

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.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS SUBCOMMITTEE NO. 2

May 14, 1991
P.M.

Hearing Room F 3:00
Tapes 18 - 19

MEMBERS PRESENT: Rep. Beverly Stein, Chair Rep. Carolyn Oakley Rep.
Hedy Rijken Rep. John Schoon

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta
Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2007 WS SB 635 PH SB 789 PH & WS

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.

TAPE 18, SIDE A

010 CHAIR STEIN calls the meeting to order at 3:07 p.m. and opens the
work session on HB 2007.

HB 2007 - REQUIRES RECORD CLUB OR BOOK CLUB TO ALLOW CUSTOMER TO VOID
CONTRACT WITH RECORD CLUB OR BOOK CLUB IF CUSTOMER PAYS 10 PERCENT OF
AMOUNT DUE ON CONTRACT. Witnesses: David Crowell, Legislative Aide to
Rep. Larry Campbell Ted Reutlinger, Legislative Counsel

007 DAVID CROWELL, Legislative Aide to Rep. Larry Campbell: In the
original bill there was concern with the ability to change the law and
impact people's and companies' ability to enter contractual obligations.
Ted Reutlinger, with our policy guidance, has prepared the HB 2007-1
amendments (EXHIBIT A). The amendments require a notice in the contract
up front to the potential consumers that they can cancel the contract at
any point by paying 10 percent of the remaining balance of the contract.
The amendments also prohibit the use of a negative option plan.

050 Issues discussed: >Accountability of person signing contract. >The
purpose behind the bill is to prevent the record and book clubs from
providing the incentive up front and tries to balance the playing field.

>There are a number of young folks who have trouble with this incredible
enticement and instant satisfaction. It is not fraud, but it is weighted
and marketed in favor of the company that is marketing it.

CHAIR STEIN: There are FTC rules that govern this. How does this bill
jive with the FTC rules?

096 TED REUTLINGER, Legislative Counsel: The FTC rules define "negative option plan," requires certain disclosures in the contract and also describes various requirements for how the plan is administered between the buyer and the seller. There are specific provisions speaking to whether or not federal provision would preempt state laws. There is nothing in the rules or laws that speaks to negative option plans. I spoke with the Legal Department at the Federal Trade Commission. It was their opinion this bill would not run into federal preemption problems. It was their opinion this would be okay.

Issue discussed: >Ability to return product. >Information is not provided in the contract that merchandise may be returned.

147 CHAIR STEIN closes the work session on HB 2007 and opens the public hearing on SB 635.

(Tape 18, Side A) SB 635 A-ENG. - REQUIRES INSURER THAT OFFERS RESTRICTED ACCESS HEALTH INSURANCE POLICY TO INCLUDE ACCREDITED OSTEOPATHIC TRAINING HOSPITAL IN COVERAGE AT NO ADDITIONAL PREMIUM. Witnesses: Senator Shirley Gold Rep. Judy Bauman Sen. Bill Kennemer Dave Fiskum, Sisters of Providence Mary McWilliams, Sisters of Providence Jeff Heatherington, Osteopathic Physicians and Surgeons of Oregon Ken Giles, Eastmoreland Hospital Arthur Rott, Eastmoreland Hospital John Powell, Blue Cross/Blue Shield of Oregon Bruce Bishop, Kaiser Permanente Roger Martin, PACC, Pacific Hospital and Select Care of Eugene, Rogue Valley Physicians Service, Medford and Klamath Medical Center, Klamath Falls

The Senate Staff Measure Summary, Legislative Fiscal Analysis and Revenue Impact Analysis is hereby made a part of these minutes (EXHIBIT B).

151 SENATOR SHIRLEY GOLD: I am in support of SB 635 and carried it in Senate. I personally care about this bill and hope you will feel the same way. The purpose is to require inclusion of an osteopathic hospital in the coverage provided by an insurer offering a restricted access health insurance policy of maintenance organizations and preferred provider organizations. There are disclaimers, loopholes, in the bill that speak to the need for the Eastmoreland Hospital to be competitive and if they were not competitive in their insurance applications, the mandate wouldn't apply. It is not as if we would be placing a mandate that would favor Eastmoreland, but more giving the opportunity to be included. At the present time, from the best I can personally determine, Eastmoreland is discriminated against.

