

SENATE COMMITTEE ON HEALTH CARE AND BIO-ETHICS

June 10, 1993      Hearing Room C 3:00 p.m.      Tapes 99 - 100

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:      HB 3472 relating to generic drugs, WS HB 2589  
relating to bodily parts, PH/WS HB 2760 relating to naturopathic  
physicians, PH

WITNESSES:            Kyle Elwood, Oregon State Pharmaceutical  
Association Jim Gardner, Pharmaceutical Manufacturers Association Burrell  
Babb, Lions Eye Bank Scott Gallant, Oregon Medical Association Dell  
Isham, Oregon Association of Naturopathic

Physicians Dr. Aris Campbell, Oregon Association of Naturopathic  
Physicians Hersh Crawford, Oregon Medical Assistance Program Don  
Walker, Oregon Association of Naturopathic

Physicians Chuck Gress, Executive Director, Oregon State

Pharmaceutical Association

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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 99, SIDE A

006 Chair Shoemaker: Meeting called to order at 3:14 p.m.

WORK SESSION

HB 3472 RELATING TO GENERIC DRUGS

010 MOTION: SEN. HAMBY MOVED TO BRING HB 3472 BACK TO THE TABLE FOR  
THE COMMITTEE'S CONSIDERATION.

014 Sen. Cohen: Speaks to HB 3472-A3 engrossed amendments, Exhibit A.  
I'm not in support of the amendments and will be a no vote.

026 Sen. Hamby: I felt in fairness to all of the players we should  
allow time to the group for the discussion of new language.

032 Chair Shoemaker: Concurs with Sen. Hamby. We may have dispatched  
this without appropriate consideration to all points of view.

041 Sen. Smith: Concurs with Sen. Hamby and Chair Shoemaker.

044 Sen. McCoy: I thought both sides had agreed on the language of the bill.

045 Chair Shoemaker: Responds. This language does not have any agreement. It is a proposal by the pharmacists and does not have a sign-off by the others who are affected.

048 VOTE: MOTION CARRIED, 4-1. VOTING NO: SEN. COHEN.

059 Kyle Elwood, Oregon State Pharmaceutical Association: Speaks to the bill.

072 Chair Shoemaker: Requests that Mr. Elwood address the amendments to the bill.

087 Chuck Gress, Executive Director, Oregon State Pharmaceutical Association: Reviews the HB 3472-A2 and hand-engrossed 3472-A3

amendments, Exhibit A. Distributes testimony, Exhibit B.

109 Sen. Cohen: Under what circumstances would you choose to change to a liquid form?

113 Gress: Responds.

119 Elwood: Responds.

127 Chair Shoemaker: Should the language be limited to those circumstances where the prescribed dosage is inappropriate?

133 Elwood: Responds.

149 Sen. McCoy: Are there cases where the brand name is in both solid and liquid forms?

151 Elwood: Responds.

155 Sen. McCoy: Both of those have the same contents?

156 Elwood: Responds.

160 Sen. McCoy: Are you going to limit or is it implied that the substitution be the same brand?

163 Elwood: Responds.

168 Sen. McCoy: When the physician prescribes a drug does he specify no substitution or does he leave that to the pharmacist's discretion?

177 Elwood: Responds.

178 Sen. McCoy: For the record; this bill is not for the purpose of economy on the part of the pharmacist is it?

187 Gress: No. It is not the purpose of the bill to allow the pharmacist to make money. The essence of this bill is to get the medication to the patient so the patient can start taking it.

200 Chair Shoemaker: If a prescription comes in for tablets and all the pharmacist has is liquid would the pharmacist arbitrarily change from

tablets to liquid to make the sale?

209 Gress: Responds.

213 Sen. Hamby: Is the dose and the dose schedule identical between the emulsion and the tablet of your example? Would this be true of any

other prescription?

224 Elwood: Responds.

233 Gress: Refers Committee to the handout, Exhibit B.

256 Elwood: Refers Committee to pg. 5 of Exhibit B.

265 Sen. Hamby: Refers to handwritten material on pg. 4, "Whenever oral diazepam 5 mg 3 times a day would be considered appropriate dosage, one 15 mg sustained release capsule daily may be used.", Exhibit B.

References language on pg. 1, lns. 23-24 of the amendments, Exhibit A.

The amendment language does not allow for that.

291 Elwood: Responds.

292 Sen. Cohen: When you talk about the bill not allowing that you mean the amendments? The bill would have allowed that.

