

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 HUMAN RESOURCES

May 27, 1991 Hearing Room D 1:00 p.m. Tapes 168 - 169

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

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

MEASURES CONSIDERED: SB 787 - Requires health care organizations to maintain written policies and procedures relating to individual health care decisions - paw SB 102 - Requires that report to Attorney General concerning discharge of certain persons from state hospital be sent not less than 20 days prior to hearing before Psychiatric Security Review Board - paw

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TAPE 168, SIDE A

010 CHAIR FORD: Calls the meeting to order at 1:02 p.m.

PUBLIC HEARING: SB 102 - Requires that report to Attorney General concerning discharge of certain persons from state hospital be sent not less than 20 days prior to hearing before Psychiatric Security Review Board Witness: Kathleen Haley, Psychiatric Security Review Board

Staff submits a flow chart of the Oregon State Hospital Forensic Psychiatric Center (EXHIBIT A).

010 KATHLEEN HALEY, PSYCHIATRIC SECURITY REVIEW BOARD: Testifies in support of SB 102. - The Board has jurisdiction over persons who have been found to be criminally insane in this state. The primary duty of the board is protection of the public. - The board has hearing to determine if clients can be placed in the community, safely, on conditional release, or if they can be totally discharged from

jurisdiction. - This bill will free up a bed earlier. - The Attorney General's Office does not oppose this bill. - Falling through the cracks won't happen - nobody will be released until the plan is verified. - This bill will save the Mental Health Division some money. - PRS was created to protect the public.

WORK SESSION: SB 102 - Requires that report to Attorney General concerning discharge of certain persons from state hospital be sent not less than 20 days prior to hearing before Psychiatric Security Review Board

MOTION: REPRESENTATIVE STEIN MOVES SB 102 TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: THE MOTION PASSES UNANIMOUSLY.

PUBLIC HEARING: SB 787 - Requires health care organizations to maintain written policies and procedures relating to individual health care decisions Witnesses: Dr. Rick Grazer, American College of Emergency Physicians Bob Castagna, Oregon Catholic Conference Ian Timm, Oregon Health Decisions Senator Bob Shoemaker, District 3 Bruce Bishop, Kaiser Permanente Ted Falk, Attorney

065 DR. RICK GRAZER, AMERICAN COLLEGE OF EMERGENCY PHYSICIANS: Submits and reads written testimony in favor of SB 787 (EXHIBIT B). - The bill originally had language which stated that the person would specifically indicate if they did or did not want to fill out these forms. - Wants to make sure that an individual is properly educated on health care decisions.

185 REPRESENTATIVE TAYLOR: Do you strongly object to having a statement stating that a person does not need to sign? I believe in clarity.

GRAZER: Do not strongly object.

CHAIR FORD: The average person may think a signature is required since it does not state "optional".

227 REPRESENTATIVE MEEK: Not sure if this legislation makes written policies and procedures any clearer.

GLAZER: Reads page 2 of written testimony.

260 SENATOR BOB SHOEMAKER, DISTRICT 3: Testifies in favor of SB 787. - The concepts power of attorney and directives are fairly recent. - People are beginning to perceive they can control their future. These documents help them make those decisions. - This bill helps hospitals and other health care facilities to inform their patients about medical decisions. - Continuance of federal law is part of the educational process. - If decisions are not made, families fumble along until an agreement can be reached. - This document helps us, as a society, for people to deal with their own futures.

290 CHAIR FORD: After a person has signed this document, how long is it good for?

SHOEMAKER: Seven years for the power of attorney, the directive doesn't have a termination time. - The attending physician is supposed to have the, or a copy of the power of attorney or directive documents. Also, it is suppose to be with the patients medical chart. - If two were filled out, the latter would prevail.

REPRESENTATIVE TAYLOR: Concerned about the five day time-line. Concerned about the depressed patient or for those who are not able to act in his/her best interest.

SHOEMAKER: Time-frame needs to be included. There are no sanctions, it is a "good faith" bill.

356 REPRESENTATIVE STEIN: How about offering this at another time besides when you go to E-Room, for example, when you reapply for drivers licenses?

