

House Committee on Human Resources May 24, 1991 - Page

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HOUSE COMMITTEE ON HUMAN RESOURCES

May 24, 1991Hearing Room D 1:00 p.m.Tapes 165 - 167

MEMBERS PRESENT:Rep. Mary Alice Ford, Chair Rep. Beverly Stein, Vice-Chair Rep. Jerry Barnes Rep. Cedric Hayden (arrived 2:16) Rep. John Meek Rep. Hedy Rijken Rep. Jackie Taylor

STAFF PRESENT: Melanie Zermer, Committee Administrator Pamela Berger, Committee Assistant

MEASURES CONSIDERED: SB 462 - Self-Sufficiency Trust Fund - wrk SB 50-A - Restrict authority of court regarding placement of child in hospital or other facility when child need physical or mental examination - paw SB 833 - Allows hospitals, local boards of health, or nonprofit clinics providing perinatal care to create perinatal care access programs - paw HB 3177 - prohibits distribution of tobacco to persons under 18 years of age - wrk HB 3178 - Requires publicly funded facilities to prohibit persons under 18 years of age from using tobacco and certain other products on premises - wrk

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TAPE 165, SIDE A

010 CHAIR FORD: Calls the meeting to order at 2:10 p.m.

WORK SESSION: HB 3177 - prohibits distribution of tobacco to persons under 18 years of age Witness: Brian DeLashmutt, Oregon Nurses Association

MELANIE ZERMER: Submits and explains HB 3177-1 proposed amendments (EXHIBIT I). - Language "or cause to distribute" needs to be included.

040BRIAN DeLASHMUTT, OREGON NURSES ASSOCIATION: Explains amendments discussed at the 4/3/91 public hearing on HB 3177.

MOTION: REPRESENTATIVE MEEK MOVES ADOPTION OF THE HB 317 7-1 PROPOSED AMENDMENT INCLUDING "OR CAUSE TO BE DISTRIBUTED".

VOTE: THERE BEING NO OBJECTION, THE MOTION CARRIES.

MOTION: REPRESENTATIVE MEEK MOVES HB 3177, AS AMENDED, TO THE HOUSE JUDICIARY COMMITTEE, WITH A DO PASS RECOMMENDATION.

VOTE: THE MOTION PASSES UNANIMOUSLY. REPRESENTATIVE HAYDEN IS EXCUSED.

WORK SESSION: HB 3178 - Requires publicly funded facilities to prohibit persons under 18 years of age from using tobacco and certain other products on premises Witness: Brian DeLashmutt, Oregon Nurses Association

MELANIE ZERMER: Submits and explains HB 3178-1 proposed amendments (EXHIBIT J). - Explains changes needed to the proposed amendments.

Members discuss specifying "public and community school" and if vocational schools should be excluded.

MELANIE ZERMER: Continues explaining the proposed amendments.

123 REPRESENTATIVE STEIN: Concerned about meaning of language, on line 15, regarding "tobacco prescribed".

BRIAN DeLASHMUTT, OREGON NURSES ASSOCIATION: This is boilermaker language.

REPRESENTATIVE BARNES: Concerned how a no smoking law could be enforced in a school setting.

MELANIE ZERMER: Some schools have designated smoking areas; this is what we are trying to address.

Members discuss school enforcement issues.

208 MOTION: REPRESENTATIVE MEEK MOVES ADOPTION OF THE HB 317 8-1 PROPOSED AMENDMENTS, AND ON LINE 14 DELETE " AND ENFORCED", AS IN THE HAND-ENGROSSED VERSION.

VOTE: THERE BEING NO OBJECTIONS, THE MOTION CARRIES.

MOTION: REPRESENTATIVE MEEK CONCEPTUALLY MOVES TO INCLUDE LANGUAGE: "(A) FOR THE PURPOSE OF THIS ACT, PUBLIC SCHOOLS IN SECTION 1 DOES NOT INCLUDE COLLEGE, UNIVERSITIES, VOCATIONAL SCHOOLS, OR COMMUNITY COLLEGES".

VOTE: THERE BEING NO OBJECTIONS, THE MOTION CARRIES.

MOTION: REPRESENTATIVE MEEK MOVES HB 3178, AS AMENDED, TO THE HOUSE JUDICIARY COMMITTEE, WITH A DO PASS RECOMMENDATION.