294 Elwood: Responds.

301 Sen. Hamby: Most of the references are not appropriate to the new language?

307 Elwood: Responds.

310 Sen. Hamby: References pg. 6, handwritten notes, Exhibit B. You mentioned capsules and no differentiation in dosing. Please explain.

312 Elwood: Responds.

333 Gress: The Board of Pharmacy is in concurrence with the new language.

346 Scott Gallant, Oregon Medical Association: Speaks to the amendments.

390 Chair Shoemaker: I would not think a physician could be held liable for a substitution made by a pharmacist when he could not be reached for

consultation.

406 Gallant: Responds. Continues with testimony.

TAPE 100, SIDE A

039 Chair Shoemaker: Wouldn't doctors, if the bill were passed, note "no substitution" in cases where they would not want changes made?

052 Gallant: Responds. Continues with testimony. Requests the opportunity to present the amendments to Oregon Medical Association's (OMA) counsel and return to the Committee with suggested changes.

077 Sen. Hamby: References ln. 24 of the amendments, Exhibit A. "Dose schedule" is clearly stated and I don't know of any pharmacist who would change a QID to a time-release QID.

089 Barbara Coombs, Administrator: Specifically requests that 's 10 and 11 be reviewed by OMA's counsel.

097 Jim Gardner, Pharmaceutical Manufactures Association: Speaks to the bill, as amended.

125 Sen. Smith: Is a pharmacist's training inadequate to allow him to understand the difference as well as a doctor would?

126 Gardner: Responds. Continues with testimony.

145 Chair Shoemaker: Requests the bill be brought back before the Committee next Thursday.

PUBLIC HEARING

HB 2589 RELATING TO BODILY PARTS

161 Barbara Coombs, Administrator: This bill addresses the donee's ability to accept, but leaves intact the higher priority family members ability to stop the gift. The donee may receive the gift, but the donor, under

1 (2) no longer has the authority to give it because a higher priority person has objected.

213 Sen. Smith: Why wouldn't the donor's wishes override every other consideration?

215 Chair Shoemaker: I think often the case is that the donor did not indicate prior to death his wishes and the family makes the decision.

220 Sen. Smith: Surely a donor's expressed wishes would override everything, would it not?

220 Coombs: Actually not. If there is actual notice of opposition then that does override the decedent's stated wishes.

226 Chair Shoemaker: What are the rights of a family member to override a donor's wishes? 229 Coombs: Responds.

231 Chair Shoemaker: I see nothing in this law that would allow a family member to override a donor's decision to have his organs

harvested.

237 Coombs: The problem is the decedent is not in the prioritized list.

231 Chair Shoemaker: Walks through 1 (2) and (3) of the bill. The language could overcome the decedent under the present law?

250 Coombs: As I understand it nothing in the statute gives the decedent authority to override survivors. It was the transplant community's

thought that even if they had the statutory authority to override family members they probably would not exercise it.

270 Chair Shoemaker: This bill would change existing law to say that in effect, only if the donee knows that the decedent did not want to make

the gift, would they be bound to not accept the gift.

281 Burrell Babb, Lions Eye Bank: Speaks in support of the bill.

312 Coombs: The problem with the statute is it does not identify the decedent as the donor. It is very byzantine. The decedent himself is

not given a right in the statute.

326 Chair Shoemaker: The decedent is addressed in (1); the family could grant a part under (2); and (3) removes the rescission of the grant.

346 Coombs: It is not clear that (2) should be a default if (1) doesn't take place. The practical effect is family members have their wishes

observed irrespective of whether or not the decedent might have wished to make a donation.

361 Chair Shoemaker: Do we want to let family members revoke a gift either made by the decedent or by another member of the family? Present law

permits that and this would remove that.

371 General concurrence to pass the bill.

374 Dick Shoemaker, Administrator: Would it help to specify that the highest person on the list is the decedent?

383 Chair Shoemaker: Reviews what the present law allows. Why not let the transplant go ahead if the gift has been made?

392 Burrell: Our purpose was to clarify the priority list.

TAPE 99, SIDE B

013 Chair Shoemaker: I think the bill, for the most part, accomplishes your goals.

WORK SESSION 020 MOTION: SEN. SMITH MOVED HB 2589 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

025 VOTE: MOTION CARRIED, 4-0. (EXCUSED: SEN. McCOY). SEN. SMITH WILL LEAD THE FLOOR DISCUSSION.

PUBLIC HEARING

HB 2760 RELATING TO NATUROPATHIC PHYSICIANS

032 Dell Isham, Oregon Association of Naturopathic Physicians: Speaks in support of the bill, Exhibit C.

063 Dr. Aris Campbell, Oregon Association of Naturopathic Physicians: Speaks in support of the bill, Exhibit D.

115 Scott Gallant, Oregon Medical Association: Speaks to the bill.

125 Sen. Hamby: Of the sixteen therapies surveyed in the New York Times article, Exhibit C, weight loss programs and self-help groups were

included.