GLAZER: Using national bill as a starting block to build upon. - This provides distributions of these forms, rather than just providing information.

TAPE 169, SIDE A

- Reads excerpts from federal law as it relates to individual states.

030 TED FALK, ATTORNEY: Describes federal power of attorney/directive law. - There are some nursing homes which do not receive medicaid or medicare payments; the state law would cover them. - Exact forms are important, in the State of Oregon, since the forms are mandatory. - A person can write down or tell of their wishes, but to carry out those wishes may then be debateable. - Submits written testimony in favor of SB 787 (EXHIBIT C).

090 GLAZER: Tells of study of patients and physicians about CPR wishes (findings included in written testimony). - We are not trying to withhold care from anybody who wants it, we are trying to find out who wants care withheld.

REPRESENTATIVE HAYDEN: America cannot afford to maintain fragile individuals in nursing homes. Why is society heading towards that way of thinking? Tells of father in a critical situation, whose physician said let him die.

189 FALK: This bill does not address those ethical dilemmas. This bill is about self determination.

REPRESENTATIVE HAYDEN: What about continuing care for a patient whose insurance is running out?

FALK: Would like to dodge those types of questions because they do not address this bill.

REPRESENTATIVE HAYDEN: What if persons say they want more care?

CHAIR FORD: We will ask a provider that question.

REPRESENTATIVE MEEK: Concerned about distributing forms in a hospital

when the patient probably has had some medication which may effect his/her mental ability.

260 FALK: Hard to know when the best time is to present this information. We do have a anatomical request form which hospital staff receives training for. To train them to counsel patients in this would be expensive. Hospital staff is availavble to distribute forms. Agrees that at the point of admission, when a person is under stress, is not the best time to present this information. This bill does not state that the form needs to be signed upon admission. The person can take the form home and fill out at a later date. - Of course, if a person is on medication, that would not be a good time to execute the form. As any form, the person must be of sound mind when signing. - Since the federal law begins this process, it is sensible for the state to require the extra step (filling out the form) at the same time the federal government requires distribution of a brochure. - Would also view this as a pilot program. - Describes 1991 SB 494 and its relationship to SB 747.

315 CHAIR FORD: If we add a disclaimer, would that affect SB 494?

FALK: No.

REPRESENTATIVE MEEK: This seems to take away the person's right to request the form.

370 FALK: Oregon should be encouraging people to fill out these forms. The question is when is the best time to give forms and information. The form is not right for everybody. We should at least present people with the opportunity to fill out the forms. Thinks we need to encourage people to think about their choices.

409 REPRESENTATIVE TAYLOR: Have you considered offering these forms at physicians' offices?

FALK: That is not a bad idea. Maybe next session we could do that. We do need a pilot program to see how this idea works. There is nothing preventing anybody from distributing the forms.

DR. GRAZER: We are basically trying to follow the federal legislaiton.

TAPE 168, SIDE B

BOB CASTAGNA, OREGON CATHOLIC CONFERENCE: Submits and explains a proposed amendment to SB 787 (EXHIBIT D). - People who do not speak or understand English, or are intimidated by forms would benefit by the proposed disclaimer. - The forms do not provide time for reflection. We need to let people know that if they have any reservations, that they do not need to fill out the form. A persons needs the chance to fill out form after a full reflection and discussions with their minister, priest, lawyer, physician, etc.

090 REPRESENTATIVE TAYLOR: Do you feel that people should be not have easy access to the form?

CASTAGNA: No, they should. - suggests to house judiciary that when forms are printed, to print statute also so statutory definition was included.

REPRESENTATIVE TAYLOR: value to having this form

CASTAGNA: Yes to those who want them. goal is that there be consensus.

REPRESENTATIVE TAYLOR: my goal is to make my decision on my own.

REPRESENTATIVE HAYDEN: my fathers chart indicated that every type of treatment should be given, yet it was ignored.

161 REPRESENTATIVE BARNES: how are forms withdrawn?

CASTAGNA: you could tear it up and not everybody would know that it was revoked.