Eastmoreland trains the vast majority of osteopathic medicine in Oregon. They need to be able to pursue their endeavor. It is important for rural areas where there is not enough medical expertise. I could have brought a folder that named communities that benefits from Eastmoreland training. It is important this bill pass not only so the area I represent has a family practice hospital but also because of the training and physicians that emanate all over the state as a result of the training ground.

218 REP. JUDY BAUMAN: There are no hospitals in House District 13. Eastmoreland is the closest hospital to our home. I am aware there is a certain amount of prejudices within the medical community, but I can't tell the difference in the quality of care. As a member of my community, it is reassuring to have such a quality health care facility located close enough to be available in emergency cases.

Were the bill not to pass I would be concerned that the existence of the facility would be jeopardized.

267 SEN. BILL KENNEMER: We are talking about the life of a small

hospital and I would encourage you to do one for the little folks. Eastmoreland deals with one percent of patient care in the Portland area. I think it is about collusion and anti-trust and about what is happening in large hospitals controlled by HMO's and excluding people. Eastmoreland is small, a little over 100 beds, fully accredited and is a certified teaching hospital and it is the only teaching hospital for osteopathic physicians who primarily practice in family practice. I think the teaching function is one we want to preserve.

The bill is straight forward. Some are saying what if the hospital goes down. If it loses certification, we have all kinds of agencies to verify it is a quality hospital, no insurance company has to reimburse it. Some people say you are going to allow these people to get in and foul up our ability to bid and compete. This bill says in order to be reimbursed, Eastmoreland must meet or beat the prices. If they can't do that, they can't bill for anything more.

334 REP. OAKLEY: I understand there is a lawsuit pending in regard to this matter. Why are we getting the Legislature involved when it is in the court system?

334 SEN. KENNEMER: In general, to get a court decision promptly isn't very likely. If it drags on we won't see relief for a long time. I think from a legislative perspective you can separate the issue. The issue is this hospital is being forced out of business under the way the current insurance companies are operating. If we don't do something immediately, I think they will be gone.

354 REP. OAKLEY: I understand they were offered a statewide HMO type organization and they refused it. Are you aware of that?

SEN. KENNEMER: I don't know.

374 DAVE FISKUM, Sisters of Providence, introduces Mary McWilliams. We are here to express our opposition to SB 635 which would require us as a health maintenance organization to contract with Eastmoreland Hospital.

388 MARY McWILLIAMS, Sisters of Providence, submits a prepared statement, article from Wall Street Journal and Health System Review. She reads her prepared statement in opposition to SB 635 (EXHIBIT C).

TAPE 19, SIDE A

MS. McWILLIAMS continues reading her prepared statement.

Issues discussed: >Hospitals contracted with Sisters of Providence.

091 JEFF HEATHERINGTON, Executive Director, Osteopathic Physicians and Surgeons of Oregon, Inc., introduces Ken Giles, Administrator, Eastmoreland Hospital and Dr. Arthur Rott, submits and reads a prepared statement in support of SB 635 A-Eng. (EXHIBIT D).

264 This bill prevents what we believe is a concerted effort to close the hospital. This bill gives us the ability to tell the physicians they can bring their patients to us. Eastmoreland Hospital has operated in the black for the last 10 years. There are two exceptions to that, one in 1987 and one 1989. Those were because of the parent corporation making surcharges on the hospital which showed it at an operating loss. It can continue to operate at a smaller patient level. With the training program, we need a certain volume of patients to keep the program function.

The remedies in the lawsuit are different than they are in the bill. The remedies in the lawsuit provide for monetary damages and would enjoin the companies from further anti-trust. It wouldn't do anything

to secure contracts; that is what this bill does.

Osteopathic physicians and hospital have continuously shown to be the most effective cost containment. It is managed care system.

Issues discussed: >Outpatient care at Eastmoreland. >Reason for eliminating Kaiser from the bill. >Eastmoreland was not offered a HMO or PPO contract.

339 REP. SCHOON: Who is the parent organization?

342 KEN GILES, Director, Eastmoreland: It is American Health Care Management from Philadelphia. They are not osteopathic. They own 17 hospitals nationwide.