VOTE: THE MOTION PASSES UNANIMOUSLY.

PUBLIC HEARING: SB 833 - Allows hospitals, local boards of health, or nonprofit clinics providing perinatal care to create perinatal care access programs Witnesses: Richard Nobel, Oregon Trial Lawyers Association, Attorney for Sylvia Banda Bernard Jolles, Oregon Trial Lawyers Association Charlie Williamson, Oregon Trial Lawyers Association Rep. Kelly Clark, District 27

Staff submits a memo regarding Deschutes County Maternity Care Liability Cap (EXHIBIT C), SB 833-10 proposed amendments (EXHIBIT D), SB 833-11 proposed amendments (EXHIBIT E), SB 833-12 proposed amendments (EXHIBIT F),

an explanation of the SB 833-12 proposed amendments (EXHIBIT G), a memorandum on the constitutionality of SB 833 from Charlie Williamson (EXHIBIT H), testimony from Oregon Legal Services (EXHIBIT K), testimony from Francine Boullosa (EXHIBIT L), testimony from Noble, Jolles, Rogers, and Williamson (EXHIBIT M) and testimony from Ed Patterson, Oregon Association of Hospitals (EXHIBIT N).

271 RICHARD NOBEL, OREGON TRIAL LAWYERS ASSOCIATION, ATTORNEY FOR SYLVIA BANDA: Testifies on SB 833. - Refers to written testimony (See: Exhibit L). - Submits and explains information on malpractice insurance costs from the report "Who Will Deliver the Babies?" (EXHIBIT O). - Introduces and describes a situation of a disabled child, J.J.

TAPE 166, SIDE A

- Explains malpractice information included in Exhibit O.

185 REP. KELLY CLARK, DISTRICT 27: Testifies in favor of SB 833. - Wants members to look at this from a public policy standpoint. - With this plan, some may not get adequate compensation, but the trade off is that more are going to receive adequate prenatal care. - Recognizes the tragedies which do occur.

247 REPRESENTATIVE STEIN: Liability cap is the same for all groups (physician assistants, hospitals, physicians, etc.), why limit the hospitals liability?

CLARK: Would like to defer to John Ramig.

REPRESENTATIVE BARNES: When was the present \$100,000 cap established?

CLARK: Unable to answer.

280 BERNARD JOLLES, OREGON TRIAL LAWYERS ASSOCIATION: Testifies on SB 833. - Refers to written testimony (See: Exhibit L). - Addresses constitutionality (See: Exhibit H). - Submits Oregonian article "Wyden wants money freed for clinics" (EXHIBIT P).

TAPE 165, SIDE B

020 CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: Testifies on SB 833. - Refers to written testimony (See: Exhibit G) explaining the SB 833-12 proposed amendments. - Uses flip chart to address percentages on babies born in hospitals. - Explains proposed amendments (See: Exhibits F and G). - In response to REPRESENTATIVE BARNES' earlier question, the cap was established during the 1970s.

200 WILLIAMSON and REPRESENTATIVE STEIN discuss clarity of language in Section 6.

WILLIAMSON: Continues explaining the proposed amendments (See: Exhibits F and G).

- Explains that there are well served and under-served areas in the state.

WORK SESSION: SB 462 - Self-Sufficiency Trust Fund

270 MELANIE ZERMER: Submits and explains SB 462-A5 proposed amendments (EXHIBIT A).

MOTION: REPRESENTATIVE MEEK MOVES ADOPTION OF THE SB 462 -A5 PROPOSED AMENDMENTS.

VOTE: THERE BEING NO OBJECTIONS, THE MOTION CARRIES.

MOTION: REPRESENTATIVE MEEK MOVES SB 462, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: THE MOTION PASSES UNANIMOUSLY. REPRESENTATIVE MEEK WILL CARRY SB 462 TO THE FLOOR.

PUBLIC HEARING: SB 50-A - Restrict authority of court regarding placement of child in hospital or other facility when child need physical or mental examination Witness: Derald Walker, Office of Mental Health Services

370 DERALD WALKER, OFFICE OF MENTAL HEALTH SERVICES: Submits and reads written testimony in favor of SB 50 (EXHIBIT Q).

Submitted for the record, testimony from Diane Brissenden, Department of Justice (EXHIBIT B).

