

SENATE COMMITTEE ON HEALTH CARE AND BIO-ETHICS

May 13, 1993 Hearing Room C 3:00 p.m. Tapes 80 - 84

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 798 relating to designation of pharmaceutical
agents in the practice of optometry, WS SB 983 relating to
investigations of practice of

dentistry, WS SB 450 relating to dental hygiene, WS SB 520 relating to
podiatry, PH SB 765 relating to health care; declaring an

emergency, PH SB 1063 relating to lay midwifery, PH/WS

WITNESSES: Betty Reynolds, Executive Director, Oregon Board
of Dentistry Bruce Bishop, Kaiser Permanente Mary Solaris, Midwife Ed
Patterson, Oregon Association of Hospitals Kate Brown, District 13,
Oregon State Representative Kristen Funk-Tracy, Legislative Aide, Rep.
Lisa Naito Kate Davidson, Oregon Midwifery Council Holly Finkelstein,
Midwife Annie Karlson, Citizen Clarebeth Loprinzi-Kassel, Midwife
Jacqueline Zimmer, Consumer Hersh Crawford, Oregon Medical Assistance
Program Lauren Moughen, Women's Rights Coalition Brian DeLashmutt,
Oregon Nurses Association Jim Carlson, Oregon Medical Association Ed
Hoffman-Smith, Board of Naturopathic Examiners Russell Poppe, Attorney
to Dr. Joseph Errico Dr. Joseph Errico, Citizen Tom Taylor, Citizen
Marie Nixon, Citizen Tom Barrows, Oregon Podiatric Medical Association
John Ulwelling, Board of Medical Examiners Jane Myers, Oregon Dental
Association Del Isham, Oregon Dental Hygienist's Association [--- Unable
To Translate Graphic ---]

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 80, SIDE A

006 Chair Shoemaker: Meeting called to order at 3:12 p.m.

WORK SESSION

SB 798 RELATING TO DESIGNATION OF PHARMACEUTICAL AGENTS IN THE
PRACTICE OF OPTOMETRY

Entered for the record fiscal impact statement, Exhibit A.

022 MOTION: CHAIR SHOEMAKER MOVED THAT THE SB 798-2 AMENDMENTS,
EXHIBIT B, BE ADOPTED.

033 Sen. Cohen: I don't see any reference to a mediator until pg. 2,

ln. 5, Exhibit B.

038 Chair Shoemaker: Refers to pg. 1, ln. 16, Exhibit B.

047 VOTE: HEARING NO OBJECTION, SO ORDERED.

054 MOTION: CHAIR SHOEMAKER MOVED SB 798 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION.

055 VOTE: MOTION CARRIED, 3-1. VOTING NO: SEN. COHEN. (EXCUSED: SEN. SMITH). CHAIR SHOEMAKER WILL LEAD THE FLOOR DISCUSSION.

056 Sen. Cohen: Reserves the right to vote yes on the floor.

SB 983 RELATING TO INVESTIGATIONS OF PRACTICE OF DENTISTRY

068 Chair Shoemaker: Reads letter into the record, Exhibit C.

087 Sen. McCoy: It could take a person who really wants to seek redress a year to a year and a half to do so?

099 Chair Shoemaker: The delays are on the part of the licensee; not the Board. This gives the Board 120 days to act after they have received

information from the licensee, if I read this correctly.

103 Sen. McCoy: Do the sponsor's of the bill agree to this?

116 Betty Reynolds, Executive Director, Oregon Board of Dentistry: The order is modeled after a 1991 agreement which is entered into with the

parties interested in the bill. It is our hope it embodies their concerns. The exception is in #7 where the Board, under emergency circumstances, request an additional 60 days.

127 Sen. Hamby: In the worst case scenario how many days could a case like this be extended?

131 Reynolds: Responds.

135 Sen. Hamby: Up to an additional totaling 120 days?

136 Reynolds: Correct.

140 Chair Shoemaker: The delay is at the hands of the licensee, not the Board, correct?

150 Reynolds: Correct.

156 Chair Shoemaker: This does seem to meet the 120 day provision and it would be my inclination to take the Board up on their proposal, see if

they deliver the order as they think they will and hold the bill in Committee.

166 Sen. Hamby: How many public members are on the Board.

171 Reynolds: One.

173 Sen. McCoy: Without adequate input I would be against this. I think it is too long for justice to be dragged on.

175 Chair Shoemaker: It is the same as the bill, which was proposed by the dentists.

SB 450 RELATING TO DENTAL HYGIENE

194 Chair Shoemaker: Refers to the SB 450-5 amendments, Oregon Dental Hygienist's Association, Exhibit D and the SB 450-6 amendments, Oregon

Dental Association, Exhibit E. Agreement was not reached, but the dentists and hygienists have proposed amendments.

