaks to the bill, Exhibit B.

399 Brett Asmann, Office of Mental Health Services: Speaks to the bill. Distributes testimony from Ed Cochrane, Exhibit K.

433 Sen. Cohen: When you talk about the bill are you referring to the SB 580-2 amendments, Exhibit I or the bill itself?

439 Kast: Responds. Continues with testimony.

TAPE 53, SIDE A

033 Sen. Cohen: Have the cities been a part of the work group? 041 Asmann: Responds.

047 Kast: Responds.

055 Sen. Cohen: It is not something to ignore even though it is not necessarily written into the statute.

058 Kast: Continues with testimony, Exhibit B.

138 Chair Shoemaker: Would a surrogate serve that purpose in terms of receiving the warning, if a companion bill should pass?

143 Asmann: Responds.

141 Kast: Continues with testimony, Exhibit B.

167 Asmann: Refers to definition on pg. 14, lns. 9-12 in the SB 580 -2 amendments, Exhibit I. Refers to Dr. Bloom's letter, Exhibit D.

183 Sen. Cohen: There is an issue of care and the type of staffing that should be affected. The rules need to further examine what should be

included in terms of that.

197 Asmann: Responds.

200 Chair Shoemaker: Reviews suggested language found on pg. 2 of Dr. Bloom's letter, Exhibit D.

211 Asmann: Continues with testimony.

226 Sen. Cohen: I don't think anything in this amendment calls for psychiatrists or medication or medical treatment.

227 Asmann: Responds.

233 Sen. Cohen: You are arguing with two words; "psychiatric nursing". Nothing else says anything like that. I don't understand why anybody,

who's freedom is being taken away, should be given anything less than a nurse. I have no problem with the suggested amendments in Dr. Bloom's

letter, Exhibit D and I don't think it gets you where you say it does.

248 Kast: Responds.

278 Chair Shoemaker: The Act would say "adequate psychiatric nursing and other services", leaving "adequate" for further definition. Would that

be provided by rule and would your Division provide those rules?

281 Kast: Responds.

289 Chair Shoemaker: Would it be acceptable to you to have these non-hospital facilities be staffed by a psychiatric nurse, at least

during the normal working day?

292 Kast: Responds. Continues with testimony, Exhibit B.

324 Chair Shoemaker: I read up to 180 days; doesn't that provide some discretion?

329 Kast: Responds.

333 Asmann: Responds.

337 Chair Shoemaker: For those that are 180 days is there freedom to come back to the court room and say further commitment is necessary?

343 Kast: Responds. Continues with testimony, Exhibit B.

440 Sen. Cohen: I am confused by what existing law provides and what the amendments are trying to do, could you please clarify?

TAPE 52, SIDE B

013 Asmann: Responds, refers to the diagram, Exhibit L.

045 Sen. Smith: Is the attorney appointed as though it were an indigent or is this something the patient/family pays for?

047 Asmann: Responds.

054 Kast: Responds.

091 Chair Shoemaker: Dr. Bloom has a problem with the establishment of a Utilization Board under SB 579. Could you please address your position

on that?

104 Kast: Continues with testimony, pg. 5, Exhibit B.

209 Chair Shoemaker: Would that be done by rule?

210 Kast: Responds. Continues with testimony, pg. 6, Exhibit B.

285 Sen. Smith: To what do you attribute the rise in emergency holds?

287 Kast: Responds. Continues with testimony, pg. 7, Exhibit B.

339 Sen. Cohen: Requests a definition for an emergency hold?

342 Kast: Responds.

345 Sen. Cohen: But the element is "dangerous" it is not just walking around aimlessly?

347 Kast: Responds. Continues with testimony, pg. 7, Exhibit B.

436 Sen. Smith: Do the counties see it as you are describing it?

438 Kast: Responds.

TAPE 53, SIDE B

009 Chair Shoemaker: Will there be any immediate fiscal impact to the State, for which you would need funding?

012 Kast: Responds. Continues with testimony, pg. 8, Exhibit B.

WORK SESSION

060 MOTION: CHAIR SHOEMAKER MOVED TO ADOPT THE SB 580-2 AMENDMENTS, EXHIBIT I, AS THE BILL.

062 VOTE: MOTION ADOPTED BY CONSENSUS.

SB 149 RELATING TO HEALTH

068 MOTION: CHAIR SHOEMAKER MOVED SB 149 IN ACCORDANCE TO SUBSEQUENT REFERRAL TO TRADE AND ECONOMIC DEVELOPMENT COMMITTEE WITH A DO NOT

PASS RECOMMENDATION.

