

SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

March 19, 1991 Hearing Room C 3:00 p.m. Tapes 34 - 37 MEMBERS

PRESENT: Sen. Bob Shoemaker, Chair Sen. Joyce Cohen, Vice-Chair Sen. Jeannette Hamby Sen. Lenn Hannon Sen. Frank Roberts VISITING

MEMBER: Representative Kelly Clark STAFF PRESENT: Barbara Coombs, Committee Administrator Mark Sigel, Committee Assistant

MEASURES SB 833, SB 53 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.

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TAPE 34, SIDE A

Witnesses: Mary Alice Bjork, Department of Insurance and Finance Art James, Executive Department

000 CHAIR SHOEMAKER: Calls meeting to order at 3:10.

001 MARY ALICE BJORK, DEPARTMENT OF INSURANCE AND FINANCE (DIF): Submits (EXHIBIT A) the dash 1 amendments to SB 53. "The amendments allow reductions of benefits below 100% when 2 or more policies cover a person but not below the greater of benefits paid under all such plans."

085 ART JAMES, EXECUTIVE DEPARTMENT: Is in full agreement with the dash 1 amendments. 090 TOM ERWIN, CONSUMER ADVOCATE: Testifies in opposition to the bill in part. Consumers will have to pay more. Wants to limit the affect of this bill to SEBB only. This bill is a cost shifting measure - it will shift costs from the employer to the employee. 184 ERWIN: My wife had brain surgery costing over \$25,000 in October. If SB 53 were in effect and we had to pay 20% of that it could have caused us a great deal of financial distress. 200 CHAIR SHOEMAKER: Look at it this way: You are buying a health insurance plan that covers SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS March 19, 1991 - page2

80% of medical costs. You are supposed to take care of the other 20%. If you want your plan to cover 100% you can buy a plan that will cover 100%. But currently you are getting the last 20% as a freebie because of the unintended way we are coordinating insurance benefits. In the interest of cost containment, SB 53 seeks to eliminate this unintended coordination of benefits situation.

265 SENATOR HAMBY: Do all state employees have the option to get health insurance plans which cover 100% of medical costs?

322 JAMES: If you are a state employee and you get the most extensive coverage through Blue Cross, I believe it only covers 95% of expenses.

370 SENATOR HANNON: A factor that may complicate SB 53 is that some insurance companies won't accept an employer's group unless it contains 100 % of the employer's employees and dependents.

- "If you want this kind of a bill then you have to make that kind of a provision for somebody to be able to exempt out and not have to be forced into paying two premiums recognizing that they are only going to get one benefit."

404 CHAIR SHOEMAKER: Can this concern be handled through DIF's rulemaking authority?

407 SENATOR HANNON: I believe so. 420 CRAIG URBANI, DEPARTMENT OF INSURANCE AND FINANCE: We can probably write a rule that says if an insurer selects the less than 100% coordination of benefits option then the insurer may not require 100% dependent participation.

TAPE 35, SIDE A

Witnesses: Dr. Paul Kirk, OHSU Representative Kelly Clark Lynn Wydell, Healthy Start Wendy Lang, Sacred Heart

046 MOTION: Senator Cohen moves to have dash 1 amendments adopted for SB 53.

VOTE: The Committee unanimously adopts the dash 1 amendments.

049 SENATOR HANNON: Before we take final action on the bill I want to be certain that DIF has the authority to adopt rules for the problems we have identified.

063 CHAIR SHOEMAKER: That concludes our involvement with SB 53 and we move now to SB 833. 071PAUL KIRK, OHSU CHAIRMAN OF OBSTETRICS AND GYNECOLOGY DEPARTMENT: Explains the need for universal access to prenatal care and his support for SB - 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. - SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS Mstrch 19,1991- page3

833. 133REPRESENTATIVE KELLY CLARK: Supports SB 833. Understands that it's not fair to place a burden on victims of malpractice in order to expand access to maternity care. Supports SB 833 . 189 LYNN WYDELL, HEALTHY START: Submits (EWBIT B) which explains that SB 833 is crucial for her organization getting affordable liability insurance in order to continue providing maternity access. 317 WENDY LANG, SACRED HEART: Submits (EXHIBIT C) which similarly explains that liability insurance is a primary obstacle to providing maternity care. Also supports SB 833. 357 CHAIR SHOEMAKER: Did you say you would recoup some of the costs of liability insurance through not having to provide neonatal care? 360LANG: Yes. That has been borne out as we have helped deliver more healthy babies and fewer premature babies.