TAPE 166, SIDE B

WORK SESSION SB 50-A - Restrict authority of court regarding placement of child in hospital or other facility when child need physical or mental examination

MOTION: REPRESENTATIVE BARNES MOVES SB 50-A TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: THE MOTION PASSES UNANIMOUSLY. CHAIR FORD IS EXCUSED.

REPRESENTATIVE BARNES WILL CARRY SB 50-A TO THE FLOOR.

PUBLIC HEARING: SB 833 - Allows hospitals, local boards of health, or nonprofit clinics providing perinatal care to create perinatal care access programs Witnesses: Mary Alice Bjork, Department of Insurance and Finance Jim Carlson, Oregon Medical Association Jeanne Atkins, Planned Parenthood Kristin Granger, Oregon Human Rights Coalition Alice McCartor, Healthy Start John Ramig, Maternity Care Support Alliance Charlie Williamson, Oregon Trial Lawyers Association

090 MARY ALICE BJORK, DEPARTMENT OF INSURANCE AND FINANCE (DIF): Testifies on SB 833. - Explains that DIF does not have the regulatory authority, at this point, to mandate coverage be written by a carrier. However, we were asked if we could use the influence of Office of the Commissioner to try to get a carrier to consider writing a program for clinics. I suggested that we start with CNA and discussed Healthy Start's situation with them. I am cautiously optimistic, at this time, that I will be able to work with CNA and put a program together. The cap was not a factor when this was discussed. - A policy of this nature would have some standard forms which would have already been approved. The underwriting criteria needs to be put together. - CNA writes many medical malpractice policies for the state of Oregon, as well as general liability. - Rates are file and use. We have an actuary who looks at rates. Can't guarantee that we can put together a package which is affordable to the clinics, but we are considering their needs.

ACTING REPRESENTATIVE STEIN: If we pass this, would physicians' malpractice

insurance rates go down?

BJORK: Does not feel that this will effect their personal malpractice insurance. - Explains "long tail".

280 REPRESENTATIVE STEIN: The aim of this bill is to encourage providers to provide care to a certain population. Would it bring down malpractice rates and how would it effect the fear of being sued? Is there anything you can tell us about behaviors of professionals, in terms of caps etc.?

283 BJORK: Not in the medical area. It is hard to quantify TORT reform and affordability. A few studies have been done in this area; this is hard to answer. Professional will always want to protect themselves.

320 WILLIAMSON: Refers to page 3 of written testimony (See: Exhibit M) regarding average number of claims, which over a seven year period averaged \$165,000.

360 JEANNE ATKINS, PLANNED PARENTHOOD: Submits and reads written testimony in favor of SB 833 (EXHIBIT R).

TAPE 167, SIDE A

REPRESENTATIVE STEIN: Do you have a hard time getting volunteer medical providers?

ATKINS: We are moving away from using volunteer medical providers and instead have those who we can attach to staff - which is difficult because there are more lucrative ways to make a living as a nurse practitioner, physicians assistant, or as a physician. Our liability is through an umbrella policy of Planned Parenthood Federation of America. One of the reasons for moving towards having professional in-house medical providers, as opposed to using volunteers, is the difficulty in providing coverage.

033 KRISTIN GRANGER, OREGON HUMAN RIGHTS COALITION: Testifies in favor of SB 833. - Summarizes written testimony (See: Exhibit K).

070 JOHN RAMIG, MATERNITY CARE SUPPORT ALLIANCE: In response to issues brought up today - why should hospitals be included in the liability limitation provision: - the reason is for communities to pool their resources and work together. If we single out hospitals as the only ones with a deep pocket, we are afraid that they will not participate in these programs.

REPRESENTATIVE STEIN: How could hospitals not participate?

RAMIG: Defers to Alice McCartor.

ALICE McCARTOR, HEALTHY START: Our hospitals chose not to deal with risk patients and to have them sent to OHSU. If hospitals were singled out, then we risk breaking the coalition. If that happened, we would probably go back to counties providing prenatal care and the patient delivering in E-Rooms.

120 REPRESENTATIVE STEIN: If a women walks into your clinic and you need to do some outreach, then what?

McCARTOR: The women are referred from all over. Midwives take care of prenatal through delivery. Delivery occurs in one of our local hospitals because they have a relationship with the hospital. A physician is not present, but on call.