REPRESENTATIVE STEIN: finds language in amendment to be awkward - ends in preposition.

CASTAGNA: wanted to keep it simple

REPRESENTATIVE STEIN: how about you do not have to sign this form

CASTAGNA: would be o.k.

REPRESENTATIVE HAYDEN: some people are not good decision makers

205 IAN TIMM, OREGON HEALTH DECISIONS: Submits and read written testimony in favor of SB 787 (EXHIBIT E).

REPRESENTATIVE HAYDEN: what are % of those wanting to continue with care versus those who would choose not to be treated?

TIMM: Unable to answer that.

390 BRUCE BISHOP, KAISER PERMANENTE: testifies on SB 787. Concerned about multiple # of forms each time a patient was admitted to a nursing home or hospitals so we asked for amendments that would clarify requiring . telling how they amended they bill.

TAPE 169, SIDE B

- with those amendments, we have no further objection to the bill.

WORK SESSION: SB 787 - Requires health care organizations to maintain written policies and procedures relating to individual health care decisions

016 REPRESENTATIVE HAYDEN: Sad that as a society we are moving in this direction.

090 CHAIR FORD: Agrees that this is a dilemma.

REPRESENTATIVE TAYLOR: See this as a decision about choice, which many people have made. would like people in Oregon to make this choice.

REPRESENTATIVE MEEK: some problems with bill - supportive of living wills. concerned about the 7 years somebody may sign and down the lane they may have forgotten and changed their mind. how do you pre-empt?

idea is to get this out there in peoples hands. this will be one in a stack of forms and pressure, drugs, etc may make a impact on their decision. family members and patient should be given form to take home and discuss.

150 REPRESENTATIVE STEIN: glad to have opportunity to make these decisions for myself instead of a physician that i may not even know. like the direction this . this is not easily done - two witnesses are needed as well as xx. there is nothing in the bill that states when the form needs to be signed.

MOTION: REPRESENTATIVE MEEK MOVES CASTAGNA AMENDMENT AND DISCLAIMER BE PHYSICALLY ATTACHED TO POWER OF ATTORNEY FORM AND THAT IT WILL BE CHANGED TO "YOU DO NOT NEED TO FILL OUT AND SIGN THIS FORM" (CHAIR FORD: HAVE LC ASK SOMEBODY STANDARD FOR LOW VISION - )

REPRESENTATIVE BARNES: line 20 add "in a non-cohersive manner.

277 MELANIE ZERMER: re-caps REPRESENTATIVE MEEK motion.

CASTAGNA: there are two forms power of attorney and xx. along with a disclaimer attached to each form

REPRESENTATIVE MEEK: amend motion to what bob just said.

309 hospitals is an inappropriate place to get this type of information.

REPRESENTATIVE RIJKEN: line 26 states GET THIS

CHAIR FORD: there are people with no families in the case dr. may

REPRESENTATIVE BARNES: MOTION: insert " in A NON-COHERSIVE MANNER"

REPRESENTATIVE STEIN: RESPONDS

CHAIR FORD: suggests language REPRESENTATIVE BARNES: that would work

CHAIR FORD: without recommendation or persuasion.

MOTION: REPRESENTATIVE STEIN MOVES SB 787, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: THE MOTION PASSES 5-2. REPRESENTATIVE BARNES, REPRESENTATIVE RIJKEN, REPRESENTATIVE STEIN, REPRESENTATIVE TAYLOR, AND CHAIR FORD VOTE AYE. REPRESENTATIVE HAYDEN AND REPRESENTATIVE MEEK VOTE NO. CHAIR FORD WILL CARRY SB 787 TO THE FLOOR.

CHAIR FORD: Adjourns the meeting at 3:00 p.m.

Submitted by,

Reviewed by,

Pamela Berger

Melanie Zermer

EXHIBIT LOG: A - SB 102 - flow chart - staff - 1 p. B - SB 787 -

testimony - Grazer - 2 pp. C - SB 787 - testimony - Falk - 14 pp. D - SB  
787 - proposed amendments - Castagna - 1 p. E - SB 787 - testimony -  
Timm - 3 pp.