207 Del Isham, Oregon Dental Hygienist's Association: Reviews the SB 450 -5 amendments, Exhibit D. Distributes administrative rules, Exhibit F.

249 Chair Shoemaker: What about the part of the SB 450-6 that limits the scope of unsupervised practice that can be permitted?

257 Isham: That is why we are opposed to the SB 450-6 amendment; some of these things are already done in nursing facilities.

281 Chair Shoemaker: Are any of these limitations appropriate?

282 Isham: Some of the limitations are already in the law. The present law is superior to the SB 450-6 amendments.

Entered a memorandum for the record, Exhibit G.

294 Sen. Hamby: We could, as a Committee, reference the rules in statute.

297 Chair Shoemaker: I would rather not do that. You feel the Board is an appropriate body to set these rules?

306 Isham: Responds.

319 Chair Shoemaker: We could amend the SB 450-5 amendments to make it clear that "limitations on practice as composed by rule, adopted by the Board." Would there be objections to that?

325 Isham: No. In the SB 450-6 amendments where it refers to a consulting dentist it is our belief that it is in effect a supervising dentist.

334 Jane Myers, Oregon Dental Association: Reviews the SB 450-6 amendments, Exhibit E. We do not feel a consulting dentist is the same as a

supervising dentist. A supervising dentist must authorize procedures.

We are asking only for a consultation which does not imply to us any type of employment/contractor relationship with the hygienist.

385 Sen. Hamby: Refers to the SB 450-5 amendments, Exhibit D, ln. 13 states ". . . under the general supervision of a dentist . . ."; I'm not

following.

397 Myers: There needs to be a definition of "general supervision".

401 Chair Shoemaker: What would the consulting dentist's role be in a day by day situation?

402 Myers: Responds.

TAPE 81, SIDE A

011 Chair Shoemaker: Does "after consultation with the consulting dentist" mean before the licensed dental hygienist is to practice unsupervised

hygiene they would have to first consult every time?

012 Myers: Responds.

033 Sen. Hamby: Isn't the "general supervision" on ln. 13 of the SB 450 -5 amendments, Exhibit D and nothing here can be done without the full

authorization of the dentist?

044 Myers: Responds.

059 Chair Shoemaker: We would amend that to say "the Board shall authorize by rule the hygienist work without supervision . . .". In those cases

there would not be that supervision.

064 Dick Shoemaker, Administrator: It would establish a fourth category.

067 Sen. Hamby: "Without supervision" needs to be delineated in the original statutes.

070 Barbara Coombs, Administrator: Concurs. Outlines a proposal.

079 Chair Shoemaker: What would be the level of supervision?

079 Sen. Hamby: I hear ODA wanting some level of supervision, but in outlying areas they can without supervision in remote areas as long as

there is the role of the dentist in the authorized procedures.

084 Sen. Cohen: I hear Sen. Hamby discussing a place in between.

089 Sen. Hamby: I'm comfortable with the SB 450-5 amendments; I'm

just trying to meet some of Ms. Myers concerns.

091 Coombs: Is it the location that the Committee wishes to regulate or the patients? Do they need to be limited access patients in a limited

access location?

097 Chair Shoemaker: It probably needs to read ". . . a dental hygienist may work without supervision on limited access patients . . .". We

still need to clarify whether "unsupervised practice on limited access patients" means totally unsupervised or does there still need to be a dentist in the picture in some way.

110 Coombs: There is a dentist in the picture because the hygienist must refer to them annually.

112 MOTION: SEN. McCOY MOVED THE SB 450-5 AMENDMENTS BE ADOPTED.

115 VOTE: MOTION CARRIED 3-1. VOTING NO: SEN. COHEN. (EXCUSED: SEN. SMITH).

128 Coombs: It would read approximately ". . . a dental hygienist under the general supervision of a dentist may engage in the practice of dental

hygiene in any place where limited access patients are located. The Board may authorize unsupervised practice of a hygienist with at least five years of experience and demonstrated competence and upon a showing that the hygienist is covered by professional liability insurance for unsupervised practice. The Board shall authorize by rule the scope of practice of a dental hygienist to work without supervision on limited access patients. Any dental hygienist who engages in unsupervised practice shall refer any patient to a dentist at least annually."

139 Myers: On pg. 2, (4), of the SB 450-5 amendments, Exhibit D is deleted. Why is that deletion necessary?

154 Chair Shoemaker: Reads pgs. 1-2, (4), of the SB 450-5 amendments, Exhibit D. Maybe it is a clearer statement, is there a problem with

that?