TAPE 34, SIDE B

Witnesses: Karen Whitaker, Office of Rural Health Ian Timm, Oregon Primary Care Association Donna Clark, Department of Human Resources, Health Division Chris Roach, Sacred Heart Nurse Judy Griffin

010 KAREN WHITAKER, DIRECTOR OFFICE OF RURAL HEALTH, OHSU: Submits (EXHIBIT D) which explains that SB 833 is especially important for pregnant women living in rural areas.

060 CHAIR SHOEMAKER: Do you classify lay midwives as providers of adequate or inadequate care?

064 WHITAKER: We didn't define the adequacy of the care by provider. We defined inadequate care as care that began after the second trimester or

included fewer than 5 visits.

161 IAN TIMM, OREGON PRIMARY CARE ASSOCIATION: Submits (EXHIBIT E) which explains that his organization supports SB 833 because their highest priority is to expand access to prenatal care and maternity care.

260 DONNA CLARK, DEPARTMENT OF HUMAN RESOURCES, HEALTH DIVISION: Submits (EXHIBIT F) which explains that this bill would eliminate the large barrier of unaffordable liability insurance.

335 CHRIS ROACH, NURSE AND PREGNANT PATIENT AT SACRED HEART: Called every obstetrician in Eugene during her first pregnancy but couldn't get one to give her care. 384 JUDY GRIFFIN: Had a child through St. Vincent's charity program. However, the doctor only

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saw her once or twice before delivering her baby. When she had her last child through Healthy Start it was a much better experience.

TAPE 35, SIDE B

Witnesses: Jerrilyn Ness, Washington County Human Services Coalition
Brandy Chastain, St. Vincent's Hospital
Jeff Heatherington Senator Wayne Fawbush
Jane Bolin, Oregon Trial Lawyers Association
Charles Williamson, 010 JERRILYN NESS, WASHINGTON COUNTY HUMAN SERVICES COALITION: Supports SB 833 and believes that the women who currently can't get adequate prenatal care would rather have such access than the right to sue for full damages in liability suits. 045 BRANDY CHASTAIN, ST. VINCENT'S HOSPITAL: Submits (EXHIBIT H). Supports SB 833. 054 JEFF HEATHERINGTON, FAMILY CARE AND EVERGREEN MEDICAL SYSTEMS: On page two, section 4, line 11 defines who may create maternity care programs - wants to work with committee staff to amend this section. He wants physician care organizations to be permitted to create maternity care programs under this bill. 068 SENATOR WAYNE FAWBUSH: There's a severe shortage of obstetricians in Hood River and Wasco County. 140 NANCY SAYAN, OFFICE OF MEDICAL ASSISTANCE PROGRAMS: Supports SB 833. While Medicaid paid for 18% of the births in Oregon, in 1989 it was 28% and it is predicted to rise to 32% by the end of the 1993 biennium. 160 JANE BOLIN, OREGON TRIAL LAWYERS ASSOCIATION (OTLA): Support establishing maternity care access programs but oppose limiting liability settlements. The statistics support that the poor and indigent are far less likely to bring lawsuits and are in fact far less likely to even know that a wrong has occurred to them. 237 SENATOR ROBERTS: Do you believe that the Legislature can require insurance companies to provide malpractice insurance? 243 CHARLES WILLIAMSON, OTLA: We know that the Legislature can't require that outright. However, there are assigned risk pools for auto coverage and workers' comp. and certainly the Legislature can say to the malpractice insurers doing business in Oregon that they must divide up these programs and write them at standard rates and the DIF can assign them out just the way they do in workers' comp. by the amount they otherwise write in the state. 254 BILL GAYLORD, OTLA: There is no malpractice crisis that needs to be addressed by further limiting Oregonians' rights to liability protection.

