

SENATE COMMITTEE ON HEALTH CARE AND BIO-ETHICS

May 27, 1993 Hearing Room C 3:00 p.m. Tapes 93 - 95

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 533 relating to insurance, WS SB 520 relating to
podiatry, WS SB 597 relating to pharmacies, PH/WS

WITNESSES: Mike Dewey, Lane County Pharmacy
Association/Portland Retail Druggist Association/OSPA Ross Dwinell,
United Growers Ron Moore, Pacific Northwest Hardwood and Implement

Dealers Association Gary Weeks, Department of Insurance and Finance
Robert McKellar, Oregon Forest and Products

Transportation Association Craig Urbani, Department of Insurance and
Finance Bruce Bishop, Kaiser Permanente Bill Brooks, Multiple Employer
Welfare Arrangement Lewis Littlehales, Department of Insurance and
Finance Chuck Gress, OSPA Kyle Elwood, OSPA Hazel Jenny, Citizen Jim
Davis, Oregon State Council of Senior

Citizens/United Seniors John Powell, Blue Cross Blue Shield Peggy Anet,
League of Oregon Cities Kevin Earls, Associated Oregon Industries

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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
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TAPE 93, SIDE A

006 Chair Shoemaker: Meeting called to order at 3:26 p.m.

WORK SESSION

SB 533 RELATING TO INSURANCE

019 Lewis Littlehales, Department of Insurance and Finance:
Reviews proposed amendments, Exhibit A.

038 Chair Shoemaker: If we apply SB 1076 to Multiple Employer
Welfare Arrangements (MEWA's) we need to amend ORS 731.026, if we don't
apply

them we don't, correct?

039 Littlehales: If you apply SB 1076 to MEWA's you need to
bring ORS 743.730 back in.

041 Chair Shoemaker: In any case it amends .026 and doesn't amend .032?

042 Littlehales: Responds. Continues with review of amendments, Exhibit A.

047 Chair Shoemaker: It still reads "binder or policy"?

053 Littlehales: Responds. Continues with review of amendments, Exhibit A.

062 Chair Shoemaker: It remains "a trust shall maintain adequate reserves." It makes no reference to capital or surplus?

063 Littlehales: Responds. Continues with review of amendments, pg. 5, 9, Exhibit A.

115 Chair Shoemaker: Reviews the reason for amending ORS 743.730, why doesn't the MEWA want that amendment?

125 Littlehales: Responds. Continues with review of amendments, pg. 9, 25, Exhibit A.

145 Chair Shoemaker: Reviews the two substantive changes that the MEWA's want from Department of Insurance and Finance (DIF). How is the mandate accomplished in the amendments?

153 Littlehales: Responds.

155 Chair Shoemaker: Why didn't DIF reference mandate statutes in the SB 533-2 amendments?

165 Littlehales: Responds.

168 Chair Shoemaker: Is everyone in agreement on these proposed amendments?

170 Littlehales: Responds affirmatively, to the best of his knowledge.

180 Chair Shoemaker: That leaves the Committee the decision on the two issues: 1) whether the MEWA's will be subject to SB 1076, and 2) the

mandates. Requests comment from the MEWA's

185 Bill Brooks, Multiple Employer Welfare Arrangement: Enters handout for the record, Exhibit B.

220 Chair Shoemaker: DIF's argument is that MEWA's are essentially permitted to function like an insurance company; even though they don't meet the requirements of insurance companies. Therefore they should be

subjected to all the rules that apply to insurance companies, correct?

223 Brooks: Responds.

230 Ross Dwinell, United Growers: Speaks in opposition to the

mandates.

246 Chair Shoemaker: Why are you not currently subject to the mandates?

248 Dwinell: Responds.

270 Chair Shoemaker: You are functioning in the State, you are not self-insurers, you are not subject to the ERISA rules, and yet you are

not providing policies that meet the mandates. I still don't understand.