170 Myers: Responds.

PUBLIC HEARING

SB 520 RELATING TO PODIATRY 220 Russell Poppe, Attorney to Dr. Joseph Errico: Speaks in support of the bill.

295 Sen. Cohen: Do you represent Podiatric Society and what is their position, do you know?

302 Poppe: Responds.

303 Sen. McCoy: How long has your application been pending?

307 Dr. Joseph Errico, Citizen: Responds.

310 Sen. McCoy: You don't live in the State do you?

313 Errico: No. Speaks in support of the bill. Submits proposed amendments, Exhibit H.

357 Sen. McCoy: Is there a way to appeal to the Board now and have that waived?

362 Errico: There is no provision for that under current law.

365 Sen. McCoy: Has that been requested?

368 Poppe: Responds.

389 Sen. McCoy: Did they send a denial letter?

400 Poppe: Responds.

407 Chair Shoemaker: Are the proposed amendments the same as the SB 520 -1 amendments, Exhibit I.

TAPE 80, SIDE B

013 John Ulwelling, Board of Medical Examiners: Speaks to the bill. The Board takes no position. Opposes the SB 520-1 amendments, Exhibit I, as written.

074 Sen. McCoy: Does the school from which Dr. Errico graduated from still exist?

075 Ulwelling: Responds.

085 Chair Shoemaker: Could you speak to the bill?

098 Ulwelling: Responds.

103 Tom Taylor, Citizen: Speaks in support of the bill.

155 Marie Nixon, Citizen: Speaks to the bill.

184 Tom Barrows, Oregon Podiatric Medical Association: Speaks to the bill and would support the bill, as written. We would oppose the amendments, Exhibit I, as written. 204 Chair Shoemaker: How would you respond to a bill that would permit licensure upon certification by Board's, as designated by the Board

Medical Examiners?

207 Barrows: Responds.

219 Chair Shoemaker: Do you have any sense whether a Board certification from an appropriate Board would be the equivalent of a years residency?

221 Barrows: Responds.

225 Chair Shoemaker: Those particular certifications are not acceptable?

228 Barrows: Responds.

233 Chair Shoemaker: Restates question to Mr. Ulwelling.

247 Ulwelling: Responds.

256 Chair Shoemaker: Requests that the parties work on that idea and the Committee will reschedule the bill.

262 Sen. Cohen: I'm not terribly impressed about making law for single individuals.

267 Chair Shoemaker: If there are other people who find themselves in this situation that might constitute an appropriate equivalent.

PUBLIC HEARING

SB 1063 RELATING TO LAY MIDWIFERY

310 Kate Brown, District 13, Oregon State Representative: Speaks in support of the bill.

350 Jacqueline Zimmer, Consumer: Speaks in support of the bill.

TAPE 81, SIDE B

017 Chair Shoemaker: Requests clarification of the bill.

022 Zimmer: Responds.

034 Kristen Funk-Tracy, Legislative Aide, Rep. Lisa Naito: Speaks in support of the bill, Exhibit L.

088 Kate Davidson, Oregon Midwifery Council: Speaks in support of the bill, Exhibit K.

156 Sen. Hamby: Help me understand the difference between what we currently have operating here in Oregon as midwives versus direct entry?

158 Davidson: Responds.

168 Sen. Hamby: How many midwives are there that have not been trained as nurses?

170 Davidson: Responds.

177 Sen. Hamby: These 50 or so all meet the qualifications noted in 2 of the amended bill?

179 Davidson: Responds.

199 Holly Finkelstein, Midwife: Speaks in support of the bill, Exhibit K.

249 Sen. Hamby: You state basically a zero episiotomy rate. Do you have on hand an episiotomy kit ready at every delivery?

254 Finkelstein: Responds.

256 Sen. Hamby: Please define "assisted"?

258 Davidson: Responds.

267 Finkelstein: Continues with testimony, Exhibit K.

382 Annie Karlson, Citizen: Speaks in support of the bill, Exhibit K.

TAPE 82, SIDE A

053 Davidson: Concludes testimony.

069 Chair Shoemaker: Are you saying the obstetricians you called would not take you because you had a Medicaid card?

073 Davidson: Responds.

074 Chair Shoemaker: You are saying Medicaid patients, at least for this market, are not getting prenatal care?

077 Davidson: Responds.

082 Chair Shoemaker: Could you testify to some of the statistics regarding outcomes?

086 Davidson: Responds.

104 Sen. Hamby: Makes requests of staff for more current statistics and whether midwives are reimbursed by Medicaid and how many nurse midwives are refusing care to mothers wishing a home delivery.