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318 SENATOR ROBERTS: Are you saying there aren't any restrictions on doctors insurance when they practice obstetrics? The evidence we've heard in the past is that they were limited to certain number of deliveries or they couldn't get insurance.

327 LAWRENCE WOLBROCK, (OTLA): Obstetricians are assigned liability insurance rates based on not how many babies they deliver but what percentage of their time they spend delivering babies. Obstetricians are already paying the top premium for liability insurance. Whether they participate in these maternity programs or not their liability rates won't change.

Obstetricians pay about \$38,000 for liability insurance, which is about a 30% reduction over the past two years. That premium stays at \$38,000 whether they participate in this maternity access program or deliver all their babies through the hospital. 404 BILL GAYLORD: This bill may simply provide an umbrella of immunity from tort cases for doctors.

TAPE 36, SIDE A

Witnesses: Mike McCracken, Oregon Medical Association Maura Roche, Oregon Association of Naturopathic Physicians

024 WILLIAMSON: There are relatively few cases of OB/GYN doctors getting sued. This is not a rampant out-of control system. There were only 5 claims paid in 1988, 13 in 1989 and 11 in 1990 in Oregon. Some of these claims were paid for breast cancer or other gynecological incidents and were unrelated to childbirth.

If you need to cover the programs you can mandate that they be covered. This bill is unconstitutional. Insurance companies won't write policies based on this bill because of its unconstitutionality. Its unconstitutional to establish a cap on liability claims for one group in the state that differs from the rest of the people in the state.

145 CHAIR SHOEMAKER: It seems to me what they are driving at here is to provide low-fee perhaps no-fee programs for poor and rural women who lack adequate health care. In exchange for doctors providing these services we are protecting them from million dollar lawsuits. They still face \$100,000 to \$200,000 lawsuits. 216 MIKE McCracken, OREGON

MEDICAL ASSOCIATION: Submits (EXHIBIT K) which provides background information on obstetrical care in Oregon. He believes his Association will support this bill after they get a better chance to review the bill. 300

SENATOR ROBERTS: Can you respond to the lawyers' charge that the cost of malpractice insurance is not really a major reason why doctors aren't providing adequate maternity care? 306 McCracken: The reimbursement rates and the liability climate are the two major problems why doctors don't go in to obstetrical care but I hesitate to try to separate out which is more important. We hope that Ways and Means raises the reimbursement rate. 325 MAURA ROCHE, OREGON ASSOCIATION OF NATUROPATHIC PHYSICIANS:

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Support SB 833. Asks the committee to consider an amendment to include naturopathic physicians in the bill. 345 DANIEL SISCO: Submits (EXHIBIT L) which asks the committee to consider an amendment to include naturopathic obstetricians in the bill. Delivered 50 babies last year. 392 JOHN RAMIG, MATERNITY CARE SUPPORT ALLIANCE: 45 black infants in Multnomah County died between 1987 and 1989, most of them because they lacked prenatal care. The number of infant deaths in Multnomah County would be dwarfed if we look at the rest of state in terms of inadequate prenatal care. TAPE 37, SIDE A 010 SENATOR ROBERTS: Would the limitation of liability have saved any of these babies? How many of the mothers involved were covered by Medicaid and therefore had access to prenatal care but didn't avail themselves of it? 017 RAMIG: We think these questions can be answered through the study called for when the bill is sunsetted. 030 SENATOR ROBERTS: Did Sacred Heart's insurance rates go up after they started their maternity program? 050 RAMIG: That information is not available because Sacred Heart became self-insured at that point so a comparison of rates would not be appropriate. 083 CHAIR SHOEMAKER: Adjourns meeting at 5:40. Submitted by: Reviewed by: Mark Sigel Barbara Coombs Assistant Administrator

EXHIBITS A - Dash 1 amendments to SB 53, 2 pages B - Testimony on SB 833, Lynn Wydell, 5 pages C - Testimony on SB 833, Lang, 1 page D - Testimony on SB 833, Whitaker, 6 pages E - Testimony on SB 833, Timm, 4 pages F - Testimony on SB 833, Clark, 2 pages

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