Issues discussed: >Competition.

378 CHAIR STEIN: How much teaching must be done in order to be considered a teaching hospital?

TAPE 18, SIDE B

007 DR. ARTHUR ROTT, Teacher, Eastmoreland Hospital: No absolute number will make a hospital a teaching hospital.

032 JOHN POWELL, Blue Cross-Blue Shield of Oregon: The bill would allow one provider in the Portland area to match prices and be automatically included in the preferred provider network and excluding Keizer. If this bill passes, who is next?

He reviews the lists included in Mr. Heatherington's testimony and points out differences from previous testimony given and refutes testimony.

Issues discussed: >Blue Cross-Blue Shield contracts. >Whether Eastmoreland was offered a statewide HMO.

202 BRUCE BISHOP, Kaiser Permanente, submits and paraphrases a prepared statement in opposition to SB 635 (EXHIBIT E).

292 ROGER MARTIN, PACC, Pacific Hospital and Select Care of Eugene, Rogue Valley Physicians Service, Medford and Klamath Medical Center, Klamath Falls: All of my clients oppose this bill. He refers to and refutes testimony given by Mr. Heatherington in regards to PACC information.

If it should be the policy of this Legislature that we should do something to help maintain a training hospital for osteopathic physicians, then that is an issue that ought to be taken up separate from requiring insurers to do it.

Issues discussed: >Extent to which Eastmoreland is included in PPO's and HMO's. >If patients go to Eastmoreland, they pay a higher deductible. >After lawsuit was filed, Blue Cross made offer to include Eastmoreland in their PPO.

TAPE 19, SIDE B

024 CHAIR STEIN closes the public hearing on SB 635 and opens the public hearing on SB 789.

SB 789 A-ENG. - AUTHORIZES COMBINED ASSESSMENT FOR MEDICAL INSURANCE POOL OF INSURERS THROUGH END OF BIENNIUM IN WHICH REINSURERS BECOME EXEMPT FROM ASSESSMENT. Witnesses: Jim Swenson, Insurance Division and

Chair, Oregon Medical Insurance Pool Bruce Bishop, Kaiser Permanente
David Houck, American Diabetes Association

030 MR. CONNOLLY reviews the Senate Staff Measure Summary (EXHIBIT F).

The Legislative Fiscal Analysis and Revenue Impact Analysis are hereby
made a part of these minutes (EXHIBIT G).

045 JIM SWENSON, Administrator, Insurance Division, and Chair, Oregon
Medical Insurance Pool, submits and reviews outline of testimony and
enrollment data in the Oregon Medical Insurance Pool (EXHIBIT H).

152 BRUCE BISHOP, Kaiser Permanente, submits and paraphrases a prepared
statement in opposition to SB 789 (EXHIBIT I).

275 DAVID HOUCK, American Diabetes Association, submits and summarizes a
prepared statement in support of SB 789 (EXHIBIT J).

363 CHAIR STEIN closes the public hearing and opens the work session on
SB 789 A-Eng.

364 MOTION: REP. RIJKEN moves that SB 789 A-Eng. be sent to the full
committee with a DO PASS recommendation.

370 VOTE: In a roll call vote, all members present vote AYE. REP.
OAKLEY is EXCUSED.

374 CHAIR STEIN declares the motion PASSED and the meeting adjourned at
approximately 5:00 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly AssistantAdministrator

EXHIBIT SUMMARY

A -HB 2007, HB 2007-1 amendments, David Crowell B -SB 635, Senate Staff
Measure Summary, Legislative Fiscal Analysis and Revenue Impact Analysis
C -SB 635, prepared statement, article from Wall Street Journal and
Health System Review, Mary McWilliams D -SB 635, prepared statement,
Jeff Heatherington E -SB 635, prepared statement, Bruce Bishop F -SB
635, Senate Staff Measure Summary, staff G -SB 635, Legislative Fiscal
Analysis and Revenue Impact Analysis H -SB 789, outline of testimony,
Jim Swenson I -SB 789, prepared statement, Bruce Bishop J -SB 789,
prepared statement, David Houck