119 Mary Solaris, Midwife: Responds. 129 Chair Shoemaker: You are a direct entry midwife?

131 Solaris: Responds.

139 Clarebeth Loprinzi-Kassel, Midwife: Speaks in support of the bill, Exhibit K.

197 Lauren Moughen, Women's Rights Coalition: Speaks in support of the bill.

230 Hersh Crawford, Oregon Medical Assistance Program: Speaks to the SB 1063-1 amendments, Exhibit N and testimony, Exhibit M.

275 Jim Carlson, Oregon Medical Association: Speaks in opposition to the bill.

296 Chair Shoemaker: How does that relate to whether or not the State should require licensure in order for Medicaid reimbursement?

298 Carlson: Responds.

300 Chair Shoemaker: The question is whether or not this criteria for licensure is adequate to insure that competence will be provided,

correct?

304 Carlson: Responds.

314 Chair Shoemaker: Can you think of anything wrong with voluntary licensure for reimbursement from the State?

318 Carlson: Responds.

350 Chair Shoemaker: In developing a health plan I might say that we would include direct entry midwives within our network, who have been

certified by the State for Medicaid reimbursement. By doing this it would provide an entry standard that those coming into the health plan have passed through a certain gate of qualification. It seems to me it might help us in that regard.

359 Carlson: Responds.

TAPE 83, SIDE A

010 Sen. McCoy: Why not give them the same fee?

013 Carlson: Responds.

016 Sen. McCoy: I think under today's circumstances we are saving money. If we pay across the board the same fee that is just fine.

020 Crawford: Responds.

025 Chair Shoemaker: Would the Oregon Medical Assistance Program (OMAP) under present rules be able to negotiate fees for this class of

providers, which might be different than fees paid to a provider in a hospital delivery.

027 Crawford: Responds.

033 Brian DeLashmutt, Oregon Nurses Association: Speaks in opposition to the bill.

074 Sen. Hamby: That is why I tried to clarify what "assisting" referred to. I too felt the standards were far to lax.

077 DeLashmutt: Responds.

079 Sen. McCoy: Standards are addressed in 3 of the SB 1063-1 amendments, Exhibit N. Aren't standards usually developed by the

Commission,

Council or Board?

091 DeLashmutt: Responds.

120 Ed Hoffman-Smith, Board of Naturopathic Examiners: Speaks in support of the bill, Exhibit O.

168 Chair Shoemaker: I would assume the standards you would impose on direct entry midwives would be virtually the same as those which you

impose upon yourselves?

170 Hoffman-Smith: Responds.

WORK SESSION

180 MOTION: SEN. McCOY MOVED THE SB 1063-1 AMENDMENTS, EXHIBIT O, BE ADOPTED.

186 Barbara Coombs, Administrator: Requests for consistency sake that "direct entry" be substituted for "lay" throughout the amendments.

189 Sen. McCoy: So moved.

193 Chair Shoemaker: I would like to include language to clarify that OMAP has the authority to set reimbursement provisions for direct entry

midwives.

