

SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

March 26, 1991                      Hearing Room C 3:00 p.m.                      Tapes 41- 43  
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 MEASURES CONSIDERED: SB 29, SB 44, SB 789 . .  
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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 41, SIDE A

Witnesses: Barbara Coombs, Committee administrator Steve Cloud, Adult  
and Family Services Ed Paterson, Oregon Association of Hospitals Scott  
Gallant, Oregon Medical Association John Powell, BCBSO 000 CHAIR  
SHOEMAKER: Calls meeting to order at 3:15 005 BARBARA COOMBS, COMMITTEE  
ADMINISTRATOR: Submits (EXHIBITS A, B, C) which are SB 29-1, SB 29-2 and  
proposed amendments to SB 29-2. Explains what SB 292 amendments do.  
There is also a SB 29-3 amendment submitted by Peggy Anet which  
essentially restates the federal law that these services be free. 028  
CHAIR SHOEMAKER: The school board would like to add to the language:  
"Nothing in this section limits the right of an insurer to refuse  
payment for services determined to be not medically necessary or not  
within the provisions of the policy in whatever manner the policy or  
contract provides ..." the language: "provided that the policy complies  
with subsections 1 and 2 of this section." 042 CHAIR SHOEMAKER: We'll  
call the school board amendment a further amendment to the dash 2.  
048 MOTION: Senator Roberts moves to add the school board amendment  
as a further SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS April 2,  
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amendment to the dash 2 amendment. 052 VOTE: The Committee  
unanimously approves this motion. 053 CHAIR SHOEMAKER: We also have the  
language adding a subsection c that says: "Nothing in this section shall  
supersede the obligation of an educational service district to provide  
appropriate education to children under the federal education  
handicapped Act in section 504 of the Rehabilitation Act at no financial  
loss to the parents or the guardians." This simply says we will not  
violate federal law. 058 MOTION: Shoemaker moves this amendment.  
059 VOTE: Committee unanimously adopts the amendment. 062 MOTION:  
Roberts moves to adopt the dash 2 amendments as amended. 064 VOTE:  
Committee unanimously adopts the dash 2 amendments as amended. 105  
COOMBS: Senator Cohen's amendment would say that payment to the  
department would not discharge the insurer's obligation for the balance  
of payment owed providers. So a provider could recover the balance from  
an insurer even though they had been paid by AFS. 110 CHAIR SHOEMAKER:  
Invites people to testify on whether or not once the insurer has  
reimbursed Medicaid and the provider has been paid the Medicaid  
reimbursement level whether that is the end of it or whether the  
provider has the right to recover the difference between the Medicaid  
reimbursement and their standard normal charge. 130 STEVE CLOUD, ADULT  
AND FAMILY SERVICES: In the amendment SB 29-1a what we were trying to do  
there was simply discharge the insurer's obligation not to make any  
further payment to the provider. 160 ED PATTERSON, OREGON ASSOCIATION  
OF HOSPITALS: Believes that Senator Cohen's amendment is a good one and  
SB could be adopted. 194 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION:  
Submits (EXHIBIT E) which explains that he opposes the proposed  
amendments to SB 29 because under Oregon statute APS is already

acknowledged as the payor of the last resort. 270 JOHN POWELL, BCBSO: We would rather simply be billed by those providers under our contract and pay them directly and have AFS work out a reimbursement with the people they paid because we are going to have very difficult time sorting through these billings to know what they paid and what they didn't pay of each billing. 367 CHAIR SHOEMAKER: So you feel that the dash 3 amendments or Senator Coben's amendments should be approved if the bill is to be passed at all?

368 POWELL, BCBSO: Yes.

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391 MOTION: Senator Cohen moves the dash 3 amendments. 393 VOTE: There is no opposition and the dash 3 amendments are unanimously adopted.

TAPE 42, SIDE A Witnesses: PhD Yarnell, Adult and Family Services 042 PHIL YARNELL, RECOVERY SERVICES, ADULT AND FAMILY SERVICES: There are a number of insurance companies who refuse to reimburse us when they know that Medicaid has already covered the payment. 094 CHAIR SHOEMAKER: If it's true that one or more providers are not paying AFS then it's a good thing to have SB 29 in place.