275 Dwinell: Responds.

283 Chair Shoemaker: What about the SB 1076 rules?

276 Dwinell: Responds.

298 Sen. Hamby: Would a MEWA continue to pay for the technology needed by someone at the bottom of the mandated list?

314 Dwinell: Responds.

325 Chair Shoemaker: If you had the situation of not being subject to either SB 1076 or the mandates then you would have no constraints on the limit of the coverage. A MEWA could organize itself to put out a really skinny package couldn't they?

331 Dwinell: Responds.

332 Sen. Hamby: Are there currently MEWA's that offer less?

333 Craig Urbani, Department of Insurance and Finance: We have filings in for SB 1076 from four less than fully insured MEWA's; lists them.

349 Chair Shoemaker: Explain the impact of SB 1076 on insurers who are subject to it?

356 Urbani: Responds.

382 Chair Shoemaker: Under SB 1076 if a small group applicant elects to take an offering other than a SB 1076 plan; does it have to comply with the various requirements?

383 Urbani: Responds.

389 Chair Shoemaker: The only difference is that one of those policies can be the 1076 benefit package; the other policies have to include the

mandated provisions, correct?

390 Urbani: Concur.

391 Chair Shoemaker: Logically if we were to continue the MEWA's, subject to 1076, we could forget about the mandates; at least as it

applies to

small groups within the MEWA. How does that work?

TAPE 94, SIDE A

011 Urbani: Responds.

017 Chair Shoemaker: To have the MEWA's correspond with everyone else we would need both 1076 and the mandates apply, and then they would sort

themselves out, the same as other insurers, correct?

023 Urbani: Concur.

026 Chair Shoemaker: How much of a hardship would that work on existing MEWA's?

032 Ron Moore, Pacific Northwest Hardwood and Implement Dealers Association: Responds.

047 Dwinell: Responds.

082 Chair Shoemaker: If we were to accept your position where would it leave us with future MEWA's?

090 Dwinell: Responds.

097 Chair Shoemaker: What about those that don't currently have insurance, but need to comply with the 1995 mandate?

103 Sen. Smith: Is this seen as an interim step?

105 Dwinell: Responds.

109 Sen. Smith: Perhaps it is a way to get more people on board.

112 Urbani: Responds.

127 MOTION: CHAIR SHOEMAKER MOVED THE CONCEPTUAL AMENDMENT THAT MEWA'S WOULD BE SUBJECT TO 1076 FOR SMALL GROUPS WITHIN A MEWA AND TO THE

OTHER MANDATES FOR THE GROUPS NOT FALLING WITHIN 1076'S SCOPE.

131 Sen. McCoy: That would not include the amendments?

133 Chair Shoemaker: No it would amend the amendments. 140 Bruce Bishop, Kaiser Permanente: Speaks to his concern of the affects of this kind of approach to SB 1076.

156 Sen. Hamby: Have you explored further kinds of options, for example grandfathering in existing MEWA's?

162 Bishop: Responds. We would request that unless MEWA's are subject to all the requirements of SB 1076 that they not be allowed to participate in the reinsurance program established under that law. Speaks to the

high risk pool assessments and MEWA's being exempt from this requirement.

187 Chair Shoemaker: My amendments would not cover that would they?

192 Bishop: No.

195 Chair Shoemaker: Have you examined 19 of the bill?

203 Bishop: No.

205 Chair Shoemaker: Do we have a list that shows what provisions of the insurance code MEWA's would not be subjected to?

215 Sen. Smith: How large a part of the market are we talking about?

218 Chair Shoemaker: Responds.

219 Gary Weeks, Department of Insurance and Finance: Distributes list, Exhibit C.

235 Chair Shoemaker: Requests Mr. Weeks discuss some of the more significant requirements that MEWA's are not subject to?

243 Weeks: Responds.

250 Littlehales: Discusses the process for making the list, Exhibit C. One that was taken out was the Oregon Medical Insurance Pool.

263 Sen. Smith: What will the conceptual amendment do?

269 Weeks: Responds.

278 Chair Shoemaker: What about the mandate piece, is there any sense how that would impact them?

283 Weeks: Responds.

301 Chair Shoemaker: Requests response on these issues from the Committee.

306 Sen. Smith: It is not good policy to have two standards. The existing MEWA's are acting responsibly, but a significant hole could be created. I'm torn.