REPRESENTATIVE STEIN: Why couldn't you have a relationship with OHSU?

McCARTOR: We do for our high risk deliveries. We prefer, if possible, for the woman to go to her local hospital and local provider (nurse midwife).

145 RAMIG: Without protection from liability the experience in Oregon has been that private providers (nurse midwives and physicians) are not participating in these programs. Without the incentive, people are no participating. There are a lot of other approaches that could be taken (i.e. nurse midwives having hospital privileges). - They key to getting these programs to work is getting medical providers to participate in programs where they aren't getting full compensation.

Discussion on nurse midwives access to hospitals.

RAMIG: Medicaid reimbursement is about 1/2 of that provided by Blue Cross. - The Legislative Counsel Office provided an opinion on the constitutionality of SB 833 (which we will provide). - The Oregon Health Action Campaign supports SB 833. - The Office of Medical Assistance Program supports SB 833. - Recaps testimony presented at the 5/15/91 hearing. - Also in support of SB 833 are: American Academy of

Obstetricians and Gynecologists, American Academy of Certified Midwives, Oregon Academy of Family Physicians --- I can't think of any group, in the state, that has any involvement in maternity care, that doesn't support our bill. Those groups said this is the bill that will make the difference. - Without the liability cap, we have no interest in this bill.

200 Discussion on the relating clause in SB 833.

RAMIG: Perinatal care is basically the same as maternity care (layman term vs. medical term).

220 REPRESENTATIVE STEIN: Would you object to a two year sunset instead of a four year sunset?

RAMIG: The reason we chose four years is because it takes so long to get a program up and running and to get reliable data this amount of time is needed.

REPRESENTATIVE STEIN: What type of data are you going to collect?

RAMIG: This information is included in the bill.

260 REPRESENTATIVE STEIN: Would like to add language which encourages certified nurse midwives' participation.

RAMIG: Certified nurse midwives are represented by our group.

290 JIM CARLSON, OREGON MEDICAL ASSOCIATION (OMA): Testifies in support of SB 833. - Supports the SB 833-10 proposed amendment. - Opposes the SB 833-12 proposed amendment. - We have no position on the SB 833-11 proposed amendment. - Discusses data collected by the Office of Rural Health which shows the number of certified nurse midwives in the state with hospital privileges and number of deliveries, etc., which may be of interest to the committee. - We would have a concern that there not be any state law which mandates privileges to any local facility. This should be a local issue.

Submitted for the record, testimony from Janet Kiger, R.N., M.N., N.P. (EXHIBIT T). Submitted for the record, a response to testimony given by John Ramig, from Charile Williamson. (EXHIBIT S).

340 CHAIR FORD: Adjourns the meeting at 4:30 p.m.

Submitted by,

Reviewed by,

Pamela Berger

Melanie Zermer

EXHIBIT LOG: A - SB 462 - proposed amendments - staff - 4 pp. B - SB 50 - testimony from Brissenden - staff - 3 pp. C - SB 833 - memo regarding Deschutes County Maternity Care Liability cap - staff - 1 p. D - SB 833 - proposed amendments - staff - 5 pp. E - SB 833 - proposed amendments - staff - 3 pp. F - SB 833 - proposed amendments - staff - 7 pp. G - SB 833 - explanation of proposed amendments - staff - 10 pp. H - SB 833 - memo on constitutionality - staff - 14 pp I - HB 3177 - proposed

amendments - staff - 3 pp. J - HB 3178 - proposed amendments - staff - 2 pp. K - SB 833 - testimony from Oregon Legal Services - staff - 2 pp. L - SB 833 - testimony from Boullosa - staff - 1 p. M - SB 833 - testimony from Noble, Jolles, Rogers, and Williamson - staff - 14 pp. N - SB 833 - testimony from Patterson - staff - 1 p. O - SB 833 - pages from "Who will Deliver the Babies?" - Nobel - 4 pp. P - SB 833 - article - Jolle - 1 p. Q - SB 50 - testimony - Walker - 2 pp. R - SB 833 - testimony - Atkins - 1 p. S - SB 833 - response - Williamson - 4 pp. T - SB 833 - testimony from Kiger - staff - 2 pp.