196 Sen. McCoy: Would that be dependent upon what the federal government would say?

197 Chair Shoemaker: I think it is up to OMAP.

199 Sen. McCoy: You mean with all deliveries for everybody; doctors and everyone?

200 Chair Shoemaker: Correct.

204 Sen. McCoy: Concur.

208 VOTE: HEARING NO OBJECTION, SO ORDERED.

SB 450 RELATING TO DENTAL HYGIENE

216 Barbara Coombs, Administrator: Reviews Exhibit J.

226 Chair Shoemaker: Reads amendment into the record.

229 MOTION: CHAIR SHOEMAKER MOVED TO INCLUDE THE CONCEPTUAL AMENDMENTS, EXHIBIT J TO THE SB 450-5 AMENDMENTS, EXHIBIT D.

244 VOTE: HEARING NO OBJECTION, SO ORDERED.

247 MOTION: SEN. HAMBY MOVED SB 450 AS AMENDED TO THE FLOOR WITH A DO PASS RECOMMENDATION.

244 Sen. McCoy: Have the parties reached agreement on this?

255 Chair Shoemaker: No they have not.

259 VOTE: MOTION CARRIED, 3-1. VOTING NO: SEN. SMITH. (EXCUSED: SEN. COHEN). SEN. HAMBY WILL LEAD THE FLOOR DISCUSSION.

259 Sen. McCoy: Reserves the right to change his vote on the floor.

PUBLIC HEARING

SB 765 RELATING TO HEALTH CARE; DECLARING AN EMERGENCY

271 Chair Shoemaker: Clarifies summary.

281 Chad Cheriell, Office of Health Policy, Health Division: Speaks to the bill, Exhibit P.

363 Sen. Hamby: When did radical keratotomy come in?

367 Cheriell: Responds.

371 Sen. Hamby: Is the Eye Surgery Centers chart radial keratotomy?

376 Cheriell: Responds. Continues with testimony, Exhibit P.

420 Sen. Smith: What are the reasons why the prices don't fall in medicine when new capacity exceeds demand?

TAPE 82, SIDE B

010 Cheriell: Responds.

020 Sen. Smith: Is that because the government is involved?

022 Cheriell: Responds.

046 Sen. Smith: I guess the assumption you are relying on is that the things being ordered are not necessary, correct?

050 Cheriell: Responds.

068 Sen. Smith: Does this bill have more application in urban areas than rural areas?

079 Cheriell: Responds.

132 Chair Shoemaker: Why would a 49 bed hospital choose to purchase a Magnetic Resonance Imager (MRI)? Other businesses would not make such

an uneconomical choice.

143 Cheriell: Responds. Continues with testimony, Exhibit P.

254 Chair Shoemaker: Have they cut the prices they charge?

258 Cheriell: Responds.

259 Chair Shoemaker: Users of the service?

263 Cheriell: Responds. Continues with testimony, Exhibit P.

321 Sen. Smith: Arizona is serving some very real needs, although it may have caused some problems. Making some of the services regional could

be beneficial.

335 Cheriell: Responds.

349 Sen. Hamby: Relates a story about an ophthalmologist. I hope we have allowed in the rural areas, especially in our managed health care plans, for a consumer to seek a second opinion.

410 Chair Shoemaker: The certificate of need is intended to force them to prove the need.

TAPE 83, SIDE B

017 Cheriell: Continues with testimony, Exhibit P.

045 Sen. Smith: Speaks from personal experience to having easy access to specialized equipment. How can we provide another standard for rural

areas?

066 Cheriell: Responds.

083 Sen. Smith: Could the same benefit be derived, as opposed to capping the purchase of equipment as with a reimbursement through Medicaid based on a second opinion as to whether these procedures are necessary?

086 Cheriell: Responds. Continues with testimony, Exhibit P. 239
Bruce Bishop, Kaiser Permanente: Speaks in opposition to the bill.

261 Ed Patterson, Oregon Association of Hospitals: Speaks in opposition to the bill, Exhibit Q.

365 Chair Shoemaker: Doesn't it serve as somewhat of an impetus for institutions to cooperate?

376 Patterson: Responds.

396 Bishop: Responds.

429 Chair Shoemaker: I think the existence of that hurdle was a factor in parties being willing to sit down at the table and work things out.

444 Bishop: Responds.

TAPE 84, SIDE A

027 Patterson: Responds. Continues with testimony, Exhibit Q.

WORK SESSION

SB 798 RELATING TO DESIGNATION OF PHARMACEUTICAL AGENTS IN THE PRACTICE OF OPTOMETRY

080 Chair Shoemaker: Recaps testimony on SB 798. Requests Sen. Smith roll call vote be recorded for the record.

095 VOTE: MOTION CARRIED, 4-1. VOTING NO: SEN. COHEN. CHAIR SHOEMAKER WILL LEAD THE FLOOR DISCUSSION.

098 Chair Shoemaker: Continues recap of meeting.

Meeting adjourned at 7:00 p.m.

Submitted by:

Reviewed by:

Joan Green
Administrator

Dick Shoemaker Assistant

EXHIBIT LOG:

A - Fiscal impact statement on SB 798 - Staff - 1 page B - SB 798-2 amendments - Staff - 2 pages C - Letter to SB 983 - Goodman - 3 pages D - SB 450-5 amendments - ODHA - 2 pages E - SB 450-6 amendments - ODA - 2 pages F - Administrative Rules to SB 450 - Isham - 1 page G - Letter to SB 450 - Tipton - 1 page H - Proposed amendments to SB 520 - Errico - 3 pages I - SB 520-1 amendments - Staff - 2 pages J - Proposed amendment to SB 450 - Staff - 1 page K - Testimony to SB 1063 - Davidson - 46 pages L - Testimony to SB 1063 - Naito - 4 page M - Testimony on SB 1063 - Crawford - 1 page N - SB 1063-1 amendments - Staff - 6 pages O - Testimony on SB 1063 - Hoffman - 2 pages P - Testimony on SB 765 - Cheriell - 13 pages Q - Testimony on SB 765 - OAH - 3 pages