

SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

March 12, 1991                      Hearing Room C 3:00 p.m.                      Tapes 30 - 31  
MEMBERS PRESENT: Sen. Bob Shoemaker, Chair Sen. Joyce Cohen, Vice  
Chair Sen. Jeannette Hamby Sen. Lenn Hannon Sen. Frank Roberts STAFF  
PRESENT: Barbara Coombs, Committee Administrator Mark Sigel,  
Committee Assistant

MEASURE SB 494 CONSIDERED:

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 30, SIDE A

Witnesses: Barbara Coombs, Committee administrator

000        CHAIR SHOEMAKER: Calls meeting to order at 3:20.

023 BARBARA COOMBS, COMMITTEE ADMINISTRATOR: Submits (EXHIBITS A AND B) Exhibit A is the SB 494-1 amended version of the bill and Exhibit B is SB 494 -2. Explains that the differences between the dash 1 and the dash 2 amendments are very slight.

125 SENATOR ROBERTS: Are you using the term incapacity to mean incapable?

128 COOMBS: Yes, I am.

147 SENATOR HANNON: Who would be appointed to make health care decisions for infants?

153 COOMBS: The way a proxy is chosen is laid out under section 10 if any of 5 certain conditions are met then the decision to choose a proxy will follow.

187 SENATOR HANNON: Who would be the surrogate when a mother and father are killed in a car crash and an infant, without siblings, is left in a permanently unconscious state? 197 COOMBS: One would go down the list: a spouse, a guardian, adult children, either parent ... it may eventually fall to the attending physician. SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS March 12, 1991 - Pa. e 2

293        CHAIR SHOEMAKER: Will people generally execute both forms?

295 COOMBS: I would advise people to execute both forms but they need not.

398 SENATOR COHEN: In the outlined situation of the 55 year old woman why would they not have to prove that she was permanently unconscious before making the decision to withdraw life support?

404 COOMBS: Because her own directive was being invoked. She had stated that if a certain condition was met, then she wanted life support to be withdrawn. - TAPE 31, SIDE A Witnesses: Sharon Espersen, Critical Care Nurses Association Dr. Tina Kitchen, Office of Developmental Disability Services Karen Creason, Oregon Association of Hospitals

007 SHARON ESPERSEN, CRITICAL CARE NURSES ASSOCIATION: Submits (EXHIBIT C) which explains that her association support patients' and families' rights to withhold or withdraw life sustaining treatment when the burdens of these interventions outweigh their benefits. Her association also supports SB 494 .

093 DR. TINA KITCHEN, OFFICE OF DEVELOPMENTAL DISABILITY SERVICES: Presents (EXHIBIT D) which explains that while her agency basically supports the bill, they are still concerned that developmentally disabled individuals may still be adversely impacted by it.

122 SENATOR ROBERTS: Can you describe a situation in which a person who is developmentally disabled might be thought to be permanently unconscious by a physician? 125 KITCHEN: I know several individuals who seem unaware of their surroundings and unaware of themselves and physicians have judged that these individuals are permanently unconscious. However, one of these patients moves and gets frantic when a suction machine is turned on because she knows something is about to happen. The mother of another such patient swears that her daughter cried when told that her father died. Caregivers or people very familiar with such patients can tell that they are very developmentally disabled but not permanently unconscious. 140 SENATOR ROBERTS: Can we add a line saying that a physician who makes a decision to continue or end life support must be familiar with the patient's background in order to address this concern? 142 CHAIR SHOEMAKER: The problem with that is that the neurologist who is called would probably not know the patient's background. 195 CHAIR SHOEMAKER: Wouldn't the attending physician for a developmentally disabled patient know that the patient is not permanently unconscious? 200 KITCHEN: Not always. 202 SENATOR HAMBY: I don't think any neurologist would conduct only a cursory examination - SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS March 12, 1991 - Page 3

before advising the withdrawal of life support systems. Do you agree?

207 KITCHEN: I agree. Also, I believe that having neurologists present to make intensive examinations is so important that it should be required despite the difficulty this may impose on rural hospitals. 227 SENATOR ROBERTS: Can we add a statement in the bill directly cautioning physicians to be sure that patients are truly permanently unconscious rather than just very developmentally disabled before decisions are made concerning the withdrawal of life support?

230 COOMBS: In section 10 we require that a neurologist who is expert in the examination of unresponsive individuals must participate in the decision on whether to withdraw or continue life support systems. So, we have gone very far in ensuring that a patient's condition will be appropriately judged.

248 KAREN CREASON, OREGON ASSOCIATION OF HOSPITALS: There are many hospitals in the state that not only lack neurologists who are experts in examining the unresponsive, they lack neurologists altogether. Hospitals in LaGrande, Newport and Pendleton will not have neurologists available to meet the provisions of this bill.

315 CHAIR SHOEMAKER: When you say the hospitals should use a credentialing process to decide who should make decisions on life support what do you mean?

324 CREASON: The hospitals should look at the credentials of their physicians and determine if there are any appropriately trained individuals who can make the decisions. 338 CHAIR SHOEMAKER: Do you

think that a neurologist would be able to confidently make a diagnosis about withdrawing life support systems based on a telephone conference?

343 CREASON: Maybe. When not only medical records but information such as EEG data can be shared then perhaps neurologists could make such decisions based on phone conferences. I know it's done for major treatment decisions.

TAPE 30, SIDE B Witnesses: Rollie Smith Scott Gallant, Oregon Medical Association June Oakley 022 ROLLIE SMITH, CORVALLIS  
RESIDENT: Testifies in support of SB 494. His sister died in Florida in a dignified fashion thanks to that state's good legislation.

The number of options in SB 494 is confusing. He also thinks that the bill's warning to those about to commit themselves to a durable power of attorney makes it sound like this is an evil thing to do. 073 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: Outlines extensive technical concerns with the bill. . . 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 content of the proceedings, please refer to the tapes. SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS March 12, 1991- Page 4

450 JUNE OAKLEY: Submits (EXHIBIT E:) which explains her belief that life is time for spiritual learning, that death should not be feared because it means reuniting with God and that the state should give people the freedom to not have their lives artificially prolonged by medical technology. She supports SB 494.

TAPE 31, SIDE B Witnesses: Michael Pearce Nancy Doty, Guardian/Conservator Association of Oregon Ian Timm, Oregon Health Decisions

037 MICHAEL PEARCE: Supports SB 494. Only has a problem with page 17, section 16, lines 25 through 28. I would like to see you delete the line: "Or to permit an affirmative or deliberate act to end life other than to allow the natural process of dying." I think the sentence would be complete by simply stating that: "Nothing in sections 1 to 21 of this act is intended to condone mercy killing". 068 NANCY DOTY, GUARDIAN/CONSERVATOR ASSOCIATION OF OREGON: Submits (EXHIBIT F) which explains that her organization is concerned that decisions regarding life support systems may be imposed upon people who can't necessarily speak for themselves. 192 SENATOR COHEN: I've been following the guardianship law for a long time and I want to emphasize that guardians are not miraculous do-gooders in every case. 250 IAN TIMM, OREGON HEALTH DECISIONS: Supports the bill. , 287 CHAIR SHOEMAKER: Adjourns meeting at 5:05.

Submitted by: Reviewed by: Mark Sigel Barbara Coombs  
Assistant Administrator

EXHIBITS A - SB 494-1, Coombs, 27 pages B - SB 494-2, Coombs, 27 pages C - Testimony on SB 494, Espersen, 3 pages D - Testimony on SB 494, Kitchen, 1 page E - Testimony on SB 494, Oakley, 2 pages F - Testimony on SB 494, Doty, 3 pages

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