070 MOTION CARRIED: 3-0. (EXCUSED: SEN. HAMBY, SEN. McCOY).

PUBLIC HEARING

SB 577, SB 578, SB 579, SB 580 RELATING TO MENTAL HEALTH SERVICES

093 Burt Kaplan, Director, Mental Health, Coos County: Speaks in support of the bill.

160 Al Levine, Chair, Subcommittee on Local In-Patient Issues, Civil Commitment Work Group/Lane County Mental Health Supervisor: Speaks in

support of the bill.

244 Sen. Cohen: Returns to pg. 25, (5) of the utilization review issue. I have some concerns with the criteria on which the denial would be made

not being listed. I think that needs to be clarified.

281 Levine: Continues with testimony.

345 Bob Joondeph, Oregon Advocacy Center: Speaks to the bill, Exhibit C.

TAPE 54, SIDE A

010 Chair Shoemaker: Do you feel comfortable if we understand that "psychiatric, nursing services" could be met by a psychiatric nurse, and "adequate" could be met by that person being on the premises during the normal working day and not on a 24 hour basis; and that the Division

does have rule making authority in this area and would presumably construct rules along those lines?

014 Joondeph: Responds. Continues with testimony, Exhibit C..

034 Sen. Smith: What would that affirmative agreement be?

036 Joondeph: Responds.

047 Chair Shoemaker: What about the person who cannot make a choice and if there is no surrogate, for whatever reason?

049 Joondeph: Responds.

058 Dick Shoemaker, Administrator: You are not objecting to the diversion, you are just concerned that it not be loosened up in any way?

059 Joondeph: Responds.

061 Chair Shoemaker: Did you say that the bill may not cover the situation of the patient who is incapable of giving consent, doesn't have a

surrogate and his attorney is not his surrogate and so that patient should have to go to court?

066 Joondeph: Responds.

074 Levine: Responds.

080 Joondeph: Continues with testimony.

113 Mike Katz, American Civil Liberties Union: Speaks in opposition to the bill.

202 John McCulley, Oregon Psychiatric Association: Speaks in support of the bill with amendments. Refers to Joseph Bloom's letter, Exhibit D.

#### SB 859 RELATING TO DECLARATION FOR MENTAL HEALTH TREATMENT

240 Bob Joondeph, Oregon Advocacy Center: Speaks in support of the bill, Exhibit E.

323 Sen. Smith: In the course of explaining the document to the person is any attempt required to be made whereby they understand that they may

change their mind and they will not be listened to?

331 Joondeph: Responds. Continues with testimony.

#### TAPE 55, SIDE A

038 Chair Shoemaker: The State cannot empower a person to be treated over their competent refusal even with a court order? 040 Joondeph: Responds.

041 Chair Shoemaker: How much of a practical problem is it to go to court in those situations? Is there a risk to the patient or society from the delay caused by that process?

042 Joondeph: Responds.

049 Chair Shoemaker: Could it delay treatment?

051 Joondeph: Responds.

052 Chair Shoemaker: How serious would that be?

053 Joondeph: Responds.

058 Chair Shoemaker: You don't have a problem with that?

059 Joondeph: Responds.

064 Chair Shoemaker: The bill is on target on this?

065 Joondeph: Responds.

070 Mary Byrkit, Mental Health Consumer: Speaks in support of the bill, Exhibit F.

102 Sandra Millius, Executive Director, Mental Health of Oregon: Speaks in support of the bill, Exhibit G.

127 Ted Falk, Oregon State Bar, Health Law Section: Speaks to the bill, Exhibit H.

166 Joondeph: Responds to Mr. Falk's concerns.

177 Falk: Continues with testimony.

201 John McCulley, Oregon Psychiatric Association: Speaks in support of the bill with amendments. Refers to Dr. Bloom's letter, Exhibit D.

Meeting adjourned at 5:52 p.m.

Submitted by: Reviewed by:

Joan Green  
Administrator

Dick Shoemaker Assistant

EXHIBIT LOG: A - Testimony on SB 580 - Terry - 2 pages B - Testimony on SB 580 - DHR- 10 pages C - Testimony on SB 580 - Joondeph - 3 pages D - Testimony on SB 580 - Bloom - 4 pages E - Testimony on SB 859 - Joondeph - 2 pages F - Testimony on SB 859 - Byrkit - 1 page G - Testimony on SB 859 - Millius - 1 page H - Testimony on SB 859 - Falk - 6 pages I - 580-2 amendments - Staff - 33 pages J - Testimony on SB 580 - DHR- 3 pages K - Testimony on SB 580- Asmann - 1 page L - Chart on SB 580 - Asmann - 1 page