317 Sen. Hamby: The witnesses from the MEWA's have helped you draft the amendment?

328 Weeks: Responds.

329 Sen. McCoy: What are those policy issues again?

330 Weeks: Should the MEWA's continue to be subject to SB 1076 mandates, which they currently are, and should they be subject to mandates that

other insurers are currently subject to under the code.

340 Chair Shoemaker: Clarifies.

373 Sen. McCoy: Current MEWA's are offering the 1076 plan?

376 Weeks: Responds.

412 Sen. Cohen: Supports Chair's position.

TAPE 93, SIDE B

019 Bishop: Continues with testimony.

023 Chair Shoemaker: Does this bear on the mandate?

025 Bishop: No.

028 Robert McKellar, Oregon Forest and Products Transportation Association: Addresses prior question about putting existing MEWA's out of service

and presents background and history of this legislation.

089 Chair Shoemaker: Updates Sen. Cohen on testimony heard earlier today.

095 Sen. Cohen: Refers to work on SB 1076 last session. I don't want this kind of loophole available.

115 VOTE: MOTION CARRIED, 5-0.

118 Bishop: I'm not sure of the affect of 7 on an organization that is formed out-of-state. There may be a possibility that out-of-state

arrangements that can't operate legally in their states will somehow be able to come into Oregon and qualify.

131 Littlehales: Clarifies intent of 7.

150 Bishop: If it is not authorized to do business in that state is its only requirement to obtain a license in Oregon and it is legitimate?

156 Littlehales: My intention was that if it is not properly authorized in its home state that it can't do business in this state. The last

sentence is intended to say that. Perhaps it needs tightening.

161 Chair Shoemaker: I think it is covered. If it is not adequately covered it can be fixed on the House side.

172 Bishop: Refers to 14 (b); this is a significant departure from the law that applies to health care service contractors. Refers to 17 and the

taxation issue.

207 Chair Shoemaker: I don't understand the problem.

214 Bishop: I don't think the language is necessary.

219 Littlehales: Clarifies reason for the provision.

230 Sen. Cohen: I don't know why it raises a red flag if everybody is taxed equally.

235 Chair Shoemaker: How does this make anything worse?

238 Bishop: I'm not sure.

252 MOTION: CHAIR SHOEMAKER MOVED THAT THE PROPOSED AMENDMENTS, EXHIBIT A BE ADOPTED.

260 VOTE: HEARING NO OBJECTION, SO ORDERED.

264 MOTION: CHAIR SHOEMAKER MOVED SB 533, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

268 Chair Shoemaker: We have advice from the Insurance Department that they will attempt to handle this bill as an act without new resources so we

will withdraw the fiscal impact. If we determine there are more MEWA's than anticipated then they would need to come back and ask for assistance.

273 VOTE: MOTION CARRIED, 4-0. (EXCUSED: SEN. McCOY).

SB 520 RELATING TO PODIATRY

304 Dick Shoemaker, Administrator: Reviews the hand-engrossed SB 520 -2 amendments, Exhibit D. The Board of Medical Examiners are strongly

opposed to the bracketed language on pg. 1.

338 Chair Shoemaker: The amendments on pg. 2 are in a House bill which is in the Commerce Committee. We checked with the Chair of that Committee

to see if he would oppose our putting that bill into this bill and he did not.

345 MOTION: SEN. HAMBY MOVED THE DELETIONS INDICATED ON LINES 10-13 OF THE SB 520-2 AMENDMENTS, EXHIBIT D.

354 VOTE: HEARING NO OBJECTION, SO ORDERED.

358 MOTION: SEN. HAMBY MOVED THAT THE SB 520-2 AMENDMENTS, EXHIBIT D BE ADOPTED.

359 VOTE: HEARING NO OBJECTION, SO ORDERED.

360 MOTION: SEN. HAMBY MOVED SB 520, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

361 VOTE: MOTION CARRIED, 4-0. (SEN. McCOY EXCUSED).

PUBLIC HEARING

SB 597 RELATING TO PHARMACIES

375 Chair Shoemaker: The bill, in its original form, is not acceptable to the Chair or to most of the Committee. There are amendments proposed to the bill, Exhibit E, and I would like the hearing to be addressed to

those amendments.