105 SENATOR HANNON: Did you state that this bill will require the insurer to pay the difference to the provider? 108 YARNELL: The original bill would not have but the amended version does. 111 COOMBS: The dash 3 amendment does.

115 SENATOR HANNON: How many of these cases occur each year?

122 CLOUD: About 1,200. It is Klamath Medical Services Bureau that is doing this now. But BCBSO is now writing such policies. 160 MOTION: Senator Cohen moves the dash one amendments as further amended by the dash 3 amendments. 155 CHAIR SHOEMAKER: We are now dealing with the dash one and dash 3 amendments. 200 VOTE: Ayes: Cohen, Hamby, Roberts and Shoemaker Nays: Hannon 206 SENATOR COHEN: Moves SB 29 as amended to the floor with a Do Pass recommendation. VOTE: Ayes: Cohen, Roberts and Shoemaker Nays: Hamby and Hannon 240 MARK GIBSON, EXECUTIVE ASSISTANT TO SENATOR KITZHABER: Speaks in favor of SB 44. SB 44 contains technical changes necessary to properly implement SB 27 from last session.

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290 HERSCH CRAWFORD, OFFICE OF MEDICAL ASSISTANCE PROGRAMS: Submits (EXHIBIT F) which explains that SB 44 contains housekeeping changes to update SB 27.

451 SENATOR ROBERTS: Does SB 60 amend ORS 414.042?

453 CRAWFORD: That's right.

TAPE 41, SIDE B

Jim Swenson, Department of Insurance and Finance

175 MOTION: Senator Roberts moves an amendment to strike section 1.  
187 VOTE: Committee unanimously approves. 190 MOTION: Shoemaker  
moves an amendment to line 11 on page 8 to delete the deletion of ORS  
414.036 so that line reads: "Nothing in ORS 414.036 and 414.705 to 414  
.750 is intended..." 195VOTE: Committee unanimously approves.  
198 MOTION: Hamby moves SB 44 as amended to the floor with a Do Pass  
recommendation.

VOTE: AYES: Hamby, Hannon, Roberts, Shoemaker NAYS:

208 CHAIR SHOEMAKER: Starts work session on SB 789.

200 JIM SWENSON, DEPARTMENT OF INSURANCE AND FINANCE: Submits (EXHIBITS  
G and H) which summarizes the Insurance Pool Governing Board's Assigned  
Risk Pool program. Average age of participants is 48.

276 SENATOR HAMBY: I had a group called Oregon Software Association in  
my office yesterday. The members of this group were typically young,  
athletic and healthy yet they were denied acceptance into the Oregon  
Medical Insurance Pool.

292 SENATOR HANNON: That same group was in my office and it wasn't the  
Oregon Medical Insurance Pool plan that they applied for. They applied  
to get insurance as an association and the Insurance Commissioner's  
office has ruled that state statutes prohibit you from forming an  
association purely for the purpose of buying insurance.

331 CHAIR SHOEMAKER: Under this program do insureds get coverage just  
for their preexisting conditions or do they get full coverage?

337 SWENSON: Full coverage.

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suit against OMIP which, if successful, would prohibit the assessment  
from being made against reinsurance plans. 370 CHAIR SHOEMAKER: Have  
you had legal research done to investigate the likelihood of that? 388  
SWENSON: The Attorney General investigated this. His opinion is that we  
have a very good chance of winning such a suit. TAPE 42, SIDE B  
Witnesses: Dave Houk, Diabetes Association Beverly Bettis, Multiple  
Sclerosis Society Bruce Bishop, Kaiser Permanente 023 SWENSON:  
Legislative action is needed to allow the program to operate beyond the  
end of this biennium. 045 SENATOR HANNON: The new language in Sub 8  
allows one party to step out of the boat and to leave the other party to  
remain behind and have to row the boat, correct? The insurers would  
still be assessed regardless if the reinsurers are found not to be  
liable for their reassessment. 056 SWENSON: That is correct but only to  
the end of the biennium. 070 SENATOR HANNON:: Do we stand a good chance  
in this pending suit? 073 SWENSON: First, we may not be sued at all.  
Second, if we are sued we stand a good chance of winning the suit. 085  
SENATOR HANNON: If this language in the bill were adopted, would a judge  
be more inclined to rule against the state or an insurance company? 092  
SWENSON: I would hope that a judge would not be influenced by the  
language in this bill. 098 CHAIR SHOEMAKER: If a judge made a decision