160 Gallant: Responds.

164 Sen. Hamby: Did you reference the 01/28/93 New York Times article?

175 Gallant: Responds.

176 Chair Shoemaker: As I read this it would leave the decision to Oregon Medical Assistance Program (OMAP) about services that are required.

194 Gallant: Responds.

214 Sen. Hamby: Isn't there a lower charge to the State for a person who chooses to deliver with a naturopathic obstetrician at home then for a

delivery by a physician in a hospital setting?

228 Gallant: Responds.

230 Chair Shoemaker: A fiscal impact statement is coming.

238 Hersh Crawford, Oregon Medical Assistance Program: Speaks to the bill, Exhibit E.

250 Chair Shoemaker: Is that a standard of medical necessity?

251 Crawford: Responds.

259 Chair Shoemaker: Would that include Homeopathic?

260 Crawford: Responds. Continues with testimony. 280 Sen. McCoy: Does the medicaid money from the federal government come on the basis that it is only for physicians or do you just get the service?

283 Crawford: Responds.

307 Sen. McCoy: If a naturopath delivers a service and the bill is submitted to OMAP how could you refuse them, as opposed to a medical

doctor?

313 Crawford: Responds. Continues with testimony.

338 Sen. McCoy: If you have the same administrative setup why would there be an increased cost?

339 Crawford: Responds.

350 Dick Shoemaker, Administrator: Won't a medicaid patient go to an M.D., if they know that a naturopath won't be reimbursed; so the service is

paid for anyway?

357 Crawford: Responds.

385 Chair Shoemaker: Isn't the fiscal impact a small figure within the budget of medicaid?

390 Crawford: Responds.

394 Chair Shoemaker: Why is there presently a difference in compensation to an allopathic and a naturopathic?

TAPE 100, SIDE B

006 Crawford: Responds.

014 Sen. Cohen: How are nurse practitioners, chiropractors and physicians assistants reimbursed with respect to the fee codes?

018 Crawford: Responds.

026 Sen. McCoy: If a person is licensed in the State to practice a medical procedure couldn't the State reimburse at the same rate; or is something written into federal regulations prohibiting that?

034 Crawford: Responds.

036 Sen. McCoy: If a naturopath were added you would get the same match as you do for a physician, etc.?

042 Crawford: Responds.

045 Shoemaker: Is reimbursing a naturopath strictly an economical decision by OMAP to cut costs by eliminating optional services; and if so could

you please address that?

057 Crawford: Responds.

058 Shoemaker: A naturopath will not be reimbursed, even though they are as well qualified as other practitioners to perform services, simply

because you don't have too?

058 Crawford: Concurs.

070 Don Walker, Oregon Association of Naturopathic Physicians: Speaks in support of the bill, Exhibit F.

116 Chair Shoemaker: Naturopathic physicians do have some treatments that are quite different from allopathic physicians. Under the bill and

prior testimony would homeopathic services be covered by medicaid?

117 Walker: Responds.

147 Barbara Coombs: Does this bill have any affect on OMAP's contracts with closed panel HMO's?

152 Crawford: Responds.

155 Coombs: Would this bill expand the number of services or types of services for which OMAP will reimburse and if so why is that?

161 Crawford: Responds.

171 Sen. Cohen: Your budget would be increased regardless of utilization if you had a 10% increase in the reimbursement cost, correct?

182 Crawford: Responds.

191 Chair Shoemaker: If we were to go with the bill would you have proposed amendments?

196 Crawford: Responds.

Meeting adjourned at 4:53 p.m.

Submitted by:

Reviewed by:

Joan Green  
Administrator

Dick Shoemaker Assistant

#### EXHIBIT LOG:

A - HB 3472-A2 and -A3 hand-engrossed amendments - Staff - 3 pages B - Testimony on HB 3472 - Gress - 12 pages C - Testimony on HB 2760 - Isham - 4 pages D - Testimony on HB 2760 - Campbell - 2 pages E - Testimony on HB 2760 - Crawford - 1 page F - Testimony on HB 2760 - Walker - 2 pages