392 Mike Dewey, Lane County Pharmacy Association/Portland Retail Druggist Association/OSPA: Speaks in support of the bill, as amended by SB

597-A2 amendments, Exhibit E.

TAPE 94, SIDE B

015 Dewey: Continues with testimony.

045 Chuck Gress, OSPA: Speaks in support of the bill, as amended.

063 Kyle Elwood, OSPA: Speaks in support of the bill.

074 Dewey: Adds to testimony.

087 Hazel Jenny, Citizen: Speaks in support of the bill, Exhibit F.

138 Sen. Smith: Shows the witness mail that has been received by Committee members.

151 Jim Davis, Oregon State Council of Senior Citizens/United Seniors: Speaks in support of the bill. Speaks to the amendment as being

acceptable, if it is the only option available to move the bill.

215 Sen. Smith: For the record I intended to vote for the bill its original form and will vote for it in its amended form. I do take issue in that

I believe there will be a net cost increase. I have chosen to vote for access even though it will come at an increased cost.

228 Davis: Responds.

242 Chair Shoemaker: I think this bill will allow for the marketplace to sort itself out so that both access and price are achievable goals.

249 Davis: Responds.

254 Chair Shoemaker: Cites the problem, from his point of view, with the original bill.

279 John Powell, Blue Cross Blue Shield: Speaks in opposition to the bill. Dave Fiskum, Sisters of Providence, requested I enter his

opposition for the record.

337 Sen. Smith: Agrees with the net cost increase in providing access. I think the freedom of contract in your entire field is in great jeopardy as we look at the future.

350 Powell: Responds.

400 Peggy Anet, League of Oregon Cities: Speaks in opposition to the bill, Exhibit H.

TAPE 95, SIDE A

020 Chair Shoemaker: Discusses the notification required by the amendment; I don't understand the problem.

026 Anet: Responds.

034 Chair Shoemaker: Proposes that notification be accomplished through a central agency rather than through publication.

051 Anet: Responds to Sen. Smith's earlier comments.

059 Bruce Bishop, Kaiser Permanente: Speaks in opposition to the bill.

091 Chair Shoemaker: Would one letter be an overwhelming administrative cost?

095 Bishop: Responds. Continues with testimony.

118 Sen. Hamby: How do you ship now and how are those costs passed on?

121 Bishop: Responds.

124 Sen. Hamby: The amendments clearly state that every pharmacy in the area must be notified.

WORK SESSION

127 MOTION: CHAIR SHOEMAKER MOVED THAT THE SB 597-2 AMENDMENTS, EXHIBIT E, BE ADOPTED.

128 VOTE: HEARING NO OBJECTION, SO ORDERED.

PUBLIC HEARING 135 Kevin Earls, Associated Oregon Industries: Speaks in opposition to the bill and the proposed amendments, Exhibit G.

159 Chair Shoemaker: If the OSPA could demonstrate that they can deliver as well as, or better than the chain, and the only obligation is one letter what is the objection?

173 Earls: Responds.

Meeting adjourned at 5:34 p.m.

Submitted by:

Reviewed by:

Joan Green
Administrator

Dick Shoemaker Assistant

EXHIBIT LOG:

A - Proposed amendments to SB 533 - DIF - 10 pages B - Handout to SB
533 - Brooks - 1 page C - MEWA ORS references to SB 533 - DIF - 2 pages
D - SB 520-2 amendments - Staff - 2 pages E - SB 597-A2 amendments -
Staff - 2 pages F - Testimony on SB 597 - Jenny - 1 page G - Testimony
on SB 597 - Earls - 1 page H - Testimony on SB 597 - LOC - 12 pages