on that basis it surely be reversible error. The decision must be made on whether it is legal to assess insurers and not on whether it is good policy. 104 COOMBS: Would it serve your purposes equally if the wording were: "However, if a court orders that assessments cannot be made applicable to reinsurers, the board may continue to assess.... 108 SWENSON: We would find that very acceptable. 111 CHAIR SHOEMAKER: Can you tell us the funding level of the pool during the current biennium both by the state and by insurers and what do you anticipate it to be during the next biennium if we pass this bill? 117 SWENSON: The funding for this biennium is derived from \$1 million from the state revenues

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plus the premiums that insurers would be paying plus the \$150,000 of seed money that the insurance industry has furnished us. I believe that the premiums for the biennium will be about \$1 million.

135 CHAIR SHOEMAKER: What was the reason for the 6 month waiting period for insureds?

140 SWENSON: Other pools found that without a 6 month waiting period people were waiting til they needed major care before entering the pool. This drove up costs a lot. 163 CHAIR SHOEMAKER: For the next biennium is there no lid on new participants in the pool?

165 SWENSON: Correct. And we think we'll be carrying about 2,000 policies at the end of the biennium. 190 DAVE HOUK, AMERICAN DIABETES ASSOCIATION: Supporting SB 789. We do not want this bill to go down the tubes just because reinsurers are not in it. 230 CHAIR SHOEMAKER: Do you know the ratio of insurers to reinsurers in terms of amounts of assessments to those two groups that we might anticipate? 233 HOUK: 60% of the market is insureds and 40% of the market is self-insureds. I can't tell you how much of the market has reinsurance. 290 BEVERLY BETTIS, MULTIPLE SCLEROSIS SOCIETY: Supports SB 789. From the personal point of view of someone who has been refused insurance and who doesn't work because of that this is a very important program and we would like to see it continue. 320 SWENSON: You asked the number of insureds and reinsureds and what percentage of the total premium would the \$5.7 million be. We estimate there are 1.4 million primary insureds or people covered by insurers in this state. There are 600,000 covered under excess insurance policies. Roughly 40% of insured Oregonians are covered under self-insured plans. We assume about 70% of the \$5.7 million cost will be borne by the primary insurance industry and 30% by the reinsurance industry. 372 BRUCE BISHOP, KAISER PERMANENTE: Opposes SB 789 in its present form. This bill could have unintended results and unbalance this already successful program. 420 CHAIR SHOEMAKER: What happens if one year from now a court orders that assessments against reinsurers can not be made under ERISA rules?

TAPE 43, SIDE A 005 BISHOP: The pool would be liquidated and no further obligations would be made. The pool would have to cover the people already in it however. 040 CHAIR SHOEMAKER: Starts work session.

041 CHAIR SHOEMAKER: Let's deal with Senator Hannon's amendment to amend line 9 on page . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed

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to read: "However, if a court orders that assessments can not be made...etc."

044 COOMBS: If we make that change you would also need to change line 10 and delete: "it" and substitute: "the board" and for consistency you should also amend line 8, delete: "the board determines" and substitute: "a court orders the assessments can be made."

MOTION: Senator Hannon moves to amend the bill to include his changes and Barbara Coomb's changes.

VOTE: The committee unanimously accepts these changes.

MOTION: Roberts moves SB 789 as amended to the floor with a Do Pass recommendation.

050 VOTE: AYES: Cohen, Hamby, Hannon, Roberts, Shoemaker NAYS:

055 CHAIR SHOEMAKER: Adjourns hearing at 5:12.

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

EXHIBITS A - SB 29-1, Coombs, 4 pages B - SB 29-2, Coombs, 3 pages C - proposed amendment to SB 29-2, Coombs, 1 page D - Testimony on SB 29, Gallant, 3 pages E - Testimony on SB 44, Crawford, 3 pages F - Information on SB 789, Swenson, 3 pages G - Information on OR Medical Insurance Pool, Swenson, 3 pages

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